

Development and Regulation Committee

10:30	Friday, 23 August 2013	Committee Room 1, County Hall, Chelmsford, Essex
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Quorum: 3

Membership:

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

For information about the meeting please ask for:

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Essex County Council

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Part 1

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

		Pages
1	Apologies and Substitution Notices The Committee Officer to report receipt (if any)	
2	Declarations of Interest To note any declarations of interest to be made by Members	
3	Minutes To approve the Minutes of the meeting held on Friday 26 July 2013	7 - 16
4	Identification of Items Involving Public Speaking To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda.	
5	Minerals and Waste	
5a	Bluebridge Industrial Estate Continuation of development for an anaerobic digestion plant including combined heat and power with associated offices and new access without compliance with condition 2 (Compliance with Submitted Details) and 15 (Provision and Maintenance of Parking Areas) attached to planning permission ESS/25/10/BTE to allow amendments to the design of the scheme. Location: Land north of Bluebridge Industrial Estate, Halstead, Essex Ref: ESS/28/13/BTE Applicant: Tamar Energy	17 - 78
5b	Ongar Landfill The importation of 50,000m ³ of inert material suitable to correct the differential settlement and reprofile the site and a revised restoration scheme with afteruse to energy crops and conservation grassland. Location: Ongar Landfill, Mill Lane, High Ongar, Essex, CM5 9RG. Ref: ESS/11/13/EPF Applicant: FCC Environmental	79 - 108

6	Minerals, Waste and County Council Development	
6a	National and local requirements for the validation of planning applications	109 - 174
6b	Guidance on Non-Material Amendments and Minor Material Amendments to planning permissions	175 - 184
7	Information Items	
7a	Enforcement Update To update members of enforcement matters for the period 01 May to 31 July 2013 (Quarterly Period 3)	185 - 190
7b	Statistics 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.	191 - 194
8	Date of Next Meeting To note that the next meeting will be held on Friday 27 September 2013.	
9	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.

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Urgent Exempt Business

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

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

MINUTES OF A MEETING OF THE DEVELOPMENT AND REGULATION COMMITTEE HELD AT COUNTY HALL, CHELMSFORD ON 26 JULY 2013

Present

Cllr R Boyce (Chairman)
Cllr J Abbott
Cllr K Bobbin
Cllr A Brown
Cllr P Channer
Cllr M Ellis

Cllr J Lodge
Cllr Lady P Newton
Cllr J Reeves
Cllr C Seagers
Cllr S Walsh

1. Apologies and Substitution Notices

Apologies were received from Councillors C Guglielmi (substituted by Cllr Seagers) and M Mackrory.

2. Declarations of Interest

Councillor Lady P Newton declared a personal interest in Agenda Item 5a, Cordons Farm Waste Transfer Station, as a Member of Braintree District Council; she would leave the room for the discussion of the item, as Cabinet Member for Planning and Property at Braintree District Council, a member of the Local Development Framework Committee and a member of the Planning Committee.

Councillor J Abbott declared a personal interest in Agenda Item 5a, Cordons Farm Waste Transfer Station, as a Member of Braintree District Council.

3. Minutes

The Minutes and Addendum of the Committee held on 28 June 2013 were agreed and signed by the Chairman.

4. Identification of Items Involving Public Speaking

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

Application for the development of a Waste Management Facility for the transfer/bulking of municipal waste.

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

Ref: ESS/23/13/BTE

Public speaker: Mr Philip Atkinson speaking for

And: Councillor Lady Patricia Newton speaking as local Member.

Minerals and Waste

5. Cordons Farm Waste Transfer Station

The Committee considered report DR/29/13 by the Head of Planning, Environment and Economic Growth.

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

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need and Policy Context
- Operations
- Design and Landscape Impact
- Impact on Amenity
- Traffic and Highways
- Flood Risk and Water Quality
- Ecological Impact
- Other Considerations
- Human Rights

In accordance with the protocol on public speaking the Committee was addressed by Mr Philip Atkinson, for Lanpro Ltd, on behalf of the Waste Disposal Authority. Mr Atkinson said:

- This site is one of the five Waste Transfer Stations that form part of the Essex Joint Waste Disposal Strategy and will serve the new waste treatment facility at Courtauld Road, Basildon. It will provide a single, efficient facility to provide waste disposal services to the entire Braintree district and forms a key part of the Joint Municipal Waste Strategy for Essex
- The County Council began the search, in collaboration with Braintree DC, in 2010, and Cordons Farm was considered a good choice because it has been used for waste processing since 1992
- Care has been taken to minimise the impact on its surroundings, with the proposed use of landscaping and screening and improvements to vehicular access
- Main flow of vehicles will not coincide with peak morning and evening traffic times around Galley's Corner; and neither the Highways Agency nor the Highway Authority have raised any objections.

Councillor Lady Patricia Newton, as local Member, then addressed the meeting. She said:

- This has been considered by officers at Braintree District Council, not by Cabinet or Members. The District Council has no objection in principle, although some concerns were noted in respect of the impact on amenity, for example.
- This does represent a departure from the Local Development Plan, so will need careful consideration
- There is clearly a long history to the site, but there has been an amount of planning creep, with other activities in the area, and the Parish Council have indicated their concerns about the cumulative impact of these
- Cressing Parish Council is also concerned about the traffic situation: Galley's Corner is already a bottleneck, and these are very large vehicles. Braintree had already been looking into ways of easing congestion at this roundabout
- The 71,000 tonnes p.a. is more than double that permitted under the 2011 consent – it is surprising that no Environmental Impact Assessment is required here
- The building itself is very large – too large to be hidden, and the site is open countryside. Changing the roof colour will be helpful, but good landscaping and screening will also be required, to minimise the impact on local views
- There are several other potential areas of concern, like the noise, odours and lighting, and, if permission is granted, this site will need careful and robust monitoring.

Councillor Lady Newton left the meeting at this point and for the remainder of this item.

A number of concerns were raised by Members.

In response to questions raised, Members were informed that:

- The question of whether an Environmental Impact Assessment is required is a separate process, distinct from the planning application process and so screening for EIA is not a matter for Members to consider. This application has been screened for EIA when the application was submitted and again before the agenda was published, with the decision being that the proposed development would not have a significant impact on the environment and therefore EIA was not required.
- The three streams of waste are currently dealt with as follows:
 - Recyclables – sent to Ipswich
 - Residual waste – most to landfill at Colchester
 - Food waste – to St Ives for processingIn future, residual waste would go to Courtauld Road and a procurement is currently in progress for a biowaste facility for food waste. Dry recyclates would continue to go to Ipswich, however, it was clarified that these are not planning considerations.
- The management and operation of the roller doors is included as part of the application details and the proposed Condition 2 requires the development to be carried out in accordance with those details. For clarification the doors would be closed when vehicles are inside.
- With regard to traffic levels, these have been looked at; however there are

certain levels that trigger further investigation by the Highways Agency and these levels have not been reached. The maximum daily movement figures are no higher than the existing ones and these movements would not (mostly) coincide with peak traffic times.

- It cannot currently be determined whether there will be a future need to expand the facility as this would be dependent on future waste arisings in Braintree (currently around 60,000 tonnes); if there was a need to expand the facility above the 71,000tpa figure then any application would need to be considered at that time.
- The creation of a path to the Galley's Corner roundabout, as proposed by one Member, does not satisfy the tests for planning obligations so such a requirement cannot be justified. The landscape officer is satisfied with the proposed scheme.
- With regard to opening times, the site will need to be open on Sundays and Bank Holidays to accommodate waste arising from civic amenity sites. On weekdays, the applicant is willing to curtail the operating hours from an 8.00 pm finish to a 7.30 pm finish, on the understanding that the last lorry will leave at 7.00 pm, but some time will be required to clear up the site.

One Member proposed a resolution to create a path linking the site to the Galley's Corner roundabout, but this was not seconded.

The original resolution, with a 19.30 finish time on weekdays, was moved, seconded and following a vote of eight in favour and one against, agreed. Cllr Abbott abstained. It was:

Resolved

That planning permission be granted subject to the following conditions:

1. COM1 - Commencement within 5 years
2. COM3 - Compliance with Submitted Details
3. HOUR1 - Hours of Operation:
4. 07:00 – 19:30 hours Monday to Friday
5. 07:00 - 14:00 hours Saturday, Sunday and Bank/Public Holidays (except Christmas Day, Boxing Day and New Year's Day when the site shall be closed)
6. DET2 - Design Detail (Variant):
7. No development shall take place until details of eaves, fascias and rainwater drainage have been submitted to and approved in writing by the Waste Planning Authority. The submitted details shall include scaled drawing by section and elevation at scales between 1:20 and 1:1, as appropriate. The development shall be implemented in accordance with the approved details.
8. DET5 - Waste Building Design and Construction (Variant):
9. No development shall take place until details of the roof colour of the building hereby permitted have been submitted to and approved in writing by the

Waste Planning Authority. The development shall be implemented in accordance with the approved details.

10. DET5 - Waste Building Design and Construction (Variant):
11. No development shall take place until details of the stack diameter and design have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.
12. HIGH1 - Site Access Road (constructed first)
13. HIGH5 - Vehicle Movement Limits:
14. The total number of vehicle movements associated with the development hereby permitted shall not exceed the following limits:
15. 220 movements (110 in and 110 out) per day Monday to Friday
16. 84 movements (42 in and 42 out) on Saturday, Sunday and Bank/Public Holidays
17. HIGH11 - Visibility Splays
18. HIGH14 - Surface Material
19. NSE1 - Noise Limits (Variant):
20. The free field Rating Noise Level (L_Ar) attributable to the operation of all fixed and mobile plant used at the facility hereby permitted shall not exceed the existing background noise level L_A90,T at any noise sensitive property adjoining the site. Measurements shall be made no closer than 3.5m from the façade of properties or other reflective surface and shall be corrected for extraneous noise.
21. NSE1 - Noise Limits (Variant):
22. The free field Equivalent Continuous Noise Level (L_Aeq, 1hr) from vehicles associated with the facility shall not result in an increase in the existing ambient equivalent noise level (L_Aeq, 1hr) by more than 3dB from any adjoin noise sensitive property. Measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.
23. NSE3 - Monitoring Noise Levels (Alternative)
24. NSE5 - White Noise Alarms
25. LIGHT1 - Fixed Lighting Restriction - other than that submitted
26. LGHT2- Use of lighting restriction.
27. LAND2 - Replacement Landscaping
28. ECO1 - Acceptable Survey, Mitigation and Management Plan - Implementation of Scheme
29. ECO4 - Wildlife Protection Plan
30. ARC1 - Advance Archaeological Investigation
31. POLL1 - Surface and Foul Water Drainage & POLL2 - Interception Facilities (Variant):

32. No development shall take place until a detailed scheme to accommodate/dispose of all surface and foul water drainage, install oil and petrol separators and install trapped gullies and roof drainage - sealed at roof level has been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved scheme/details and maintained for the life of the development hereby permitted.
33. WAST1 - Waste Type Restriction and Tonnage to 71,250 tonnes per annum
34. WAST7 - Essex and Southend-on-Sea's Waste Only
35. Odour levels shall be monitored within 1 month of the date of the commencement of waste transfer operations at the site. The results of the monitoring shall be submitted to the Waste Planning Authority within 2 weeks of the date of the monitoring unless otherwise agreed in writing. Monitoring shall be carried out at (and beyond if necessary) the site and the results shall include a remediation strategy should levels be higher than set out in the predictions contained within the Odour Assessment, reference: 663433/BR/R08 Revision 3, dated May 2013. Any required remediation shall be carried out following the written request of the Waste Planning Authority. Odour monitoring shall continue on an annual basis for the life of the development hereby permitted unless otherwise agreed in writing by the Waste Planning Authority.
36. GEN1 - Advance Submission of Details:
37. No development shall take place until details of the materials to be used for sub-surface utility pipework have been submitted to and approved in writing by the Waste Planning Authority. The details shall include the type of material proposed as well as an assessment of suitability in context of the existing ground conditions. The development shall be implemented in accordance with the approved details.
38. GEN1 - Advance Submission of Details:
39. No development shall take place until an update to the contamination survey submitted with the application (Phase II Geo-environmental Assessment, reference: 663433/BR/R17 - Revision 3, dated May 2013) has been submitted and approved in writing by the Waste Planning Authority. The update shall include details of the results of the additional soil sampling, which has been undertaken, and provide clarification of the identified levels of methane and carbon dioxide on site providing a remediation strategy if required. The development shall be implemented in accordance with the approved details.
40. GEN1 - Advance Submission of Details:
41. No development shall take place until details to demonstrate that the piped drainage storage capacity is above 360m³ have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.

6. Frobisher Primary and Nursery School

The Committee considered report DR/30/13 by the Head of Planning, Environment and Economic Growth.

The Committee was advised that the proposal was retrospective application for the continued use of 2 classbases for a temporary period until 31 August 2018 and external refurbishment of the classbases.

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need
- Policy considerations
- Design
- Impact on Landscape and Residential Amenity
- Traffic and Highways.

Members questioned whether these proposals could be described as a “high quality built environment”, as referred to under the NPPF, but noted that the facilities would meet a need at the school. They also hoped that the school would benefit from more permanent facilities in due course.

The resolution was moved, seconded and unanimously agreed and 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 carried out in accordance with the details of the application reference CC/TEN/23/13 dated 7 May 2013 and validated on 24 May 2013 together with Drawing Numbers 192-01 A (Location & Block Plans) dated April 2013, 192-02 (Existing Plan & Elevations) dated April 2013, 192-03 (Proposed Plan & Elevations) dated April 2013 and the Planning, Design and Access Statement dated May 2013 together with emails from Jon Green, Laurie Wood Associates dated 2 July 2013 13:13 and 2 July 2013 14:41 and in accordance with any non-material amendments as may be subsequently approved in writing by the County Planning Authority, except as varied by the following condition:
2. The use of the temporary classbases hereby permitted shall cease on 31 August 2018 and within 3 months of that date shall be removed from site and the land restored to its former condition within a further 28 days.

7. Millhouse Infant School and Nursery

The Committee considered report DR/31/13 by the Head of Planning, Environment and Growth.

The Committee was advised that the proposal was for the erection of a detached single storey timber framed building at the school.

Policies relevant to the application were detailed in the report.

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

The Committee noted the key issues that were:

- Need
- Policy considerations
- Design
- Impact on Landscape and Residential Amenity.

The resolution was moved, seconded and unanimously agreed and 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 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with the details of application reference CC/BAS/24/13 dated 3 June 2013 and validated on 6 June 2013 together with drawing numbers 10 Planning: Millhouse School 39-91 Scheme (Location Plan) dated 7 May 2013, 11 Planning: Millhouse 39-91 Scheme (Site Plan) dated 7 May 2013, 14a Planning: Millhouse School 39-91 Scheme Rev A (Elevations) dated 25 June 2013, 13 Planning: Millhouse School 39-91 Scheme (Roof Plan) dated 7 May 2013, 12a Planning: Millhouse School 39-91 Scheme Rev A (Plans and Section) dated 25 June 2013, 15a Planning: Millhouse School 39-91 Scheme (Visualisation – NTS) dated 25 June 2013, 100 Planning: Millhouse School 39-91 Scheme (Western Red Cedar timber cladding) dated 7 May 2013, 101 Planning: Millhouse School 39-91 Scheme (Douglas Fir Window Frames) dated 7 May 2013, 102 Planning: Millhouse School 39-91 Scheme (Black uPVC rainwater goods, Alwitra Evalon Roof membrane and trims and non-slip deck and hardwood column) dated 7 May 2013, 103 Planning: Millhouse School 39-91 Scheme (Sample finished buildings) dated 7 May 2013 and the Design and Access Statements 17 Planning: Millhouse School 39-91 Scheme dated 7 May 2013 and Supporting Documents/Statements 16 Planning: Millhouse School 39-91 Scheme dated 7 May 2013 and in accordance with any non-material amendments as may be subsequently

approved in writing by the County Planning Authority, except as varied by the following conditions:

3. No development or any preliminary ground works shall take place until:
 - a. All trees to be retained during the construction works have been protected by fencing of the 'HERAS' type. The fencing shall be erected around the trees and positioned from the trees in accordance with British Standard 5837 "Trees in Relation to Construction" and;
 - b. Notices have been erected on the fencing stating "Protected Area (no operations within fenced area)".

Notwithstanding the above, no materials shall be stored or activity shall take place within the area enclosed by the fencing. No alteration, removal or repositioning of the fencing shall take place during the construction period without the prior consent of the County Planning Authority.

4. Any excavation works shall be located outside the Root Protection Area (RPA) of the trees to be retained. In the event that excavation works are necessary within the RPA, the works shall be undertaken using hand tools only, working around the tree roots so as to prevent damage or injury to the tree root. No tree root with a diameter greater than 25mm shall be severed unless agreed in advance in writing by the County Planning Authority.

Information Item

8. Statistics June 2013

The Committee considered report DR/32/13, Applications, Enforcement and Appeals Statistics, as at end of the previous month, by the Head of Planning, Environment and Economic Growth.

The Committee **NOTED** the report.

9. Date and Time of Next Meeting

The Committee noted that the next meeting will be held on Friday 23 August 2013 at 10.30am in Committee Room 1.

There being no further business the meeting closed at 12.05pm.

Chairman

DR/33/13

committee DEVELOPMENT & REGULATION

date 23rd August 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: Continuation of development for an anaerobic digestion plant including combined heat and power with associated offices and new access without compliance with condition 2 (Compliance with Submitted Details) and 15 (Provision and Maintenance of Parking Areas) attached to planning permission ESS/25/10/BTE to allow amendments to the design of the scheme.

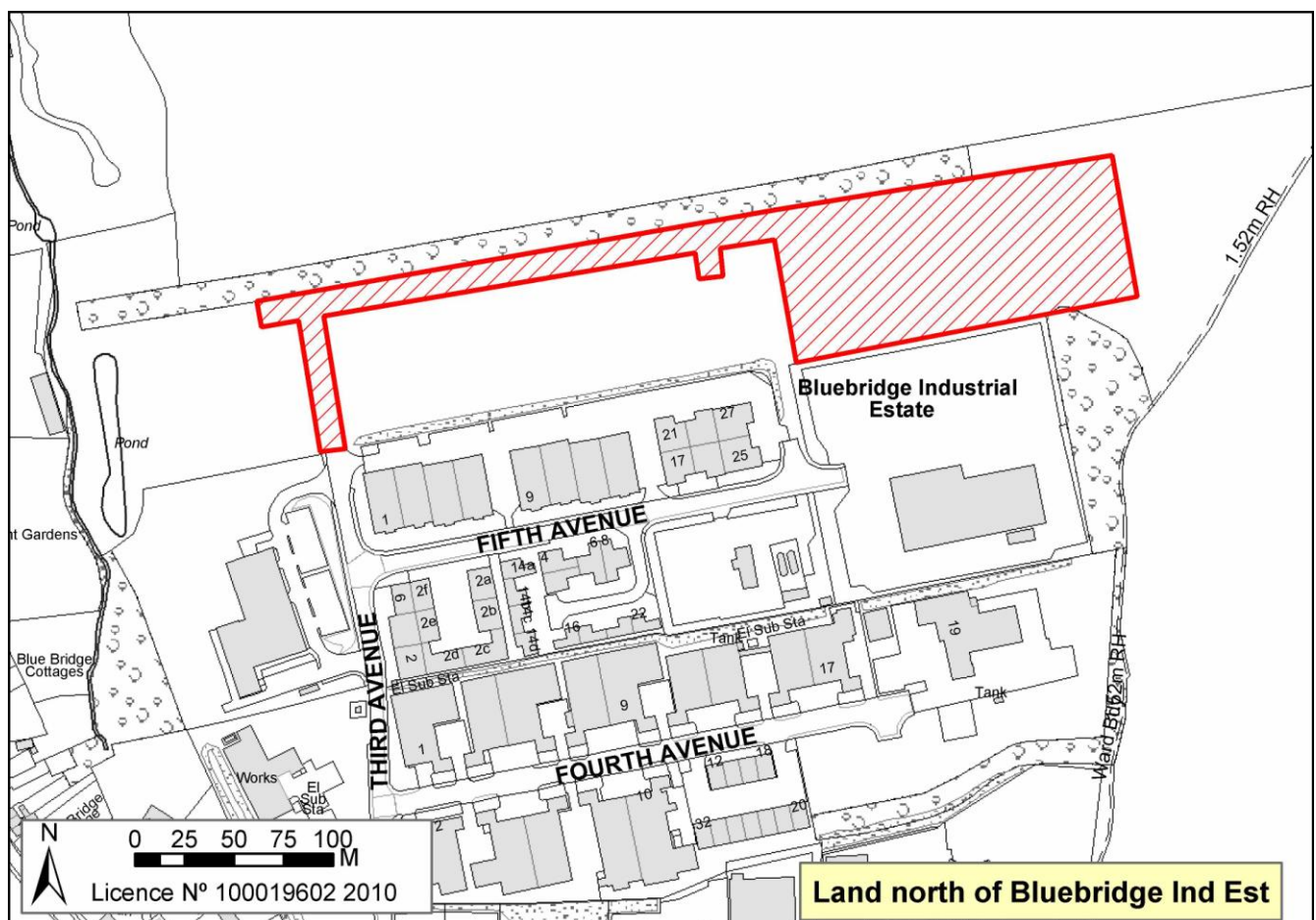
Location: Land north of Bluebridge Industrial Estate, Halstead, Essex

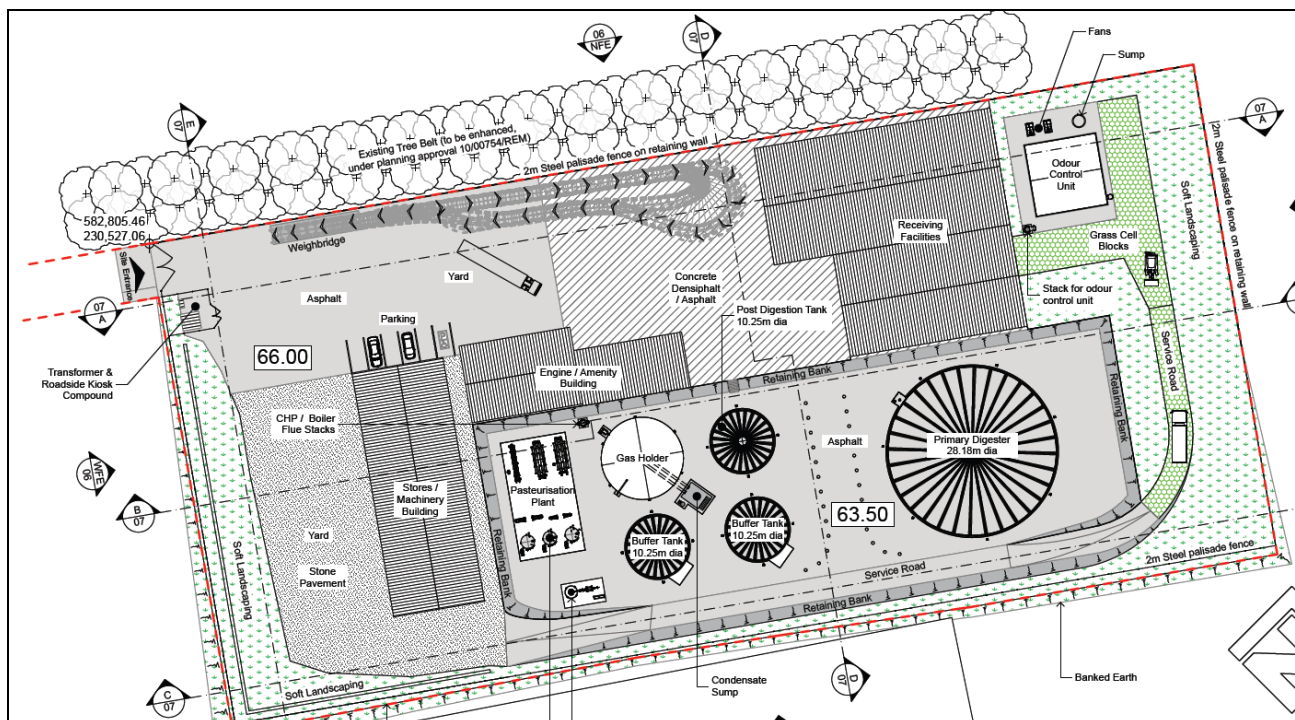
Ref: ESS/28/13/BTE

Applicant: Tamar Energy

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Paul Calder Tel: 01245 437585





(Image taken from application details submitted by Tamar Energy)

1. BACKGROUND

In July 2007 Braintree District Council (BDC) granted outline planning consent (Braintree ref 07/00681/OUT) for industrial development within Use Classes B1, B2 and B8 for the application area. The proposal was permitted in line with the BDC Local Plan allocation. Since that date several conditions attached to the consent have been discharged. Condition 16 of the outline consent required details to be submitted relating to finished ground levels. This is because the outline consent envisaged a degree of removal of earth on the site to reduce the overall height of proposed buildings. Condition 16 was discharged by BDC on 22 December 2009 and confirmed that the lowering of ground levels was no longer required.

Following Braintree District Council (BDC) granting outline planning consent (Braintree ref 07/00681/OUT) in 2007 for industrial development within Use Classes B1, B2 and B8 for the application area, Glendale Power Limited (previous applicant) submitted a planning application (ESS/25/10/BTE) in July 2010 for the construction of an anaerobic digestion (AD) plant including combined heat and power with associated offices and new access.

Following a full public and statutory consultation, on the 22nd October 2010 the Development and Regulation Committee resolved that planning permission be granted for the AD facility (Ref: ESS/25/10/BTE). The resolution to grant planning permission was subject to conditions and a legal agreement for the provision of financial contributions and highway works (see Appendix 1 for the officer report).

On the 2nd March 2011 the legal agreement was completed and planning permission was formally granted.

The development permitted in 2011 comprised of the following:

- a reception hall for the receipt of waste;
- a primary digester tank;
- a secondary digester tank;
- water treatment tanks;
- office/workshop/Combined Heat and Power building;
- a separation and storage building; and
- associated car parking, cycle parking and landscaping.

The planning permission for the AD facility (reference ESS/25/10/BTE) was implemented on the 24th June 2013 when construction on site commenced in accordance with the approved details.

2. SITE

The 1.36 hectare proposal site lies on land to the north of Bluebridge Industrial Estate, off of the A1124 Colchester Road in Halstead, Braintree. It would be accessed via the northern section of Third Avenue and the haul route would run along the northern boundary of the field, thus leaving significant space (approximately 80m) between the site boundary and the industrial sheds which line Fifth Avenue to the south of the site.

The proposal site is a significantly higher landform than the existing industrial estate and rises from west to east, although the development area is relatively flat with a slight slope from north to south. The site is of a comparable level to the arable field to the north. The site is presently rough grassland which is not cultivated or farmed.

Properties in Fenn Road lie to the west of the site and are separated from it by a Council depot, ambulance station and allotment gardens, although many of the properties do have a clear view of the site due to their elevated position.

The northern and eastern boundaries of the site are denoted by a belt of trees and a hedgerow respectively, beyond which are open fields interspersed by isolated properties. The closest of these is approximately 300m to the east. One property approximately 400m to the north east is visible from within the site.

There is a secondary tree belt to the south of the site.

Footpath 22 (Halstead Urban) crosses the field to the north and runs adjacent to the north eastern site boundary for a short distance before continuing eastwards as Footpath 3 (Colne Engaine).

3. PROPOSAL

As noted above, the original planning application (ESS/25/10/BTE) was submitted in July 2010 by the former applicant, Glendale Power Limited. In November 2012 the current applicant (Tamar Energy) acquired the lease to develop and operate the AD facility granted in March 2011. However, the design submitted by the former applicant utilised a different AD process compared to the type used by the current

applicant. This change in AD process has meant that the current applicant has needed to make changes to the design of the originally permitted scheme, as follows:

1. Replacement of secondary digester (incorporating the gas holder) with two buffer tanks, a separate gas holder and post digestion storage tank;
2. Increase in the height of the primary digester by 3m;
3. Replacement of liquor tanks with a pasteurisation plant;
4. Removal of solids receiving building;
5. Replacement of two covered underground biofilters with one covered above ground odour control unit;
6. Increase in the area of soft landscaping (450m²);
7. Reduction of the height of the engine/amenity building, increase the internal floor space and repositioning of the CHP/boiler flue stack;
8. Adjustments to the fenestration on the store/machinery building and the engine/amenity building;
9. Identification of location for the stand-by flare stack;
10. Introduction of a transformer and roadside kiosk;
11. Removal of external wheelwash and provision of an internal vehicle wash down area;
12. Adjustment to car parking layout, and;
13. Provision of maintenance access track to the receiving facilities building.

The receiving facilities building floor space has been reduced from 532m² to 495m² (a reduction of 37m²)

There are no proposed changes to the hours of operation, vehicular movements, type or amount of waste accepted onsite.

4. POLICIES

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

<u>Policy</u>	<u>WLP</u>	<u>BCS</u>	<u>BLP</u>
Need for Waste Development	W3C		
Highways	W4C		
Materials Recovery Facilities	W7E		
Proposed Sites	W8A		
Alternative Sites	W8B		
Planning Conditions and Obligations	W10A		
Material Considerations: Policy Compliance and Effects of the Development	W10E		
Promoting Accessibility for All		CS7	
Town Development Boundaries			RLP 2
Employment Allocation north of Bluebridge			RLP42
Industrial Estate			
Transport Assessments			RLP 54
Development Likely to Give Rise to Pollution or			RLP 62

the Risk of Pollution	
Air Quality	RLP 63
External Lighting	RLP 65
Waste Reprocessing Facilities	RLP 75
Renewable Energy	RLP 76
Energy Efficiency	TLP 77
Special Landscape Areas	RLP 79
Layout and Design of Development	RLP 90

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

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

The BCS was adopted post 2004, however the grace period offered to such plans (in applying full weight to policies) in accordance with Paragraph 214 of the Framework passed 12 months after adoption of the Framework. As such it is now considered that the BCS together with the BLP and WLP (both adopted pre 2004 and/or not under the Planning and Compulsory Purchase Act 2004) fall within the remit of consideration according to Paragraph 215. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The level of consistency of the policies contained within the WLP is detailed in Appendix 2. The level of consistency of the policies contained within the BCS and BLP is considered further in this report, as appropriate.

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

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

- The stage of preparation of the emerging plan (the more advanced the

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

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

BDC has produced a Site Allocations and Development Management Plan which together with the BCS will allocate development sites and protect other areas in the District from development over the next fifteen years. The Plan has not been published and public consultations received are currently being reviewed. As a draft of this Plan has not been published it is considered again that little weight can be applied especially as objections are outstanding from consultation.

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

5. CONSULTATIONS

BRAINTREE DISTRICT COUNCIL – Objects as the proposed alterations to the design of the plant are considered unacceptable in terms of their visual impact. Asks that the following concerns are taken into consideration which, in summary, are as follows:

- No comment to make on the transformer and roadside kiosk;
- Main concern is increase in height of Primary Digester as proposed screening will take 18 – 20 years to effectively screen;
- Disappointed that the applicant has not chosen to try and engage with local residents prior to submission of the application;
- Site lies in an area allocated in the BLP for the expansion of the Bluebridge Industrial Estate. BLP Policy RLP 75 allows development proposals involving waste recovery to be located in employment policy areas and RLP 76 encourages the integration of renewable energy generation into new developments. There remains no objection to the principle of the proposed development in this location;
- As application only seeks to vary the design and layout of the development BDC has only considered the visual and landscape impact;
- Policy RLP 90 states that permission should be granted where there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. BDC set out a number of concerns to ECC however in approving the original consent it was considered that these impacts on local residents were acceptable;

- Additional reports have been submitted outlining decrease in overall noise and no significant difference in air quality therefore BDC raises no objection;
- If minded to approve, consideration should be given to a condition that colours and materials approved under condition 20 of ESS/25/10/BTE are retained to avoid colour being changed, and;
- Concerned with quality of road along Third Avenue thus vehicles crossing this area creating noise. ECC should satisfy themselves of means of access to the site, the road surface and noise arising from that surface.

ENVIRONMENT AGENCY – No objection.

STANSTED AIRPORT LTD – No comments received.

HIGHWAY AUTHORITY – No objection.

WASTE DISPOSAL AUTHORITY – Comments as follows:

- The joint Municipal Waste Management Strategy (JMWMS) for Essex states an aspiration to achieve 60% recycling of household waste by 2020. The separation and treatment of food waste and co-mingled food and green garden waste generated by Essex households will contribute significantly to the achievement of this target;
- The availability of local treatment facilities close to the source of the feedstock conforms to the proximity principle; delivering operational and environmental benefits through the reduction of vehicle miles, and;
- The proposal is in line with the JMWMS.

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

HALSTEAD TOWN COUNCIL – No objection subject to the following observations:

- Concerned that the nearby residents have not been consulted as they should have been during the formulation of the original application (ref: ESS/25/10/BTE);
- Additional vehicle movements will have a significant effect on congestion through the town and in particular Colchester Road, and that the effect of this increased traffic pattern raises further the need for a relief road scheme to be put in place;
- It should be noted that there is a footpath and a bridle path to the immediate northern aspect of this development and that all HSE protocols should be put in place to ensure there is no adverse effect to these;
- With the change in technology occurring as a result of this amendment application the Town Council re-iterates the need for stringent safeguards for residents, namely;
 - Regular monitoring of both noise and odour for at least the first 18 months of operation;
 - The hours of operations should be defined and monitored, and;
 - All vehicle movements should be logged and reported to the Town Council.

Comment: Full statutory consultation has taken place. This has included direct neighbour notification letters to 108 properties within 250m of the site boundary, notices posted on and around the site and an advertisement placed in the local press. This is in accordance with ECC's adopted Statement of Community Involvement and the statutory provision within the Town and Country Planning (Development Management Procedure, England) Order 2010 (as amended).

COLNE ENGAINE PARISH COUNCIL – No objection however, would like it noted that the parish council remain to be convinced of the semantics of the various reports.

LOCAL MEMBER – BRAINTREE – Halstead – Any comments received will be reported.

6. REPRESENTATIONS

108 properties were directly notified of the application. 8 letters of representation have been received with one containing a petition with 28 signatures objecting to the proposal. In addition 8 complaints were received regarding the application.

The letters and complaints relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
<u>Highways Issues</u>	
Halstead is a residential town with some 15,000 residents, its roads were built for the 18/19 th Century.	Noted.
Colchester Road which is the main access road to Bluebridge Industrial Estate has been downgraded to a B-Class road and has many narrow points plus residential parking on curbs.	See appraisal.
Halstead has only two access points into the town. HGVs would have to use the High Street.	The High Street is a public highway and can carry HGVs. See appraisal
Local roads not suitable.	See appraisal.
Page 9 paragraph 5.3 of the planning statement considered access off Colchester Road to be good. For an additional 96 movements a day this claim is unbelievable and residents on Colchester Road would say the same.	A Transport Statement was submitted with planning application ESS/25/10/BTE which assessed the potential impact of the HGVs associated with the proposed development. The Highway Authority raised no objection – see appraisal.

HGV's regularly get stuck at the turn into Colchester Road by St. Andrews Church. HGV's also have to negotiate school crossing patrols.	See above.
Cars parked along the road make the carriageway a single line.	See above.
Colchester Road is congested and pedestrians have to step dangerously into the road to pass.	See appraisal.
The High Street has a major sewer underneath it which collapsed due to the weight of traffic.	See above.
Earls Colne and Halstead are small villages and the road infrastructure is unable to comply with the traffic requirements the proposal would bring and it would increase accidents.	The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection.
Proposed traffic associated with proposal is 84/96 movements per day which is not safe.	The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection.
Un-adopted sections of Third Avenue remain unfinished with potholes and no pedestrian pathways. Governing bodies have failed in their duties to ensure construction works completed.	See above.
The Highway Transport Report has only been carried out on estate roads. Had access roads been included it would have become clear that surrounding roads are unsuitable. The report is flawed.	A Transport Statement was submitted with planning application ESS/25/10/BTE which assessed the potential impact of the HGVs associated with the proposed development. The Highway Authority raised no objection – see appraisal.

Procedural Issues

With proposals such as this national Guidelines strongly suggest developers engage in meaningful consultation process with the local community prior to submitting their application. Both applicants have failed to follow these guidelines.	The applicant under planning permission reference ESS/25/10/BTE has stated that local residents have been contacted prior to submission of the application. Residents were also contacted post-submission.
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Suggest that first application (ESS/25/10/BTE) be withdrawn as it should never have been approved and that the current application (ESS/28/13/BTE) be rejected.

The applicant has implemented an extant planning permission (ESS/25/10/BTE) to develop the site as an AD facility.

Applications such as this should have a public meeting. ECC have failed in their duty of care.

It is not usual practice for ECC to meet with residents when considering applications.

The letter from Essex County Council chief executive regarding original applicant writing to Halstead residents in September 2009 about their proposal is untrue. The original applicant admitted in a letter dated 29th July 2010 stated that they had failed to consult with any residents within the Town boundary saying they merely had written to a couple of addresses outside the Town at Abbots Shrub.

The original applicant had stated that local residents had been contacted prior to submission of the application. Residents were also contacted post-submission for planning permission ESS/25/10/BTE.

Residents only became aware of the proposal following a letter from the Waste Planning Authority which gave 21 days to consider the matter.

21 days is the statutory time frame for replying to consultations.

Greater consultation should have taken place over the 250 metres consultation boundary.

ECC has consulted all residents within 250m of the site boundary, including those living in Brook Farm Close. This is in line with County Council protocols and procedures and National Planning Guidance.

Doesn't live within 200m of site nor take the local paper so wasn't aware of application.

See above.

It appears the development has gone through little consultation compared with another development within the area.

See above.

The original proposal was treated no differently than a standard building. This and the consultation undertaken are at odds with National guidelines regarding

See above.

Councils consulting the wider community in a meaningful way. A press article recently discussed the proposal and now the wider community are aware of its existence because of the article and are now able to raise concerns.

Requests a meeting with applicant and WPA. See above.

Why has work taken place onsite prior to planning permission being granted? The applicant has an extant planning permission for development of the site (ref: ESS/25/10/BTE) and has commenced works in accordance with this permission.

Environmental Impact

Proposal is a blot on the landscape. See appraisal.

Developments such as that proposed should be located within an electrical distribution complex thereby avoiding the need for cables, disused airfields and brown field sites. All these sites are located a number of miles away from residential developments thus avoiding issues surrounding noise and odour pollution. See appraisal.

Given the amount of disused airfields in Essex developments such as this should be located there. See above comment.

The development is close to residential houses and a school which has an impact. See appraisal.

Will noise and emissions be within legal limits so as not to affect the amenity of residents and allotment uses of Fenn Road. See appraisal.

Environmental Impact Assessment (EIA) should be undertaken for a development of this scale. An EIA screening opinion was issued for both planning applications ESS/25/10/BTE and ESS/28/13/BTE. The screening opinions, in summary concluded EIA is not required – see appraisal.

Health and Safety

No confidence in WPA strictly monitoring the site performance for external noise, air, odour and traffic movements.

In accordance with the Framework the WPA has adopted a Local Enforcement and Site Monitoring Plan which sets out what enforcement and site monitoring service businesses and individuals can expect from Essex County Council as Waste Planning Authority. The WPA will carry out monitoring of the site in accordance with the adopted Plan.

Due to type of waste does this mean a constant flame above the flare stack.

The stacks utilised within the proposal are to be used to discharge emissions in a controlled manner.

The product of the AD process being spread on adjoining agricultural fields is a health and safety risk to residents and users of the public footpaths within these fields.

The Environment Agency is responsible for licensing of the by-product and its application.

AD produces toxic combustible gas carrying risk of explosion or fire.

The applicant has stated that there is no history of explosion or fire relating to Anaerobic Digestion Plants.

The plant would be operational 24/7 although only managed during office hours with no out of hours support.

The Health and Safety Executive is the responsible authority for ensuring all health and safety mechanisms are in place in relation to developments.

What of health and safety cover for accidents with the plant. Health and safety is paramount for residents.

See above.

Emergency cover in Halstead is part time therefore, a facility this closed to residents is not acceptable.

See above.

The proposal is a major health hazard bringing vermin to the site and odour from rotten food.

See appraisal.

Odour will have a major effect on existing food production plants on the industrial estate. The proposal would bring major health and safety risk issues regard continuation of these businesses and the employment they

See appraisal.

afford local residents.

Operator fined for illegal dumping of waste.

Not a material planning issue.

Will noise and emissions be within legal limits so not to affect amenity of residents and allotment users of Fenn Road.

See appraisal.

Impact from noise of processing plant, venting machinery and lorries entering and leaving site.

See appraisal.

Doors are to open and close during access/egress of the site meaning that given the current HGV movements will be opening and closing every 6 minutes which is likely to mean more noise and odour.

See appraisal.

Plants like this are shutting down.

Not a planning issue. The applicant has commenced development in accordance with planning permission ESS/25/10/BTE.

How will energy be used?

As outlined the officer's report at Appendix 1, the development would make use of the waste by converting it to a soil improver and utilising the gas to produce renewable energy in the form of electricity and heat. An energy firm has confirmed to the applicant the availability of a suitable point of connection for electricity distribution 100m from the site boundary within the industrial estate. In the future the electricity could be sold to tenants of industrial buildings planned for the remainder of the land to the north of the industrial estate.

Other issues

Residential property values will be blighted.

Not a planning issue.

Residential property values will decrease.

Not a planning issue.

What benefit to local residents.

See appraisal.

7. APPRAISAL

The key issues for consideration are:

- A. Need and Principle of Development
- B. Design, Landscape and visual Impact
- C. Impact upon Amenity
- D. Traffic & Highways
- E. Human Rights

In respect of Environmental Impact Assessment, a Screening Opinion (reference: ESS/28/13/BTE/SO) was issued by the WPA on 1st July 2013, following submission of the application. The Opinion concluded that it was considered that the implementation of the proposal would not have an impact of more than local importance and therefore, on balance, an Environment Impact Assessment (EIA) would not be required.

A NEED AND PRINCIPLE OF DEVELOPMENT

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

The Framework highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that there are three dimensions to sustainable development: economic, social and environmental.

Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) states that ‘ the overall objective of Government policy on waste, as set out in the strategy for sustainable development, is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. By more sustainable waste management, moving the management of waste up the ‘waste hierarchy’ of prevention, preparing for reuse, recycling, other recovery, and disposing only as a last resort, the Government aims to break the link between economic growth and the environmental impact of waste.’

As noted earlier within this report, planning permission was approved to be granted on the 2nd March 2011 for, in summary, Anaerobic Digestion facility with associated ancillary development (see Appendix 1 for ESS/25/10/BTE Committee Report).

The need and principle was found acceptable, in summary, for the following reasons;

- That a need had been demonstrated for the facility, in compliance with WLP Policies W3C (Need for Waste Development) and W8A (Schedule 1

- sites);
- The proposed location on employment land to the north of the existing industrial estate is entirely appropriate in compliance with BLP Policies RLP2 (Town Development Boundaries), RLP42 (Employment Allocation north of Bluebridge Industrial Estate) and RLP75 (Waste Reprocessing Facilities) and WLP Policies W8B (Non-preferred sites) and W7C (Anaerobic Digestion);

Therefore, the need and principle of the site being used for a waste related development was discussed and found acceptable in relation to the WLP and BLP Policies.

With respect to the Planning Permission ESS/25/10/BTE, the Framework had not been published during the consideration of that proposal therefore, the 3 roles of Sustainable Development as referenced within the Framework had not been directly taken into consideration. However, in relation to the economic role the development would, as noted within ESS/25/10/BTE application details create employment during its construction phase, employ 7 people onsite, export 1.9 Megawatts of electricity and 1.5 Megawatts of exportable heat thus contributing to the economic role of sustainable development.

In addition, the social role of the proposed development would still be achieved by wider benefits to the environment through the diversion of up to 45,000tpa of food waste destined for landfill or in-vessel composting. This diversion is in compliance with national policy, namely the Waste Strategy Review for England 2011, which encourages local authorities and businesses to consider anaerobic digestion. The benefits of landfill diversion come from the diminishing landfill capacity nationally and within Essex, and also because biodegradable waste, such as food waste, decomposes in landfill and produces methane gas which is a greenhouse gas and a contributor to climate change.

It should be noted that the nature and location of the development (site size, annual tonnage, type of waste, hours of operation, vehicular movements, construction method and number of persons to be employed etc) are not proposed to change with the current submission. The issue for consideration through this application is the acceptability of the proposed design changes to the already permitted scheme.

The justification put forward by the applicant for amending conditions 2 and 15 of planning permission ESS/25/10/BTE was that in November 2012 the applicant acquired the lease to develop and operate the AD facility and reviewed the 2010 AD design in consultation with their AD technology provider. This review highlighted the need to alter the design to meet the requisite process specifications supplied by AD technology provider, who use a mesophilic anaerobic digestion process compared to a thermophilic process (which the existing layout approved under ESS/25/10/BTE is designed to accommodate). The applicant has stated that there are key benefits of using a mesophilic AD process as it is very robust and operates at a lower temperature than a thermophilic process resulting in a lower energy demand. The applicant states that this process has a greater retention time and has therefore, resulted in the design and configuration of the process and treatment tanks being altered as part

of the current submission.

The environmental role of the proposal will be considered further in the report.

B DESIGN, LANDSCAPE AND VISUAL IMPACT

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

Attempting to appraise each of these criteria in turn, in context of the application details, firstly looking at design the Framework details, at Paragraph 56, that good design is a key aspect of sustainable development; is indivisible from good planning and should contribute positively to making places better for people. Whilst planning policies and decisions should not attempt to impose architectural styles or particular tastes, stifle innovation, originality or initiative it is proper to reinforce local distinctiveness. Paragraph 61 of the Framework goes on to detail that although visual appearance and architecture of buildings are very important factors, security high quality and inclusive design goes beyond aesthetic considerations.

Replicating many of the design principles of the Framework, BLP policy RLP 90, which relates to layout and design of development, seeks to ensure a high standard of layout and design in all developments. Included in a list of criteria to be met is that the scale, density, height and massing of buildings should reflect or enhance local distinctiveness; buildings, open areas, circulation spaces and other townscape and landscape areas shall be of a high standard of design and materials; designs shall recognise and reflect local distinctiveness, and be sensitive to the need to conserve local features of architectural, historic and landscape importance; the layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; measures to ensure maximum practical environmental sustainability throughout the construction, occupation and demolition of development to be incorporated; the promotion of safe and secure environments; the promotion in landscape design of local biodiversity and that any lighting proposals will need to be shown to be in context with the local area.

The site is surrounded by a Special Landscape Area to the north and east. The Special Landscape Area is controlled by BDLP Policy RLP79 (Special Landscape Areas). Development likely to cause permanent loss or damage to the traditional rural qualities of the countryside, or its essential rural character, will be refused.

Objections have been raised by local residents that the proposal would have an impact upon the landscape character of the area. Furthermore, Braintree District Council has objected to the proposed alterations to the design of the plant on the basis that they are unacceptable in terms of their visual impact, screening would take 18 – 20 years to develop and the increase in the height of the primary digester.

The existing industrial estate is situated on the northern slopes of the Colne Valley and is visually significant in the local landscape. The existing estate buildings are brick with metal cladding and roofs. Those closest to the site are grey in colour and approximately 7.25m to the ridge height from ground level, that ground level being significantly lower than the application site. A tall cylinder is the most prominent feature above the buildings

The original application scheme had the receiving facilities with a double ridge roof with a height of 10.5m, the store and machinery a height of 8m, and the CHP and boiler room, workshop and office building would have a flat roof with a height of 7m. The primary and secondary digesters would have a height of 12.5m, although the ground level would be reduced by 2m, giving a height of 10.5m when compared with surrounding ground levels.

The receiving facilities height of 10.5m was required to allow tipping of some vehicles and for processes involving gravity feed of the waste. Shallow roof pitches were utilised in order to keep visual impact to a minimum.

As noted within Section 3 of this report the applicant is seeking design changes to the permitted scheme. In summary, the proposed changes consist of the following;

- Internal floorspace of southern section reduced by 37 m² as a result of moving the building approximately 1.5m south of the northern boundary to allow access for maintenance;
- Capacity of the tank increased by increasing the height of the process tank walls and providing a shallower roof profile. Overall height increase 3m;
- Height of building lowered to 6.25/5.25m and internal floorspace of CHP/boiler room increased by 21m²;
- Number of doors reduced to reflect operational requirements;
- Soft landscaping Increased to the west of the site. Additional southern planting also shown on the drawing to reflect the latest scheme submitted under condition 10 of the extant permission;
- Removal of wheel wash. The washing of vehicles will take place inside the Receiving Facilities building in a dedicated wash down area that will comply with ABPR;
- Two underground biofilters with above ground covers (14m x 16m each) replaced by one Odour Control Unit (6.2m high, 12m length x 12m width);
- The 11m high flue stack from the bio-filters position has been adjusted to accommodate the new Odour Control Unit position;
- 15m high flue stack from the CHP/Boiler Room position has adjusted to accommodate detailed process design alignments;
- Identification of the flare stack as not previously shown on approved drawings. It should be noted that the stand by flare stack 'flares off' excess gas in the event of any shutdown or issue with the plant where the gas may build up because it's not being processed. It's a safety feature and only used in an emergency, which the applicant confirms, happens rarely.
- Area of soft landscaping proposed to be extended by 450m² on the western boundary. This has resulted in a reduction of hard landscaping within this area, and;

- Transformer, roadside kiosk, odour control unit, two buffer tanks, gas holder, post digestion tank, pasteurisation tank are proposed new external plant.

WLP Policy W8A (Schedule 1 sites) requires landscaping and screening where necessary.

WLP Policy W10E (Development Control) permits waste management where satisfactory provision is made in respect of the effect of the development on the countryside.

Under planning permission ESS/25/10/BTE the design of the scheme and its landscaping was found to be acceptable. Furthermore, the County's Urban Design and Landscape officers have raised no objection to the proposal on design or landscape grounds.

The applicant has stated that careful consideration was given to the layout changes and how these would impact on the overall massing of the development. Taking into consideration the success of the existing layout care was paid to align the replacement plant with that as closely as possible.

The height of the development was a key consideration in the Supplemental Landscape and Visual Statement as the height of the one of the plant, the primary digester, would increase by 3m. The roof of the tank, as opposed to the tank itself, would be visible above the other buildings and structures (with the exception of the consented 15m CHP/boiler flue stack) from certain viewpoints, although the changes are considered to be limited in the context of the existing scheme and other industrial developments. The extent of visibility is dependent on the positioning and age of landscape planting surrounding the site and as this grows visibility will reduce. The additional landscape planting to the west and south of the AD facility would provide additional mitigation and benefit views from the West and South as the planting matures.

In consideration of the assessments which have been undertaken by the applicant, the evolution of the design due to changes with the AD technology provider and the mitigation proposed it is considered that with the reposition of the conditions imposed within Planning Permission ESS/25/10/BTE the design and landscaping of the proposal is compliant in principle with BLP policy RLP 90 and WLP policies W8A and W10E.

C RESIDENTIAL IMPACT

WLP policy W10E states that, inter-alia, developments will only be permitted where satisfactory provision is made in respect of the amenity of neighbouring occupiers, particularly from noise, smell and dust. Similarly BLP policy RLP 36 details that planning permission will not be granted for new development, extensions and changes of use, which would have an unacceptable impact on the surrounding area as a result of noise, smell, dust, health and safety, visual impact, traffic generation, contamination to air, land or water, nature conservation or light pollution.

BLP policy RLP 62 furthermore states that planning permission will not be granted for development which could give rise to polluting emissions to land, air and water, or harm to nearby residents including noise, smell, fumes, vibration or other similar consequences unless adequate preventative measures have been taken to ensure there would be no harm caused to land use. Specifically in relation to waste reprocessing facilities BLP policy RLP 75 goes on detailing that proposals involving waste recovery will be permitted in employment areas, subject to:

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

Concerns have been raised that the proposed design changes would have a negative impact upon the amenity of residents through odour, noise and dust. The following section seeks to assess these potential impacts as part of the Frameworks environmental role of sustainable development.

Odour and Emissions: An Air Quality Assessment was submitted with the original application submission as required by BDLP Policy RLP63 (Air Quality). The report concluded that any residual odour would not be significant and is forecast to give no reasonable cause for annoyance. Bioaerosol generation would be negligible and it is forecast that no sensitive location close to the site would experience a significant impact.

Waste would still arrive in enclosed vehicles which would not be opened until inside the building and the roller shutter doors have been closed behind it. The reception building would be under negative pressure to ensure no odours could escape whilst vehicles are entering and exiting.

The biofilters would take air from the receiving facilities and filter it to remove odour. This would be discharged via the flue. It should be noted that the specifics of the filtering process would be included in the environmental permitting process, separate from the planning process.

The proposed stack, is concluded to be sufficient to ensure the adequate dispersion of NO₂ and CO in accordance with current Air Quality Objectives.

As noted within the previous application details the digestate would be removed by road and the applicant stated that properly made digestate should be odourless if conforming to PAS 110, thereby negating the need for such measures.

The Primary Care Trust was consulted as part of planning permission ESS/25/10/BTE and although preliminary concerns were raised with regard to bioaerosols and odour, the Environment Agency confirmed that an Environmental Permit would be required and thus these aspects would be strictly controlled through the permitting regime. The Environment Agency as part of this application has raised no objection subject to the re-imposition of conditions attached to planning permission ESS/25/10/BTE.

Noise: As above a Noise Assessment was submitted with the original application.

The assessment concluded the following in summary,

- The construction materials used for the proposed buildings would provide some noise attenuation to ensure noise breakout would not contribute to existing noise levels at sensitive receptors;
- The CHP units would be supplied in soundproof enclosures. It is noted that the technical details of sound proofing would form part of the required Environmental Permit application;
- Plant and vehicles would be serviced regularly and fitted with silencers and that the amount of machinery used would be minimised;
- Whilst the treatment of waste would take place on a 24 hour basis, the acceptance of waste and loading of vehicles with treated and untreatable waste would take place only during the hours of 0800 – 1800 hours Monday to Friday and 0800 – 1200 hours on Saturdays;
- The assessment concluded that the main noise influence on noise receptors in the vicinity of the site is the traffic on the local road network and the premises on the existing industrial estate. It forecasts that the noise levels associated with the proposed development would not have an adverse impact on the existing residential receptors adjacent to the site, those being located at Bluebridge Cottages, on Fenn Road, in Cherry Tree Close and at Westwoods, and;
- The night time noise assessment was carried out using the period of 0200 hours to 0400 hours because this was considered to be the quietest period during the night. The impact of the plant on night time noise has been assessed as negligible.

The County Council's noise consultant raised no objection to the granting of planning permission ESS/25/10/BTE subject to conditions relating to plant and machinery operating only at permitted times and silenced in accordance with the manufacturer's recommendations as proposed within the application. Noise limits at noise sensitive properties were recommended together with noise monitoring every 6 months. These controls are controlled through the imposition of conditions attached to ESS/25/10/BTE, should planning permission be granted.

Dust: The Air Quality Assessment submitted with ESS/25/10/BTE concluded that the potential impact of dust and particulates would be negligible.

Ventilation and dust filters would ensure that any emissions of dust and particulates would be contained within the building and removed prior to air being released to the atmosphere via the proposed flue.

Dust generation outside of the building is proposed to be mitigated by routine sweeping as appropriate. This could be controlled more specifically through the imposition of a planning condition, should planning permission be granted.

It is therefore considered that as the proposal does not propose any changes to the air quality objectives already approved the proposal would comply with BLP Policy RLP 63 (Air Quality).

Therefore, the proposal would not have any additional impact on the air quality, dust, noise or lighting levels, than that previously assessed and found acceptable. Furthermore, the proposal would not involve any alteration to the volume of waste, the hours of operation, or the number of vehicles trips to the site, which would all have a greater environmental impact, particularly on the neighbouring residential properties. As such the proposal is considered to comply with WLP policy W10E and BLP policies BLP 62 and RLP 63.

D TRAFFIC & HIGHWAYS

WLP policy W4C details that access for waste management sites will normally be by short length of existing road to the main highway network. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of the development, the capacity of the road is adequate and there would be no undue impact on road safety or the environment.

BCS policy CS7 aims to promote accessibility for all and details an intention to work with partners to improve accessibility, to reduce congestion and reduce the impact of development upon climate change. Furthermore BLP policy RLP 54, replicated in the Framework at Paragraph 32, requires all proposals for major new development to be accompanied by a Transport Assessment in order to determine the effect of the proposal on traffic congestion, public transport, cycling and walking.

Objections have been raised that the proposal would have a negative impact upon the surrounding highway network, that the network is unsafe and doesn't have sufficient capacity for the type of development proposed, the roads are too old to work functionally and have clasped in the past. In addition BDC have comments that a section of Third Avenue is unbound which has resulted in additional noise to residents through Highway Movements.

It should be noted that the current application (ref: ESS/28/13/BTE) does not propose to amend the highway movements, access arrangements nor the type of vehicles entering or leaving the site approved under planning permission ESS/25/10/BTE. The applicant as part of this proposal intends to remove the external wheelwash facilities with an internal vehicle washdown area and reposition the approved car parking spaces within the same location as approved.

It should be noted that a Transport Statement was submitted with planning permission ESS/25/10/BTE. It was highlighted within the officers report that a Statement was considered adequate by the Highway Authority therefore, a Transport Assessment was not required which is in compliance with BLP Policy 54 (Transport Assessments). The Transport Statement put forward a likely scenario of 96 vehicle movements per day (48 vehicles) including staff and visitors and a 'worst case' scenario of 142 vehicle movements per day (71 vehicles) per day including staff and visitors. This was based on the shortest number of working days in a year, the smallest HGVs and the maximum operational input and output and would give an average flow of 14 vehicles per hour over a 10 hour day.

Furthermore, as part of the original submission the maximised use of the site for

B1, B2 or B8 uses was assessed and produced a worst case scenario of 315 – 1085 vehicle movements per day. Therefore the proposal would result in significantly lower numbers of vehicle movements than the applicant considers would be generated by other potential alternative industrial and commercial uses.

The site provides adequate space for vehicle manoeuvring and queuing without impacting on the industrial estate roads.

As noted above the Highway Authority has raised no objection to the granting of planning permission for the current proposal (ref: ESS/28/13/BTE) nor the existing consent (ref: ESS/25/10/BTE). The conditions and legal agreement attached to the previous consent would be carried over to this consent subject to planning permission being granted.

In consideration of the above consultation responses received, the site history (B1, B2 and B8 scenario of vehicles) and the fall-back planning position (the scheme already permitted under ESS/25/10/BTE) it is considered that sufficient information has been produced to demonstrate that the development, either alone or cumulatively, would not have an undue impact of highway safety or efficiency. Accordingly it is deemed that the proposal complies with WLP policy W4C, BLP policy RLP 54 and in the improvement works proposed BCS policy CS7.

E HUMAN RIGHTS

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

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

In light of the proposal only seeking to make amendments to the design of the scheme and the absence of any alterations to the impacts in terms of noise, odour, dust, lighting, traffic or other amenities, it is considered there is no interference with either Article 8 or Article 1 of Protocol 1. Even if there were such interference, It is considered that the interference would be of such a level as to be clearly justified and proportionate in the public interest.

8. CONCLUSION

In conclusion, the principle and need for this development being located at Bluebridge Industrial Estate has been accepted through the grant of planning permission ESS/25/10/BTE. Nevertheless, it is still important to assess whether or not the proposed amendments to the design of the scheme would be acceptable.

It is considered that the proposed design changes to the scheme would not have a detrimental impact upon the landscape character of the area. The design changes have been sought due to the applicant utilising a different technology provider. Furthermore, the County's advisors on design and landscape have raised no objection to the proposed changes. In addition approximately 450m² of additional soft landscaping along the western boundary would be provided which

once matured would aid in screening the increase in height of the primary digester tank through reducing the massing of the development as a whole. It is considered that the proposal complies with WLP policy W10E and BLP policies BLP 62 and RLP 63

The economic, social and environmental strands of the Framework are considered to have been achieved equally and the waste transfer station amendments would be considered to constitute 'sustainable development' in accordance with the Framework.

Furthermore, the WLP and BLP policies relied upon in this report are considered to be consistent with the Framework and therefore approval of the application is recommended subject to the imposition of appropriate conditions as permitted by WLP Policy W10A (Planning Conditions and Obligations) and as set out below.

9. RECOMMENDED

That:

- i) planning permission be granted subject to the amendment of the existing legal agreement (to reflect the revised application reference ESS/28/13/BTE) and amended wording of Condition 2 and Condition 16 (of permission ESS/25/10/BTE) to state:

Condition 2

'The development hereby permitted shall be carried out in accordance with the details of the application dated 05 July 2010 and supplementary information dated July 2010, as amended by the application and supplementary information dated 5 June 2013, together with drawing numbers;

13005_05 Rev P3

13005_06 Rev P3

13005_07 Rev P3

JBA 13/59-TS01 Rev B

JBA 13/59-01 Rev B

'Promap site plan 1:2500 @ A3',

e-mails from Jeremy Elden dated 28 July 2010, 05 August 2010, 06 August 2010, 20 August 2010 17:22 and 19.46, 26 August 2010, 31 August 2010, 01 September 2010, 15 September 2010, 22 September 2010, 05 October 2010 15:10 and 15:49,

e-mails from Matt Clarke date 07 July 2010, 02 September 2010 09.48 and 15.07, 03 September 2010,

the contents of the Design and Access Statement received 07 July 2010, as updated June 2013,

the contents of the Planning Statement dated June 2010, as updated June 2013,

the Highways Traffic and Transport Statement dated 17 June 2010,

the Landscape and Visual Impact Assessment dated February 2010, as

updated June 2013,
Measured Works Schedule dated 28 May 2013,
Management Statement dated April 2013,
Arboricultural Implications Assessment dated October 2009,
Flood Risk Assessment dated May 2010,
Phase 1 habitat Survey dated 04 October 2009,
Reptile Survey dated 04 October 2009,
Air Quality Assessment dated June 2010 and Wardell Armstrong Air
Considerations Note,
Noise Assessment dated June 2010 and Wardell Armstrong Noise
Considerations Note,
Site Check Environmental Risk Assessment dated 13 March 2007,

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

Condition 15:

‘No beneficial occupation of the development hereby permitted shall take place until parking areas as indicated on plan 13005_05 Rev P3 have been laid out and clearly marked for the parking of cars, lorries and any other vehicles that may use the site, including motorcycles, bicycles and provision for the mobility impaired. The parking areas shall be permanently retained and maintained for parking and shall be used for no other purpose’.

And:

- ii) All other conditions of planning permission ESS/25/10/BTE be re-imposed and updated as appropriate.

BACKGROUND PAPERS

Consultation replies
Representations
Ref: P/DC/Shelley Bailey/ESS/25/10/BTE
Ref: P/DM/Paul Calder/ESS/28/13/BTE

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

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

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

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

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

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

LOCAL MEMBER NOTIFICATION

BRAINTREE – Halstead

committee DEVELOPMENT & REGULATION

date 22 October 2010

MINERALS AND WASTE DEVELOPMENT

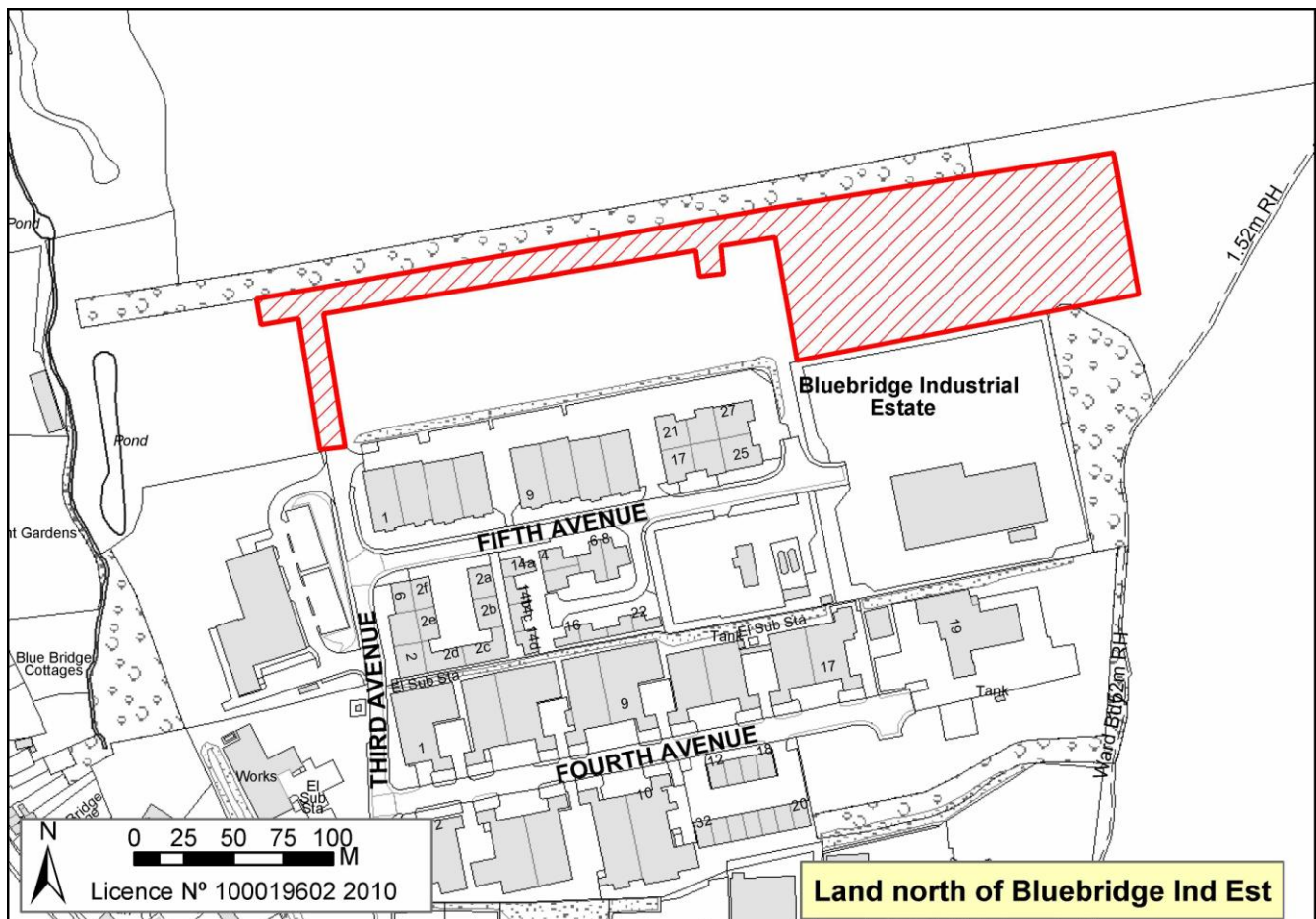
Proposal: Construction of an anaerobic digestion plant including combined heat and power with associated offices and new access

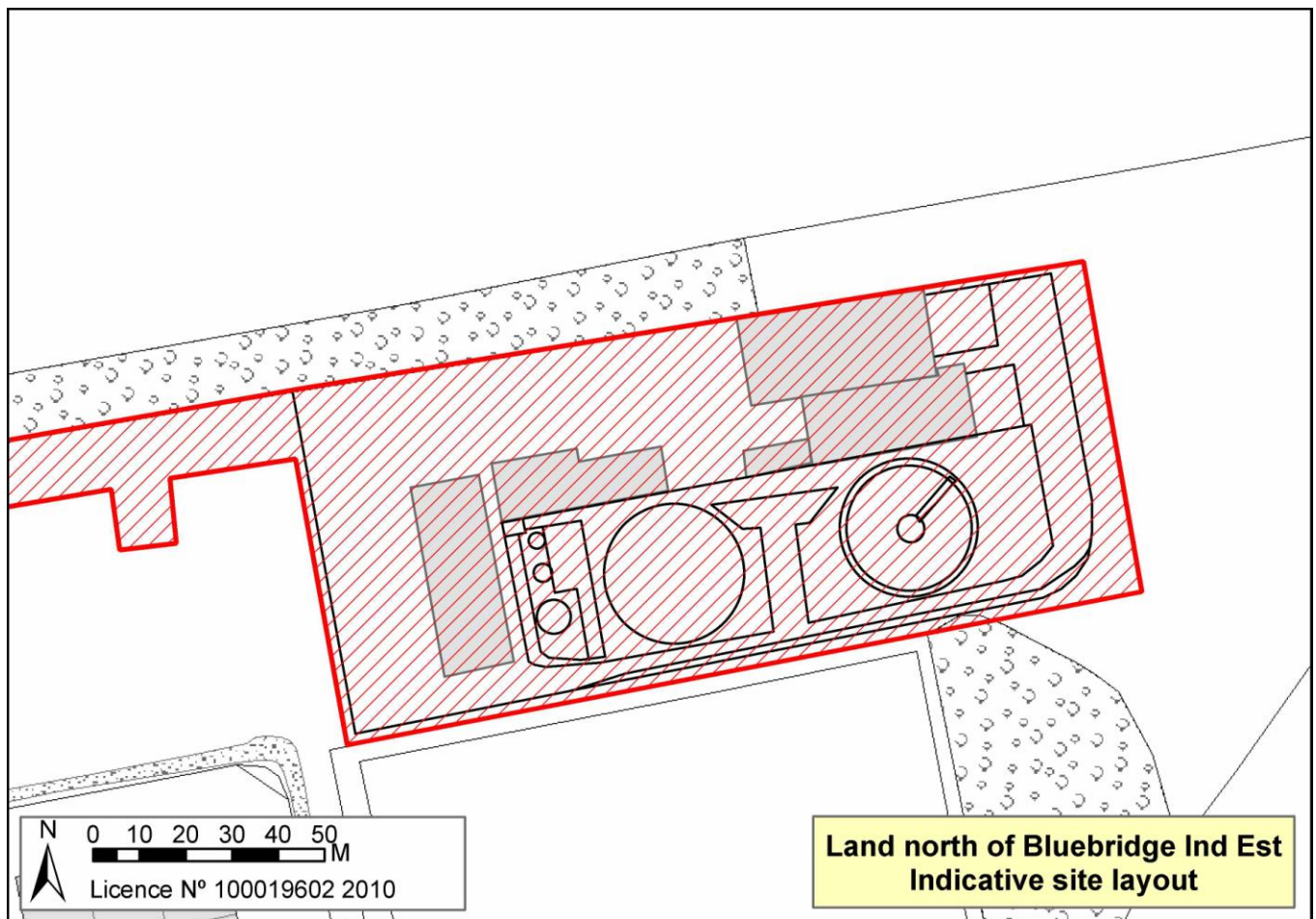
Location: Land north of Bluebridge Industrial Estate, Halstead, Essex

Ref: ESS/25/10/BTE

Report by Head of Environmental Planning

Enquiries to: Shelley Bailey Tel: 01245 437577





10. BACKGROUND & SITE

The 1.36 hectare proposal site lies on land to the north of Bluebridge Industrial Estate, off of the A1124 Colchester Road in Halstead, Braintree. It would be accessed via the northern section of Third Avenue and the haul route would run along the northern boundary of the field, thus leaving significant space (approximately 80m) between the site boundary and the industrial sheds which line Fifth Avenue to the south of the site.

The proposal site is a significantly higher landform than the existing industrial estate and rises from west to east, although the development area is relatively flat with a slight slope from north to south. The site is of a comparable level to the arable field to the north. The site is presently rough grassland which is not cultivated or farmed.

Properties in Fenn Road lie to the west of the site and are separated from it by a Council depot, ambulance station and allotment gardens, although many of the properties do have a clear view of the site due to their elevated position.

The northern and eastern boundaries of the site are denoted by a belt of trees and a hedgerow respectively, beyond which are open fields interspersed by isolated properties. The closest of these is approximately 300m to the east. One property approximately 400m to the north east is visible from within the site.

There is a secondary tree belt to the south of the site.

Footpath 22 (Halstead Urban) crosses the field to the north and runs adjacent to the north eastern site boundary for a short distance before continuing eastwards as Footpath 3 (Colne Engaine).

The site benefits from outline planning consent (Braintree ref 07/00681/OUT) for industrial development within Use Classes B1, B2 and B8, in line with the Local Plan allocation. The consent was granted by Braintree District Council in July 2007. Since that date several conditions attached to the consent have been discharged.

It is noted that the outline consent envisaged a degree of removal of earth on the site to reduce the overall height of proposed buildings. Condition 16 of the outline consent required details to be submitted relating to finished ground levels. This condition was discharged by Braintree District Council on 22 December 2009 and confirms that the lowering of ground levels is no longer required.

11. PROPOSAL

The application is for the development of a new anaerobic digestion plant (ADP) on land at Bluebridge Industrial Estate, Halstead. The proposal site is located to the north of the existing buildings on the industrial estate, within an area allocated by Braintree District Council as an extension to the existing estate.

The development would include a 170mx80m plot comprising:

- a reception hall for the receipt of waste;
- a primary digester tank;
- a secondary digester tank;
- water treatment tanks;
- a two-storey office/workshop/Combined Heat and Power building;
- a separation and storage building; and
- associated car parking, cycle parking and landscaping.

Buildings would have natural timber external cladding, with red aluminium doors and window frames and profiled steel cladding forming the roof. Other building features, including tanks and flues, would be non-reflective grey in colour. The tallest aspects of the development would be the reception hall and digester tanks (10.5 metres high from site ground level).

The feedstock waste for the facility would comprise food from kerbside collections, restaurants, supermarkets and industrial sources, supplemented by locally grown energy crops to keep the ADP operating efficiently in the event that food waste arisings are low.

Waste would be delivered to the reception hall (the doors of which would be closed except when allowing vehicular access/egress) and turned into slurry for processing. An external unit would receive agricultural feedstocks. The slurry would be transferred into containers, sterilised with heat from the CHP plant, and moved to the digester tanks where it would decompose to form biogas (methane and carbon dioxide) and a liquid/solid residue over a period of 25 days in the primary

digester and 17 days in the secondary digester. Biogas would be collected and converted to electricity in the Combined Heat and Power building for local use or for feeding into the grid. The residue would be filtered in the separation and storage building, with the solid stored and then sold as soil conditioner, and the liquid sold either as dilute fertiliser or discharged to sewer.

The development would have the capacity to process up to 45,000 tonnes per annum of feedstock waste, producing up to 1.9 Megawatts of electricity, 1.5 Megawatts of exportable heat, 13,000 tonnes per annum of solid soil conditioner, and up to 45,000 tonnes per annum of very dilute liquid fertilizer. The exportable heat would be in the form of hot water at 95°, a result of the cooling processes in the electricity generation, and would be available for use within the local area.

The proposal details indicate that the plant would be open between 0800 and 1800 hours Monday to Friday, 0800 and 1200 hours on Saturdays, and closed on Sundays. The proposed associated vehicle movements would be likely to be 96 vehicle movements per day (48 in, 48 out), which would include 82 Heavy Goods Vehicle movements (41 in, 41 out) and 14 light vehicle movements per day (7 in, 7 out), the latter accounting for staff and visitors. The development would generate 7 full time employees.

The whole site would be regraded to create a series of terraces stepping up the slope from west to east. The proposed site for the anaerobic digestion plant would be the highest at 66m in the eastern section. An area at 64m would be incorporated to the south to accommodate taller proposed structures. A concrete block retaining wall would be installed to the north and east of the proposal site and between the 66m and 64m levels. The existing bank to the south along Fifth Avenue would be retained.

A 2m steel palisade fence and gate is proposed to surround the site. It would be painted a dark green colour to mitigate visual impact.

12. POLICIES

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

	<u>WLP</u>	<u>BDLP</u>
Need for Waste Development	W3C	
Flood Control	W4A	
Water Pollution/Water Quality	W4B	RLP72
Access	W4C	
Anaerobic Digestion	W7C	
Schedule 1 sites	W8A	
Non-preferred sites	W8B	
Planning conditions and obligations	W10A	
Development Control Criteria/ Industrial and Environmental	W10E	RLP36

Standards		
Hours of Operation	W10F	
Rights of Way	W10G	
Town Development Boundaries		RLP2
Design and Layout of Business Parks		RLP31
Employment Allocation north of Bluebridge Industrial Estate		RLP42
Transport Assessments		RLP54
Travel Plans		RLP55
Vehicle Parking		RLP56
Development likely to give rise to pollution		RLP62
Air Quality		RLP63
Contaminated Land		RLP64
External Lighting		RLP65
Waste Reprocessing Facilities		RLP75
Renewable Energy		RLP76
Energy Efficiency		RLP77
Special Landscape Areas		RLP79
Landscape Features and Habitats		RLP80
Layout and Design of Development		RLP90

13. CONSULTATIONS

BRAINTREE DISTRICT COUNCIL – No objection. Comments as follows:

- The site is allocated for the expansion of Bluebridge Industrial Estate (Policy RLP42). Policy RLP75 allows development involving waste recovery within employment policy areas and Policy RLP76 encourages the integration of renewable energy generation into new developments.
- The applicant should actively engage with the community.
- How would noise mitigation be incorporated into the AD plant?
- Is it realistic that vehicles would take only 1 minute to unload and 30 seconds to leave?
- The assessment does not take into account concentrated vehicle movements at peak times.
- The assessment does not take into account noise impact on other commercial/industrial businesses.
- The assessment does not take into account background noise levels for the entire night.
- The assessment does not take into account how night time noise generated from plant at height would be mitigated.
- Recommends further assessment of individual sources to demonstrate effects of out of character noise on receptor properties.
- The extraction system on the hall and plant room should be sufficient to ensure a suitable number of air changes per hour using an activated carbon filter.
- Exhaust air should be extracted to a separate carbon filter.
- A dedicated system should ensure the exhausts of the road tankers used to export the digesters are filtered.
- An automated damper system should be installed on the gas boiler stack to prevent emissions from the plant room.

- The specification for the whole digestate, liquor and fibre should be adhered to.
- The retention of the existing tree belt along the south-east boundary would be preferable for screening purposes.
- A hedge along the palisade fence would soften its appearance.
- Consideration should be given to phasing the development with the adjoining development to ensure an end use for exportable heat in the interests of sustainability.
- The imposition of conditions covering the following should be considered: working hours, timing of mitigation measures in the Landscape and Visual Impact Assessment, adherence to the phase 1 Habitat Survey, vehicle noise mitigation measures, construction working hours, access arrangements, piling noise levels, burning of waste during construction, dust and mud control.

MID ESSEX PRIMARY CARE TRUST – Provides comments as follows:

- Issues of concern are bio-aerosols, odour, noise, small particles PM_{2.5}, dust and emissions from gas engine exhausts.
- It is understood that the Environmental Permitting regime will cover the above concerns but the modelling assumptions will require careful regulatory review.
- Providing the above is undertaken, no significant concerns are raised regarding the health of the local population.

STATE VETERINARY AGENCY – Any comments received will be reported

ENVIRONMENT AGENCY – No objection subject to a condition relating to the mitigation measures against flooding as set out in the submitted Flood Risk Assessment. Comments as follows:

- The development would divert food waste from landfill, thereby reducing greenhouse gases, and would generate renewable energy.
- It would be in accordance with government policy and the Waste Strategy 2007.
- Suggests the operator ensures sufficient feedstock would be available, welcomes the export of heat and power and encourages the use of heat by neighbouring industries.
- Advises the applicant that digestate would be waste until it satisfies certain criteria.
- Is satisfied there would be no increase in flood risk as a result of the development.
- Advises that an Environmental Permit would need to be obtained prior to commencement of development.

HIGHWAY AUTHORITY – No objection subject to:

Prior to commencement of development:

- A financial contribution for highway improvements at the junction of First Avenue with Colchester Road.
- A financial contribution for bus stop improvements in Colchester Road.
- Provision of a scheme showing a turning and parking area and wheel wash

facilities during the construction period.

Prior to beneficial occupation:

- Construction and adoption (or adequate rights) of the access road from Third Avenue.
- Provision of details of a missing section of footway on the western side of Third Avenue and two dropped kerb crossings.
- Provision of details of the number, location and design of cycle parking facilities.
- Provision of a vehicular turning facility within the site.
- No unbound material to be used on the vehicular access within 15 metres of the highway boundary.
- Gates to be inward opening only and located a minimum of 10m from the edge of the carriageway.
- Provision of details to prevent the discharge of surface water onto the highway prior to commencement of development and implementation prior to beneficial occupation.
- Provision of parking bays with hard surface, sealing and marking out, and spaces a minimum of 2.9mx5.5m.

COUNTY COUNCIL'S NOISE CONSULTANT – No objection subject to conditions relating to plant and machinery operating only at permitted times and silenced in accordance with the manufacturer's recommendations, noise limits at noise sensitive properties and noise monitoring every 6 months.

THE WASTE DISPOSAL AUTHORITY – Comments as follows:

- The Joint Municipal Waste Management Strategy for Essex states that Essex aims to achieve 60% recycling of household waste by the year 2020. The Waste Disposal Authority's preference for dealing waste is with composting technologies such as Anaerobic Digestion for food or In Vessel Composting for mixed food and garden waste.
- Eleven Waste Collection Authorities have signed up to work with Essex County Council to achieve recycling and composting targets, primarily through the expansion of organic collection schemes.
- There is an ongoing requirement for the Waste Disposal Authority to provide treatment facilities for these wastes.
- Procurement for the provision of a facility to treat source segregated food waste and/or food and garden waste in a location in the south of Essex commenced in June 2010. Procurement for a facility in a central/north Essex location is likely to commence in early 2011.
- Essex County Council intends to offer authority controlled sites as part of both procurements although alternative sites can be proposed by prospective bidders.

NATURAL ENVIRONMENT (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

NATURAL ENVIRONMENT (Trees) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

BUILT ENVIRONMENT (Urban Design) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – Any comments received will be reported.

BUILT ENVIRONMENT (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to strengthening of the planting to the south of the site, with maintenance and frequent watering and notification to the planning authority in advance of such watering. The watering could be done with 'grey' water from the development. The gap in the tree belt along the northern boundary should be planted and the rest thickened with shrubs.

HISTORIC ENVIRONMENT (Archaeology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No requirement for archaeological investigation.

HALSTEAD TOWN COUNCIL –Comments as follows:

- Nearby residents have not been consulted as they should have been.
- Additional vehicles would cause congestion in Colchester Road and with the Priory Hall and Central Piling site developments there is a case for a relief road around the town.
- The development is welcomed, however regular monitoring of noise, odour and hours of operation should take place and vehicle movements should be recorded and reported to the Town Council.

Comment: Occupiers of properties within 250m of the site boundary have been notified of the application and it has been advertised by site notice and in the local press, in accordance with statutory requirements and the adopted Statement of Community Involvement.

COLNE ENGAINE PARISH COUNCIL – Any comments received will be reported

LOCAL MEMBER – BRAINTREE – Halstead – Any comments received will be reported

14. REPRESENTATIONS

The applicant has carried out pre-application consultation with the local community, councillors and the Waste Planning Authority as advocated by Essex County Council's Statement of Community Involvement, adopted October 2009.

106 properties were directly notified of the application. 19 letters of representation have been received from 15 properties. A summary of the planning issues raised is included at Appendix A.

15. APPRAISAL

The key issues for consideration are:

- F. Need
- G. Policy considerations & Principle
- H. Amenity Impact
- I. Design

- J. Landscape Impact
- K. Tree and Ecological Impact
- L. Traffic & Highways
- M. Flood Risk
- N. Health & Safety

A NEED

WLP Policy W3C (Need for Waste Development) requires significant waste management developments (with a capacity of over 25,000 tpa) to only be granted planning permission where there is a need for such a facility for waste arising in Essex and Southend. Further restrictions apply for developments with capacity over 50,000 tpa.

The development would divert up to 45,000tpa of food waste destined for landfill or in-vessel composting. This diversion is in compliance with national policy, namely the Waste Strategy for England 2007, which encourages local authorities and businesses to consider anaerobic digestion. The Environment Agency has responded to the application and commented that it welcomes the proposal.

The benefits of landfill diversion come from the diminishing landfill capacity nationally and within Essex, and also because biodegradable waste, such as food waste, decomposes in landfill and produces methane gas which is a greenhouse gas and a contributor to climate change.

The development would make use of the waste by converting it to a soil improver and utilising the gas to produce renewable energy in the form of electricity and heat. EDF has confirmed to the applicant the availability of a suitable point of connection for electricity distribution 100m from the site boundary within the industrial estate. In the future the electricity could be sold to tenants of industrial buildings planned for the remainder of the land to the north of the industrial estate.

There are no anaerobic digestion facilities within the County of Essex. The applicant has stated that the Essex Waste Partnership expects to collect 37ktpa of segregated food waste arisings by 2013/14, with a further 8ktpa from Colchester and a possible small additional volume from Babergh in Suffolk. Commercial and Industrial waste figures are less well documented but the applicant has put forward a figure of 84ktpa of separately collectable food waste from this waste stream in Essex, giving an approximate total of 130ktpa of food waste which is currently not, in the main, segregated at source but collected co-mingled with green waste or not separated from general waste, and so goes directly to landfill. The applicant has suggested that the key reason for this is the lack of facilities to treat segregated food waste.

Following further investigation into these figures using more up to date information from the County Council as Waste Disposal Authority, the applicant has clarified that the expected food waste volume would be 33kt in 2013/14 excluding Colchester waste arisings, or 36kt including Colchester. An approximate figure of 5kt would be generated if and when Colchester comes fully on line, giving a figure of approximately 38kt in later years. For Commercial and Industrial waste, the figure is projected to be 80-105kt. Essex County Council as Waste Disposal

Authority has confirmed that there should be sufficient feedstock from commercial and industrial wastes.

The Waste Partnership's Outline Business Case identifies 2 in vessel composting facilities used by the partnership under contract. Braintree, Rochford, Uttlesford and Southend Borough Council currently collect food waste and send it to one of those sites. All of the remaining districts except one will roll out source segregated collection within the next 5 years, so currently the majority of food waste is co-mingled with green waste collections.

The Partnership's preference is for Anaerobic Digestion technologies for the treatment of biowastes, facilitating renewable energy generation.

In respect of the need for the residues from the process, the digestate is proposed to be used as a soil conditioner. It is moist, odourless and has similar consistency to peat. It contains slow release nitrogen and immediately available phosphorous and potassium and is suitable for long term soil improvement on heavy clay soils found in the local area. The applicant has had discussions with local farmers about the use of the digestate on their land and intends to obtain a long term outlet for the product should planning permission be granted.

The liquid digestate could be utilised as fertiliser but contains less nitrogen than the solid digestate. It could be transported by tanker or pipeline to local farms or could be discharged to the sewer. This is yet to be defined by the applicant but the Transport Statement uses the tanker scenario, thereby presenting the 'worst case' scenario.

Although the development would only have capacity for up to 45,000tpa, it is still considered appropriate to restrict the source of waste to that arising in Essex and Southend, with the exception of a 30 mile radius to allow the development to be economically viable. This would ensure that the facility would be available for waste arising in Essex and Southend in accordance with WLP Policy W3C (Need for Waste Development).

It is therefore considered that a need has been proven for the facility, in compliance with WLP Policy W3C (Need for Waste Development) and WLP Policy W8A (Schedule 1 sites), which requires a need to have been proven and refers to WLP Policy W3C, and in compliance with the principles of the Waste Strategy.

B POLICY CONSIDERATIONS & PRINCIPLE

Planning Policy Statement 10: Planning for Sustainable Waste Management has the overall objective to protect human health and the environment by producing less waste and using it as a resource wherever possible. One of the key planning objectives is to drive waste hierarchy, which anaerobic digestion with combined heat and power generation would help to achieve.

The proposed development would be located within the town development boundary as required by BDLP Policy RLP2 (Town Development Boundaries).

BDLP Policy RLP42 (Employment Allocation north of Bluebridge Industrial Estate)

allocates the land to the north, including that of the application site, as an employment site for B1, B2 and B8 uses and additional structural landscaping. It requires the development to be carried out in accordance with:

a study of flora and fauna,
a structural landscaping scheme,
achievement of slab levels no higher than Fifth Avenue,
lorry movements associated with soil removal,
consultations with Essex County Council on highway and mineral matters,
ridge heights no higher than those in Fifth Avenue,
buildings finished with dark matt colours, and
no illuminated signs.

All of the above is considered to have been addressed, either through the submission of the current application or through the discharge of condition 16 of the outline planning consent granted by Braintree District Council. It is noted that the ground levels and ridge heights are no longer applicable due to the discharge of that condition and illuminated signs are not proposed.

Although the development is not classified as Use Class B1, B2 or B8 because waste development is generally considered to be sui generis i.e. it falls into a use class of its own, it is considered that the development is of a similar type to that of a B2 use. It is therefore considered that BDLP Policy RLP42 (Employment Allocation north of Bluebridge Industrial Estate) has been complied with.

Furthermore, WLP Policy W8B (Non-preferred sites) permits waste management facilities at areas other than the preferred sites including areas allocated for industrial or employment use in the local plan, such as the site proposed. This is subject to the criteria in WLP Policy W8A (Schedule 1 sites) where relevant, which will be considered further in the report.

Similarly, WLP Policy W7C (Anaerobic Digestion), inter alia, supports anaerobic digestion facilities as a method of treating putrescible waste materials and with the aim of producing a soil improver or growing medium and recovering energy, at locations stated within WLP Policy W8B.

BDLP Policy RLP75 (Waste Reprocessing Facilities) permits proposals involving waste recovery in employment policy areas subject to there being no unacceptable adverse impact on adjoining uses through noise, smell, dust or other airborne pollutants and there being no adverse impact on road safety or capacity. The development has been proposed within an employment policy area. The remaining elements of BDLP Policy RLP75 will be considered further in the report.

Therefore it is considered that the development of an anaerobic digestion facility with energy generation would be acceptable in principle in the location proposed. It would appear to comply with the overarching policies within the Development Plan that deal with waste development of the type proposed. The detailed impacts of the development will be considered further in the report.

C AMENITY IMPACT

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

BDLP Policy RLP62 (Development likely to give rise to pollution), in summary, does not permit development which would give rise to polluting emissions to land, air, water or residents, including noise, smell, fumes and vibrations unless adequate preventative measures would be taken.

Similarly, BDLP Policy RLP36 (Industrial and Environmental Standards), in summary, does not permit development which would have an unacceptable impact in terms of noise, smells, dust, other pollution, health and safety, visual impact, traffic generation, contamination to air, land or water, nature conservation or light pollution.

Odour and Emissions: An Air Quality Assessment has been submitted with the application as required by BDLP Policy RLP63 (Air Quality). The report concludes that any residual odour would not be significant and is forecast to give no reasonable cause for annoyance. Bioaerosol generation would be negligible and it is forecast that no sensitive location close to the site would experience a significant impact.

Waste would arrive in enclosed vehicles which would not be opened until inside the building and the roller shutter doors have been closed behind it. The reception building would be under negative pressure to ensure no odours could escape whilst vehicles are entering and exiting.

Two biofilters located immediately to the east of the reception building would take air from the receiving facilities and filter it to remove odour. This would be discharged via an 11m flue. Braintree District Council has suggested that carbon filters should be used instead of biofilters, however the applicant has provided evidence to show that biofilters are the most suitable for the type of process proposed. It is also noted that the specifics of the filtering process would be included in the environmental permitting process, separate from the planning process.

The proposed 15m stack, located to the south west of the engine building, is concluded to be sufficient to ensure the adequate dispersion of NO₂ and CO in accordance with current Air Quality Objectives.

Digestate would be removed by road. Braintree District Council has commented that the air from the road tankers should be filtered. The applicant has stated properly made digestate should be odourless if conforming to PAS 110, thereby negating the need for such measures.

The Primary Care Trust has been consulted, and although preliminary concerns have been raised with regard to bioaerosols and odour, the Environment Agency has confirmed that an Environmental Permit would be required and thus these

aspects would be strictly controlled through the permitting regime. The Environment Agency has raised no objections to the development.

Dust: Ventilation and dust filters would ensure that any emissions of dust and particulates would be contained within the building and removed prior to air being released to the atmosphere via the proposed 11m flue, located to the east of the receiving building.

Dust generation outside of the building is proposed to be mitigated by routine sweeping as appropriate. This could be controlled more specifically through the imposition of a planning condition, should planning permission be granted.

The Air Quality Assessment concludes that the potential impact of dust and particulates would be negligible.

It is therefore considered that air quality objectives have been met and the development would comply with BDLP Policy RLP63 (Air Quality).

Noise: A Noise Assessment has been submitted with the application.

The assessment proposes that the construction materials used for the proposed buildings would provide some noise attenuation to ensure noise breakout would not contribute to existing noise levels at sensitive receptors. This would be achieved through the use of compressed straw as the infill between the inner and outer walls of the main buildings, and the CHP units would be supplied in soundproof enclosures. It is noted that the technical details of sound proofing would form part of the required Environmental Permit application.

It also proposes that plant and vehicles would be serviced regularly and fitted with silencers and that the amount of machinery used would be minimised.

Whilst the treatment of waste would take place on a 24 hour basis, the acceptance of waste and loading of vehicles with treated and untreatable waste would take place only during the hours of 0800 – 1800 hours Monday to Friday and 0800 – 1200 hours on Saturdays. For the avoidance of doubt, hours of use could be controlled through the imposition of a planning condition, should planning permission be granted, in compliance with WLP Policy W10F (Hours of Operation).

Staff would be educated to avoid unnecessary noise such as shouting and radios.

The assessment concludes that the main noise influence on noise receptors in the vicinity of the site is the traffic on the local road network and the premises on the existing industrial estate. It forecasts that the noise levels associated with the proposed development would not have an adverse impact on the existing residential receptors adjacent to the site, those being located at Bluebridge Cottages, on Fenn Road, in Cherry Tree Close and at Westwoods.

In answer to the queries raised by Braintree District Council, the applicant does consider it realistic that it would take approximately 1 minute for vehicles to reverse into the loading area and approximately 30 second to leave the loading

area and reach the access road. It has been suggested by the applicant that even if this were to take longer the predicted noise rating level would still be less than the current background noise due to the contribution of vehicle manoeuvring to the overall daytime sound level being negligible.

The same conclusion is true of the assessment of vehicle numbers at peak times. It has been put forward by the applicant that even if all waste delivery and public vehicles were to arrive and depart the site at the same time, the predicted noise rating level would still be less than the background noise levels at the receptors..

The night time noise assessment was carried out using the period of 0200 hours to 0400 hours because this was considered to be the quietest period during the night. The impact of the plant on night time noise has been assessed as negligible.

Braintree District Council has recommended further assessment of individual sources of noise. The applicant has stated that the assessment has been carried out as required by the BS4142 assessment.

The County Council's noise consultant has raised no objection to the proposals subject to conditions relating to plant and machinery operating only at permitted times (as above) and silenced in accordance with the manufacturer's recommendations as proposed within the application. Noise limits at noise sensitive properties are recommended together with noise monitoring every 6 months. This could be controlled through the imposition of an appropriately worded condition, should planning permission be granted.

Visual: Visual impact from a landscape point of view is considered later in the report, however with respect to the specific issue of visual amenity for neighbouring occupiers, the properties most affected are considered to be those in Fenn Road to the west. These properties have a full view of the proposal site and would continue to see it should the development gain planning permission and be built. However, it is noted that these views are available within the context of the existing industrial estate which can also be seen from those properties. The existing short distance views for occupiers of properties along Fenn Road are considered to provide a poor visual amenity due to the overlooking of the County Council depot and ambulance station and the existing industrial estate. Therefore it is considered that the longer distance views of the proposed development, whilst undeniably present, would not have significant detriment on the visual amenity of occupiers of Fenn Road. In making this assessment it is noted that the site was always envisaged to be used for industrial purposes within the Local Plan and that outline consent already exists for industrial buildings of unspecified design on the proposal site.

Businesses within the existing industrial estate would have a view of the proposed development due to its proposed elevated position, however it would not be dissimilar in scale and massing to the other warehouses and buildings providing an existing backdrop within the industrial estate and as the businesses are not residential properties the impact is not considered to be significant.

Light: BDLP Policy RLP65 (External Lighting) requires, in summary, high quality design of lighting which does not significantly impact on amenity or road users and does not cause unacceptable harm to natural ecosystems.

Lighting is proposed to be located on the buildings and the main digester tank, however no details have been provided. Therefore it is considered appropriate that, in order to ensure compliance with BDLP Policy RLP65 (External Lighting), a condition could be imposed to control external lighting should planning permission be granted.

Overall it is considered that the development would adequately control polluting emissions in compliance with BDLP Policy RLP62 (Development likely to give rise to pollution) and also the aspect of BDLP Policy RLP75 (Waste Reprocessing Facilities) which requires no unacceptable adverse impact on neighbours by reason of noise, smell, dust and other airborne pollutants. It is also considered that the development would comply with the amenity requirements WLP Policy W10E (Development Control Criteria) and BDLP Policy RLP36 (Industrial and Environmental Standards); other aspects of these policies will be considered further in the report.

D DESIGN

BDLP Policy RLP90 (Layout and Design of Development) requires a high standard of design and layout in all developments.

BDLP Policy RLP77 (Energy Efficiency) requires, in summary, new development to incorporate energy conservation and efficiency measures.

The site layout is considered to be well conceived in relation to the access road and in allowing adequate and logical space for vehicle movements within the site. The buildings themselves are considered to be appropriately located, particularly the building to the west which would serve to partially screen the digester tanks from the properties to the west.

The buildings would be constructed with natural timber construction and profiled steel cladding with pitched roofs. The applicant has incorporated straw bale insulation, timber cladding, recycled rainwater, low energy lighting and low water use appliances into the design in order to increase its sustainability.

Ground floor level access entry and a disabled WC are proposed in the offices to assist with disabled access.

The digester tanks would be painted steel and the colour could be controlled via condition, should planning permission be granted.

It is considered that these measures would ensure compliance with BDLP Policies 77 (Energy Efficiency) and RLP90 (Layout and Design of Development).

It is also considered that the development would comply with WLP Policy W8A (Schedule 1 sites), which requires a high standard of design with landscaping and screening where necessary. Landscaping will be considered further in the report.

E LANDSCAPE IMPACT

The site is surrounded by a Special Landscape Area to the north and east. The Special Landscape Area is controlled by BDLP Policy RLP79 (Special Landscape Areas). Development likely to cause permanent loss or damage to the traditional rural qualities of the countryside, or its essential rural character, will be refused.

WLP Policy W8A (Schedule 1 sites) requires landscaping and screening where necessary.

BDLP Policy RLP76 (Renewable Energy) encourages and permits renewable energy schemes and the integration of renewable generation into new developments where no demonstrable harm is caused to landscape, nature conservation or historic features.

WLP Policy W10E (Development Control) permits waste management where satisfactory provision is made in respect of the effect of the development on the countryside.

The existing industrial estate is situated on the northern slopes of the Colne Valley and is visually significant in the local landscape. The existing estate buildings are brick with metal cladding and roofs. Those closest to the site are grey in colour and approximately 7.25m to the ridge height from ground level, that ground level being significantly lower than the application site. A tall cylinder is the most prominent feature above the buildings.

The layout of the development would utilise the natural slope of the site to minimise the visual impact. The site would be level with the exception of a 2m lower level surrounding the digesters. This would reduce the visual impact of the tanks, the tallest aspect of the development, and provide bunding for safety.

The receiving facilities would have a double ridge roof with a height of 10.5m, the store and machinery a height of 8m, and the CHP and boiler room, workshop and office building would have a flat roof with a height of 7m. The primary and secondary digesters would have a height of 12.5m, although the ground level would be reduced by 2m, giving a height of 10.5m when compared with surrounding ground levels.

The receiving facilities height of 10.5m would be required to allow tipping of some vehicles and for processes involving gravity feed of the waste. Shallow roof pitches have been utilised in order to keep visual impact to a minimum.

A Landscape and Visual Impact Assessment has been submitted with the application which concludes that there would be a moderate to minor negative impact on the landscape to the north, but that over time the existing tree belt and additional planting would mitigate that impact.

The existing tree belt is well established along the length of the northern boundary except in a 100m section on higher ground to the east, where it is sparsely vegetated. The trees are an average of 8m in height and are growing at a rate of

approximately 300mm per annum.

The LVIA goes on to say that, when viewed from the south, the development would be likely to have an impact on the skyline, as it would break the canopy line of the northern tree belt, but only when viewed from the lower valley slopes below the level of the site. An existing tank within the industrial estate already breaks the skyline from this location. Therefore for an estimated temporary period of 5 years there would be a minor negative effect on the skyline from this location until the trees have grown in height.

The finish of the buildings would be timber and it is considered that this, together with a condition to control the colour of the digester tanks, would serve to mitigate the visual impact on the landscape.

In addition, access to the biofilters to the east of the buildings is required but only occasionally, therefore grass pavers have been proposed in order to assist in integrating the development into the landscape.

It is noted that an outline consent exists, permitted by Braintree District Council, for industrial use on the application area. Condition 16 of that consent has been discharged by Braintree District Council and permits unspecified 'buildings' of 10m in height. With this in mind, the applicant has agreed that the buildings and digester tanks could be reduced to 10m in height by excavating a further 0.5m into the ground. This would serve to keep the height at that of the already permitted development, which had been deemed acceptable by the Local Planning Authority. The only features above the 10m level would be the 11m flue and 15m stack, which although they would be visible are not considered to be particularly intrusive due to their relatively narrow bulk.

Braintree District Council has suggested that a hedge along the proposed palisade fence would soften its appearance. It is considered that the suitability of such a measure could be considered through a landscaping condition as discussed below.

The County Council's Landscape Officer has raised no objection to the development subject to strengthening of the planting to the south of the site, with maintenance and frequent watering and notification to the planning authority in advance of such watering. The watering could be done with 'grey' water from the development. It is also suggested that the gap in the tree belt along the northern boundary should be planted and the rest thickened with shrubs. These planting and maintenance details could be controlled through condition should planning permission be granted.

It is therefore considered that, subject to the imposition of a condition requiring the buildings and digester tanks to be lowered into the ground in the event that planning permission is granted, the development would be acceptable in landscape terms and would comply with BDLP Policies RLP79 (Special Landscape Areas) and RLP76 (Renewable Energy) and WLP Policies W8A (Schedule 1 sites) and W10E (Development Control).

F TREE AND ECOLOGICAL IMPACT

WLP Policy W10E (Development Control) permits waste management development where satisfactory provision has been made in respect of the effect of the development on nature conservation.

BDLP Policy RLP36 (Industrial and Environmental Standards) does not permit new development where it would have an unacceptable impact on nature conservation interests.

BDLP Policy RLP80 (Landscape Features and Habitats) requires, in summary, new development proposals to include an assessment of their impact on wildlife together with mitigation measures and does not permit development which would not successfully integrate into the local landscape.

A Phase 1 Habitat Survey has been submitted with the application, which identifies the site as low ecological value with no protected plant species identified. A log pile identified within the site has the potential to be used as reptile refuge and is recommended to be retained, however if removed it should be done by hand. Work carried out on the trees or shrub should be done outside of the bird nesting season (March-September). A phase 2 survey for reptiles was recommended and carried out. It found no evidence of reptiles using the site. The report concludes that with sensitive landscaping and the introduction of additional ecological features the development could have a positive effect on wildlife in the locality.

It is noted that the Ecology Officer has no objection to the proposals.

The secondary tree belt to the south would be removed to make way for the development. In addition, the tree belt to the north would be reduced in thickness to accommodate the access route along it. A condition requiring planting along the southern boundary could be imposed in the event that planning permission is granted, as explained earlier in the report. This would serve to soften the appearance of the development when viewed from the south.

The tree belt to the north would be reinforced with new planting and additional native vegetation would be planted to the east and west of the site, including woodland vegetation on higher ground and a wildlife area on land to the west.

The applicant has proposed to protect retained trees in accordance with BS 5837: Trees in Relation to Construction, and the Tree Officer has raised no objection.

It is therefore considered that the development would comply with WLP Policy W10E (Development Control) and BDLP Policies RLP36 (Industrial and Environmental Standards) and RLP80 (Landscape Features and Habitats).

In addition, a Land Contamination Assessment has been submitted with the application in accordance with BDLP Policy RLP64 (Contaminated Land).

G TRAFFIC AND HIGHWAYS

BDLP Policy RLP31 (Design and Layout of Business Parks) requires, in summary, new development to have adequate car parking, provision for public transport, cycling, landscaping and servicing.

Landscaping has been considered previously in the report. The other criteria will be considered below.

BDLP Policies RLP54 (Transport Assessments) and RLP55 (Travel Plans) respectively require, in summary, applications for major development to include a Transport Assessment and Travel Plan. It is noted that a Travel Plan has not been included with the application, however the number of employees at the site would be relatively low and the Highway Authority has not required a Travel Plan.

BDLP Policy RLP36 (Industrial and Environmental Standards) does not permit proposals where access roads would not be adequate to cope with consequential traffic and WLP Policy W4C (Access), requires waste management sites to be accessed (normally) via a short length of existing road to the main highway network and via a suitable existing junction, improved if required.

Vehicular and pedestrian access would be from the north-western corner of the main development plot, with the haul route leading to the existing access road through the industrial estate to the south.

The site would provide adequate space for vehicle manoeuvring and queuing without impacting on the industrial estate roads.

A weighbridge is proposed for use on entrance and exit to the site and a wheelwash would be used by vehicles prior to exit.

A Transport Statement has been submitted with the application. It is noted here that a Statement has been considered adequate by the Highway Authority and a Transport Assessment has not been required, and the application is therefore considered to comply with BDLP Policy 54 (Transport Assessments). The Transport Statement has put forward a likely scenario of 96 vehicle movements per day (48 vehicles) including staff and visitors and a 'worst case' scenario of 142 vehicle movements per day (71 vehicles) per day including staff and visitors. This is based on the shortest number of working days in a year, the smallest HGVs and the maximum operational input and output and would give an average flow of 14 vehicles per hour over a 10 hour day.

The maximised use of the site for B1, B2 or B8 uses has also been assessed and produces a worst case scenario of 315 – 1085 vehicle movements per day. Therefore the proposal would result in significantly lower numbers of vehicle movements than the applicant considers would be generated by other potential alternative industrial and commercial uses.

6 car parking spaces and 2 cycle spaces would be located close to the entrance of the site and the office space. The adopted Essex Parking Standards: Design and Good Practice for recycling centre/civic amenity sites allow a maximum of 1

space per 50m² for B2 uses. It is considered appropriate to use this use class in relation to the development proposals.

With 7 full time employees, the proposed parking numbers are considered appropriate and compliant with BDLP Policy RLP56 (Vehicle Parking), which requires compliance with the Adopted Vehicle Parking Standards.

The Highway Authority has raised no objection subject to various conditions and provisions through a legal agreement. The legal agreement is proposed to cover the following:

Prior to commencement of development:

- A financial contribution towards highway improvements at the junction of First Avenue with Colchester Road and other highway improvements in the vicinity of the aforementioned junction.
- A financial contribution towards bus stop improvements in Colchester Road, to include bus shelter, seating, lighting, timetable information, raised kerbs, bus stop sign and provision of bus telematics.

Prior to beneficial occupation of the development:

- The access road from Third Avenue to the development to be constructed and adopted by Essex County Council or adequate rights to be shown over this access road.
- Details shall be submitted for the provision of a missing section of footway on the western side of Third Avenue together with two dropped kerb crossings to allow adequate pedestrian access between the application site and the footway network.

Providing that the requirements of the Highway Authority are secured, either through condition or legal agreement, as advocated by WLP Policy W10 (Planning Conditions and Obligations), it is considered that the development would comply with the requirements of BDLP Policies RLP31 (Design and Layout of Business Parks) and RLP36 (Industrial and Environmental Standards) and WLP Policy W4C (Access). This in turn means that the relevant criterion of WLP Policy W8A, which is required to be considered by WLP Policy W8B, namely that adequate road access is provided in accordance with WLP Policy W4C, would be complied with.

It is also considered that the development would comply with the remaining aspects of BDLP Policy RLP75 (Waste Reprocessing Facilities), as discussed previously in the report, which permits development involving waste recovery in employment policy areas subject to there being no adverse impact on the surrounding road network. It is also considered to comply with the remaining aspect of BDLP Policy RLP36 (Industrial and Environmental Standards), which requires there to be no unacceptable impact on the surrounding area as a result of traffic generation. The policy also requires refusal of proposals where access roads would not be adequate to cope with consequential traffic.

With regard to BDLP Policy RLP55 (Travel Plans) it is considered that the provisions of the legal agreement would adequately acknowledge public transport requirements for the proposed development, without the need for a Travel Plan. However, the applicant has suggested that the employees would be advised by the Travel Plan Coordinator for the previously consented larger site.

The relevant requirement of WLP Policy W10E (Development Control Criteria), which permits waste management development where satisfactory provision has been made in respect of the impact of road traffic generated by the development on the highway network, is considered to have been met.

WLP Policy W10G (Rights of Way) requires applications for waste management facilities to include measures to safeguard and, where practicable, improve the rights of way network. As stated previously in the report, Footpath 22 (Halstead Urban) and Footpath 3 (Colne Engaine) are located nearby but would not be directly impacted by the proposed development. It is therefore considered unnecessary to require development associated with the footpaths.

H FLOOD RISK

WLP Policy W4A (Flood Control), in summary, permits waste management development only where there would not be an unacceptable risk of flooding or adverse effect on the water environment and existing and proposed flood defences are not interfered with.

WLP Policy W4B (Water Pollution) permits waste management development only where there would not be unacceptable risk to surface or groundwater quality or impediment to groundwater flow.

BDLP Policy RLP72 (Water Quality) does not permit development which would pose an unacceptable risk to the quality of ground or surface waters.

WLP Policy W10E (Development Control) permits waste management development where satisfactory provision is made in respect of the effect of the development on land drainage.

BDLP Policy RLP36 (Industrial and Environmental Standards) does not permit development if it would have an unacceptable impact on the surrounding area in terms of contamination to water.

The site is within Flood Zone 1, thereby having a low probability of flooding. However a Flood Risk Assessment (FRA) has been submitted with the application as required by PPS25 for development of the scale proposed.

The FRA has demonstrated that there would be no increase in flood risk resulting from the proposed development and the Environment Agency has raised no objection. The proposals include an extension of the existing balancing reservoir to the west of the site in order to accommodate surface water flows. A condition could be imposed to ensure water flows are managed, should planning permission be granted.

In view of the above it is considered that the development would comply with WLP Policies W4A (Flood Control), W4B (Water Pollution) and WLP Policy W10E (Development Control) and BDLP Policies RLP72 (Water Quality) and RLP36 (Industrial and Environmental Standards).

I HEALTH & SAFETY

BDLP Policy RLP36 (Industrial and Environmental Standards) does not permit development if it would have an unacceptable impact on the surrounding area in terms of health and safety.

The Primary Care Trust has submitted a preliminary view that, in the absence of confirmation that a permit would be required, greater consideration should be given to bio-aerosols, odour, noise, abatement of small particles PM_{2.5}, the need for site management and maintenance.

The applicant has provided a comprehensive reply on these issues and has confirmed that the development would require a permit under the Environmental Permitting Regulations 2007 as well as a permit from Animal Health under the Animal By Products Regulations 2005. The Environmental Permit would address the specific issues raised by the Primary Care Trust. This information has been forwarded to the Primary Care Trust and their response has been that the modelling assumptions and adequacy of mitigation and control measures would require careful regulatory review. It is therefore understood that the issues would be thoroughly addressed through the permitting regime.

It is considered that issues of health and safety have been adequately considered through the planning application and would be sufficiently addressed through the permitting regime. Therefore it is considered that the development would comply with BDLP Policy RLP36 (Industrial and Environmental Standards).

16. CONCLUSION

In conclusion, it is considered that a need has been demonstrated for the facility, in compliance with WLP Policies W3C (Need for Waste Development) and W8A (Schedule 1 sites).

The proposed location on employment land to the north of the existing industrial estate is entirely appropriate in compliance with BDLP Policies RLP2 (Town Development Boundaries), RLP42 (Employment Allocation north of Bluebridge Industrial Estate) and RLP75 (Waste Reprocessing Facilities) and WLP Policies W8B (Non-preferred sites) and W7C (Anaerobic Digestion).

Potential issues for local amenity arising from developments such as that proposed could be noise, odour, dust, air quality and visual impact from light and the buildings themselves. The applicant has satisfactorily demonstrated that these issues would be adequately controlled either through the design of the facility or through the imposition of conditions on any planning permission granted. The development would therefore be considered to comply with WLP Policy W10E (Development Control Criteria) and BDLP Policies RLP62 (Development likely to

give rise to pollution), RLP36 (Industrial and Environmental Standards), RLP63 (Air Quality) and RLP65 (External Lighting).

The design and layout of the development itself has been proposed with the visual impact on the surroundings in mind, so that the taller tanks would be located to the south on lower ground. The applicant has also agreed that a further 0.5m could be excavated into the ground in order to mitigate the height of the tanks to that permitted by the outline consent granted by Braintree District Council. This could be required by condition and would ensure the development would comply with BDLP Policies RLP90 (Layout and Design of Development) and RLP77 (Energy Efficiency).

It is further considered that, when considering the proposed development in the context of the existing industrial estate, the location on land allocated for employment and the outline consent already granted, the Special Landscape Area to the north and east would not be unduly impacted upon. This is also true for the surrounding landscape as a whole, especially as additional planting and maintenance of that planting could be controlled by condition should planning permission be granted. It is therefore considered that the development would comply with BDLP Policies RLP79 (Special Landscape Areas) and RLP76 (Renewable Energy).

Providing the recommendations contained in the application are followed it is considered that there would be no significant detrimental impact on ecology or trees, in compliance with BDLP Policy RLP80 (Landscape Features and Habitats) BDLP Policy RLP64 (Contaminated Land).

The impact on traffic and highways has not been assessed as being particularly significant or detrimental. The site is allocated for employment use and the uses already consented by Braintree District Council have been assessed as having greater vehicle movements associated with them than the proposed development would have. The Highway Authority has raised no objection subject to the imposition of various conditions and to requirements which could be secured through a legal agreement. Therefore the development is considered to comply with BDLP Policies RLP31 (Design and Layout of Business Parks), RLP54 (Transport Assessments), RLP55 (Travel Plans), RLP36 (Industrial and Environmental Standards) and RLP56 (Vehicle Parking) and WLP Policy W4C (Access). The nearby Footpaths would also not be detrimentally affected, in compliance with WLP Policy W10G (Rights of Way).

Flood risk and impact on water quality would not be increased as a result of the proposed development and a condition could ensure that water management would take place. The development therefore comply with WLP Policies W4A (Flood Control) and W4B (Water Pollution) and BDLP Policy RLP72 (Water Quality).

Health and safety issues are considered to have been adequately addressed to allow planning permission to be granted, and would be further controlled by the permitting regime. It is noted that the Primary Care Trust has raised no objections on health grounds and it is considered that the development would comply with BDLP Policy RLP36 (Industrial and Environmental Standards).

17. RECOMMENDED

That, subject to the prior completion of a legal agreement for the provision of financial contributions and highway works, planning permission be **granted** subject to conditions covering the following matters:

1. COM1 - Commencement
2. COM3 - Compliance with Submitted Details
3. WAST1 – Waste Type Restriction
4. DUST1 – Dust Suppression Scheme
5. DUST3 – Spraying of Haul Road
6. HOUR3 – Hours of Operation (Waste Specific) (treatment of waste 24 hours, acceptance of waste and loading of vehicles with treated and untreatable waste 0800 – 1800 hours Monday to Friday and 0800 – 1200 hours on Saturdays).
7. NSE1 - Noise limits.
8. NSE3 – Monitoring Noise Levels (6 monthly).
9. NSE6 – Silencing of Plant and Machinery
10. LGHT1 – Fixed Lighting Restriction.
11. LAND1 - Landscape Scheme
12. LAND2 – Replacement Landscaping including maintenance of planting (watering and mulching)
13. HIGH1 – Site Access Road (Constructed First)
14. HIGH2 – Vehicular Access
15. HIGH3 – Surfacing/Maintenance of Access Road
16. HIGH4 – Prevention of Mud and Debris on Highway
17. HIGH8 – Parking Areas
18. HIGH12 – Vehicle Turning Areas
19. HIGH13 – Surface Material
20. HIGH14 - Gates
21. HIGH15 – Surface Water
22. DET5 – Waste Building Design and Construction
23. Throughput restriction to 45,000 tpa
24. Construction working hours
25. Submission of a scheme for the lowering of ground level for tanks by 2.5m
26. Essex and Southend only waste restriction plus a 30 mile radius from the site boundary.
27. Details to be submitted for turning, parking area and wheel wash facilities during construction.

BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Shelley Bailey/ESS/25/10/BTE

LOCAL MEMBER NOTIFICATION

BRAINTREE – Halstead

APPENDIX A

Observation

Comment

Traffic and Highways

Colchester Road is already congested and difficult to pass due to parked cars. HGVs would queue and increase the problem.

The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection.

Vehicles speed as they leave the restricted speed zone towards Earls Colne.

Speeding traffic is an issue for the police.

The footpath along Colchester Road is very narrow and increased HGV movements would cause a safety issue for pedestrians.

See appraisal.

Two proposed residential developments, one at Central Park opposite the Industrial Estate, would create a combined impact of traffic on Colchester Road.

The application for development at Central Park (application ref 09/00699/FUL) on the opposite side of the road to the industrial estate was refused by Braintree DC then dismissed at appeal. The development site at Priory Hall (application ref 08/01714/FUL) is located further towards Halstead on the Colchester Road and is for accommodation for the over 55s. It was granted in December 2008 and amended in June 2010 (application ref 10/00509/FUL).

Fenn Road would experience increased traffic. Cars parked along the road mean there is not always enough room to pass, including for emergency access.

It is not anticipated that HGVs would use Fenn Road to access the industrial estate.

Vehicle movements allowed for the outline permission are unrealistic and the (District) Council must have been misled in allowing such a number in an area with existing traffic problems.

Braintree District Council has confirmed the vehicle movements associated with the outline permission are 1110 vehicles per day for the industrial area and 54-80 per day HGV movements for the removal of soil (originally envisaged, now not required). The application was accompanied by a Highway traffic and Transport Statement and the Highway Authority raised no objection subject to financial contributions for junction improvements.

The only route to the Industrial Estate is via Halstead town centre which is steep and unfit for regular heavy traffic.

The High Street is the only route to the industrial estate, it is public highway and therefore any vehicle can travel on it. The Highway Authority has raised no objection.

In the event of an accident in the town centre the County Council would be responsible for not carrying out a risk assessment.	A Transport Statement has been submitted which assesses the potential impact of the HGVs associated with the proposed development. The Highway Authority has raised no objection.
Access and egress should be given greater consideration.	See appraisal.
7 full time jobs is not a fair trade for disruption, pollution and traffic chaos at the junction of the A1124 and the A131.	See appraisal.
There is no footpath along the junction of the A1124 and A131 and people already walk through the church yard.	It is understood that the footway through the church yard is adequate.
A bypass should be required as planning gain for Halstead.	'Planning gain' as such is not permitted by virtue of Circular 05/05, as any requirements through a planning obligation must meet the tests, one of which is that it must be necessary to make the development acceptable. A bypass route is shown in the Local Plan however there are currently no proposals to bring this forward.
Vehicles accessing from the A120 through Earls Colne consistently crash into the wall opposite the church. If arriving from Braintree they have to negotiate the High Street and from Sudbury narrow roads.	The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection. Vehicle routeing cannot be controlled through the planning process.
School children use the routes to the site which are narrow with narrow pavements, presenting a safety concern.	The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection.
Second Avenue is already parked with cars on the right hand side and would be a hazard for increased heavy vehicle numbers.	The location of the site is acceptable in terms of policy and the Highway Authority has raised no objection.
The industrial estate roads themselves are in a poor state of repair, making them unsafe, and heavy vehicles would cause further damage.	See appraisal.
The Council has an opportunity to have a bond on repairs to the existing road into the industrial estate.	See appraisal.
Blue Bridge Cottages are shaken by heavy vehicles passing.	Not a planning issue.

Heavy vehicles are regularly unable to turn and block Colchester Road at the junction by St Andrews Church.

The junction has been built to acceptable standards according to the Highway Authority. It is not considered that the proposed development would justify alterations to the junction.

Amenity

The development would be in direct view of properties along Fenn Road.

See appraisal.

Food waste would create odour for nearby residents, specifically for Beech Avenue, Coggeshall Way, Fenn Road, Cherry Tree Close, Blue Bridge Cottages, Colchester Road and Brook Farm Close. Also for employees of the existing industrial estate.

See appraisal.

Braintree DC has experienced a number of difficult retrospective enforcement orders covering odour pollution in Hedingham, Braintree and Witham.

Braintree Planning Department has been unable to confirm this is true due to the lack of specific location provided.

Waste such as cattle or pig slurry may be used in the plant, causing odour problems.

A small amount of slurry would be required to start off the digestion process. This would be delivered in tankers and pumped into the digester. After that none would be used.

The HGVs would cause odour problems when passing local residences.

See appraisal.

Air pollution would be a problem, particularly when the doors are open.

See appraisal.

Food waste would encourage vermin.

See appraisal.

Constant running of the plant through the night would create noise for residents.

See appraisal.

Noise would be a problem when the doors are open, which would be most of the time due to the number of vehicles accessing the building.

See appraisal.

The processing plant, vents and lorries would create noise.

See appraisal.

Consider residents' homes, life investments and health.

See appraisal.

Trees were cut down approximately 4 months ago and should be replaced prior to development taking place.

See appraisal.

Procedural Issues

Would like the chance to see other plants which are running before the scheme is imposed on the community.

There are not other anaerobic digestion facilities within the County of Essex.

Questions whether the County Council will carry out their own assessments to verify the applicant's.

The County Council has consulted the relevant departments and bodies with the expertise to verify the assessments contained within the application.

Questions whether the Planning department will visit residents living close to existing plants to verify the applicant's assessments.

As above.

Consultation was not undertaken with residents in Brook Farm Close who have not all been contacted by the applicant or by ECC.

ECC has consulted all residents within 250m of the site boundary, including those living in Brook Farm Close.

Pre-application consultation was not undertaken by the applicant.

The applicant has stated that local residents have been contacted prior to submission of the application. Residents were also contacted post-submission.

ECC should liaise with Braintree District Council.

Braintree District Council are a statutory consultee and have provided comments in response to this application – see section 4 of the report.

A meeting with ECC, the applicant and residents would be welcomed.

It is not usual practice for ECC to meet with residents and all applications should be treated equally.

Location

Try locating the plant in Nayland.

The application site is appropriate for the proposed use according to the Development Plan – see appraisal.

Questions whether other sites were considered possible as Bluebridge is unacceptable.

The application site is appropriate for the proposed use according to the Development Plan – see appraisal.

From knowledge of existing plants the proposal would be a blot on the landscape as arriving from the Colchester direction.

See appraisal.

The industrial estate is for light industrial units, of which the proposal is not.

The application site is appropriate for the proposed use according to the Development Plan – see appraisal.

Appropriate sites for such development are within existing major electrical distribution complexes, disused airfields or disused brown field sites, all away from residents.

The application site is appropriate for the proposed use according to the Development Plan – see appraisal.

Other Issues

Official guidelines say facilities over 50,000 tpa are major plants. The proposed threshold is 45,000 tpa but this would be exceeded.

See appraisal.

Toxic combustible gas would cause a risk of explosion or fire.

The applicant has stated that there is no history of explosion or fire relating to Anaerobic Digestion Plants.

Comment that property values are not a planning issue but wishes to include it in any case.

Not a planning issue.

POLICY	POLICY WORDING	CONFORMITY WITH THE FRAMEWORK
Essex and Southend Waste Local Plan 2001		
W3A	<p>The WPA will:</p> <ol style="list-style-type: none"> 1. In determining planning applications and in all consideration of waste management, proposals have regard to the following principles: <ul style="list-style-type: none"> • Consistency with the goals and principles of sustainable development; • Whether the proposal represents the best practicable environmental option for the particular waste stream and at that location; • Whether the proposal would conflict with other options further up the waste hierarchy; • Conformity with the proximity principle. 2. In considering proposals for managing waste and in working with the WDAs, WCAs and industrial and commercial organisations, promote waste reduction, re-use of waste, waste recycling/composting, energy recovery from waste and waste disposal in that order of priority. 3. Identify specific locations and areas of search for waste management facilities, planning criteria for the location of additional facilities, and existing and potential landfill sites, which together enable adequate provision to be made for Essex, Southend and regional waste management needs as defined in policies W3B and W3C. 	<p>Paragraph 6 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.</p> <p>PPS 10 supersedes 'BPEO'.</p> <p>PPS 10 advocates the movement of the management of waste up the waste hierarchy in order to break the link between economic growth and the environmental impact of waste.</p> <p>One of the key planning objectives is also to help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>See reasoning for Policy W8A.</p> <p>Therefore, Policy W3A is considered to be consistent with the Framework and PPS 10</p>
W3C	<p>Subject to policy W3B, in the case of landfill and to policy W5A in the case of special wastes, significant waste management developments (with a capacity over 25,000 tonnes per annum) will only be permitted when a need for the facility (in accordance with the principles established in policy W3A) has been demonstrated for waste arising in Essex and Southend.</p>	<p>Paragraph 3 of PPS 10 highlights the key planning objectives for all waste planning authorities (WPA). WPA's should, to the extent appropriate to their responsibilities, prepare and deliver planning strategies one of which is to help implement the national waste strategy, and supporting targets, are consistent with obligations required under European</p>

	<p>In the case of non-landfill proposals with an annual capacity over 50,000 tonnes per annum, restrictions will be imposed, as part of any planning permission granted, to restrict the source of waste to that arising in the Plan area. Exceptions may be made in the following circumstances:</p> <ul style="list-style-type: none"> • Where the proposal would achieve other benefits that would outweigh any harm caused; • Where meeting a cross-boundary need would satisfy the proximity principle and be mutually acceptable to both WPA5; • In the case of landfill, where it is shown to be necessary to achieve satisfactory restoration. 	<p>legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994.</p> <p>The concept of the proximity principle has been superseded by the objective of PPS 10 to enable waste to be disposed of in one of the nearest appropriate installations.</p> <p>Therefore, as Policy W3C is concerned with identifying the amount of waste treated and it's source the policy is considered consistent with the requirements of PPS 10</p>
W4A	<p>Waste management development will only be permitted where:</p> <ul style="list-style-type: none"> • There would not be an unacceptable risk of flooding on site or elsewhere as a result of impediment to the flow or storage of surface water; • There would not be an adverse effect on the water environment as a result of surface water run-off; • Existing and proposed flood defences are protected and there is no interference with the ability of responsible bodies to carry out flood defence works and maintenance. 	<p>Paragraph 99 of the Framework states that 'Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure'. In addition Annex E of PPS 10 highlights at section a. protection of water resources that 'Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care'.</p> <p>Therefore, as policy W4A seeks to only permit development that would not have an adverse impact upon the</p>

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

		<p>as the last option, but one which must be adequately catered for;</p> <ul style="list-style-type: none"> • Provide a Framework in which communities take more responsibility for their own waste, and enable sufficient and timely provision of waste management facilities to meet the needs of their communities. <p>Therefore, policy W6A is in conformity with the requirements of PPS 10.</p>
W7E	<p>To facilitate the efficient collection and recovery of materials from the waste stream, in accordance with policy W3A, the WPAs will seek to work with the WDAs/WCAs to facilitate the provision of:</p> <ul style="list-style-type: none"> • Development associated with the source separation of wastes; • Material recovery facilities (MRF's); • Waste recycling centres; • Civic amenity sites; • Bulking-up facilities and waste transfer stations. <p>Proposals for such development will be supported at the following locations:</p> <ul style="list-style-type: none"> • The waste management locations identified in Schedule 1 (subject to policy W8A); • Other locations (subject to policies W8B and W8C); • In association with other waste management development; • Small scale facilities may be permitted at current landfill sites, provided the development does not unduly prejudice the agreed restoration timescale for the site and the use ceases prior to the permitted completion date of the site (unless an extension of time to retain such facilities is permitted). <p>Provided the development complies with other relevant policies of this plan.</p>	<p>See explanation notes for Policy W3C, W8A and W8B as these are relevant and demonstrate conformity with the Framework and PPS 10.</p>
W8A	<p>Waste management facilities will be permitted at the locations shown in Schedule 1 provided all of the following criteria, where relevant, are complied with:</p> <ul style="list-style-type: none"> • There is a need for the facility to 	<p>PPS 10 at Paragraph 17 identifies that 'Waste planning authorities should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management</p>

	<p>manage waste arising in Essex and Southend (subject to policy W3C);</p> <ul style="list-style-type: none"> • The proposal represents the Best Practicable Environmental Option (BPEO) for the particular waste stream, having regard to any alternative options further up the waste hierarchy; • The development complies with other relevant policies of this Plan, including the policy/ies in Chapter 7 for the type(s) of facility proposed; • Adequate road access is provided in accordance with policy W4C. Access by rail or water will be supported if practicable; • Buildings and structures are of a high standard of design, with landscaping and screening provided as necessary; and • Integrated schemes for recycling, composting, materials recovery and energy recovery from waste will be supported, where this is shown to provide benefits in the management of waste which would not otherwise be obtained. 	<p>needs of their areas. Waste planning authorities should in particular:</p> <ul style="list-style-type: none"> – allocate sites to support the pattern of waste management facilities set out in the RSS <p>in accordance with the broad locations identified in the RSS; and,</p> <ul style="list-style-type: none"> – allocate sites and areas suitable for new or enhanced waste management facilities to support the apportionment set out in the RSS. <p>The WPA has identified strategic sites within the Waste Local Plan under policy W8A which seek to support the pattern of waste management and that are suitable for new or enhanced strategic waste management facilities. PPS 10 requires that needs for sustainable waste management are met and those identified by the JMWMS supersede those municipal waste management needs identified in the Waste Local Plan. PPS 10 requires that sites and areas suitable for new or enhanced waste management facilities for the waste management needs of the area is assessed. In this respect more weight should be applied to PPS 10 in respect of meeting waste management needs than Policy W8A.</p> <p>See also W8B.</p>
W8B	<p>Waste management facilities (except landfill to which policies W9A and W9B apply) will be permitted at locations other than those identified in this plan, provided all of the criteria of policy W8A are complied with where relevant, at the following types of location:</p> <ul style="list-style-type: none"> • Existing general industrial areas; • Areas allocated for general industrial use in an adopted local plan; • Employment areas (existing or allocated) not falling into the above categories, or existing waste management sites, or areas of degraded, contaminated or derelict land where it is shown that the 	<p>Policy W8B is concerned with identifying locations for sites that have not been identified within the Plan as preferred sites of waste related developments. By setting a criteria for non-preferred sites this allows for the protection of the natural environment in conformity with the third strand of the three dimensions of sustainable development. Additionally, in conformity with Paragraph 17 of the Framework, the policy contributes to the conservation and enhancement of the natural environment. The Framework goes on to state that 'Allocations of land for development should prefer land of lesser</p>

	<p>proposed facility would not be detrimental to the amenity of any nearby residential area.</p> <p>Large-scale waste management development (of the order of 50,000 tonnes per annum capacity or more, combined in the case of an integrated facility) will not be permitted at such non- identified locations unless it is shown that the locations identified in Schedule 1 are less suitable or not available for the particular waste stream(s) which the proposal would serve.</p>	<p>environmental value, where consistent with other policies in this Framework'. Nonetheless, Paragraph 17 of the Framework requires objectively assessed needs to be met and whilst the environmental protection approach W8B is consistent with the Framework/PPS 10, the policy also relies solely on the Schedule 1 sites identified in W8A and is therefore out of date in this respect.</p>
W10A	<p>When granting planning permission for waste management facilities, the WPA will impose conditions and/or enter into legal agreements as appropriate to ensure that the site is operated in a manner acceptable to the WPA and that the development is undertaken in accordance with the approved details.</p>	<p>PPS 10 states that 'It should not be necessary to use planning conditions to control the pollution aspects of a waste management facility where the facility requires a permit from the pollution control authority. In some cases, however, it may be appropriate to use planning conditions to control other aspects of the development. For example, planning conditions could be used in respect of transport modes, the hours of operation where these may have an impact on neighbouring land use, landscaping, plant and buildings, the timescale of the operations, and impacts such as noise, vibrations, odour, and dust from certain phases of the development such as demolition and construction'.</p> <p>Furthermore, Paragraph 203 of the Framework states that 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition'.</p> <p>Policy W10A inter alia only seeks to impose conditions and/or enter into legal agreements when appropriate to ensure that the site is operated in an acceptable manner. Therefore, the policy is in accordance with the</p>

		requirements of the Framework and PPS 10.
W10E	<p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies with other policies of this plan:</p> <ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in Paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; and 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt. 	<p>Policy W10E is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
W10F	<p>Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.</p>	<p>In addition Paragraph 123 of the Framework states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including through the use of conditions. Furthermore, Paragraph 203 states that local planning authorities should consider whether otherwise unacceptable</p>

		<p>development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity and seeks to impose conditions to minimise this policy W10F is in conformity with the requirements of the Framework.</p> <p>Also see above regarding PPS 10 and conditions.</p>
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DR/34/13

Committee DEVELOPMENT & REGULATION

Date 23 August 2013

MINERALS AND WASTE

Proposal: **The importation of 50,000m³ of inert material suitable to correct the differential settlement and reprofile the site and a revised restoration scheme with afteruse to energy crops and conservation grassland.**

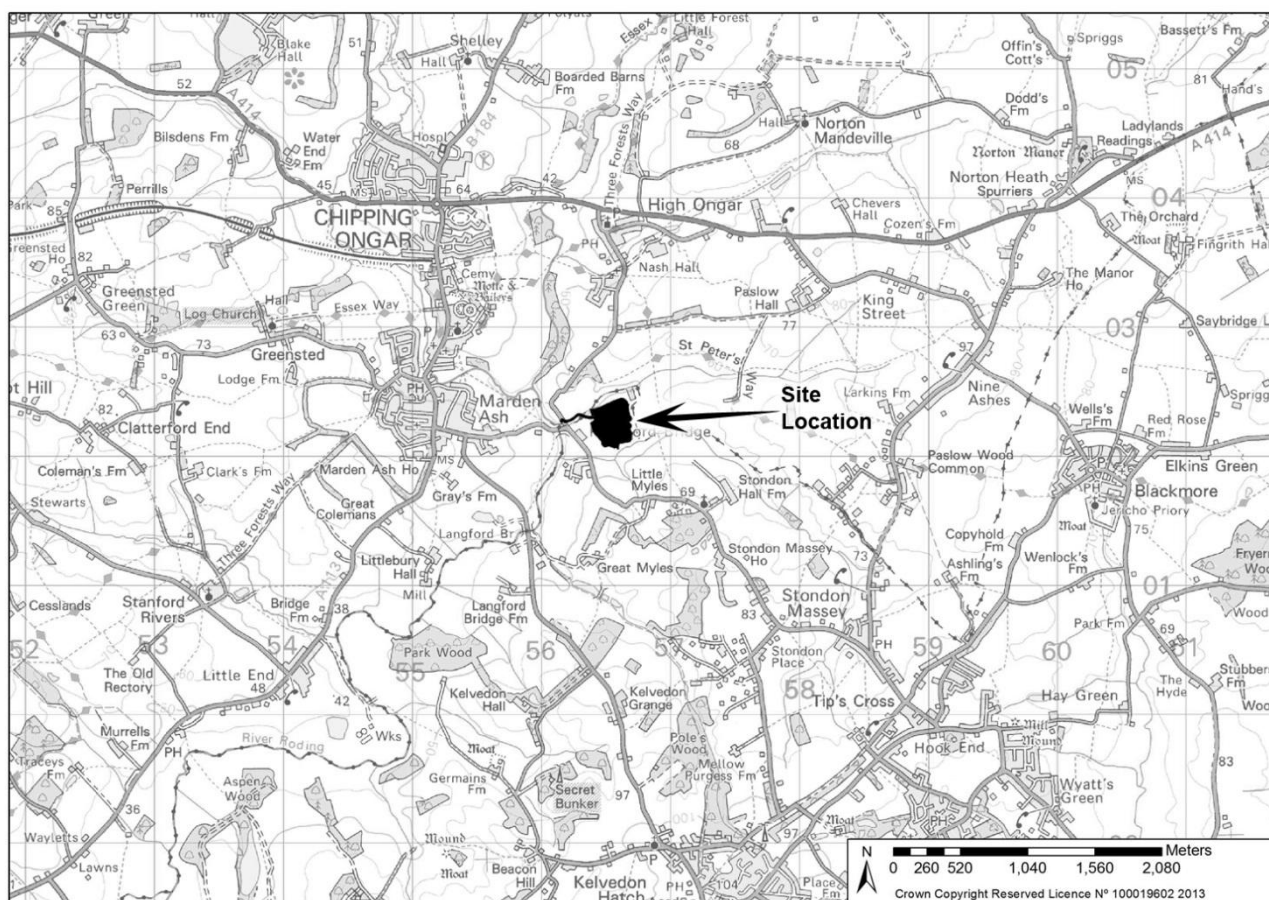
Location: **Ongar Landfill, Mill Lane, High Ongar, Essex, CM5 9RG.**

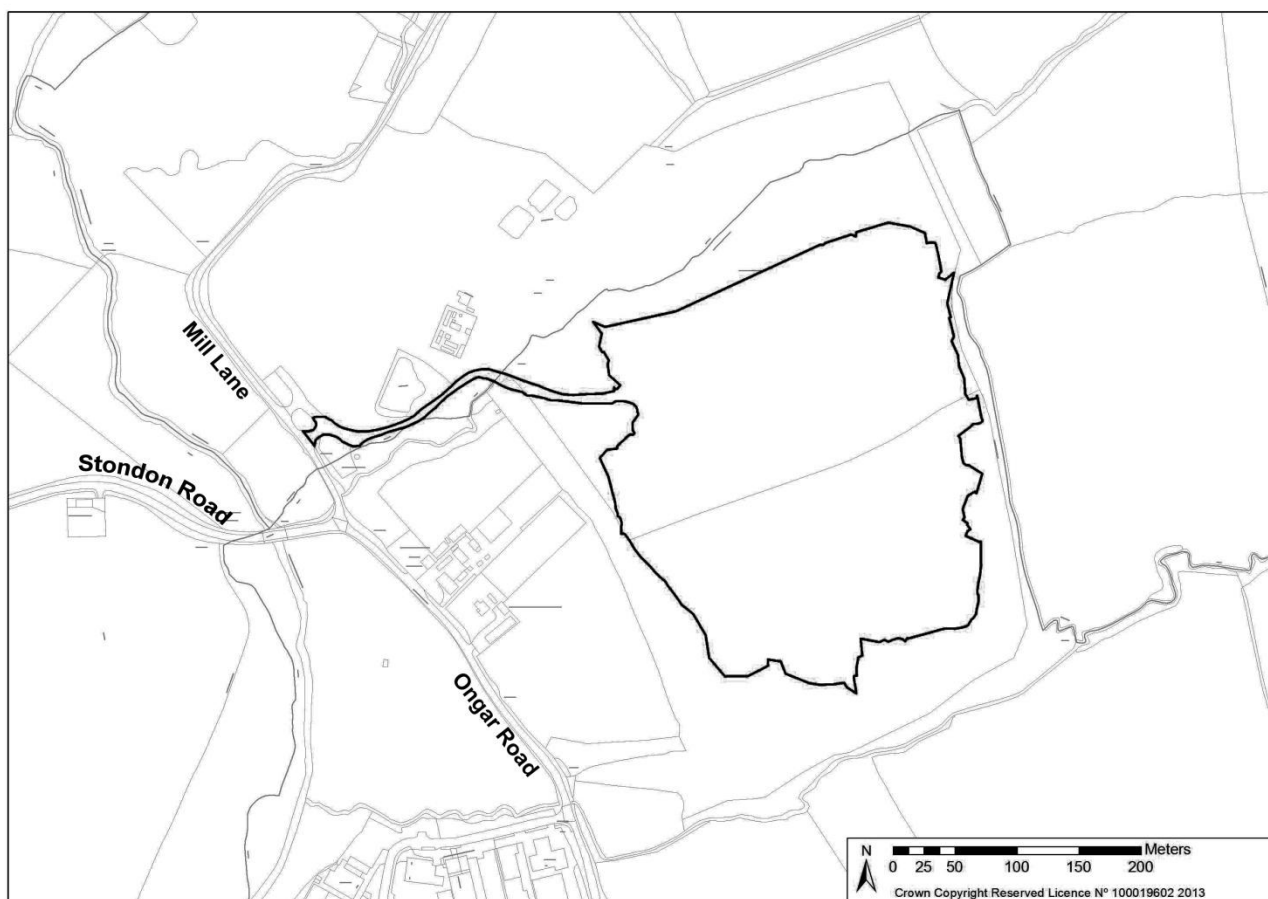
Ref: **ESS/11/13/EPF**

Applicant: **FCC Environmental**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Glenn Shaw Tel: 01245 437117





1. BACKGROUND

The site at Ongar was formerly both active mineral site extracting clay and a processing area making blocks.

Planning permission BRW/123/86 was granted in 1986 for the continuation of existing clay working, extension of working area and landfill restoration of the whole site.

In 2003 a gas engine was installed for the generation of electricity and the management of the gas emissions. This is still on site and exports power to the grid.

The landfill was completed and the site was restored in 2004.

In August 2009 the Development and Regulation Committee was advised that 45,000m³ of soil was to be imported to correct differential settlement to maintain the integrity of the cap at Ongar Landfill Site until 30 November 2009. This was to be undertaken under the original planning permission extant at that time.

However, due to the lack of available restoration materials in the area and inclement weather conditions, only around 7000m³ was imported so the development was not completed by 30 November 2009, when the permission

expired. Since that date no more material has been imported or work undertaken to correct the differential settlement.

2. SITE

The site is approximately 1km to the east of Marden Ash Village 2km to the south east of Chipping Ongar. High Ongar is approximately 2km to the north east. Hallsford Business Centre is 600 metres to the south west. The properties of Hallsford House and ABC Nursery & Pre-school border the site's south-western boundary.

The site which is the subject of this application is located on the southern side of the site and is the former clay extraction area and is approximately 9.4ha.

To the north is the restored 'Leca' site which the former block making area and was restored to a country park for the benefit of the local population. This park is not affected by this development.

Footpath 41 High Ongar lies to the north of the site and is unaffected by this application

Access to the site is via Mill Lane and Stondon Road. The access and haul road from the original workings remain on site.

The site is surrounded by mature trees and hedgerows at the lower level.

The site is within Green Belt. The site access is within the area of Epping Forest District Local Plan (1998) and alterations (2006) and the main site, where the material to be used for the correction of the differential settlement is proposed to be used, is within the area of Brentwood Adopted Replacement Local Plan adopted August 2005.

3. PROPOSAL

This proposal seeks to import 50,000m³ of inert material (soils) over a two year period.

The importation of material is proposed to take place from April to September which would allow the works to be undertaken during the drier months of the year. No importation would take place outside these months.

The importation would allow re-profiling of the site. This would correct the differential settlement levelling depressions which are evident on site.

Once the re-profiling has been completed, the site would be re-vegetated with Miscanthus (Elephant Grass - an energy crop) and conservation grassland and a wild flower seeding.

The proposed maximum vehicle movements are 200 HGV movements per day

(100 in & 100 out) Monday to Friday and 100 HGV movements per day (50 in & 50 out) on Saturdays. This is discussed further in the report.

Access to the site would be from the existing Mill Lane entrance via the Stondon Road and A128 and A113.

It is proposed to install temporary staff facilities, weighbridge and a wheel cleaning facility during the life of the development.

The proposed hours of operation would be:

07:00 to 18:00 Monday to Friday

07:00 to 13:00 on Saturdays, with no working on Sundays and Public Holidays

4. POLICIES

The following policies of the Essex and Southend Waste Local Plan adopted 2001 Minerals Local Plan (MLP) adopted March 1997, Epping Forest District Local Plan (1998) and alterations (2006) (EFDLP) and Brentwood Adopted Replacement Local Plan adopted August 2005 (BARLP) provide the development plan framework for this application. The Essex Replacement Minerals Local Plan (RMLP) is now at Pre-Submission Draft stage and is a material consideration. The following policies are of relevance to this application:

Policy	EFDLP	BARLP	WLP	MLP	RMLP
Green Belt Boundary	GB1				
Development In The Green Belt	GB2A				
Rural Landscape	LL1				
Inappropriate Rural Development	LL2				
General Development Criteria		CP1			
Development Criteria		GB2			
Landscape Improvements		C12			
Landraising			W9B		
Restoration			W10C		
Development Control Criteria			W10E		
Hours of Operations			W10F		

Public Rights of Way			W10G		
Restoration				MLP8	
Restoration and After-use					RMLP12

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

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

The EFDLP and BARLP were adopted post 2004, however the grace period offered to such plans (in applying full weight to policies) in accordance with Paragraph 214 of the Framework passed 12 months after adoption of the Framework. As such it is now considered that The EFDLP and BARLP together with the MLP and WLP (both adopted pre 2004 and/or not under the Planning and Compulsory Purchase Act 2004) fall within the remit of consideration according to Paragraph 215. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The level of consistency of the policies contained within the EFDLP and BARLP and WLP and MLP, referred to above, is considered further in this report, as appropriate, and also shown in Appendix 1.

With regard to the above ECC submitted the Replacement Minerals Local Plan – Pre-Submission Draft (January 2013) (RMLP) to the Secretary of State on 12th July 2013.

The RMLP, since it has been submitted, is considered to have some weight in the determining of planning applications. Paragraph 216 specifically states, in relation to this, that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that

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

5. CONSULTATIONS

IPPING FOREST DISTRICT COUNCIL – objects on the following grounds:

- Raising of the Land conflicts the purposes of the Green Belt;
- Site is now closed and restored and further importation is unacceptable in principle;
- Impacts on habitats and protected species;
- Traffic movements;
- Contamination.

BRENTWOOD BOROUGH COUNCIL – No objection.

ENVIRONMENT AGENCY – No objection, however recommends a stability risk assessment is carried out.

NATURAL ENGLAND - No comments received.

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

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection subject to a protected species survey being submitted prior to commencement of development.

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

HIGHWAY AUTHORITY – No objection, subject to wheel washing and visibility splays conditions.

HIGHWAY AUTHORITY (Public Rights of Way) – No comments received.

COUNTY COUNCIL'S NOISE CONSULTANT - Any comments received will be reported.

STONDON MASSEY PARISH COUNCIL objects on the following grounds:

- Who will be counting the vehicles;
- Quality of material to be imported;
- Justification for 5000 lorry loads;
- Why 'Miscanthus' is being grown.

ONGAR TOWN COUNCIL – has concerns about traffic movement through Ongar

High Street.

HIGH ONGAR TOWN COUNCIL. Concerns about:

- Vehicle movements through Chipping Ongar
- Hours of operation requesting Saturday working to commence at 08:00

LOCAL MEMBER - BRENTWOOD – Brentwood Rural - Any comments received will be reported.

LOCAL MEMBER - EPPING FOREST – Ongar and Rural - Any comments received will be reported.

6.

7. REPRESENTATIONS

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

<u>Observation</u>	<u>Comment</u>
Noise & Dust	See appraisal
Highways Impact	See appraisal
Footpaths Impact	See appraisal
Water run off	See appraisal
Ecology	See appraisal
Visual Impact	See appraisal
Not being consulted.	The respondee lives outside the 250m notification radius as derived from the adopted Statement of Community Involvement
Regulation of Waste	See appraisal

8. APPRAISAL

The key issues for consideration are:

- A. Need
- B. Green Belt
- C. Landscape and visual Impact
- D. Noise, dust & odour
- E. Traffic & Highways

- F. Hours of Operation
- G. Ecology
- H. Footpaths
- I. Restoration

A NEED

Planning permission BRW/123/86 was granted in 1986 for the restoration and agricultural aftercare of the Ongar Landfill and Leca works site.

The landfill site which is the subject of this application was infilled using imported domestic, commercial and industrial waste and capped and completed in December 2004. In 2006 one small scheme was carried out to correct differential settlement.

In 2008 the previous site operators undertook survey work complete with visual inspections which identified that large areas of the site were suffering from severe differential settlement. In some of the areas of the site it was identified the integrity of the cap had been compromised. Furthermore the undulating effect of the differential settlement was likely to affect the extraction of the landfill gas from the site due to the snaking effect of the pipe work.

As a result of differential settlement over the site, reparation works were considered necessary. For differential settlement to be resolved, it is usual for the operator to import additional 'soils' to fill and even out undulations in the land. This proposal involves the importation of 50,000m³ of inert soil. Therefore, in order to carry out the works, the site would need to be 'reopened' for a temporary period of 2 years.

The issue of whether the need to import this amount of material to correct differential settlement needs to be considered. Epping Forest District Council has objected to the proposal as it is considered that the former landfill is closed and restored and do not consider the amount to be imported is necessary as settlement would continue and further importation of material is unacceptable in principle.

As already stated, in 2009 a limited amount of material approximately 7,000m³ was imported which corrected the areas where the integrity of the cap had been compromised but owing to a lack of suitable material and the adverse weather conditions, time ran out for the operation to be completed under planning permission BRW/123/86.

Although the compromised areas of the cap were successfully corrected in 2009, the correction of the differential settlement over the remainder of the site still needs to be completed as there is an increased risk that water could compromise the low-permeability cap that seals the landfill. The cap is essential in protecting the local environment and prevents the escape of pollutants. With increased surface water ponding, there is a greater chance of breaches of the cap which if left may allow the ingress of water and oxygen which in turn would increase the amount of leachate and the potential for odour and fire risk through the escape of

the landfill gas.

This application is for the importation of 50,000m³ over a 2 year period. This would correct the differential settlement and allow the site to be re-profiled to the permitted contours. This would allow the surface water to shed off the site and provide an additional protection to the cap through additional soil cover.

The site was originally capped and restored with restoration soils to the full 1m depth. A full survey of the site was undertaken and it was calculated that an area of approximately 5ha (50,000m³) needs remediation, which at an average depth of 1m, requires 50,000m³ of soil. If this is added to the limited amount of material already on site it would give sufficient material to carry out the required works to a satisfactory quality and minimise the need to return in the future. The application site is 9.4ha with 4.4ha for the deposit of soils and working area.

The site is in agricultural aftercare and the differential settlement has hindered agricultural operations due to the undulations of the ground form. This in some areas has allowed invasive weeds to colonise the site which has now become unsightly.

The NPPF supports positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including making it easier for jobs to be created. The NPPF also supports economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

WLP policy W9B states inter-alia that: *Landfill or landraising, for its own sake, without being necessary for restoration, will not be permitted. Landfill outside the boundaries of the preferred sites will not be permitted unless it can be demonstrated that satisfactory restoration cannot otherwise be achieved. Landfill will not be permitted when at a scale beyond that which is essential for restoration of the site is of relevance to this application.*

MLP Policy MLP 8 states inter-alia that: *planning permission will not normally be given for the working of mineral unless the land is capable of being restored within a reasonable time and to a condition such as to make possible an appropriate and beneficial afteruse.*

RMLP policy S12 states inter-alia that: *Proposals for minerals development will be permitted provided that it can be demonstrated that the land is acceptable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and /or local communities.*

It is considered that there is a justifiable need to re-open the site for a temporary period of 2 years albeit for a 6 month period so that the development can be undertaken in the driest part of the year. It is considered that the correction of the differential settlement to provide good surface profile is essential in order to maintain effective environmental control of the gas system and effective surface water run off and if the differential settlement is not corrected, there could be the

potential for damage to the cap. Furthermore the quantity of material proposed to be imported and deposited is considered to be the minimum required to effectively correct the differential settlement to enable restoration to a beneficial afteruse.

The need for this scheme is considered an appropriate means by which the differential settlement can be corrected and the site can be restored to a beneficial afteruse. In this respect the proposal would comply with the requirements of W9B landfill or landraising and MLP 8 Restoration and RMLP policy S12 Restoration and After-use.

The Environment Agency (EA) has been consulted on the proposed development and does not object to the quantities proposed or the technical assumptions made subject to a stability risk assessments being carried out. Should planning permission be granted a suitable condition could be applied.

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

B GREEN BELT

The site is located within the Metropolitan Green Belt of both Brentwood Borough Council (that has not objected to the proposal) and Epping Forest District Council (that has objected to the proposal as the impact and scale of the development would be harmful to the openness of the Green Belt).

The Government, as highlighted in the NPPF, attaches great importance to Green Belts and highlights openness and permanence as being essential characteristics of Green Belts.

At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date such as the EFDLP, granting permission unless any adverse impacts would outweigh the benefits, when assessed against the policies within the NPPF taken as a whole or specific policies in the NPPF which indicate that the development should be restricted.

The NPPF states Green Belt serves 5 purposes of Green Belt, namely:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The NPPF highlights that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are, inter-alia, mineral extraction and engineering operations.

EPDLP POLICY GB2A (Development In The Green Belt) states that:

Planning permission will not be granted for the use of land or the construction of new buildings or the change of use or extension of existing buildings in the Green Belt unless it is appropriate in that it is:

- (i) for the purposes of agriculture, horticulture, or forestry; or*
- (ii) for the purposes of outdoor participatory sport and recreation or associated essential small-scale buildings; or*
- (iii) for the purposes of a cemetery; or*
- (iv) for other uses which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in the Green Belt; or*
- (v) a dwelling for an agricultural, horticultural or forestry worker in accordance with policy*

EFDLP Policy GB2A is of great importance on protecting the Green Belt which includes preserving the openness and is for the purposes of agriculture. It is considered that this policy is broadly consistent with the NPPF.

This proposal is to re-open the restored site over a 2 year period to allow the importation of material to allow the correction of the differential settlement which would involve the use of plant and machinery during the correctional phase. This would produce a slightly higher landform than the existing "settled levels". It is considered the restored landform to agriculture would be consistent with Green Belt policy. Nonetheless, the construction period would have an impact upon the Green Belt in the short-term and would not help preserve its openness.

The development, albeit for a 2 year period and temporary in nature, is considered due to its mass and scale to be inappropriate development for the purpose of the NPPF and as stated, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Special Circumstances.

This proposal was an active clay extraction site and was restored using imported domestic, commercial and industrial waste and capped and completed in December 2004 with restoration to agriculture and also stated above the site was granted planning permission for the installation of a gas engine to produce electricity by burning off the extracted landfill gas. The restoration, albeit

currently poor, was therefore a requisite following mineral extraction, which is not general considered inappropriate development in the Green Belt.

In 2009 a limited amount of material approximately 7,000m³ was imported which corrected the areas where the integrity of the cap had been compromised but owing to a lack of suitable material and the adverse weather, time ran out for the operation to be completed under planning permission BRW/123/86.

The applicant has provided information in support of the application which shows that an area of approximately 5ha is suffering from differential settlement. This is creating hollows and depressions and if left could allow water to accumulate which could affect the integrity of the cap. The applicant has stated that if this was allowed to happen this may affect the extraction of the landfill gas.

The applicant has stated that it would be necessary to import 50,000m³ of inert material to correct the differential settlement and re-profiling of the site which would not raise the restoration levels above those previously permitted. This would allow the land to be brought into a beneficial afteruse for agriculture to grow Miscanthus and on the lower levels a grass and wildflower sward. It is considered this would enhance the area by improving the shape of the landform within the landscape.

It is further acknowledged that this was a former clay extraction which was restored and this proposal is considered to represent both the restoration of a former mineral site through engineering profiles with inert waste to correct the differential settlement. This adds weight to the justification of the development in the Green Belt.

This site is an existing feature in the landscape and the proposed development would not have a significant impact on the openness of the Green Belt, by reason of its scale, nature and location.

The proposal is for a temporary period of 2 years only over Spring/Summer months, for correction of the differential settlement which if left could cause harm to the locality in the form of pollutants being released in the atmosphere. It is considered that only limited harm would arise during the construction period; However the final landform and afteruse would be appropriate development within the Green Belt. Taking into account the need for the development and that the longer-term use is appropriate development in the Green Belt, it is considered that there are very special circumstances which would clearly outweigh the potential harm to the Green Belt from the temporary operations and would preserve the openness of the Green Belt in the longer-term. The development therefore complies with EFDLP policy GB2A and the NPPF.

C LANDSCAPE AND VISUAL IMPACT

EFDLP policy LL2- Inappropriate rural development states inter-alia that:

The Council will not grant planning permission for development in the countryside unless it is satisfied that the proposal will:

- (i) respect the character of the landscape; and/or*
- (ii) enhance the appearance of the landscape; and*
- (iii) where appropriate, involve the management of part or all of the remainder of the site to enhance its contribution to the landscape.*

BARLP policy CP1 General Development Criteria states inter-alia that:

any development will need to satisfy all of the following:

- i) the proposal would not have an unacceptable detrimental impact on visual amenity, or the character and appearance of the surrounding area.*
- ii) the proposal would not have an unacceptable detrimental impact on the general amenities of nearby occupiers or the occupiers of the proposed development by way of overlooking, lack of privacy, overbearing effect or general disturbance.*

It is considered that these policies are broadly consistent with the NPPF.

The site is visible from the properties to the east of Marden Ash some 500m away and the properties on the eastern side of Chipping Ongar approximately 800m away and properties in High Ongar approximately 700 m away to the north. The ABC Nursery and Pre-school and Hallsford House adjoin the site's southern boundary.

One letter of representation has been received regarding the visual impact of the site.

There are established hedges and trees which surround the site's lower levels. This limits the views into the site. The top of the site is covered with self-set weeds and grass and the pipe work associated with the gas and leachate system. The proposal would remove the weeds and grass whilst correctional works take place.

It is accepted that the proposal would impact on the visual amenity whilst the importation and levelling phase takes place due to the height of the land form and plant and machinery to be used. This would be visible when viewed from the north and the west and from the nursery and pre-school and Hallsford House to the south. However, the applicant has stated that the works would be carried out in a phased manner which it is considered would minimise the visual impact.

As such, whilst it is considered that this proposal would have an impact on the visual amenity of the area for the proposed 2 year development period, the gain achieved by the longer-term successful final restoration of the site, would outweigh the relatively short term visual impact. This impact is not considered unacceptable given the longer-term benefits the correction of the settlement would provide.

Once the correctional works have been completed the main part of the site would be planted with Miscanthus and the lower areas with a wild flower mix. It is further

proposed that existing pipe work would be buried so that they would no longer be visible.

Brentwood Borough Council, Epping Forest District Council, the parish and town councils of Stondon Massey, High Ongar Town Council and Ongar Town Council and the Place Services Landscape and Trees have not objected to the proposal on the grounds of visual impact.

It is considered that once the works have been completed the local area would be enhanced by the growing of Miscanthus and the planting of the wildflower mix and is in accordance with EFDLP policy LL2 and BARLP policy CP1.

D ENVIRONMENTAL PROTECTION

BARLP policy CP1 General Development Criteria states inter-alia that:

Any development will need to satisfy all of the following:

vii) the proposal would not have an unacceptable detrimental impact on health, the environment or amenity due to the release of pollutants to land, water or air (including noise, fumes, vibration, smells, smoke, ash, dust and grit).

It is considered that this policy is broadly consistent with the NPPF.

Noise

In terms of policy the NPPF states a maximum of 55dB(A)_{L_{Aeq}}, 1h (free field), mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) _{L_{Aeq}}, 1h (free field).

WLP policy W10E Development Control in summary states:

The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants.

Two letters of representation have been received regarding noise. The nearest properties are the nursery and pre-school and Hallsford House located on the sites southern boundary. The applicant has not submitted a noise survey. However, all machinery would be to manufacturer's specification regarding noise and the applicant has stated that the phasing of the operations would start on the western side and move in an easterly direction away from any areas of habitation. Furthermore the site would only be operating for approximately 6 months of the year and during the drier time of the year.

As already stated there is established planting around the lower part of the site which would help mitigate any noise produced.

As already stated the site was opened to allow the importation of material in 2009 but due the adverse weather conditions and lack of material, the correction of the differential settlement was not completed. However, whilst the works were being undertaken no noise complaints were received by the Waste Planning Authority.

Subject to noise limit and monitoring conditions being imposed, it is considered that this proposal would comply with BARLP policy CP1, the NPPF and WLP policy W10E with regard to noise.

Dust, Odour & Contaminated Soils

Letters of representation have been received regarding dust. The nearest property to the site is the ABC Nursery and Pre -school which adjoins the site southern boundary. The applicant has stated that the inert material by its nature is normally in a damp condition and a water bowser would be on site to dampen the access road and haul roads. Furthermore the applicant has stated that soils would be placed as close to the area as possible. This would negate the necessity for unwanted soil movement.

One letter of representation has been received regarding chemicals in the imported soils and odour. The applicant has responded by stating that this proposal would not be importing contaminated soils and it is not usual for inert soils to produce odour.

Brentwood Borough Council, Epping Forest District Council, the Parish and Town Councils of Stondon Massey, High Ongar Town Council and Ongar Town Council and the Place Services Landscape and Trees have not objected to the proposal on noise, dust and odour issues.

The Environment Agency has not objected to this proposal.

It is considered that this proposal would be in compliance with BARLP policy CP1, WLP policy W10E and the NPPF with regard to dust, odour and contamination issues,

E HIGHWAYS & ACCESS

The applicant has submitted a Transport Assessment which sets out traffic movement and impacts on the local road network resulting from this proposal.

Access to the site would be via Mill Lane and the Stondon Road onto A128 and A113 which is approximately 750 metres to the south. The applicant has proposed that the HGVs carrying soil would only use this route.

It is proposed that there would be a maximum of 200 HGV movements per day (100 in and 100 out) Monday to Friday and 100 (50 in and 50 out) per day movements on Saturday mornings. However it is not anticipated that the site

would operate at the maximum proposed and actual lorry movements may be less than the maximum proposed.

Epping Forest District Council and Ongar Town Council have raised concerns that HGVs would come through Ongar Town High Street. The applicant has responded that all HGVs carrying the inert material would come from the south and avoid Ongar Town. However, the applicant has also stated that HGVs carrying plant and machinery would require access through Ongar Town, but it is anticipated that this would be very limited and singular movements only.

Letters of representation have been received regarding the suitability of the local road network.

Stondon Massey Parish Council and High Ongar Town Council have objected on highway grounds as the roads through their respective areas are not suitable for HGV traffic. Mill lane which connects High Ongar Town to the Stondon Road has a weight restriction of 7.5 tonnes and the roads going through Stondon Massey are country roads. The applicant has stated that HGVs accessing the site would only use the route as described above which would avoid both Stondon Massey and High Ongar.

Stondon Massey Parish Council has raised the question for the justification for 5000 vehicle movements. The traffic assessment considered that 6100 HGV would be required to complete the proposal. The applicant has stated that the anticipated volume of material required is 50,000m³ and has further stated that depending on the consistency of the material being imported and using a conversion rate of 2.2 tonnes per cubic metre, this would equate to approximately 100,000 to 110,000 tonnes.

It is acknowledged that if the maximum 200 movements per day limit were reached, the development could be completed in a much shorter timescale, however the operator has requested sufficient flexibility in this respect.

It has been stated earlier that a weighbridge would be installed which would weigh and record each vehicle that arrives on site. The applicant has stated that once the amount of material needed (50,000cm³) has been imported, then all importations of inert material would cease which would shorten the importation phase. Should planning permission be granted then a condition could be attached requiring the throughput information to be submitted to the County Planning Authority on a monthly basis, to ensure that no more material than is required to complete the development is imported and deposited and furthermore a restoration plan has been submitted showing the pre settlement contours.

To minimise mud on the road the applicant has stated that a wheel wash would be installed and if necessary a road sweeper would be on site.

The Highways Authority has not objected subject to conditions relating to visibility splays and wheel cleaning facilities.

Brentwood Borough Council has not objected to the proposal.

It is considered that this proposal is acceptable in highway safety and capacity terms and subject to imposition of appropriate conditions would be in compliance with WLP policies W4A and W10E

F HOURS OF OPERATION

WLP policy W10F Hours of Operation of the Waste Local Plan states inter alia that:

Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.

The proposed hours of operation are:

07:00 – 18:00 Monday to Friday

07:00 – 13:00 on Saturdays.

High Ongar Town Council has requested that work commences at 08:00 on Saturday. The applicant has responded by saying due to operational reasons and the need to complete this development the start time on Saturday needs to be at 07:00. Reducing hours of operation would only prolong the project possibly requiring a further dry season

It is considered that the hours of operation are not unacceptable and are in compliance with WLP policy W10F.

G ECOLOGY

EFRLP POLICY LL1- (Rural landscape) states, inter-alia, that:

The Council will continue to act to:

(i) conserve and enhance the character and appearance of the countryside; and

(ii) encourage the considerate use and enjoyment of the countryside by the public.

Subject to specific circumstances, particular attention will be paid to:

(a) the needs of agriculture, woodland planting and management, and other habitat and wildlife conservation;

(b) the provision of facilities for public access and informal recreation and to enable quiet enjoyment;

(c) the protection of historic features and their settings; and

(d) the achievement and conservation of visually attractive landscapes.

It is considered that this policy is broadly consistent with the NPPF.

Epping Forest District Council has objected to the proposal as it would temporarily

impact on established habitats. Letters of representation have been received regarding the impact on the ecology. The applicant has submitted an ecological survey.

Three ponds are located approximately 95m from the north west boundary and another larger pond is present adjacent the site's access road. The ecological survey advises that reptile surveys are undertaken during the optimal surveying period (mid March – Mid June).

The development area was considered to provide sub-optimal habitat for reptiles. The restored grassland varies in its establishment across this area with large stands of goats rue which is a non-native. Grass snakes have previously been observed within the marginal habitats on site, including scrub, established grassland, tall herb and ruderal. Should planning permission be granted a condition could be applied to ensure that a reptile survey is undertaken during the optimal surveying period in 2013 (April – June, September).

No trees, buildings or structures would be directly or indirectly affected by the proposed development.

The boundary vegetation was considered to offer bat foraging habitat, however, the development is confined to the restored grassland cover of the site and therefore no constraints are posed from bat species.

An active badger sett was identified within the marginal habitats of the site. The proposed development area is approximately 80m from the badger sett and therefore outside the recommended 30m standoff distance. Although the site is likely to be used for foraging, given the variety of surrounding habitat and given the temporary nature of the development, the loss of the restored grassland is not considered to be detrimental to the local badger population.

Skylark has been observed. The removal of the vegetation would therefore be carried outside of the bird breeding season (between September – February inclusive). If this is not possible the areas would be inspected by a suitably qualified ecologist for active nests prior to clearance. A condition could be imposed to this effect should permission be granted.

Place Services (Ecology) has not objected to the development subject to the surveys stated above which, if planning permission is granted could be conditioned to be undertaken prior to commencement of the development.

The Environment Agency and Brentwood Borough Council have not objected to the proposal on ecology issues.

It is considered that subject to appropriate conditions this proposal would be in compliance with WLP policy W10E Development Control and EFRLP policy LL1- Rural landscape.

H FOOTPATHS

WLP policy W10G states that: *Applications for waste management facilities should include measures to safeguard and where practicable to improve the rights of way network, which shall be implemented prior to any development affecting public rights of way commencing.*

A letter of representation has been received relating to the potential for the development to impact on the footpath.

Footpath 41 High Ongar runs to the north east of the site and is outside the development area and approximately 150 m from the development area at its closest point.

While there may be some visual impact and noise during the works, it is considered the long-term benefits outweigh any temporary impacts on users of the footpath, therefore it is considered that the development would not impact on this footpath and would be in accordance WLP policy W10G.

I RESTORATION

BARLP policy C12 (Landscape Improvements) states inter – alia that:

The council will, in conjunction with its countryside management service, seek to encourage local land owners to implement schemes to improve the environment through planting, habitat creation, improved public access, management agreements and other measures, whilst also implementing its own programme of environmental improvement schemes throughout both the urban and rural areas of the borough.

EFDLP Policy LL1- (Rural landscape) states inter – alia that:

The Council will continue to act to:

- (i) conserve and enhance the character and appearance of the countryside; and*
- (ii) encourage the considerate use and enjoyment of the countryside by the public.*

It is considered that these policies are broadly consistent with the NPPF.

WLP policy W10C (Restoration) states inter alia that:

In considering planning applications for landfill proposals the WPA will require the proposed measures for restoring the land to an acceptable and sustainable after-use to be feasible.

MLP Policy MLP 8 (Restoration) states inter alia that:

Planning permission will not normally be given for the working of mineral unless the land is capable of being restored within a reasonable time and to a condition such as to make possible an appropriate and beneficial afteruse.

RMLP policy S12 (Restoration and After-use) states inter-alia that:

Proposals for minerals development will be permitted provided that it can be demonstrated that the land is acceptable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and /or local communities.

The NPPF states in Achieving Sustainable Development in an environmental role which contributes to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy and further states in Section 11. "Conserving and enhancing the natural environment", The planning system should contribute to and enhance the natural and local environment by: "minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"

Ongar Landfill site as already stated is situated mainly in an agricultural area growing a range of crop types and varieties.

To the north of the site is the Leca park site which has established woodland, ponds and grass which as already stated is not part of this proposal.

Epping Forest District Council has objected that this scheme is likely to reduce the site's habitat significance.

The site at present looks unkempt with large populations of weeds which it is considered does not fulfil the original scheme for agriculture and does not enhance the character of the local agricultural area or improve the environmental planting and habitat conservation. The two landscape policies seek to conserve and enhance the appearance of the countryside and improve the environment, supporting planting and wildlife conservation.

The restoration of the landfill as permitted by BRW/123/86 was to agriculture. This was to be in the form of a grass lay which could be grazed by livestock and taken for a conservation crop. However due to the undulations on the surface of the landfill site caused by differential settlement, agricultural operations were unable to be undertaken and the site has taken on an unkempt appearance.

It is proposed that once the re-profiling of the site has been undertaken to correct the differential settlement, Miscanthus would be grown as a bio-fuel crop. The applicant has stated that the reason to grow Miscanthus on the site rather than low level agriculture (potentially grazing and conservation) currently consented is that Miscanthus is a Biomass crop and is used as an alternative low carbon fuel in power stations, commercial or domestic heating systems. One tonne of Miscanthus is able to displace around 0.7 tons of coal.

It is considered that growing Miscanthus would allow the site to achieve a high level of aftercare during and beyond the first 5 years of aftercare following completion of the proposal.

In terms of volume and management of the Miscanthus, It is considered that Miscanthus would yield approximately 15 tonnes per hectare per annum after year 3 which approximately equates to around 150t per annum. The crop duration is

approximately 15 to 20 years.

The crop would be harvested between February and April by cutting it to ground level, leaving it in windrows to dry further and then baled. These bales would be taken off site by either tractor or trailer or lorry depending on distance the material needs to travel.

Vehicle movements would equate to:

- HGV approximately 7 movements
- Tractor and trailer approximately 10 movements.

Both of these figures are dependent on yield and would be consistent with an agricultural afteruse.

In terms of grazing and conservation, the applicant has stated that locating livestock farmers to graze the site with sheep and potentially take a conservation cut has proved difficult. Furthermore it is considered this would lead to a lower level of management of the site.

The lower levels of the site would be drilled with a grass/wild flower mix. This it is considered would add value to and enhance the biodiversity of the site and conserve and enhance appearance of the area. It would also improve the wildlife conservation and is considered an acceptable and sustainable afteruse.

Places Services (Trees, Landscape and Ecology) has not objected to this scheme.

It is considered that the restoration plan is in accordance with WLP policy W10C, MLP policy MLP8, RMLP policy S12, and EFDLP policy LL1 and BARLP policy C12 and the NPPF.

9. CONCLUSION

It is considered that the applicant has demonstrated that there is a need to rectify the differential settlement at the site before the situation deteriorates further. Measures have been put in place to assist in safeguarding the visual amenity of the local area and the local transport network. It is considered that there is a defined need for the importation of soils to the site to rectify the settlement problems and long-term environmental benefits outweigh the short-term visual harm and the harm caused by the additional traffic movements.

In respect of the impact upon Green Belt it is considered that the development would not have a significant impact on the openness of the Green Belt and such an impact would only occur during the operational period. Taking into account this consideration and the need for the development there are considered to be to be very special circumstances to justify the development within the Green Belt. It is further considered the benefits of the proposal within the environmental and economic dimensions, as defined within the NPPF, outweigh any harm caused. This proposal is as such considered to represent a sustainable development, as

described within the NPPF.

Accordingly the proposal is in accordance with the NPPF and is in accordance with WLP policies, W4A, W9B, W10C, W10E, W10F, W10G and EFDLP policies GB1, GB2, LL1 and LL2 and BARLP policies CP1, GB2 and CP12 and MLP policy MLP8 and RMLP policy S12.

10. RECOMMENDED

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

1. COM 1 Commencement
2. COM 3 Compliance with submitted details
3. CESS 2 Cessation of Development
4. Restriction on period in which inert materials may be imported on site.
5. CESS 3 Removal of ancillary equipment
6. CESS 7 Revised Restoration in Event of Suspension of Operations
7. HOUR 1 Hours of Working (General)
8. PROD 4 Monitoring Waste Data
9. HIGH 4 Prevention of Mud and Debris on Highway
10. HIGH 5 Vehicle Movement Limits
11. HIGH 11 Visibility Splays
12. NSE 1 Noise Limits
13. NSE3 Monitoring Noise Levels
14. NSE 6 Silencing of Plant and Machinery
15. VIS 1 Limiting Impact of Skips, Containers
16. DUST 1 Dust Suppression Scheme
17. DUST 3 Spraying of Haul Road
18. ECO 3 Protection of Legally Protected Species
19. ECO 4 Wildlife Protection Plan
20. ECO 7 Update of Survey before Commencement of Development
21. Wildlife Surveys
22. Soil stripping outside bird nesting season
23. LS 8 Soil Handled in a Dry and Friable Condition
24. LS 12 Topsoil and Subsoil Storage
25. RES 1 Stones to be Picked
26. RES 4 Final Landform
27. AFT1 Aftercare & Landscaping Schedule to be approved
28. WAST 1 Waste Type Restriction
29. WAST 5 No Waste Deposit Outside Defined Areas
30. WAST6 No Crushing of Stone or Hardcore
31. Stability Risk Assessment

BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Glenn Shaw ESS/11/13/EPF

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

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

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

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

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

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

LOCAL MEMBER NOTIFICATION

BRENTWOOD – Brentwood Rural.

EPPING FOREST – Ongar and Rural.

APPENDIX 1

Consideration of Consistency of Policies

The Essex & Southend Waste Local Plan Adopted September 2001

Policy Ref No	Policy Title	Policy Wording	Consistency with the Framework
W4C	Highway/Transport Access	<ol style="list-style-type: none"> 1. Access for waste management sites will normally be by a short length of existing road to the main highway network consisting of regional routes and county/urban distributors identified in the Structure Plan, via a suitable existing junction, improved if required, to the satisfaction of the highway authority. 2. Exceptionally, proposals for new access direct to the main highway network may be accepted where no opportunity exists for using a suitable existing access or junction, and where it can be constructed in accordance with the County Council's highway standards. 3. Where access to the main highway network is not feasible, access onto another road before gaining access onto the network may be accepted if, in the opinion of the WPA having regard to the scale of development, the capacity of the road is adequate and 	<p>Paragraph 34 of the Framework states that 'Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.</p> <p>Policy W4C is in conformity with paragraph 34 in that it seeks to locate development within areas that can accommodate the level of traffic proposed. In addition the policy seeks to assess the existing road networks therefore, being in accordance with the Framework and PPS10.</p>

		<p>there would be no undue impact on road safety or the environment.</p> <p>4. Proposals for rail or water transport of waste will be encouraged, subject to compliance with other policies of this plan.</p>	
W9B		<p>Landfill, or landraising, for its own sake, without being necessary for restoration, will not be permitted. landfill outside the boundaries of the preferred sites will not be permitted unless it can be demonstrated that satisfactory restoration cannot otherwise be achieved. landfill will not be permitted when at a scale beyond that which is essential for restoration of the site.</p>	<p>PPS10 sets out the key objectives to achieve sustainable waste management including Paragraph 3 "...driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be catered for:..."</p> <p>Policy W9B seeks to minimise landfill and landraising to that essential to achieve restoration, thereby minimising the amount of waste going to landfilling pushing waste management up the waste hierarchy.</p>
W10C	Restoration	<p>In considering planning applications for landfill proposals the wpa will require the proposed measures for restoring the land to an acceptable and sustainable after-use to be feasible.</p>	<p>Policy W10C is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
W10E	Development Control	<p>Waste management development, including landfill, will be permitted where satisfactory provision is made in respect of the following criteria, provided the development complies</p>	<p>Policy W10E is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the County Council in ensuring the protection and enhancement of</p>

		<p>with other policies of this plan:</p> <ol style="list-style-type: none"> 1. The effect of the development on the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants (the factors listed in paragraph 10.12 will be taken into account); 2. The effect of the development on the landscape and the countryside, particularly in the AONB, the community forest and areas with special landscape designations; 3. The impact of road traffic generated by the development on the highway network (see also policy W4C); 4. The availability of different transport modes; 5. The loss of land of agricultural grades 1, 2 or 3a; 6. The effect of the development on historic and archaeological sites; 7. The availability of adequate water supplies and the effect of the development on land drainage; 8. The effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations; 	<p>the natural, built and historic environment. The policy therefore, is linked to the third dimension of sustainable development in the meaning of the Framework.</p>
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		and 9. 9. In the Metropolitan Green Belt, the effect of the development on the purposes of the Green Belt.	
W10F	Hours of operation	Where appropriate the WPA will impose a condition restricting hours of operation on waste management facilities having regard to local amenity and the nature of the operation.	<p>In addition Paragraph 123 of the Framework states that planning decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new developments, including through the use of conditions. Furthermore, paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.</p> <p>It is considered that as policy W10F is concerned with the protection of amenity and seeks to impose conditions to minimise this policy W10F is in conformity with the requirements of the Framework.</p>
W10G	Footpaths	Applications for waste management facilities should include measures to safeguard and where practicable to improve the rights of way network, which shall be implemented prior to any development affecting public rights of way commencing.	<p>Paragraph 75 of the Framework states that 'Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.</p> <p>Policy W10G seeks the protection and enhancement of public rights of way and therefore, is in conformity with</p>

			the Framework.
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The Essex Minerals Local Plan Adopted First Review January 1997

MLP8	Agriculture	<p>Planning permission will not normally be given for the working of minerals unless the land concerned is capable of being restored within a reasonable time to a condition such as to make possible an appropriate and beneficial after-use. Where planning permission for mineral working is given on Grade 1, 2 or 3a of the Ministry of agriculture's land classification, the land will be required to be restored within a reasonable time and as nearly as possible to its former agricultural quality. Where filling material is necessary, permission will not be given until it is shown that suitable material will be available and that the compatibility of the landfill gas and leachate monitoring and control structures and processes with the afteruse is demonstrated. Wherever possible land permitted for mineral working will be restored to agricultural use, but due regard will also be had to the need for areas for nature conservation, water-based recreation, afforestation and Leisure activities. Where permission is given,</p>	<p>Paragraph 144 of the Framework requires LPAs when determining planning application inter alia "provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards.</p> <p>Paragraph 109 of the Framework requires protection of soils.</p> <p>The Framework does not place such weight as the MLP on the need for restoration to agriculture for land that is best and most versatile, however it is recognised in paragraph 112 that the economic and other benefits of the best and most versatile land should be taken account of. In addition at Paragraph 109 it does require protection of soils. MLP8 recognises and does not preclude restoration to alternative afteruses.</p>
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		<p>conditions will be imposed to secure:</p> <ul style="list-style-type: none"> (i) progressive working and restoration; and (ii) aftercare and maintenance of the restored land for not less than 5 years, and (iii) a beneficial after use of the restored land including the use of areas that remain waterfilled. 	<p>It is therefore considered that MLP8 is largely in conformity with the Framework</p>
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DR/35/13

committee DEVELOPMENT & REGULATION

date 23 August 2013

MINERALS, WASTE and COUNTY COUNCIL DEVELOPMENT**National and local requirements for the validation of planning applications.**

Report by Head of Environment, Planning and Economic Growth

Enquiries to: Gemma Skillern Tel: 01245 437502

1. PURPOSE OF REPORT

The report seeks the Committee's endorsement of an updated validation checklist and supplementary guidance for the national and local requirements for the validation of planning applications that are submitted to Essex County Council, as advised by the National Planning Policy Framework.

Subject to the endorsement of the Committee, the validation checklists and supplementary guidance would be adopted and for published on the Council's website. Once adopted, the Checklist would be kept under regular review. It is also proposed that any minor amendments, necessary to reflect statutory changes, changes in government guidance or the council's policy/guidance, would thereafter be made as required without undertaking a full review or consultation, where appropriate. Any major revisions to the Checklist would be referred to the Committee for approval.

2. BACKGROUND

The primary drivers for revision are contained within the NPPF (paragraph 193) and the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012, which came in to force 31 January 2013. This Order altered requirements for outline application requirements and importantly requires local planning authorities to have an up-to-date (less than 2 years old) validation checklist to locally reflect the current national requirements.

More recently, the Growth and Infrastructure Act 2013 (GIA) amends section 62 of the Town and Country Planning Act 1990, which governs what information LPAs can require in support of a planning application. The GIA introduced limits on LPAs powers to require information with planning applications, so that such requests are reasonable and relate to matters that

are likely to be only material to determination of the planning application. These limitations are, namely:

- Information requests must be reasonable having regard, in particular, to the nature and scale of the proposed development; and
- May require the particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application.

More recently, further changes were introduced¹ prescribing that a local authority can no longer compel a developer to provide information because it is on a local validation list. If an applicant considers that the information requested on a local list does not meet the tests set out in the NPPF and the Act, they can now challenge the need to provide it.

The current checklist, adopted in 2008, gained the ratification of the Council's Development and Regulation Committee on 30 May 2008 and subsequent Cabinet Member Approval.

3. SUMMARY OF CHANGES TO THE ADOPTED GUIDANCE

A copy of the draft supplementary guidance and validation checklists are set out at Appendix 1 of this report.

Due to the varying nature of applications determined by the Council, it was previously agreed in 2008 that separate checklists should be used in order to make the checklist clearer and more user-friendly. Within the proposed revision, there are five validation checklists to ensure the correct and commensurate information accompanies the different types of applications. The validation checklist required depends on the type of application submitted and have been updated as follows:

- Validation Checklist 1: Full / outline / reserved matters / variation (non-compliance) with condition(s) applications.
- Validation Checklist 2: Applications for lawful development certificates applications.
- Validation Checklist 3: Applications for listed building consent, conservation area consent & scheduled monument consent.
- Validation Checklist 4: Non-material amendments or minor material amendments (this is a new checklist designed to reflect the nature of the applications and provide more certainty to developers in regards to requirements);

¹ Chief Planning Officer for the department for Communities and Local Government announced the commencement of Section 6 of the GIA and The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013 (SI 2013/1238) from the 25th June 2013

- Validation Checklist 5: Requests for EIA screening opinions and/or scoping opinions (this is a new checklist designed to reflect the nature of the requests and provide more certainty to developers in regards to requirements).

There are a number of changes proposed within the supplementary guidance, to bring up-to-date information requirements and improve the clarity and structure of the previous document. In summary, the changes within the revised supplementary guidance are as follows:

- Improved structure and clarity in terminology for the requirements. There is also further information regarding the policy drivers for the requirements, with improved links to new and relevant policies and guidance which will provide further information for prospective applicants;
- Further information on what is needed for specific types of applications, consents and requests;
- Improved clarity on 'paper copy' requirements and electronic submissions in readiness for the adoption of the new planning case management system.
- Further clarity for potential applicants covering:
 - a. The need for and contents of a Habitats Regulation Assessment;
 - b. The need for and content of Health Impact Assessments;
 - c. Landscaping and/or Visual Impact Assessments;
 - d. The contents of a planning statement.
- Clarity regarding agricultural impact (in relation to aftercare and restoration of sites) and the contents of an economic statement;
- Addition of the following requirements:
 - a. All applications over 0.1 hectare in size will be required to submit a 'Biodiversity Checklist' to ensure all applications appropriately assess the potential biodiversity impacts of a scheme;
 - b. Hydrological and hydro-geological assessments (if applicable for the scheme proposed).

4. CONSULTATIONS

45 statutory consultees, groups and authorities including District/Borough/City Councils were directly notified of the proposed changes to the document. As a result, 10 replies were received.

On balance, the feedback received was generally positive and informative with relevant additional information being included within the checklist. The checklist has accordingly been amended to reflect the issues raised following the consultation process. The final checklist has also been benchmarked against other County Council validation checklists for consistency.

5. CONCLUSION

The reasoning behind the provision of validation checklists is to provide clear and specific guidance of what is required to be submitted with any type of planning application from the outset. It will also assist the council, as a mineral, waste and county planning authority, to ensure it adopts a consistent approach towards the validation process.

The revision to the requirements has been required due to the rapidly evolving national policy context, best practice and legislation, stemming from the government.

The revised draft of the validation checklists and supplementary guidance has been updated in the light of changes to the National Requirements. Primarily these requirements are contained within the NPPF (paragraph 193), the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012, The Growth and Infrastructure Act 2013 and The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013. The update also reflects other recent changes in National Guidance and Legislation.

Without an up-to-date and relevant validation checklist there are restrictions as to what information Planning Officers can request in support of a planning application. Additionally, there are now formal routes for applicants to challenge the need for information in individual cases, even if it is contained as a potential requirement within the local validation checklist.

Having an up to date local validation checklist ensures the council can request reasonable and commensurate information that will be material to the individual planning application. This should reduce the unnecessary information requirement on the developer in turn helping streamline further the planning application process.

6. RECOMMENDATION

That the Committee endorse the validation checklists and supplementary guidance document, attached at Appendix 1.

BACKGROUND PAPERS

- Guidance on information requirements and validation (March 2010)
- The National Planning Policy Framework (adopted March 2012)
- Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012 (adopted January 2013)
- Growth and Infrastructure Act (adopted 2013)
- All other documents used in the production of the validation guidance are publically available in full and are hyperlinked within the document.

LOCAL MEMBER NOTIFICATION

Countywide

Essex County Council Validation Form 1 for:
**FULL / OUTLINE / RESERVED MATTERS / VARIATION (NON-
 COMPLIANCE) WITH CONDITION(S) APPLICATIONS**

Applications **MUST** include the national requirements & applicable local requirements. It is advised to discuss exact requirements during pre-application discussions (as this varies site by site), to avoid time & expense of undertaking unnecessary work, while speeding up validation & planning processes by ensuring all relevant information is submitted.

All electronic submissions **MUST** follow file size, type and naming conventions specified in the Supplementary Guidance (Section 1.1.11).

APPLICATION TYPE			Tick as appropriate
Applications for Full Planning Permission			<input type="checkbox"/>
Applications for Outline Planning Permission with Some Matters Reserved			<input type="checkbox"/>
Applications for Outline Planning Permission with All Matters Reserved			<input type="checkbox"/>
Applications for Approval of Reserved matters following Outline Approval			<input type="checkbox"/>
Applications for Removal or Variation of a Condition following the grant of Planning Permission			<input type="checkbox"/>
NATIONAL REQUIREMENTS			
Item	Advice in section (s):*	Required ?	Where information can be found, or statement why it is not appropriate
Single (or agreed number) of hardcopies	1.1.11.6		N/A
The Standard Application Form (signed & dated), <i>including signed & dated declarations of Ownership & Agricultural Holdings</i>	2.4	YES	
Design & Access Statement (Except change of use applications)	2.1		
Location Plan	2.3.5	YES	
Site Plan	2.3.7	YES	
Block Plan of the Site	2.3.1	YES	
Existing & Proposed Elevations	2.3.2	YES	
Existing & Proposed Floor Plans	2.3.3	YES	
Existing & Proposed Site Sections Finished Floor / Site Levels	2.3.4	YES	
Existing & Proposed Roof Plans	2.3.6	YES	
The Correct Fee	2.2	YES	
Environmental Impact Assessment	1.2.4		
LOCAL REQUIREMENTS			
Aftercare / Restoration Scheme	3.1		
Air Quality Impact Assessment covering dust, odour & Bio-aerosols Risk Assessment (if applicable)	3.2		

* - Sections of the Supplementary Guidance

Further local requirements are listed overleaf:

Validation Form 1 Continued

LOCAL REQUIREMENTS			
Item	Advice in section (s):	Required ?	Where information can be found, or statement why it is not appropriate
Biodiversity Checklist (signed & dated)	3.3	YES	
<i>If required by checklist</i> - Biodiversity Statement & Mitigation Plan	3.3.1		
<i>If required</i> - Habitats Regulations Assessment / Appropriate Assessment	3.3.2		
<i>If required by checklist</i> - Species Surveys carried out at the correct time of year	3.3.3		
Borehole or Trial Pit Analysis	3.4		
Climate Change / Energy / Sustainability Statement	3.5		
Daylight / Sunlight Assessment	3.6		
Economic Statement	3.7		
Impacts of Hydrology covering Flood Risk Assessment, Hydrological & Hydro-geological Assessments & SuDS (if applicable)	3.8 3.8.1 3.8.2 3.8.3 3.8.4		
Foul Sewage & Utilities Assessment(s)	3.9		
Health Impact Assessments	3.10		
Heritage Statement &/or Archaeological Assessment	3.11 3.11.1		
Land Contamination Assessment	3.12		
Landscape Assessment &/or Visual Impact Assessment	3.13		
Light Impact Assessment	3.14		
Noise Impact Assessment	3.15		
Open Space / Playing Field Assessment	3.16		
Parking Provision	3.17		
Phasing & Method of Operation Statement	3.18		
Photographs and Photomontages	3.19		
Planning Obligations - Draft Head(s) of Terms	3.20		
Planning Statement	3.21		
Public Rights of Way	3.22		
Public Involvement Programme	3.23		
Structural Survey	3.24		
Transport Assessment / Transport Statements / Travel Plan	3.25 3.26		
Tree Survey / Arboricultural Implications and Method Statement	3.27		

You are advised to submit your application through the Planning Portal, with at least (or as otherwise advised) one hard copy to: **Minerals & Waste Planning Team, Essex County Council, E3 County Hall, Market Road, Chelmsford, Essex, CM1 1QH**

Essex County Council Validation Form 2 for:

APPLICATIONS FOR LAWFUL DEVELOPMENT CERTIFICATES

Applications **MUST** include the national requirements & applicable local requirements. It is advised to discuss exact requirements during pre-application discussions (as this varies site by site), to avoid time & expense of undertaking unnecessary work, while speeding up validation & planning processes by ensuring all relevant information is submitted.

All electronic submissions **MUST** follow file size, type and naming conventions specified in the Supplementary Guidance (Section 1.1.11).

APPLICATION TYPE	Tick as appropriate
Applications for a Lawful Development Certificate for and Existing Use or Operation or Activity including those in Breach of a Planning Condition (CLUED)	<input type="checkbox"/>
Applications for a Lawful Development Certificate for a Proposed Use or Development (CLUEPD)	<input type="checkbox"/>

NATIONAL REQUIREMENTS			
Item	Advice in section (s):*	Required ?	Where information can be found, or statement why it is not appropriate
Single (or agreed number) of hardcopies	1.1.11.6		N/A
The Standard Application Form (signed & dated), <i>including signed & dated declarations of Ownership & Agricultural Holdings</i>	2.4	YES	
Location Plan	2.3.5	YES	
The Correct Fee	2.2	YES	
Statements/evidence verifying:	1.2.10 1.2.10.1 1.2.10.2	YES	
Whether the application relates to a use, a building operation or a condition not complied with;			
The date that the use (or breach of condition) started, or the date on which the building was substantially complete;			
The use class the applicant considers to be applicable;			
In the case of a breach of condition, details of the relevant application;			
The reasons the applicant thinks the operation is entitled to a CLUED/CLUEPD;			

* - Sections of the Supplementary Guidance

Further local requirements are listed overleaf:

NATIONAL REQUIREMENTS continued

Item	Advice in section (s):	Required ?	Where information can be found, or statement why it is not appropriate
Other relevant supporting information e.g.	1.2.10 1.2.10.1 1.2.10.2	YES	
Statutory declarations (sworn statements);			
Photographs;			
Invoices/payment records;			
Historical maps			

LOCAL REQUIREMENTS

Item	Advice in section (s):	Required ?	Where information can be found, or statement why it is not appropriate
Aftercare / Restoration Scheme	3.1		
Plans of development:			
Site Plan	2.4.7		
Block Plan of the Site	2.4.1		
Existing & Proposed Elevations	2.4.2		
Existing & Proposed Floor Plans	2.4.3		
Existing & Proposed Site Sections Finished Floor / Site Levels	2.4.4		
Existing & Proposed Roof Plans	2.4.6		
Structural Survey	3.25		

You are advised to submit your application through the Planning Portal, with at least (or as otherwise advised) one hard copy to:

Minerals & Waste Planning Team,
Essex County Council,
E3 County Hall,
Market Road,
Chelmsford,
Essex, CM1 1QH

Essex County Council Validation Form 3 for:
**APPLICATIONS FOR LISTED BUILDING CONSENT,
 CONSERVATION AREA CONSENT &**

Applications **MUST** include the national requirements & applicable local requirements. It is advised to discuss exact requirements during pre-application discussions (as this varies site by site), to avoid time & expense of undertaking unnecessary work, while speeding up validation & planning processes by ensuring all relevant information is submitted.

All electronic submissions **MUST** follow file size, type and naming conventions specified in the Supplementary Guidance (Section 1.1.11).

APPLICATION TYPE	Tick as appropriate
Applications for LISTED BUILDING CONSENT	<input type="checkbox"/>
Applications for CONSERVATION AREA CONSENT	<input type="checkbox"/>
Applications for SCHEDULED MONUMENT CONSENT	<input type="checkbox"/>

NATIONAL REQUIREMENTS			
Item	Advice in section (s):*	Required	Where information can be found, or statement why it is not appropriate
Single (or agreed number) of hardcopies	1.1.11.6		N/A
The Standard Application Form (signed & dated), <i>including signed & dated declarations of Ownership & Agricultural Holdings</i>	2.4	YES	
Design & Access Statement (Except change of use applications)	2.1		
Location Plan	2.3.5	YES	
Site Plan	2.3.7	YES	
Block Plan of the Site	2.3.1	YES	
Existing & Proposed Elevations	2.3.2	YES	
Existing & Proposed Floor Plans	2.3.3	YES	
Existing & Proposed Site Sections Finished Floor / Site Levels	2.3.4	YES	
Existing & Proposed Roof Plans	2.3.6	YES	
The Correct Fee	2.2	YES	

* - Sections of the Supplementary Guidance

Further local requirements are listed overleaf:

LOCAL REQUIREMENTS			
Item	Advice in section (s):	Required	Where information can be found, or statement why it is not appropriate
Biodiversity Checklist (signed & dated)	3.3	YES	
<i>If required by checklist</i> - Biodiversity Statement & Mitigation Plan	3.3.1		
<i>If required</i> - Habitats Regulations Assessment / Appropriate Assessment	3.3.2		
<i>If required by checklist</i> - Species Surveys carried out at the correct time of year	3.3.3		
Heritage Statement &/or Archaeological Assessment	3.11 3.11.1		
Landscape Assessment &/or Visual Impact Assessment	3.13		
Light Impact Assessment	3.13		
Parking Provision	3.17		
Photographs & Photomontages	3.19		
Planning Statement	3.21		
Structural Survey	3.24		
Tree Survey / Arboricultural Implications and Method Statement	3.27		

You are advised to submit your application through the Planning Portal, with at least (or as otherwise advised) one hard copy to:

Minerals & Waste Planning Team,
Essex County Council,
E3 County Hall,
Market Road,
Chelmsford,
Essex,
CM1 1QH

Essex County Council Validation Form 4 for:

NON-MATERIAL AMENDMENTS or MINOR MATERIAL

Applications **MUST** include the national requirements & applicable local requirements. It is advised to discuss exact requirements during pre-application discussions (as this varies site by site), to avoid time & expense of undertaking unnecessary work, while speeding up validation & planning processes by ensuring all relevant information is submitted.

All electronic submissions **MUST** follow file size, type and naming conventions specified in the Supplementary Guidance (Section 1.1.11).

The applicant will **NOT** be required to provide copies of the original application, but it would assist the local planning authority's consultation and determination procedures to provide copies of the original drawings.

APPLICATION TYPE	Tick as appropriate
Applications for non-material amendments following the grant of planning permission	<input type="checkbox"/>
Applications for minor-material amendments following the grant of planning permission	<input type="checkbox"/>

REQUIREMENTS			
Item	Advice in section (s):*	Required ?	Where information can be found, or statement why it is not appropriate
Single (or agreed number) of hardcopies	1.1.11.6		N/A
The Standard Application Form (signed & dated), <i>including signed & dated declarations of Ownership & Agricultural Holdings</i>	2.4	YES	
Supporting statements that are necessary to suitably identify the change from the originally permitted development and reasons for the change	1.27		
Plans that suitably identify the change from the original permitted development.	2.3		
It would be useful to provide a copy of the original plans, to be able to quickly identify the alteration.			
The Correct Fee	2.2	YES	

* - Sections of the Supplementary Guidance

Essex County Council Validation Form 5 for: REQUESTS FOR SCREENING OPINIONS and/or SCOPING OPINIONS

It is advised that an applicant requests a Screening Opinion before submitting a planning application. If a formal Screening Opinion has not been sought, ECC will screen all major applications it receives, to ensure an EIA accompanies all relevant development proposals, which may delay validating the applications, if one has not been provided.

Requesting a Scoping Opinion helps to avoid subsequent delays in processing applications by ensuring the Environmental Statement are adequate. Where the need for an ES has been identified, ECC strongly encourages that a request for a Scoping Opinion is made.

Requests for Screening & Scoping Opinions should be made in writing, accompanied by sufficient detail to allow determination. All electronic submissions **MUST** follow file size, type and naming conventions specified in the Supplementary Guidance (Section 1.1.11).

APPLICATION TYPE	Tick as appropriate
Screening Opinion	<input type="checkbox"/>
Scoping Opinion	<input type="checkbox"/>

The following details the minimum information with respect to the development for both screening and scoping opinions. In some cases, the applicant may find it beneficial to describe more fully what is considered within the proposal and detail to be included within the Environmental Statement, therefore enabling a more detailed response from consultees.

REQUIREMENTS			
Item	Advice in section (s):*	Required	Where information can be found, or statement why it is not appropriate
Single (or agreed number) of hardcopies	1.1.11.6		N/A
A site plan showing the boundaries of the proposed site;	2.3.7	YES	
A description of the proposed development, where it would be useful to include the following:	1.2.4	YES	
The estimated period of time that the development would take place;		YES	
The estimated amount of mineral that would need to be extracted and / or processed or waste (including types of waste) to be deposited and /or processed;		YES	
Estimated hours of operation, during both construction and the operational phases;		YES	
Any other information, which may be of relevance to the potential application.		YES	

* - Sections of the Supplementary Guidance

VALIDATION CHECKLIST

SUPPLEMENTARY GUIDANCE FOR THE REQUIREMENTS OF A VALID PLANNING APPLICATION SUBMITTED TO ESSEX COUNTY COUNCIL

SEPTEMBER 2013

The information contained in this document can be translated and/or made available in alternative formats, on request.

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Note: All hyperlinks are correct at the time of publication

ABBREVIATIONS

AA	Appropriate Assessment	GDPO	Town & Country Planning (General Permitted Development) Order
AQMA	Air Quality Management Area	HRA	Habitats Regulation Assessment
AOD	Above Ordinance Datum	LPA	Local Planning Authority
CLUED	Certificate of Lawful Use of Existing Development	MMA	Minor Material Amendment
CLUEPD	Certificate of Lawful Use of Existing or Proposed Development	NMA	Non Material Amendment
DAS	Design & Access Statement	NPPF	National Planning Policy Framework
DCLG	The Department for Communities and Local Government	PIP	Public Involvement Programme
EA	Environment Agency	S73	'Section 73 Applications' for the removal or variation of conditions
ECC	Essex County Council	SCI	Statement of Community Involvement
EIA	Environmental Impact Assessment	SAB	SuDS Approval Body
EPOA	Essex Planning Officers Association	SuDS	Sustainable Drainage Systems
ES	Environmental Statement	TA	Transport Assessment
FRA	Flood Risk Assessment	TP	Travel Plan
GIA	Growth & Infrastructure Act	TS	Transport Statement

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1 INTRODUCTION

This guidance note has been updated in the light of the requirements of the [National Planning Policy Framework](#) (NPPF) and to reflect other recent changes in National Guidance and Legislation. The checklist includes all potential requirements that may be requested to make a planning application valid when submitted to Essex County Council (ECC). ECC is the determining planning authority for mineral, waste and Regulation 3 applications¹. The national guidance note '[Guidance on information requirements and validation](#)' issued by the Department for Communities and Local Government (DCLG) provides further information regarding validation of planning applications.

Guidance with regard to information requirements is constantly emerging from central government, including the abolition of the East of England Regional Spatial Strategy in January 2013. An [Order](#) amending the rules on the information that must be submitted with a planning application came into force on 31 January. This removed existing national requirements for information on layout and scale to be provided with outline applications where these are reserved matters to be determined at a later date, although these can remain within the local lists. The Order also requires local planning authorities to have an up to date (not more than 2 years) validation checklist. There is likely to be further streamlining measures (for example simplifying ownership and agricultural land holdings certificates) implemented, therefore this guidance note produced by ECC will be updated to reflect the rapidly evolving situation.

The NPPF was published in March 2012 and requires all Local Planning Authorities (LPAs) to publish a validation checklist to help applicants submit the right information with an application. This ensures ECC is able to deal with applications as quickly and comprehensively as possible. The list should be proportionate to the nature and scale of the development proposals and reviewed on a frequent basis. LPAs should only request information that is relevant, necessary and material to the application in question (paragraph 193).

In addition to the NPPF, it is important to note the [Growth and Infrastructure Act 2013](#) (GIA), which was enacted on 25 April 2013 following Royal Assent. Importantly, the GIA amends section 62 of the Town and Country Planning Act 1990, which governs what LPAs can and cannot seek in support of a planning application. The GIA introduced limits on LPAs power to require information with planning applications, so that such requests are reasonable and relate to matters that are likely to be material planning considerations. The limits are defined as:

- Information requests must be reasonable having regard, in particular, to the nature and scale of the proposed development; and
- May require the particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application.

1.1 Purpose of this Guidance

This guide is designed to give an overview of all supporting documents, statements, assessments and plans that could potentially be required to be submitted at the time the application is made. The validation requirements refer solely to the information required

¹ The applications for which Essex County Council is the determining authority is further explored in the EPOA guidance document ECC (2009) [Development Involving County Matters](#).

in order to validate an application. This list is not exhaustive and there may be issues that are material in the determination of the application, but not addressed in this overview.

Applicants should be aware that ECC might still require and request further information or supporting documentation post validation, where it is considered necessary to determine the application. However, not all items within the checklist will be relevant to every type of planning application that is dealt with by the Authority.

Applicants should also be aware that an application could still be refused on the grounds of inadequate information. The validation checklist is not exhaustive and simply aims to capture the basic and most common requirements for your application. It is therefore highly recommended that potential applicants discuss proposals with ECC at the pre-application stage, especially for large scale and sensitive developments.

Pre-application advice can potentially reduce the costs of the planning process and speed up the system, by improving the quality of applications/proposals and thus reduce refusal and appeal rates. Early discussions establish the relevant planning policies to be taken into account and clarify the format, type and level of detail required by ECC to determine an application. This would include any assessments that would be required on a case-by-case basis.

[‘Pre-application consultation with communities: a basic guide’](#) (February 2011) is a short guidance note for potential applicants produced by the DCLG. It provides an overview of the requirement to consult with local communities prior to submitting certain types of planning application.

Individual checklists for each of the types of application listed in section 1.2 for are available on the Essex County Council website ([hyperlink](#)).

1.2 Producing and Submitting an Application

As noted above, ECC is the determining authority on County Matter applications. Within these matters, there are a number of different types of application that are frequently determined by the ECC, as explored below.

With regard to waste developments, there is [guidance for developments requiring planning permission and environmental permits](#) published by the Environment Agency (EA) in October 2012. This guidance sets out the remits of planning and permitting regimes, as these decisions are separate but closely linked. This aims to help applicants and authorities understand how the EA will respond to planning applications that require an Environmental Permit, under the [Environmental Permitting \(England and Wales\) Regulations](#) (2010).

There are five different validation checklist published in the Essex County Council website ([hyperlink](#)). These consist of:

- Form 1 – For Full/Outline/Reserved Matters/variation (non-compliance) with Condition(s) applications; Form 2 – For Lawful Development Certificates
- Form 3 – For Listed Building Consent, Conservation Area Consent & Scheduled Monument Consent
- Form 4 – For Non-Material Amendments or Minor Material Amendments
- Form 5 – For Screening Opinions & Scoping Requests

The correct form should be completed and submitted as part of the application, to ensure speed up the validation process, by highlighting and potential deficiencies within the submission.

1.2.1 Outline Applications

Outline applications are to establish whether a particular type of development is of the use has been established. There are two different types of application, where all matters are reserved or where only some matters are reserved. These reserved matters can consist of:

- Access: To the site and within the site
- Appearance: Visual impact of site
- Design: The form and function of the development including the landscape treatment of land to enhance or protect amenities
- Layout: Situation and orientation of buildings, routes and open spaces in relation to each other
- Scale: the height, width and length of each building within the development
- Siting: Where the development is located

The information required to validate an outline application are as follows:

- The fully completed standard application form for either [some reserved matters](#) or [all reserved matters](#), including ownership and agricultural holding certificates;
- Correct fee;
- Location Plan;
- Site Plan;

Unlike the site plans to be submitted with a full application, a plan submitted in conjunction with an outline application must show:

- Where layout is reserved, the approximate location of buildings, routes and open spaces included in the development is still required
- Where scale is reserved, the upper and lower limit for the height, width and length of each building included in the development must still be indicated
- Where access is reserved, the area or areas where access points will be situated must still be shown.

Please note: ***Outline applications cannot be made for minerals applications.***

Further information about outline applications can be found on the [Planning Portal's website](#).

1.2.2 Reserved Matters Application

Following the granting of any outline application, before development can progress, the reserved matters (as noted above) must be clarified. In addition to the fully completed [standard application form](#), the appropriate assessments and statements must be submitted. This will be clarified by planning officers at the pre-application stage.

1.2.3 Full Applications

This type of application is the most common dealt with by the Authority. The guidance noted in part 2 (National Requirements, page 13) and 3 (Essex List of Local Requirements, page 21) provide detailed information on all information that the Authority may require to be submitted in conjunction with a planning application, although the information required will be commensurate with the nature and type of the

proposal. Please discuss what will be required during pre-application discussions with a planning officer.

1.2.4 Applications Requiring Environmental Impact Assessment (EIA)

The [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2011](#) and the [NPPF \(paragraph 192\)](#) set out the circumstances in which an Environmental Statement (ES) is required. If an ES is required, due to the nature/size/scale of impacts of the proposed development, this may obviate the need for other more specific statements as described in the local requirements as set out below in Part 3 of this guidance, starting on page .

The information in the ES has to be taken into consideration prior to the determination of the application.

If the application is accompanied by an ES, the applicant must provide contact details about who to write to in order to obtain a copy and the charge (including post and packing). Where appropriate, the applicant should also include a web site address where the ES can be viewed and an address in the locality where the ES can be inspected.

1.2.4.1 Screening Opinion

It is advised that an applicant requests a screening opinion (to determine whether an ES is required) from ECC before submitting a planning application, particularly for large and/or complicated schemes. If a formal screening opinion has not been sought, ECC will screen all applications it receives, to ensure an EIA accompanies all relevant development proposals.

Requests for screening opinions should be made in writing, accompanied by sufficient detail to allow the Authority to determine the need for an ES in addition to a planning application. Details required for a screening opinion to be considered are:

- A red line plan of the boundary of the proposed site;
- A description of the proposed development, where it would be useful to include the following:
 - The estimated period of time that the development would take place;
 - The estimated amount of mineral that would need to be extracted and/or processed or waste (including types of waste) to be deposited and /or processed;
 - Estimated hours of operation, during both construction and the operational phases;
 - Any other information that may be of relevance to the potential application.

1.2.4.2 Scoping Opinion & Content of an ES

[Schedule 4](#) to the 2011 regulations sets out the information that should be included. However, a formal scoping opinion provides more specific guidance as to the issues that need to be addressed within an ES and includes consultation with relevant consultees in forming a screening opinion.

Requesting a scoping opinion helps to avoid subsequent delays in processing the application, by ensuring the applications and ES are as full as possible. Where the need for an ES has been identified, ECC strongly encourages that a request for a scoping opinion is made.

A scoping opinion request requires the same minimum information with respect to the development as that for a screening opinion. In some cases, the applicant may find it more beneficial to describe more fully what is considered to be required to be included within the ES, therefore enabling a more detailed response from consultees.

A screening opinion and scoping opinion request can be made at the same time.

1.2.5 Applications where an applicant would like to take part in the Biodiversity Off-Setting pilot Scheme

Essex County Council is currently taking part in a DEFRA project to deliver [biodiversity offsetting](#). This is a new initiative designed to account for the impact that individual developments have on habitats with greater accuracy.

All developments are required to achieve no net loss for biodiversity: offsetting is intended for use as another step at the end of the mitigation hierarchy to ensure truly sustainable development with regard to habitat conservation and in accordance with the NPPF.

For any site, where the applicant considers offsetting of residual impacts would be possible, they would need to ensure the following is contained within the environmental report:

- Habitat types present on site
- Areas of on-site habitats
- Condition of onsite habitats

Until March 2014, the Environment Bank in partnership with ECC Place Services (Ecology) are offering a free service to calculate impacts for individual developments.

It should be noted that this is a voluntary scheme that can be used to deliver existing requirements for compensation or entered into by the developer to test the use of offsetting and offset for previously unaccounted for impacts.

1.2.6 Removal or Variation of Conditions (Section 73 Applications)

Section [73](#) of the [Town and Country Planning Act 1990](#) (as amended) describes the course of action to be taken where an application has been granted with specific conditions attached to it and the applicant wishes to remove or alter one or more of these. It notes that in these circumstances, a further application must be submitted to the Local Authority. This includes when the submitted details need to be amended and either:

- These amendments are considered to be of greater significance than a minor material amendment;
- The sum of Minor Material Amendments significantly alter the development as submitted

To enable the Authority to determine this type application, the applicant will need to provide the following information:

- The fully completed [standard application form](#);
- The previous planning permission reference;
- The condition(s) that the applicant is seeking to vary or remove;
- Any plans/drawings permitted in the original planning permission, which would be altered as a result of the proposed changes;

- A supplementary statement to be read in conjunction with the documents that supported the original application, which would detail the need for the alteration, its consequences and the alternative condition proposed.

The applicant will not be required to provide full copies of the original application. However, copies of the original plans and drawings **will** be required to assist the Local Planning Authority in its consultation and determination procedures. The application would be subject to consideration under the EIA regulations and therefore depending on the scale of the variation or removal of conditions, an EIA may be required (see paragraph 1.2.4). All major applications (including S73 applications) will be screened at the point of submission (if the proposals have not already been issued with a screening opinion) to ensure this requirement for EIA is fulfilled.

1.2.7 Non Material or Minor Material Amendments

In 2009, the [Town and Country Planning \(General Development Procedure\) \(Amendment No. 3\) \(England\) Order 2009](#) came in to force, which allows local planning authorities to approve small amendments to previously approved development, which are considered too minor to warrant a full section 73 application.

There are some instances where applicants find that the planning permission that they have received needs to be amended in a small way. There are two different types of amendment applications that can be submitted in relation to an existing application.

A Non Material Amendment (NMA) would consist of a non material or insignificant change to the approved development. If you are proposing minor changes from the approved plans that you think could be considered as a non material amendment, then you should contact the case officer who originally dealt with your application. They will be able to advise if the amendments can benefit from this procedure, or whether a Section 73 application or a Minor Material Amendment is more appropriate.

A Minor Material Amendment (MMA) would consist of a more significant change to an approved scheme, but would be classed too insignificant to require an S73 application to vary a planning permission. The Government has defined this type of change as being "one whose scale and nature results in a development which is not substantially different from that which has been approved", although there is no set criteria for this type of application. If you are proposing minor changes from the approved plans that you think could be considered as a Minor Material Amendment, then you should contact the case officer who originally dealt with your application. They will be able to advise if the amendments can benefit from this procedure, or whether a Section 73 application is more appropriate.

Further guidance regarding Non-Material Amendments and Minor Material Amendments applications made to Essex County Council can be viewed on the Essex County Council [website \(HYPERLINK to Shelley's guidance\)](#).

The information that needs to be submitted for both Non Material and Minor Material Amendments are:

- The fully completed standard application form for [NMA](#) or [MMA](#)²;
- The correct fee;

² Please note, in the case of Essex County Council the same form is used for both MMAs and S73 applications.

- Supporting statements and plans as are necessary to identify the change from the original approved development.

1.2.8 Submission of Details Applications

In some instances, during the granting of full planning permission, conditions have been incorporated which require details of a specific aspect of the development that was not adequately described in the original application. This can include further clarification on landscaping or materials to be used for example.

For these submission of details applications, the following will need to be submitted:

- The fully completed [standard application form](#), noting which condition(s) are being addressed within this application;
- The information/samples/details required for the application as specified in the original planning permission.

1.2.9 Historic Environment Consents

1.2.9.1 Listed Buildings Consent

When Listed Building Consent is required, this will need to be submitted to ECC in addition to the full application for the proposal. These will need to be submitted as two separate applications: one in relation to the Listed Building Consent and one for the full planning application. Some works (for example some regulation 3 development) will only require Listed Building Consent (to be submitted to the County Planning Authority), as minor development can be classed as 'permitted development'.

In addition to the fully completed [Listed Building Consent application form](#), the applicant will need to submit a written statement, which would need to include:

- A schedule of works to the listed building(s);
- An analysis of the significance of the listed building/structure, including its archaeology, history, development and character of the building/structure;
- The principles of and justification for the proposed works;
- The impact of the proposal on the special character of the listed building or structure, its setting and the setting of adjacent listed buildings;
- A condition survey and/or a structural survey may be required in support of an application for listed building consent;
- Suitable plans of the areas affected by the proposal and of the proposals themselves.

1.2.9.2 Conservation Area Consent

When Conservation Area Consent is required, this will need to be submitted to ECC in addition to the full application for the proposal. These will need to be submitted as two separate applications: one in relation to the Conservation Area Consent and one for the full planning application. In addition to the fully completed [Conservation Area Consent application form](#), the applicant will need to submit a written statement, which would need to include:

- A structural survey;
- An analysis of the character and appearance of the building/structure;
- The principles of and justification for any proposed demolition.

- The proposals impact(s) on the special character of the area.

1.2.9.3 Scheduled Monument Consent

When Scheduled Monument Consent is required, this will need to be submitted to ECC, in addition to the full application for the proposal. These will need to be submitted as two separate applications: one in relation to the Listed Building Consent and one for the full planning application. A written statement will be required detailing:

- An analysis of the significance of archaeology, history, development and character of the building/structure;
- The principles of and justification for the proposed works;
- The proposals affect the special character of the listed building or structure, its setting and the setting of adjacent listed buildings.

1.2.10 Lawful Development Certificates

The system of 'lawful development certificates' enables local planning authorities, when the appropriate conditions are satisfied in each case, to grant a certificate saying that:

- An existing use of land, or some operational development, or some activity in breach of a planning condition is lawful. In this case, a Certificate of Lawful Use or Existing Development (CLUED) would be issued, if deemed acceptable;
- A proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful. In this case, a Certificate of Lawful Use of Existing or Proposed Development (CLUEPD) would be issued if deemed acceptable.

Any decision by ECC on either type of lawful development certificate would be legally binding. Sections [63](#) and [64](#) of [The Town and Country Planning Act 1990](#) (as amended) provide a formal process for establishing whether a development will or did need planning permission. In December 2007, DCLG published the '[Lawful Development Certificate: User's Guide](#)' to explain how to apply for a certificate or to appeal against refusal of a certificate. Applicants should read this guide, seek pre-application advice from Essex County Council, then complete and submit the appropriate '[Application for Lawful Development Certificate](#)' form together with the necessary supporting evidence.

1.2.10.1 Certificate of Lawful Use of Existing Development (CLUED)

CLUED applications must always be supported by factual evidence wherever possible. As CLUEDs are legal documents, they can only be issued where the Local Planning Authority is satisfied, on the balance of probability, that what has been applied for has occurred as a matter of fact for the stated term.

This can only be achieved where sufficient supporting information has been provided that demonstrates the facts as submitted in the application. Pre-application advice from the planning team is encouraged to ensure the correct information is submitted, but as a minimum, this should include:

- The fully completed [standard application form](#);
- Whether the application relates to:
 - A use;
 - A building operation;

- A condition not complied with.
- The date that the use (or breach of condition) started, or the date on which the building was substantially complete;
- The use class the applicant considers to be applicable;
- In the case of a breach of condition, details of the relevant application;
- The reasons the applicant thinks he is entitled to a CLUED;
- A plan(s) identifying the land;
- A certificate as to the applicant's interest (ownership, tenancy etc.) in the land and any interest of any other person;
- Any other relevant information, for example:
 - Statutory declarations (sworn statements);
 - Photographs;
 - Invoices/payment records;
 - Historical maps.

1.2.10.2 Certificate of Lawful Use of Existing or Proposed Development (CLUEPD)

For many years, planning officers have provided informal advice on whether planning permission would be required for all types of development proposals, or if the proposal would fall in to the permitted development category. This advice is not legally binding on the Planning Authority and does not guarantee that, even if the officer has advised that planning permission is not required, the Council may take a different opinion at a later date with further information/evidence.

If an applicant would prefer a legally binding decision, which would guarantee the stated proposal would not require planning permission, they would need to submit a CLUEPD. Information that would need to be submitted in support of a CLUEPD would include:

- The fully completed [standard application form](#);
- Whether the application relates to:
 - A use;
 - A building operation;
- The use class the applicant considers to be applicable;
- The reasons the applicant thinks he is entitled to a CLUEPD;
- A plan identifying the land;
- A detailed and precise description of the proposed use or operation;
- A certificate as to the applicant's interest (ownership, tenancy etc.) in the land and any interest of any other person.

1.2.11 Electronic Submissions

Essex County Council is currently improving the planning service it offers, by improving the electronic case management system. Once this is fully enabled, it will allow all planning applications to be submitted by applicants and viewed by all interested parties online³. It will also allow comments to be submitted online, which will be viewable by all.

³ All applications (except those related to minerals) can be submitted via the Planning Portal on the national 1-APP form. There is not a national equivalent of the 1-APP form for mineral submissions, therefore a specific form will be available on the ECC website, which can be filled out electronically and submitted via email.

This will improve the accessibility of clear and accurate information provided within planning applications, to allow everyone to view and comment on applications, without the need to visit the local or county planning offices or the library closest to the site boundary.

The new system allowing people to view and comment on applications online is expected to be fully enabled by late Summer 2013. At present, all applications (with the exception of minerals applications) can be submitted online. For further advice, please get in touch with planning officers directly.

The [Essex Statement of Community Involvement - First Review](#) (December 2012) highlight a number of key changes in the way we receive and consult upon planning applications. The main change is that electronic submission of planning applications and communication becomes the preferred method for consultation.

1.2.11.1 Prior to the Adoption of the Online Consultation Portal

In line with this key change, (and in readiness for the adoption of the online consultation portal) ECC requires applicants to submit applications online wherever possible.

For Waste and Regulation 3 Applications, this should be completed via the [Planning Portal](#) on the national 1-APP form. There is not a national equivalent of the 1-APP form for mineral submissions; therefore, a specific form is available on the [ECC website \(hyperlink\)](#) for this type of submission. The relevant form must be fully completed and included within the submission. If it is not possible to submit online, digital submissions on CD or other portable storage media is required.

The national standards for on-line and electronic submission of digital planning documents are set out in the sections below. Applications **will not be validated** (potentially causing delays) unless **all** parts of the submission comply with **each** of the criteria contained within the following subsections.

1.2.11.2 File Formats

Portable Document Format (PDF) is the recommended file format for all electronic documents to ensure they are accessible to all consultees, including any scanned images. PDFs must be created so they are electronically measurable on screen by all consultees and shall:

- Be saved in single layers;
- Specify the printing page size for which the scale applies;
- Be correctly oriented for on-screen display;
- Include a scale bar and key dimensions.

Scanned documents must be a minimum resolution of 200 dpi (dots per inch) for black and white and 100 dpi for colour.

Specifically in relation to drawings/plans TIFF, JPEG, GIF are also acceptable. PDF is the recommended file format for all photographs; however, JPEG & BITMAP are also acceptable. All photographs shall be no larger in size than 15cm x 10cm.

Post processing that fundamentally alters the original document should not be used on any electronic document⁴.

⁴ With the exception of photomontages, which by their very nature require the imposition of development form in to the actual photographs.

1.2.11.3 File Naming

All documents and drawings should be named in plain English, for example:

- Location plan drawing v1A.pdf;
- North elevation v2B.pdf;
- Public involvement programme.pdf;
- Historic environment assessment.pdf;
- Artists impression before.jpg;
- Artists Impression after.gif.

Each individual plan **must** be submitted in separate documents, to allow correct naming for each drawing. This will also help keep the file size to a minimum.

File extensions shall conform to standard three letter naming conventions and shall describe the actual digital format of the digital asset, e.g. Portable Document Format (PDF) = .pdf.

1.2.11.4 File Sizes

For consultation purposes, it is necessary that the maximum size for a single file for online transaction is 5Mb. The recommended maximum application file size (i.e. the sum of individual document file sizes) for online submission is 25Mb.

1.2.11.5 Updates to Supporting Documents & Version Control

There may be instances where an applicant will need to alter plans, a supporting document or written statements from those initially submitted, during the course of application determination. Any changes within plans must be clearly identified to assist the Local Authority and consultees.

All submissions must clearly state the new version number within them and all digital submissions must be clearly labelled as such in the file name, for example location plan drawing v1B.pdf

If an applicant originally submitted the application online and needs to update a supporting document or plan, the replacement document or plan should be uploaded as soon as practically possible, ensuring that it is clearly labelled as such in the file name. The ECC case officer must be informed either prior to, or immediately after the replacement document or plan has been uploaded

1.2.11.6 Hard Copy Requirements

The submission requirements for hard copy(ies) of applications and supporting information will depend on the status of the online consultation portal at the time that the application is submitted.

As such, the electronic and hard copy submission requirements should be discussed with ECC planning officers, prior to any submission as depending on the type/scale of application, further copies may be required. Pre-application advice will ensure the application can be validated as quickly as possible.

1.2.11.7 Requirements Prior to the Adoption of the Online Consultation Portal

At the time of publication of this document, applicants are required statutorily to submit at least three hard copies of an application for it to be valid. This applies to all

application forms, plans, drawings and other documentation supporting the application, even when submitting applications online or via other digital media.

ECC may require extra hard copies to be submitted⁵ for consultation purposes, which should be discussed with ECC Planning Officers, prior to submission.

This will remain the case until the system for viewing applications online is implemented.

1.2.11.8 Requirements Post the Adoption of the Online Consultation Portal

The implementation of electronic case management system will provide opportunities for streamlining procedures, speedier consultation and cost reduction.

Following the implementation of the online consultation portal, as a local requirement, ECC requires the submission of 1 hard copy of **all** application forms, plans, drawings and other documentation supporting the application, even when submitting applications online or via other digital media.

Applications and supporting documentation being submitted on individual CDs/DVDs or other portable storage device and **must** be in the same format as the hard copy.

Due to the scale of some minerals and waste applications, it is appropriate to submit scaled plans at A2, A1 or A0 paper sizes. In such cases, ECC may require up to seven hard copies of these plans to be submitted, for consultation purposes.

⁵ Up to 7 copies of the application(s) may be required, depending on the scale of the application and the number of statutory consultees to be consulted.

2 NATIONAL REQUIREMENTS

The national requirements consist of the core information needed for a valid planning application. This document details where you can find further information on these requirements and the policy drivers. In addition to the national requirements, the local requirements are set out below in part 3 of this document, on page 21.

2.1 Design and Access Statements

In line with the Government's aim to streamline the planning system, following a consultation carried out by DCLG during early 2013, from the 25 June 2013 new **rules** **HYPERLINK** reduce the number of applications that require a design and access statement (DAS), to reduce burdens placed on applicants.

Only applications for major development and Listed Building Consent must be accompanied by a DAS, but with lower thresholds applying in designated historic areas. It is highly recommended that any applicant seeks pre-application advice for the need for a DAS in relation to the proposed scheme and if necessary to ensure the requirements are commensurate to the scale and complexity of the proposal and potential for harm. As such, a DAS does not necessarily need not be long or complex. The minimum requirements for a design and access statement are set out in [Article 4C](#) of the GDPO and the DCLG [Circular 01/06](#) 'Guidance on Changes to the Development Control System'. Further advice can also be accessed through the [Planning Portal](#).

For those applications that will still require a DAS, it is a short report accompanying and supporting a planning application that should seek to explain and justify the proposal in a structured way. The level of detail required in a design and access statement will depend on the scale and complexity of the application, and the length of the statement will vary accordingly.

The DAS should cover both the design principles and concepts that have been applied to the proposed development and how issues relating to access to the development have been dealt with. It should contain details of all of the options that were considered in the design process and reasons why the final (submitted) design was considered the preferred option. If necessary, crime prevention measures should be addressed in a DAS. Further information on crime prevention statements can be found on the Secured by Design publication '[Design and access statements: How to use them to prevent crime](#)'

2.1.1 Applications Requiring Historic Environment Consent

Applications for Listed Building Consent, Conservation Area Consent or Scheduled Monument Consent will need to be accompanied by a design and access statement. In particular, such a statement should address:

- The special architectural or historic interest of the heritage asset;
- The particular physical features of the heritage asset that justify its designation as a listed building;
- The setting of the heritage asset.

The legislative requirements are set out in [Regulation 3A](#) of the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2008.

Again, it is highly recommended that any applicant seeks pre-application advice, with regards to the status of the new rules (as noted above) regarding design and access

statements; there are proposed changes to the amount of information to be required in relation to Historic Environment Consents.

2.1.2 Regulation 3 Development Specific Design Issues

With regard to temporary classbases applications on school sites, the Economic Development and Environment Policy and Scrutiny Committee produced recommendations(as set out in the [Scrutiny Report on School Relocatable Classrooms Planning Policy](#) (2009)). This requires a design and access statement for temporary and permanent accommodation to include specific information about accessibility regarding doors and disabled access, particularly ensuring the proposal is DDA compliant.

Again, it is highly recommended that any applicant seeks pre-application advice, with regards to the status of the new rules (as noted above) as design and access statements may not be required for this type of application, following adoption of the new rules.

2.2 Planning Fee

Planning applications and submissions of detail cannot be entertained without payment of the correct fee.

In November 2012, [The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#) came in to force, which increased planning fees by 15% on the 2008 levels. This supersedes the previous plans to allow local authorities to set their own fees.

The Planning Portal provides a [guide to the fees for planning applications in England](#), which specifies the fees required for all planning application. Alternatively, the Planning Portal also provides a [fee calculator](#) as a tool, to help all applicants assess the fee would be required to be submitted with an application. Alternatively, please contact the Development Management Team (contact details are on the back cover) for further advice.

Making an electronic payment for the correct fee amount is the preferred method of payment, although lodging a cheque with the hard copy(ies) required will still be accepted as payment. Credit card payments can be made by calling 01245 435 555 or 01245 437 152, whereby a planning officer will put the caller through to a member of staff to take payment. To pay, a caller will need to have the following information ready:

- The Planning Portal reference number (if the application was submitted via the Portal);
- The site name;
- The site address;
- The fee required as calculated from the Planning Portals [fee calculator](#) tool or [guidance](#);
- Payee's name and address;
- Card details:
 - Name on card;
 - 16 digit card number and;
 - Expiry date.

2.3 Plans of the Development

There are a number of plans that are required to be submitted with any planning application. The policy driver behind these requirements is in [The Town and Country \(Development Management Procedure\) \(England\) Order \(2010\), Article 6](#).

All of the plans described in this section will require basic information and applications **will not be accepted** in the validation process unless the following is shown:

- The direction of north is shown
- Scale bar on the plan;
- The scale and specified page size at which the original plan was produced (e.g. 1:1000, A3).

Please note: that any plan that contains the phrase “do not scale” will not be accepted.

For large scale developments (e.g. mineral and/or waste development) the scale of drawings may need to reflect the scale of the proposal, for example a scale of 1:2,500 may be more appropriate for sites covering large areas. The scale of drawings should follow the guides set out below, depending on the type of plan required. Where appropriate and dependent upon the scale and nature of development alternative scaling may be appropriate. If uncertain, please seek advice from minerals and waste planning officers prior to submission.

2.3.1 Block Plan of the Site

This should be at a scale of 1:100 or 1:200 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan. The plans should show:

- All site boundaries;
- The type and height of proposed boundary treatment(s) (e.g. walls, fences etc.);
- The position of any building or structure on the other side of such boundaries;
- Position of all trees within and adjacent to the site.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

2.3.2 Existing and Proposed Elevations

Elevations should be at a scale of 1:50 or 1:100 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan, to explain the proposal in detail. These **must** clearly show the proposed works in relation to what is already there. All sides of the proposal must be shown and clearly identified. Elevations should indicate, where possible, the proposed building materials, the style and finish of windows and doors. Blank elevations must also be included; if only to show that this is in fact the case.

Where a proposed elevation adjoins another building or is in close proximity, the drawings should clearly show the relationship between the buildings. Elevations should detail the positions of the openings on each property, rather than the proposed development in isolation.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

2.3.3 Existing and Proposed Floor Plans

Floor plans should be at a scale of 1:50 or 1:100 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan, to explain the proposal in detail.

Where existing buildings or walls are to be demolished these should be clearly shown. The drawings submitted should show details of the existing building(s) as well as those for the proposed development. New buildings should also be shown in context with adjacent buildings (including property numbers where applicable).

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

2.3.4 Existing and Proposed Site Sections and Finished Floor/Site Levels

Site sections and site levels should be submitted at a scale of 1:50 or 1:100 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan to explain the proposal in detail. The location of where the cross section(s) are taken should be clearly labelled on the site plan, including the direction of the view of the cross section.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

2.3.4.1 **Built & Regulation 3 Development**

Where the existing or proposed site levels would impact on built development, such plans should show a cross section(s) through the proposed building(s). Where levels may be evident from floor plans and elevations, cross sections may not be required. Particularly in the case of sloping sites, it will be necessary to show how proposals relate to existing ground levels or where ground levels would be modified. Levels should also be taken into account in the formulation of design and access statements.

In all cases where a proposal involves a change in ground levels, illustrative drawings should be submitted to show both existing and finished levels to include details eaves and how encroachment onto adjoining land is to be avoided.

Full information should be submitted to demonstrate how proposed buildings relate to existing site levels and neighbouring development. Such plans should show existing site levels and finished floor levels (with levels related to a fixed datum point off site) and show the proposals in relation to adjoining buildings. This will be required for all applications involving new buildings.

2.3.4.2 **Minerals and Waste Development**

In the case of a change of levels, resulting from minerals and/or waste development (due to the potential to alter topography), both existing and proposed levels plans and cross sections **must** extend at least 250m from the site. This will help to assess the development in the context of the surrounding land and any wider implications of the development in terms of the topography and landscape.

2.3.5 Location Plan

The [Town and Country Planning \(Development Management Procedure\) Order \(2010\), Article 8](#) requires all applications to include copies of a location plan based on an up-to-date map. This should be at a scale of 1:1,250 or 1:2,500 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan. On occasion, plans of other

scales may also be required, but the need for plans of alternate scale plans should be discussed in any pre-application discussions with the authority before submission.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

Plans **must** show at least two named roads and surrounding buildings, roads and footpaths on land adjoining the site. The properties shown should be numbered or named to ensure that the exact location of the application site is clear.

The application site should be edged clearly with a solid red line, which should be entirely visible within the plan submitted. The red line boundary should include all land necessary to carry out the proposed development, for example, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings.

A solid blue line should be drawn around any other land owned by the applicant close to or adjoining the application site. For this purpose, an owner is anyone with a freehold interest or leasehold interest, where the unexpired term of which is not less than 7 years.

2.3.6 Roof Plans

Roof plans should be submitted at a scale of 1:50 or 1:100 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan.

A roof plan is used to show the shape of the roof and should include details of the roofing material, vents and their location.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

2.3.7 Site Plan

The site plan should be drawn at a scale of 1:500 or 1:200 with the scale and paper size (A4 or A3 where possible) clearly stated on the plan. The site plan must accurately show:

- The proposed development in relation to the site boundaries and other existing buildings on the site, with written dimensions including those to the boundaries;
- All the buildings, roads and footpaths⁶ on land adjoining the site including access arrangements;
- All public rights of way crossing or adjoining the site⁷;
- The position of all trees on the site and those on adjacent land that could influence or be affected by the development;
- The extent and type of any hard surfacing;
- Boundary treatment including walls or fencing where this is proposed.

Please refer to section 1.2.11 Electronic Submissions (above) for submission requirements regarding the number of copies required.

⁶ Footpaths would benefit from the clear definition of the type of footpath affected. For example, it should be referenced that 'footpath' means footways at the side of a carriageway or route from the definitive map. Such definitions must be clearly defined and consistent as each has a different legal and maintenance liability meaning.

⁷ All Public Rights of Way within and adjoining the boundary site as shown on the current Definitive Map.

2.4 Standard Application Form

The standard application form is required to be completed for all planning applications and associated consent(s), as required in [The Town and Country \(Development Management Procedure\) \(England\) Order \(2010\), Article 6.](#)

As noted in 1.2.11 Electronic Submissions (above), ECC encourages applicants to submit applications electronically wherever possible via the 1-APP forms on the [Planning Portal](#) for Waste and Regulation 3 Applications and via our [own website \(HYPERLINK\)](#) for mineral extraction applications.

All relevant questions **must** be answered fully on the application form. Application forms that are incorrectly completed and/or incomplete will not be accepted and will result in a delay to the application being validated and progressed.

The description of development (within the application form) is often ambiguous and can delay validation of the application, while clarification is sought. It is advised that the description should be concise and note the key aspects to the proposal without excessive detail. Key aspects/details to be included:

- 'Retrospective application for ...' should be used if this is the case;
- Tonnage of minerals or waste to be managed/treated/processed per annum;
- Total void to be created or filled with extraction or landfill proposals.

Some examples are listed below, but will vary on a site by site basis.

- Retrospective application for a change of use from agricultural to enable the recycling of 10,000 tpa of inert material
- Application for the extraction of 10,000tpa sand and gravel creating 6.3 cubic metres void.

Further information and clarification should be contained within the Planning Statement (section 3.21, page 37). If unsure about what should be contained within the description, please discuss with the planning officer during the pre-application discussions.

It is sometimes necessary to submit two or more applications for the same proposal. For example, Listed Building Consent may be required in addition to a full planning application, if the proposal would require any alteration or demolition activities. It should be noted that these are separate applications and should both be submitted separately through the [Planning Portal](#).

2.4.1 Agricultural Holdings Certificate

This certificate is required **whether or not** the site includes an agricultural holding. All agricultural tenants must be notified prior to the submission of the application, as required by the Town and Country Planning (Development Management Procedure) Order (2010), Article 11.

This certificate is not required if the applicant is making an application for reserved matters, renewal of temporary planning permission, discharge or variation of conditions.

2.4.2 Ownership Certificates

Under [Section 65\(5\)](#) of the Town and Country Planning Act 1990 (as amended), read in conjunction with Article [11](#) and [12](#) of the Development Management Procedure Order (2010), ECC must not entertain an application for planning permission unless the

relevant certificates concerning the ownership of the application site have been completed.

All applications for planning permission (except for approval of reserved matters) must include the appropriate certificate of ownership. An ownership certificate A, B, C or D must be completed within the standard application form, stating the ownership of the property/area of land for which the planning application applies.

For this purpose, an owner is anyone with a freehold interest or leasehold interest, where the unexpired term of which is not less than 7 years.

In addition, where Ownership Certificates B, C or D have been completed, notice(s) as required to be submitted to the Planning Authority by the [Town and Country Planning \(Development Management Procedure\) Order \(2010\), Article 11](#), details of these requirements are below.

2.4.2.1 Certificate A

Complete this section within the standard application form, if the applicant is the sole owner of the site at the beginning of a period 21 days before the date of the submission of the application. This concerns all of the land to which the application relates, including any access arrangements.

If you are not the sole owner of the land to which the application relates, (this includes any encroachment on to adjoining land, which is not owned by the applicant, including any eaves, guttering or foundations) then you will need to complete Certificates B, C or D. This includes situations where development abuts, simply overhangs the boundary with the adjoining property/land, or whereby you require access over land which you do not own.

2.4.2.2 Certificate B

This Notice must be served if the applicant is not the sole owner of the land to which the development relates. Notice must be served on every person who was the owner of any part of the land to which the application relates at the beginning of a period 21 days before the date of the submission of the application. The names and addresses on whom notice has been served should be provided within the appropriate section of the standard application form.

2.4.2.3 Certificate C

This Notice must be served if the applicant is not the sole owner of the land to which the development relates and only some of the owners of the land to which the application relates are known. The applicant will need to comply with all those matters required by both Certificate B and D.

2.4.2.4 Certificate D

This Notice must be served if the applicant is not the sole owner of the land to which the development relates and none of the owners of the land to which the application relates are known.

The applicant will need to specify what steps you have undertaken to find the owners, for example planning history and land registry enquiries/searches. Furthermore, the application must be advertised in a local newspaper not earlier than the beginning of the

period 21 days ending with the date of submission of the application. A copy of the advert should be included with the application.

3 ESSEX LIST OF LOCAL REQUIREMENTS

In addition to the national requirements, the national list of local requirements is drawn upon to establish the requirements set by Essex County Council (ECC), known as the local requirements for each type of application.

3.1 Aftercare/Restoration Scheme

Aftercare and restoration is particularly relevant to mineral and landfill applications. Normally, this would be a plan setting out how a site would be maintained and monitored to facilitate recovery from working for at least a 5-year period following restoration. The [National Planning Policy Framework Technical Guidance Note](#) provides further information about restoration and aftercare.

A relevant application needs to demonstrate and explain how the site is proposed to be restored and what type of afteruse is proposed for the site. This should include

- If the site would be returned to former levels
Detailing how and what type of materials would be used for in-filling;
- If the site would remain at lower levels;
- Other type of restoration proposal, e.g. water uses
- A mixture thereof.
- The type of afteruse proposed for example agricultural, landscape/natural/habitat creation/woodland regeneration etc. and why this was considered most suitable over other options should be explained.

Details of pre- and post-settlement contour plans and cross sections, identifying both the top of the waste and the top of the restoration level will be required for landfill/landraise proposals. In addition, information should be provided to indicate the estimated level of settlement for landfill/landraise proposals.

Details would need to be provided regarding probable origin of the wastes and distances of this to the proposed development. The type and location of the pre-treatment of the wastes by waste-type should be included. Relevant details of leachate, landfill gas and litter management systems should be incorporated if this is applicable to the proposed development.

Should a relevant application not have a restoration and aftercare plan, it is likely that a planning condition would be imposed requiring an aftercare plan to be submitted, should permission be granted.

3.1.1 Agricultural Impact

Should the proposed development involve the disturbance of existing agricultural land (e.g. mineral extraction and associated development), details of the Agricultural Land Classification (ALC) will need to be provided.

In addition, a statement regarding the intended restored ALC grade of the land would be (to at least the original grade of the land) would be required, including the restoration methods to be used to secure the ALC grade on completion of the development. Reference should be made to the [National Planning Policy Framework Technical Guidance Note](#).

Where an application proposes that the site would not be returned to agriculture (for example restoration would be to biodiversity, amenity or water uses) consideration must

be given the overall viability of the remainder of the farm complex. In this instance, the end use of the surplus topsoil should also be considered.

3.2 Air Quality Impact Assessment

The [NPPF \(paragraph 124\)](#) and various Local Councils' policy, require applications to be supported by information necessary to allow a full consideration of the impact of the proposal on the air quality of the area, where development is proposed:

- Inside or adjacent to an Air Quality Management Area (AQMA);
- Where the development could in itself result in the designation of an AQMA;
- Where the granting of planning permission would conflict with, or render unworkable, elements of a local authority's air quality action plan.

Where AQMAs cover regeneration areas, developers should provide an air quality impact assessment as part of their planning application. In addition, the following emissions to air should be addressed to allow consideration of any impacts on local policy.

The following assessments and statements can be contained within a single Air Quality Impact Assessment if they are applicable to the development. Alternatively, these aspects can be dealt with individually. Additionally, this information might form part of an Environmental Statement, where one is necessary (see 1.2.4 Applications Requiring Environmental Impact Assessment, page 4).

3.2.1 Dust

Where dust is likely to be an issue a Dust Management Scheme will normally be required. This should set out the possible dust sources, sensitive receptors, mitigation measures and monitoring arrangements. Please refer to the [National Planning Policy Framework Technical Guidance Note](#) for further information relating to dust.

3.2.2 Odour

Where odour is likely to be an issue an Odour Management Scheme will normally be required. This should set out the possible odour sources, sensitive receptors, mitigation measures and monitoring arrangements. Such schemes should normally be discussed with other relevant regulatory bodies, including the Environment Agency and the relevant Essex District/Borough/City Council Environmental Health Officers.

3.2.3 Bio-aerosols Risk Assessment

This is normally required as part of the planning application for an open-air composting facility that is within 250m of residential properties and/or employment premises. It is also considered by the Environment Agency as part of licensing of the site. Further information can be obtained directly from the Environment Agency's website provides '[Guidance on the evaluation of bio-aerosol risk assessments for composting facilities](#)' by Cranfield University, or by contacting the Environment Agency directly.

3.3 Natural Environment and Biodiversity

Where a proposed development may have possible impacts on the natural environment, ecology and biodiversity, information must be provided on existing biodiversity interests and potential impacts for full consideration, in accordance with the [NPPF \(paragraph 109\)](#).

3.3.1 Biodiversity Checklist

Applications for major developments⁸ must complete the [Biodiversity Validation Checklist](#). This will allow full consideration of the natural environment in accordance with the NPPF (paragraph 109).

All relevant sections (including the signed and dated declaration in step 6) within the checklist must be completed for all major applications. The flow process is designed to help applicants ascertain the level of biodiversity information that will be required by the ECC to determine their application. It establishes standard requirements, consistent with national guidelines, for survey, assessment and mitigation procedures. For all other applications, applicants are strongly encouraged to use the checklist where there may be significant effects on the natural environment, for example impacts upon legally protected species.

The Biodiversity Validation Checklist is not exhaustive and aims to capture the standard requirements for an application. It is therefore highly recommended that potential applicants discuss proposals with ECC at the pre-application stage, especially for large scale and sensitive developments.

Applications for development that have the potential to affect protected sites significantly are likely to require a formal Environmental Statement (see 1.2.4 Applications Requiring Environmental Impact Assessment, page 4).

Further national guidance can be obtained from the '[Guidelines for Preliminary Ecological Appraisal](#)' by the Institute of Ecology and Environmental Management. Please also refer to the '[template for biodiversity and geological conservation for the local planning application requirements](#)' prepared by the Local Government Ecologists (ALGE) for further information.

In line with the biodiversity validation checklist the applicant is strongly encouraged to seek pre-application advice from Natural England if the development is in the vicinity of a statutory protected site (see section **Error! Reference source not found.** below).

3.3.2 Habitats Regulations Assessment

The European Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance (Natura 2000 sites). The Conservation of Habitats and Species Regulations 2010 (usually referred to as the 2010 Habitats Regulations implements the Directive into national legislation.

The [Habitats Regulations](#) require competent authorities to carry out a Habitat Regulations Assessment (HRA), where a plan or project is not directly connected with or necessary to the management of a site but is likely to have significant effects on it, either individually or in combination with other plans or projects.

The HRA is designed to assess the impacts of a plan or project on a European [Natura 2000](#) site⁹ for any 'likely significant effects' and to ascertain whether the proposed plan or project would adversely affect the integrity of the site. This applies to any development that has the potential to affect a European site, no matter how far away the development is from that site.

⁸ (we are using the T&C Planning Order)....

⁹ Natura 2000 sites include Ramsar sites, Special Areas of Conservation (SACs), Special Protection Areas (SPAs) as well as potential SPAs (pSPAs) and candidate SACs (cSACs)

The HRA should be undertaken by an appropriately qualified professional ecologist. The general stages of HRA are set out below:

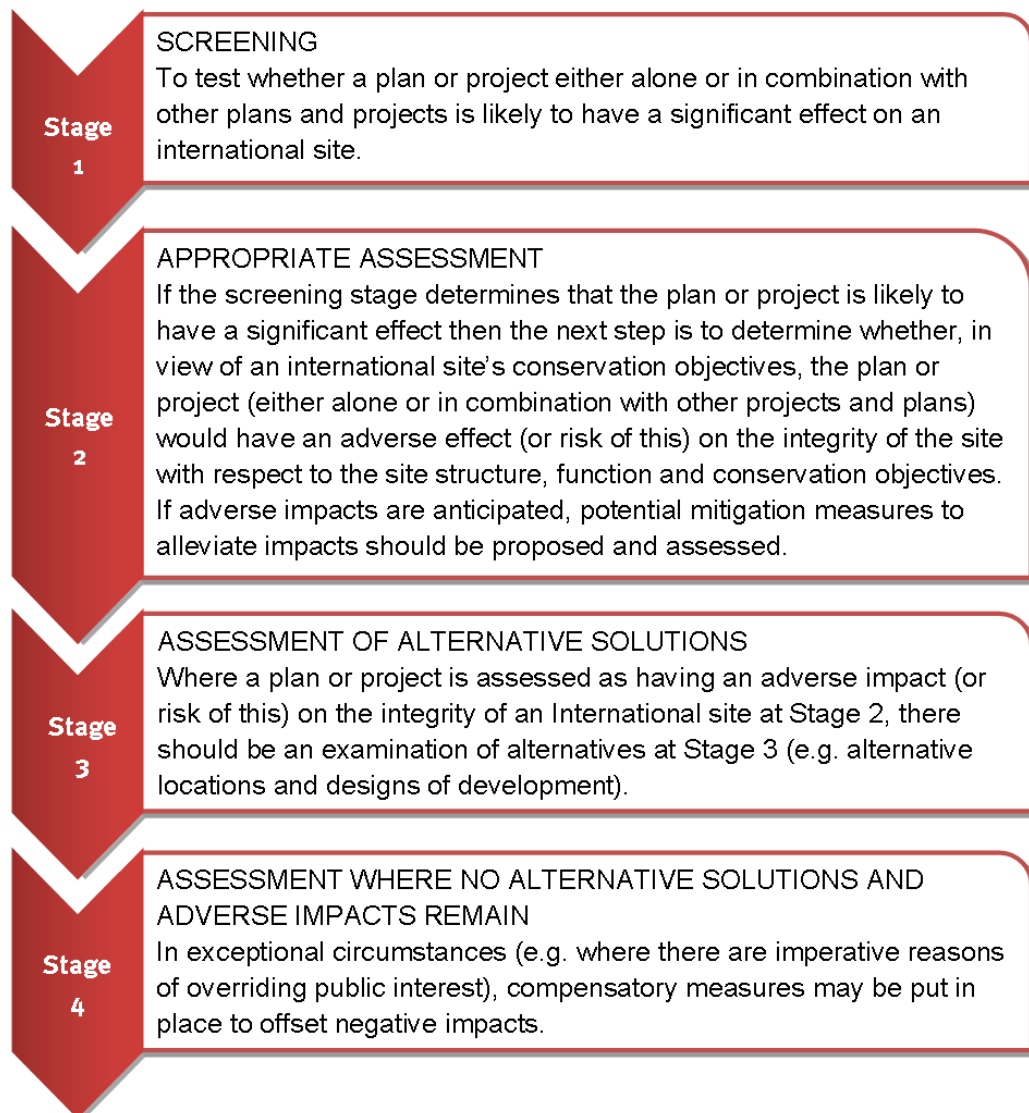


Figure 1: Four Stage HRA Process

Appropriate Assessment (Stage 2) is only required where screening (Stage 1) determines that a plan or project (either alone or in combination with other plans and projects) is likely to have a significant effect on an international site.

ECC must not authorise a plan or project unless it can ascertain that it will not adversely affect the integrity of a European site. The only exceptions are if:

- There are no alternative solutions or;
- There are imperative reasons of overriding public interest for the plan or project to go ahead.

ECC will screen all applications it receives to ensure an HRA/AA accompanies all relevant development proposals. Any such requirement and scope of the appraisal would form part of the pre-application discussions with ECC planning officers.

Further information regarding HRA is available from the Environment Agency's [Guidance for developments requiring planning permission and an environmental permit](#).

3.3.3 European and Nationally Protected Species

In some circumstances, an applicant may be required to carry out a survey for the presence of European and/or Nationally Protected Species. Advice from Place Services is contained within the [biodiversity checklist](#), but further advice can be sought from with ECC planning officers as part of the pre-application discussions.

In addition to evidence demonstrating suitable survey and assessment procedures have been followed, further information is also likely to be required to allow determination of the application in accordance with relevant legislation. For example, The Conservation of Habitats and Species Regulations 2010 (as amended) requires the Local Planning Authority to consider 'Three Tests' when determining a planning application that may affect a European Protected Species.

These 'tests' can be summarised as follows:

- Is there a genuine need and 'purpose' for the proposed development?
- Are there any satisfactory alternatives to delivering and meeting the need in the way proposed?
- Will there be any adverse effect on the conservation status of the species concerned?

If there is a risk of European Protected Species being impacted by the development the applicant would need to submit sufficient evidence to enable these tests to be satisfactorily addressed.

Further guidance is provided in the Natural England publication '[European Protected Species and the Planning Process](#)'.

3.4 Borehole or Trial Pit Analysis

For mineral proposals, the borehole analysis should be relevant to the site under question (i.e. within the site boundary) and identify:

- Depth and volume of soil(s), overburden and minerals proposed to be extracted Above Ordinance Datum (AOD);
- Mineral type, including sieve analysis, percentages of sand and gravel sizes and silt;
- Position of the winter water table (AOD).

3.5 Climate Change/Energy/Sustainability Statement

A statement will be required to show the impact of the proposal in terms of climate change, energy use (and/or production) and sustainability to ensure compliance with the National Planning Policy Framework. Evidence of consideration towards climate change, energy and sustainability will be required in all applications, but it is important that this statement is to an appropriate level commensurate with the complexity/scale of the proposal; it should be no more than is sufficient to understand the potential impact (positive or negative) of the proposal.

If the applicant considers that the development would not have either a negative or positive impact, this should be stated within the planning statement (section 3.21).

If the proposal is likely to have an impact, the following should be addressed:

- The predicted energy demand for the development should be specified with explanation of how the development would meet current energy efficiency

standards and maximise use of sustainable and/or renewable sources (in line with BREEAM standards, if applicable)

- Impact on the carbon footprint associated with the development (This can be through the development itself and/or transportation);
- Water conservation measures incorporated in the design and/or resource management strategy;
- The sustainable design and construction methods/materials used within the proposal;
- Renewable energy statement showing, which renewables have been considered and the overall reduction in carbon emissions delivered if renewables were to be installed.

If the proposal would generate energy, this statement should specify in what form this would take and how much is anticipated to be generated per annum and link to the [Utilities Assessment](#) (as noted in section 3.9). Please refer to the [National Planning Policy Framework](#) and the Good Practice Guidance: Sustainable Design and Construction created by [BREEAM](#) for further guidance.

3.6 Daylight/Sunlight Assessment

In circumstances where there is a potential adverse impact upon the current levels of daylight/sunlight enjoyed by adjoining properties or building(s), including associated gardens or amenity space. As such, this is a material planning consideration, so applications that may have an impact will need to be accompanied by a daylight/sunlight assessment.

Further guidance is provided in '[Site layout planning for daylight and sunlight: a guide to good practice](#)' (updated in Sept 2011). This guidance is intended to be used in conjunction with the [British Standard Code of Practice for daylighting](#) (BS 8206-2:2008, Lighting for buildings).

Where appropriate, this should include an assessment of any adjoining waterway to ensure there is no undue overshadowing to the waterway.

3.7 Economic Statement

In line with the requirements of the NPPF, a supporting statement of any economic growth/regeneration benefits should accompany applications from the proposed development. This needs to be commensurate with the complexity/scale of the proposal; it should be no more than is sufficient to understand the potential impact (positive or negative) of the proposal.

If the applicant considers that the development would not have either a negative or positive impact (for example retention of a temporary classbase), this should be stated within the planning statement (section 3.21).

If the proposal is likely to have an impact, the following should be included:

- Viability Assessment, which is sensitivity tested to an appropriate level commensurate with the complexity of the proposal. Schemes that are more complicated would need further scenario and/or simulation analysis to be undertaken;
- Any new jobs that might be created or supported;
- The relative floor space totals for each proposed use (where known);
- Any community benefits;

- Reference to any regeneration strategies.

Where appropriate, applications should demonstrate how they would contribute to the implementation of the goals of the [National Planning Policy Framework](#) sections 173 to 177.

3.8 Impacts on the Water Environment

The following assessments and statements can be contained within a single hydrology statement, if they are applicable to the development. Alternatively, these aspects can be dealt with individually. Additionally, this information might form part of an Environmental Statement, where one is necessary (see 1.2.4 Applications Requiring Environmental Impact Assessment, page 4).

3.8.1 Flood Risk Assessment

A Flood Risk Assessment (FRA) will be required for development proposals of 1 hectare or greater in Flood Zone 1 and for all proposals for new development located in Flood Zones 2 and 3 as designated by the Environment Agency. This is a requirement of the [NPPF \(paragraphs 93 to 108, 166 and 192\)](#) and local policies. A FRA will also be required for any development other than minor development in a designated critical drainage area, which has been notified to the Local Planning Authority by the Environment Agency. Flood zone maps can be found on the [Environment Agency's website](#).

The FRA should identify and assess the risks of all forms of flooding¹⁰ to and from the development and demonstrate how these flood risks will be managed, taking climate change and sea level rise into account. The FRA should identify opportunities to reduce the probability and consequences of flooding. The FRA should include the design of surface water management systems including Sustainable Drainage Systems (SuDS) (please see below) and address the requirement for safe access to and from the development in areas at risk of flooding.

The FRA should be prepared by an applicant in consultation with ECC with reference to published Local Development Documents, any Strategic Flood Risk Assessment and with reference to the [Flood and Water Management Act \(2010\)](#). The FRA should form part of an Environmental Statement when one is required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. The [National Planning Policy Framework Technical Guidance Note](#) provides comprehensive guidance for both local planning authorities and applicants in relation to the undertaking of FRAs and the responsibilities for controlling development where it may be directly affected by flooding or affect flooding elsewhere.

ECC will require a Flood Risk Assessment in line with the Environment Agency's [Standing Advice on Development and Flood Risk](#).

3.8.2 Hydrological and Hydro-geological Assessments

For minerals and/or waste related development proposals, where dewatering is proposed or proposals affect the water table, hydrological and/or hydro-geological assessments will be required. Applicants are advised to consult the Environment Agency at an early stage and to involve a qualified Hydro-geologist.

¹⁰ Common types of flooding include: coastal flooding, fluvial (river) flooding, pluvial (rainwater) flooding, groundwater flooding and sewer flooding

The assessment and technical information may need to include details of topography and surface drainage, artificial ground, superficial deposits, landslip deposits, rockhead depth, bedrock geology and details of any borehole reports including any information with regard to both licensed and unlicensed abstractions. It may also be necessary to include the calculation of the extent and volumes of dewatering will be required in order for the Agency and the County Council to assess further investigations. This may include monitoring of the existing water regime for at least 12 months prior to submission of the application in order to ensure that surface and ground water can be safeguarded.

Applicants should indicate natural water table including its depth, source catchment areas and characteristics. Consideration of the potential impact upon any wetland site of special scientific interest should be incorporated. The statement must show that third parties will not be affected by the proposed dewatering. Where investigations show that dewatering is likely to have an impact on public and private water supplies or water bodies or watercourses details of mitigating measures must be included in the application e.g. recharging reservoirs etc.

Details of proposed methods of dewatering and proposed methods of water disposal must be given. Applicants should include proposed measures to control potential pollution to protect ground and surface water. They should also give an indication of any necessary drainage and flood control measures; and proposed monitoring measures, including any requirements for the provision of settlement lagoons; the way in which surface water is to be disposed of; the avoidance of impairing drainage from adjoining areas; and the prevention of material entering open watercourses.

3.8.3 Sustainable Drainage Systems (SuDS)

ECC will become a SuDS Approval Body (SAB) by the enactment of Schedule 3 of the [Flood and Water Management Act \(2010\)](#), which is likely to be from April 2014. This means that all new development that has surface water drainage implications will potentially require SAB approval and need to conform to National and Local Standards. Initially, only major developments will need SuDS approval, but this will be rolled out to minor developments in due course.

The process for SuDS approval will be similar to the planning process, requiring validation of required forms and documentation, consultation and determination. It is anticipated that the determination periods will be 7 weeks for minor applications and 12 weeks for major applications, to allow applicants to be notified of both the planning and SuDS decision notices at the same time (when these are submitted together). As with planning, early discussion with the SuDS Approval Body will be required, to ensure applications have sufficient information submitted to allow validation.

Defra have carried out an initial consultation on the process for gaining SuDS approval and applicants for planning permission should be made aware that:

1. The national standards should be followed wherever possible when designing SuDS to increase the likelihood that the SAB can adopt them in the future.
2. ECC is developing local standards through its [draft SuDS Design and Adoption Guide](#), which completed public consultation in September 2012. When the Flood and Water Management Act 2010 is enacted, the local standards should be followed wherever possible when designing SuDS to increase the likelihood that the SAB will approve the scheme and can adopt them in the future.

3. Developments with existing planning permission, with one or more reserved matters or where a valid planning application exists before enactment of Schedule 3 (likely April 2014) will not require SuDS approval during the first 12 months (up to April 2015) but following this date must obtain SuDS approval prior to commencement of development.

For further information regarding the progress of enacting the Flood and Water Management Act 2010 and whether a SuDS approval is required please view [ECC's website](#). Alternatively, once enacted and you wish to discuss the requirements of a SuDS application please get in contact with the SuDS team at suds@essex.gov.uk or telephone 01245 437 062 or 01245 437 138.

3.8.4 Water Pollution

Discharges to water from development (in both the construction and operational phases of development) can significantly affect a high quality water environment. This would then have further impacts on habitats for plants, animals and local people. Guidance on practical ways to prevent water pollution and [pollution prevention guidance notes](#) both produced by the Environment Agency provide useful information to be considered as part of the design phase of a development. If there is to be a potential impact on water pollution, either in the construction or operational phases, developers should refer to this guidance as to how these prevention measures have been considered/incorporated in to the development.

3.9 Foul Sewage and Utilities Assessment(s)

All new buildings need separate connections to foul and storm water sewers. If an application proposes to connect a development to the existing drainage system, then details of the existing system should be shown on the application drawing(s). It should be noted that in most circumstances surface water is not permitted to be connected to the public foul sewers. Where the development involves the disposal of trade waste or the disposal of foul sewage effluent other than to the public sewer, then a more detailed foul drainage assessment will be required including details of:

- The method of storage, treatment and disposal;
- A full assessment of the site, its location and suitability for storing, transporting, treating or disposing of sewage.

Where connection to the mains sewer is not practical, then the foul/non-mains drainage assessment will be required to demonstrate why the development cannot connect to the public mains sewer system and show that the alternative means of disposal are satisfactory. Government guidance on what should be included in a non-mains drainage assessment is given in [Circular 03/99](#) 'Planning requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development' and [Building Regulations Approved Document Part H](#) and in [BS 6297](#).

If the proposed development results in any changes/replacement to the existing system or the creation of a new system, scale plans of the new foul drainage arrangements will also need to be provided. This will include a location plan, cross sections/elevations (as described previously in section 2.3 Plans of the Development) and specification. Drainage details that achieve Building Regulations Approval will be required. If connection to any of the above requires crossing land that is not in the applicant's ownership, other than on a public highway, then notice may need to be served on the owners of that land. An application should indicate how the development connects to

existing utility infrastructure systems. Most new development requires connection to one or more of existing utility services, including:

- Electricity and gas supplies;
- Telecommunications;
- Water supply;
- Foul and surface water drainage and disposal.

Two planning issues arise in connection in connecting to exiting utilities infrastructure:

- Whether the existing services and infrastructure have sufficient capacity to accommodate the supply/service demands that would arise from the completed development;
- Whether the provision of services on site would give rise to any environmental impacts, for example, excavations close to trees or archaeological remains.

The applicant should demonstrate that:

- Following consultation with the service provider, the availability of utility services has been examined and that the proposals would not result in undue stress on the delivery of those services to the wider community;
- Proposals incorporate any utility company requirements for substations, telecommunications equipment or similar structures;
- Service routes have been planned to avoid as far as possible the potential for damage to trees and archaeological remains;
- To avoid potential damage to trees full details of service layouts should be submitted and the layout and installation should be carried out in accordance with the requirements of The National Joint Utilities Group (NJUG) '[Guidelines for the Planning, Installation and Maintenance of Utility Services in Proximity to Trees](#)';
- Where the development impinges on existing infrastructure, the provisions for relocating or protecting that infrastructure has been agreed with the service provider.

3.10 Health Impact Assessments

A Health Impact Assessment (HIA) may be required to provide information about how a proposal may affect, directly or indirectly, on people's health. This is noted in the [NPPF \(paragraph 120\)](#) and local planning policies. HIAs are used to assess possible significant health effects, which could be affected by development. The aim of an HIA is to identify potential health consequences of decisions and to maximise the health benefits while minimising any negative impacts, which could arise during the construction phase and/or during operations as a result of pollution, transport, radioactivity or if the development would be located near a hazardous installation etc.

Consideration of health impacts must be commensurate with the complexity/scale of the proposal; it should be no more than is sufficient to understand the potential impact (positive or negative) of the proposal.

If the applicant considers that the development would not have either a negative or positive impact (for example retention of a temporary classbase), this should be stated within the planning statement (section 3.21).

For this assessment to be of significant value it needs to be connected with other impact assessments, including environment and transport.

Please refer to the [World Health Organisation](#) website, ECC's Public Health Team¹¹ or the Essex Planning Officers Association Guidance Note '[Health Impact Assessments](#)' (March 2008)

3.11 Heritage Statement

The need for heritage statements is derived from the [NPPF \(paragraph 128\)](#) and local policies. The scope and degree of detail necessary in a Heritage Statement will vary according to the particular circumstances of each application. The statement should be commensurate with the scale of the proposals and the importance of the affected asset(s): it should be no more than is sufficient to understand the potential impact (positive or negative) of the proposal on the heritage assets' significance. Applicants are advised to discuss proposals with a planning officer, who may (depending on the proposal) need to refer to the Council's Historic Environment Consultant¹² before any application is made, to ensure the requirements are commensurate to the scale of the proposal and potential for harm.

Assessment of the following heritage Assets can be contained within a single heritage statement, if they are applicable to the development. Alternatively, these aspects can be dealt with individually. Additionally, this information might form part of an Environmental Statement, where one is necessary (see 1.2.4 Applications Requiring Environmental Impact Assessment, page 4).

Heritage statements are required if a development would affect a heritage asset (whether on or adjacent to the proposal site), including:

- Listed buildings;
Would require the following information in support of any planning application;
 - The details in support of the Listed Building Consent application;
 - Any agreed programme of mitigation;
 - A copy of the Listed Building Consent form.
- Conservation areas;
Would require the following information in support of any planning application;
 - The details in support of the Conservation Area Consent application;
 - Any agreed programme of mitigation;
 - A copy of the Conservation Area Consent form.
- Historic battlefields;
- Protected wrecks;
- Registered parks and gardens.
- Archaeological sites and their setting (whether on, or adjacent to the proposal site);
- Scheduled Monuments and their setting (whether on, or adjacent to the proposal site).

If a Scheduled Monument would be impacted through the proposals, English Heritage should be consulted before the submission of the application

For applications either related to, or affecting the setting of heritage assets (as set out above) the heritage statement should include:

¹¹ Responsibility and accountability for Public Health was transferred from NHS Primary Care Trust to local authorities on the 1st April 2013.

¹² Within the County Council's 'Place Services'.

- An analysis and description of the significance of any heritage assets affected, including any contribution made by their setting;
- An assessment of the impact (positive or negative) of the proposals on the significance of the heritage assets;
- A statement of justification for the works.
This must be submitted in the form of a written statement with plans identifying the heritage assets that may exist on or adjacent to the application site, including:
 - All designated sites;
 - All non-designated sites (e.g. locally listed buildings and heritage assets recorded in the Historic Environment Record).

All heritage statements should take into account the impact or potential impact of the proposed development. Any proposals must avoid, minimise or mitigate such impacts. Proposals may also have an impact on the surrounding environs (the historic landscape/historic environment character) and these issues need to be addressed in any assessment. The principles of and justification for the proposed works and their impact on the special character and appearance of the heritage asset, its setting, views into and out of it, and the setting of adjacent assets may also be required.

For heritage assets, further advice is provided in the [National Planning Policy Framework](#), English Heritage's PPS 5 [Practice Guide \(2010\) and Conservation Principles \(2008\)](#).

3.11.1 Archaeological Assessment

As a minimum, the Historic Environment Record should have been consulted and the heritage assets assessed using appropriate expertise. Where a site where the proposed development includes, or has the potential to include heritage assets, there is a requirement for developers to submit an appropriate desk-based assessment and, where necessary, the results of a field evaluation. The results of any field assessment must be submitted as part of the Heritage Statement.

Further advice is provided in the [National Planning Policy Framework](#), English Heritage's PPS 5 [Practice Guide \(2010\) and Conservation Principles \(2008\)](#).

3.12 Land Contamination Assessment

Where there is known or suspected contamination on the application site, a land contamination assessment will be required as noted in the [NPPF \(paragraphs 120 to 122\)](#). A land contamination assessment will be required in the following cases:

- Where an application is either suspected or known to be sited on a previous use that could potentially have contaminated the site;
- Where an application is sited adjacent to an existing or previous use that could potentially have contaminated the site;
- If the proposed use would be particularly vulnerable (e.g. sensitive uses) to potential contamination.

Where development would fall in to one of the above cases, sufficient information is required to determine the existence (or otherwise) of contamination, its nature and the risks it may pose and whether these can be satisfactorily reduced to an acceptable level allowing the development to proceed. The minimum level of information for validation in these cases is a report of the preliminary risk assessment. This presents the findings of

a desk study and site reconnaissance (walk over), identifying any sources, pathways and receptors of contamination on or adjacent to the site.

Where contamination is found, developers would need to demonstrate that unacceptable risk from it will be successfully addressed through remediation, without undue environmental impact during and following development.

The relevant Essex District/Borough/City Councils' Environmental Health Officers are key consultees in relation to ground contamination issues. Land affected by contamination is also of interest to the Environment Agency due to the potential effect on "controlled waters".

3.13 Landscape and/or Visual Impact Assessment

Any proposal (but particularly for major applications) can have significant impacts on the local landscape or townscape. The need for landscape and/or visual impact assessments is derived from local policies and the [NPPF \(paragraphs 109, 113-116\)](#).

Where the development would potentially have a significant impact on the landscape or townscape, an assessment of the existing conditions, the effect the proposal would have on the landscape/townscape and the resulting visual impacts should be submitted. As such, plans may be required (depending on the scale of development) that identify the contours, planting (including species and location) and other aspects that would potentially affect the landscape/townscape and/or have a visual impact. The advice in the latest version of 'Guidelines for Landscape and Visual Impact assessment'¹³ (GLVIA) by the Landscape Institute and the Institute of Environmental Management and assessment should be used in determining these impacts.

Applications may be accompanied by landscaping details and include proposals for long-term maintenance and landscape management. These proposals should follow from the design concept in the Design and Access Statement (if required) and should mitigate any landscape and visual impacts identified. It should also be explained why these were considered the most appropriate option.

Existing trees and other vegetation should, where practicable, be retained in new developments and protected during the construction of the development.

3.13.1 Photographs and Photomontages

Both photographs and photomontages provide useful background information of the exiting views around the site and can help to show how large developments can be satisfactorily integrated within the street scene/landscape. As such, photographs and/or photomontages must be incorporated into a landscape and visual assessment.

However, post-processing that fundamentally alters the original photograph should not be used on any electronic document¹⁴. Also, please note the guidance on [maximum file sizes](#) if submitting electronically.

3.14 Lighting Impact Assessment

A lighting assessment may be required (in accordance with the [NPPF paragraph 125](#) and local policies where applicable) for proposals where external lighting would be

¹³ At the time of publication, the most recent version of the GLVIA is the third edition published in 2013.

¹⁴ With the exception of photomontages, which by their very nature require the imposition of development form in to the actual photographs.

provided, or made necessary by the potential development. This would include proposals for:

- Provision of publicly accessible developments;
- In the vicinity of one or more:
 - Residential properties;
 - Listed building(s);
 - Conservation area(s) or
 - In the open countryside.

In these cases, the application is required to be accompanied by details of external lighting and the proposed hours when the lighting would be switched on. These details shall include a layout plan with beam orientation and a schedule of the equipment in the design. [Lighting in the countryside: Towards good practice \(1997\)](#) is a valuable guide for local planning authorities, planners, highway engineers and members of the public. It demonstrates what can lessen the effects of external lighting, including street and security lighting. The advice is applicable in towns where neighbouring buildings could be affected, as well as the countryside.

Where appropriate, this should include an assessment of any adjoining waterway, to ensure there is minimal illumination overspill onto the waterway.

3.15 Noise Impact Assessment

There are a number of instances where noise impact assessments (to be prepared by a suitably qualified acoustician) are required in support of a planning application, principally:

- Proposals that raise issues of disturbance;
- Proposals that are considered a noise sensitive development;
- Proposals that are within what is considered a noise sensitive area.

Applications for proposals of commercial or industrial premises adjacent to noise sensitive¹⁵ premises should undertake a [BS4142](#) noise assessment as agreed with the planning authority. A noise impact assessment will be required where the proposal is for a change of use or built development that will result in a mineral or waste development adjacent to housing or other noise sensitive premises, or if the proposal is for mineral extraction or landfill/landraising development. For proposals for mineral extraction, further guidance is provided in [The National Planning Policy Framework Technical Guidance Note](#).

Details of the sound insulation provision within development schemes to mitigate and muffle the escape of noise from the proposed development, such as building insulation measures may need to be submitted. Reference should be made to Building Regulation requirements, Environmental Health and NPPF technical guidance requirements.

3.16 Open Space and/or Playing Field Assessment

For development within open spaces or playing fields, application proposals must be accompanied by plans showing any areas of existing or proposed open space/playing field within or adjoining the application site. The requirement for this stems from The

¹⁵ Noise sensitive developments are generally classified as: hospitals, schools, residential / care homes.

Town and Country Planning (Development Management Procedure) (England) Order 2010 [Schedule 5 \(Consultations before the grant of permissions\)](#).

Sport England is the key statutory consultee on any planning application for development which:

- Is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field;
- Is on land which has been either:
 - Used as a playing field at any time in the 5 years before the making of the relevant application and which remains undeveloped;
 - Allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement;
- Involves the replacement of the grass surface of a playing pitch on a playing field with an artificial, man-made or composite surface.

Any application involving the loss of or provision of, playing fields should be supported by evidence from a district wide Playing Pitch Strategy; or in the absence of a robust and up-to-date assessment by a local authority, an applicant for planning permission may seek to demonstrate through an independent needs assessment. This assessment must establish whether the land or buildings are surplus to local requirements. Any such evidence should accompany the planning application. National planning policy is set out in the [National Planning Policy Framework](#).

Where appropriate pre-application discussion should be held with Sport England to ascertain whether any mitigation measure for any loss of pitches can be implemented and evidence of this should be submitted with any planning application. The Sport England publication '[A Sporting Future for the Playing Fields of England – Policy on planning applications for development on playing fields](#)' sets out the exception criteria against which applications will be assessed by Sport England.

More general advice from Sport England on planning and playing fields is available [here](#).

In open space assessments reference should be included as to whether land is registered common land or town/village green under [Commons Registration Act 1965](#) and [Commons Act 2006](#).

3.17 Parking Provision

Applications that will have an impact on parking provision will be required to provide details of existing and proposed car parking provision and access arrangements, in accordance with the [NPPF \(paragraph 39\)](#) and local planning policies. Applications need to provide details of:

- Existing and proposed parking provision;
- Permanent access arrangements for both vehicles and pedestrians;
- Temporary arrangements for both vehicles and pedestrians during construction.
- Consideration would need to be given to visibility splays.

These details must be completed within the standard application form and shown on a site layout plan. If motorcycle or bicycle parking is proposed this must also be illustrated.

Guidance on Essex Parking Standards is in the [EPOA Vehicle Parking Standards](#) (2009), which has been adopted by many Essex Authorities as a Supplementary Planning Document (SPD). If the proposal is for a greater number of allocated parking spaces than what is contained within this guidance full justification of need and reasons would have to be submitted with any planning application.

3.18 Phasing and Method of Operation Statement

Information is required on the types and quantities of minerals to be extracted and/or landfill waste materials in both tonnages and volumes, both in terms of total for the site and proposed annual extraction and/or infill rates. This is also applicable for and primary or secondary processing plant applications.

Details of phasing would need to be provided through a phasing programme including relevant plans should extraction/infilling be intended to progress in this manner.

Topographical survey information may also need to be submitted. This should be to a scale of at least 1:1,250 and contain the following:

- Pre-development and proposed contours over and within 2km of the site and maybe further where necessary;
- Existing trees, hedges and ditches, watercourses and water bodies
- Location of building on the site or within 250m of the site identifying current use
- Position of Public Rights of Way within and adjacent to the sites

For mineral extraction, the percentage of silt arising from processing should be indicated and the method of silt management and disposal explained.

Further information can be found in the Planning4Minerals: '[A Guide on Aggregates](#)' produced by Entec UK Ltd.

3.19 Photographs and Photomontages

As noted within section 3.13.1, both photographs and photomontages provide useful background information for applications and as such must be incorporated in to any landscape and visual impact assessment submitted with an application.

In addition to this requirement, an application that does not require a landscape and visual impact assessment and where the submission of photographs and photomontages would benefit the consultees these must be included if the proposal involves:

- The demolition of an existing building;
- Development affecting a conservation area or a listed building
- Potential significant potential effects on the landscape or street scene.

It is considered that the benefit of photographs and photomontages of the site is not limited to solely applications requiring landscape and visual impact assessment or the above criteria. Photographs and photomontages should be included in any application where the applicant feels it would benefit their case to include these.

However, post-processing that fundamentally alters the original photograph should not be used on any electronic document (with the exception of photomontages, which by their very nature require the imposition of development form in to the actual photographs). Also, please note the earlier guidance on [maximum file sizes](#) if submitting electronically.

3.20 Planning Obligations - Draft Head(s) of Terms

Planning obligations (section 106 agreements) are private agreements negotiated between local planning authorities and persons with an interest in a piece of land (or “developers”) and are intended to make a development acceptable, which would otherwise be unacceptable in planning terms.

Where the developer is prepared to offer to enter into a planning obligation, draft Heads of Terms and Certificate of Title will need to be submitted.

A ‘Unilateral Undertaking’ is a simplified version of a planning agreement, which is relatively quick and straightforward to complete and is entered into by the landowner and any other party with a legal interest in the development site. They can assist in ensuring that planning permissions are granted speedily, which benefits both applicants and the Council. Where the developer is prepared to offer a Unilateral Undertaking to enter into a planning obligation, usually this would be submitted with the planning application.

3.21 Planning Statement

A planning statement identifies the context and need for a proposed development. It seeks to describe the proposed development, justify the development in regards to the local and national planning policy and considers other material planning considerations. This should include further clarification and details of the proposal, which is included within the description of development contained within the Standard Application Form (section 2.4, page 18).

3.21.1 Justification in Policy Terms

The Planning Statement should include an assessment of how the proposed development accords with relevant national and local planning policies.

3.21.2 Justification and Need of Proposal

When the justification and need of a proposal is considered to be material considerations in determining a planning application, the Planning Statement should include reference to why the applicant considers there is a valid need for the proposal.

Where the application is for a change of use, inclusion of further information for the reasons for the change of use will be required.

Prior to submission, applicants should discuss whether need and justification of the proposals is required to be addressed within the pre-application discussions.

3.21.2.1 Regulation 3 Development

Regulation 3 applications are applications for any County Council owned property (or jointly owned property, where the County Council retains a significant interest), e.g. community schools and libraries. These applications must show they are from the relevant authority service area that is providing the service or facility (and if it is a joint development, the other body).

Applications that do not meet these criteria (e.g. schools with academy status, where the Council does not maintain a significant interest, or additional development that is either not supported by the County Council or beyond the remit of County Council interest) should be made to the District, Borough or City Council.

Details will need to be provided regarding the need for the proposed development. For school development and where an application relates to the continued use of a temporary classbase, the following is required:

- Identified need:
 - Schools net capacity in all permanent and temporary accommodation;
 - Details of current and forecast pupil and staff numbers
For the duration of the development, if for a temporary classbase, or for at least five years if permanent);
 - Details of class sizes and year groups, where it is of relevance to the application and where there is not a clear need;
 - If the school is on priority list and the temporary classbase is to satisfy need while a permanent accommodation solution is evolving this should be noted. In this case it would also be useful to note any potential timescale for this permanent accommodation (if applicable)
- Realistic timescale as to duration of the identified need;
- Proposed use e.g. education, extra-curricular activities
If the majority of the use of the classbase would not for educational purposes then the application should be submitted to the relevant City/District/Borough Council;
- The number of car parking spaces on site and if more are required.

Further information regarding for temporary mobile (relocatable) classbases is within the [Scrutiny Report on School Relocatable Classrooms Planning Policy](#) (2009).

3.21.3 Impacts and Mitigation Proposed

Depending on the scale of the development, the planning statement may include information regarding the impacts and mitigation measures any of the statements/assessments noted within this guidance.

As such, to be commensurate with the scale of the proposals and potential impacts, a planning statement may obviate the need for other more specific and detailed statements described in this guidance. Major developments, or those where it is likely there would be a significant impacts, more detailed individual statements would be required, as prescribed by this guidance.

Where an application is supported with an Environmental Statement (as required through the Applications Requiring Environmental Impact Assessment regulations (section 1.2.4, page 4), the planning statement and the ES must be separate documents. The planning statement must be able to be read alone without reference to the ES i.e. the supporting statement must describe all the proposed mitigation and monitoring based on the outcomes of the EIA.

3.22 Public Rights of Way

Reference to any Public Rights of Way (PRoW) which would be affected by the potential development, with the number/name of the PRoW identified on plans. This includes PRoWs within or adjacent to the site which would be affected by the proposed development.

It should be specified whether any impacts on the PRoW would be for a temporary period or permanent, (e.g. temporary diversion during the construction phase or during mineral workings) and what alternative arrangements would be made/proposed.

Any PRoW affected should be identified with any detail of any diversion or 'stopping up' required. Further details can be found within the EPOA guidance "[Development and Public Rights of Way: Advice note for developers and development management officers](#)" (2010).

3.23 Public Involvement Programme (PIP)

The recently adopted [Essex Statement of Community Involvement First Review](#) has implemented some key changes to the County Council's methods of public consultation in connection with planning applications and in the preparation of planning policy documents. In this case, it notes that the [Localism Act 2011](#) (S122) and the [NPPF \(paragraphs 66, 188 and 189\)](#) place a statutory requirement on applicants to undertake pre-application consultation on applications for major developments. Previously, the planning authority could only encourage pre-application consultation.

The Localism Act received Royal Assent in November 2011 and contains a number of enabling provisions. As such, not all of the measures are in force, but the enabling provisions give the Secretary of State power to introduce regulations and guidance that will make the measures 'live.' At the time of publication, [Government](#) is keeping commencement of this provision (S122) under review to ensure the regulation can best be shaped to benefit both applicants and local communities. It is highly recommended to discuss the status of this provision with planning officers during the pre-application discussions.

Once this provision is live, **all** applications will need to be supported by a Public Involvement Programme (PIP) or Statement of Community Involvement (SCI). This evidence will need to be commensurate with the size of the development, but even smaller proposals, should ensure early engagement with the opportunity to design out any potential objections. The statement must set out evidence of how the applicant has complied with the requirements for pre-application consultation. Therefore, the minimum requirements are as follows:

- Evidence to show that relevant individuals/organisations have been consulted;
- Must detail how these consultees should respond and by when;
- Demonstrate how the responses of which have been taken in to account in the formulation of development proposals.

For smaller developments, the pre-application consultation information can be held within the Planning Statement.

Proposals that are more significant will need to include a formal record of the Public Involvement Programme in relation to the proposals. Depending on the individual proposal, the public involvement programme may use media, posters and flyers, public exhibitions, drop-in sessions and meetings, by direct contact, or any other appropriate methods as discussed with planning officers. The submission must evidence that the public involvement proposal has achieved the requirement to bring the proposal to the attention of the majority of those homes and businesses in the vicinity of the proposal.

Any potential applicant should discuss the appropriate level of community involvement and pre-application consultation with the local authority. The statement should be mindful of the requirements of the 'Equality: key concepts' as defined in Part 2 of [Equality Act 2010](#) and include the details of consultations with the Local Planning Authority and wider community/statutory consultees undertaken prior to submission.

For further information about ECC's currently adopted SCI First Review please refer to the [ECC website](#).

3.24 Structural Survey

A structural survey may be required in support of an application if the proposal involves the alteration to an existing building that would potentially alter the structural integrity of a building, or to demonstrate the need for demolition of a building. An example of when a structural survey would be required is if the application proposed a change of use of an existing farm or industrial buildings to be used in relation to minerals and/or waste development, or if substantial remodelling or demolition was required for any regulation 3 development. These surveys must be carried out by a structural engineer or other suitably qualified person. Structural surveys will also be required for applications for Listed Building Consent or Conservation Area Consent for demolition in a conservation area.

For waterway walls, a 'waterway wall survey' would normally be required. See www.britishwaterways.co.uk for more information.

Further clarification of whether a structural survey would be required should be discussed during pre-application discussions with a planning officer.

3.25 Transport Assessment/Transport Statements

The Highway Authority (and the Highways Agency, where relevant) will be consulted on all applications that have a relationship with, or impact upon the public highway. Transport Statements and Assessments are required by [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2010, \(Article 16, schedule 5\)](#), the [NPPF \(paragraphs 32 to 38\)](#) and various local planning policies. The NPPF advises that a Transport Assessment (TA) or where appropriate, Transport Statement (TS) should be submitted as part of any planning application where the proposed development has significant transport implications. As such and in order, for the Highways Authority to assess an application accurately, the following information will be required:

- All applications:
 - A scale drawing (1:500 or 1:1250) of the access arrangements for the application site;
 - Information on Public Rights of Way (if relevant) that may be affected by the proposal;
 - A Transport Assessment if the application site will generate more than 50 car movements or equivalent
This equally applies to education applications that propose a significant increase in pupil/staff numbers;
 - A Travel Plan if the application site has more than 50 employees, or in the case of a school application, if the application site does not already have one in place.
- All applications that propose a material change to the existing public highway
 - A scale drawing (1:500 or 1:1250) of the proposed changes;
 - A stage one road safety audit of the proposed changes conducted by an independent qualified auditor.

The coverage and detail of the TA should reflect the scale of the development and the extent of the transport implications of the proposal. For smaller schemes, the TA should

simply outline the transport aspects of the application, while for major proposals the TA should illustrate accessibility to the site by all modes of transport and the likely modal split of journeys to and from the site. It should also give details of proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal, and to mitigate transport impacts.

Further detailed guidance can be found on ECC's [website](#) within the Essex Local Transport Plan and Development Management Policies. These documents outline when a transport assessment will be required and what is to be included. Where the development may have impact upon a trunk road requirements for Traffic Impact Assessment are set out in the Department for [Transport Circular 02/2007](#).

If the proposals would involve HGVs entering or leaving the site during the construction and/or operational phase, (this would normally concern minerals and/or waste development) of the development, details should be provided of the methods that would be used to prevent mud and debris from being deposited on the public highway.

The feasibility of using the railway network, waterways and their towpaths for waterborne freight and passenger transport, cycling and walking should be assessed where appropriate.

3.26 Travel Plan

A travel plan should be submitted alongside planning applications that are likely to have significant transport implications. The travel plan should contain clear measurable targets, monitoring arrangements and means of enforcement.

Further advice is available in [Good Practice Guidelines: Delivering travel plans through the planning process](#); DCLG and DfT (2009), also [Making residential travel plans work: Good practice guidelines for new development](#); DfT; [A guide to development related travel plan](#) (Addison & Associates) and the [developer guidance](#) produced by ECC.

The feasibility of using the railway network, waterways and their towpaths for waterborne freight and passenger transport, cycling and walking should be assessed where appropriate

3.27 Tree Survey, Arboricultural Implications and Method Statement

Applicants should anticipate the need to retain and accommodate trees within the development as a whole and should provide for the retention of as much of the existing tree cover as is practicable. Existing trees on development sites are particularly vulnerable to damage during construction and as such must be suitably protected during development and/or construction.

All surveys and statements should be prepared by a suitably qualified and experienced arboriculturist and use the methodology set out in the British Standard [BS5837 'Trees in relation to construction – Recommendations'](#). Adherence to the processes set out within this British Standard will help to ensure that the most suitable trees are retained, development is suitably and fully integrated with trees, appropriate protection is provided for retained trees and that any potential conflicts are identified early on in the process and can subsequently be avoided.

A tree survey is required in all applications where there are any trees:

- Within the application site,
- On land adjacent to the application site or
- That could influence or be affected by the development (including street trees).

This survey information is required not only to establish the tree stock (identifying any to be retained or removed as part of the proposals) but also to assess the protection requirement of the trees during construction works and recommend any potential mitigation required in order to facilitate a proposal.

Trees do not have to be subject to a Tree Preservation Order (TPO) or within a conservation area; any tree that could influence, or be affected by the development, should be addressed regardless of designation and will be considered on their own merits. If a tree is protected by a TPO, it should be identified and details provided within the tree survey.

This extent of the information required (both the tree survey and and/or arboricultural implications and method statement) will depend on the application site and types of works proposed. Where there is only potential for minor impact (in smaller scale proposals, such as regulation 3 development), a survey, brief method statement and plan would be required. At the very minimum, a basic survey would be required and the following would need to be considered and/or illustrated:

- Location of each tree
- Height;
- Spread;
- Trunk diameter;
- Species;
- Condition of all trees;
- A levels survey of the site and the surrounding area;
- Where trees are to be retained within the application site, details of protection and working methods to minimise damage to the trees during construction works will be required

Where there is the potential for more significant impacts on trees, a full tree survey and arboricultural implications and method statement needs to be completed by a suitably qualified and experienced arboriculturist as noted above.

In applications where extensive or significant works are to be carried out, there must be provision for qualified arboricultural supervision of all works close to retained trees as part of an application.

Additional guidance can be found in the Communities and Local Government '[Tree Preservation Orders: A Guide to the Law and Good Practice](#)' and in '[British Standard 5837: Guide for trees in relation to construction](#)'.

Applicants are strongly advised to discuss any potential impacts on trees with within the pre-application discussions with a planning officer.

DR/36/13

committee DEVELOPMENT & REGULATION

date 23 August 2013

MINERALS, WASTE and COUNTY COUNCIL DEVELOPMENT**Guidance on Non-Material Amendments and Minor Material Amendments to planning permissions**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Shelley Bailey Tel: 01245 437577

1. PURPOSE OF REPORT

Following a grant of planning permission, it may be necessary to make amendments to the permission. Whether or not a proposed amendment is non-material will depend on the circumstances of the case – a change which may be non-material in one case could be material in another. There is no statutory definition of non-material, but the planning authority must be satisfied that the amendment sought is non-material in order to grant an application.

Some applicants may be uncertain whether a Non-Material Amendment (NMA) or Minor Material Amendment (MMA) can be applied for and national guidance advises to seek pre-application advice from the local planning authority.

The report seeks the Committee's endorsement of planning guidance for NMAs and MMAs to planning permissions. The guidance is intended to inform developers/applicants in Essex on when the NMA/MMA process can be used for mineral, waste and county council (Regulation 3) developments.

2. BACKGROUND

Non-Material Amendments (NMAs) are given legislative effect by S.96A Town and Country Planning Act 1990 (brought into force on 1 October 2009) via the commencement of s.190 of the Planning Act 2008. This stipulates:

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

Minor Material Amendments (MMAs) may be considered under s.73 of the Town and Country Planning Act 1990, provision for which was brought into force on 1 October 2009, through the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261). There would need to be a condition listing the approved plans, or the permission would need to include a condition suitable for modification.

3. DISCUSSION

As stated, there is no statutory definition of 'non-material' or 'minor-material'. Planning Authorities are therefore advised to create their own lists to aid consistency within the authority.

The proposed guidance attached in **Appendix 1** of this report.

4. RECOMMENDED

That the Committee endorse the NMA/MMA guidance (at Appendix 1).

BACKGROUND PAPERS

Greater flexibility for planning permissions: guidance
Department for Communities and Local Government
Published 1 October 2010

LOCAL MEMBER NOTIFICATION

Countywide

APPENDIX 1

Non-Material Amendments and Minor Material Amendments Guidance for applications made to Essex County Council

1) Non-Material Amendments

Legislative provisions

Non-Material Amendments (NMAs) are given legislative effect by S.96A Town and Country Planning Act 1990 (brought into force on 1 October 2009) via the commencement of s.190 of the Planning Act 2008. This stipulates:

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

It is noted that, where the change is non-material, s.96A allows new conditions to be imposed, or existing conditions to be removed or altered.

The CLG guidance 'Greater Flexibility for Planning Permissions' dated October 2010 states that there is no statutory definition of 'non-material'. This is because it is so dependent on the context of the overall scheme – what may be non-material in one context may be material in another. The LPA must be satisfied that the amendment sought is non-material before the grant of an application under s.96A. The term 'non-material' is also likely to cover many schemes that may previously been classed as *de-minimis i.e. legally of no consequence*

Submission

An application for an NMA may be applied for by or on behalf of a person with an interest in the land. This definition includes a freeholder, a holder of a lease of over 7 years (including sub-lessee), a mortgagee, or someone with an estate contract. If someone has an interest in only part of the land, the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

The Essex County Council application form is available in a printable format at: http://www.planningportal.gov.uk/uploads/appPDF/Z1585Form034_england_en.pdf.

The cost of a Non-Material Amendment application is £195, and more than one NMA can be applied for on the same form for a single fee.

No Design & Access Statement is required to be submitted with the application.

Before the application is made, the applicant must notify anyone who owns the land and the tenant of an agricultural holding, giving 14 days to make representations (in accordance with Part 2 Article 9(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 A(as amended) (DMPO). The applicant must record who has been notified on the application form.

Processing

Once a valid NMA application has been received by the County Planning Authority (CPA), it will have to be recorded on the Planning Register. The CPA will then write to the applicant confirming that the application has been received, and that the applicant should receive a decision within 28 days, unless a further timescale is agreed in writing.

An application under s.96A is not an application for planning permission therefore existing DMPO provisions relating to consultation and publicity do not apply. The CPA has discretion in whether and how they choose to inform other interested parties or seek their views. However, due to the scale of NMAs there would not need to be any publicity done for the application in the majority of cases. It is for each individual authority to decide whether they wish to notify the local member, and it is the view of the CPA that this should not be necessary in the majority of cases due to the nature of an NMA..

Essex County Council has taken the approach of adding the suffix 'NMA' to existing permission references to allow recording of each application. As multiple NMA applications may be received in relation to a single planning permission, the subsequent applications are given the suffix 'NMA2', 'NMA3' and so on.

Decision making

In considering materiality the CPA must have regard to the effect of the change, together with any previous changes made under s.96A, and take into account any representations made by anyone notified provided they are received within 14 days of notification. A decision should be made solely as to whether the proposal is or is not a non-material amendment. As it is not an application for planning permission, s.38(6) of the Planning Act 2004 does not apply. However, conflict with a reason for a previous decision may mean that the amendment is material. A list of possible procedural considerations (and other operational considerations) is detailed below in section 3. Planning Authorities are advised to create their own lists to aid consistency within the authority (**see Appendix A**)

The Planning Authority must give the applicant notice in writing of their decision within 28 days of receipt of the application or such longer period as may be agreed. It is not a reissue of the original planning permission (which still stands); the two documents should be read together. However, the Planning Authority has the power (a) to impose new conditions; and (b) to remove or alter existing conditions through this process. There is no right of appeal against refusal or non-determination.

2) Minor-Material Amendments (MMAs)

Definition

The suggested definition of a Minor Material Amendment is:

one whose scale and nature results in a development which is not substantially different from the one which has been approved.

This definition is not statutory.

Amended consultation requirements for applications under s.73 of the Town and Country Planning Act 1990 were brought into force on 1 October 2009, through the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261). This vehicle will often allow the consideration of an MMA under section 73, subject to there being a condition listing the approved plans, or the permission including a condition which is suitable for modification. If there is no suitable condition then it is not possible to use this procedure.

Note: It would be possible to apply to add a condition listing plans under s.96A of the TCPA 1990 (the non-material amendments procedure).

Submission

The Essex County Council application form is available in a printable format at:

http://www.planningportal.gov.uk/uploads/appPDF/Z1585Form025_england_en.pdf

The cost of a Minor-Material Amendment application is £195.

Processing

A s.73 application is considered to be a new application for development consent under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Where the development is listed under either Schedule 1 or 2 to the 2011 EIA Regulations, and satisfies the criteria or thresholds set, it would require a Planning Authority to carry out a new screening exercise and, issue a screening opinion on whether an EIA is necessary. Where an EIA was carried out on the original application, changes to the ES may or may not be necessary.

LPAs now have discretion on which statutory consultees should be consulted under schedule 5 of the DMPO where an application under Section 73 of the Town and Country Planning Act is submitted. However, where the application is an EIA scheme, LPAs do not have any discretion to which bodies they consult.

Decision making

The application needs to be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. Where an application under s.73 is granted, the effect is the issue of a fresh grant of permission. A decision notice describing the new permission should be issued, setting out all the conditions pertaining to it.

If sequential applications are made for both a minor material amendment and extension to the time limit for implementing a planning permission, the extension should be applied for first, as a successful s.73 application would result in a new permission which would not have been extant on 1 October 2010 and which therefore could not be extended.

The normal timescales for appeals apply, as set out in Article 33 of the DMPO. Appeals against refusal must be made within 12 weeks (for householder appeals) or six months (for other applications). All appeals against non-determination must be made within six months of the end of the determination period (8/13/16 weeks).

APPENDIX A

Check list for non-material amendments.

The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under s.96A. This list is not meant to be definitive.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', further tests are able to be applied, such as:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.) in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Items which would not normally be considered 'non-material' are listed below:

- Where the number/extent of previously approved 'NMAs' means that, cumulatively, the change cannot be considered to be non-material;
- Changes that would impact upon something that the planning officer regards as an important material consideration in the determination of the application, or that resulted in an objection raised during determination/at Development and Regulation Committee;
- Development which would require consultation with consultees other than the District/Borough/City Council;
- Re-siting of buildings;
- Significant increase in the volume of a building;
- Significant increase in the height of a building;
- Changes to the site/application area;
- Changes which conflict with a condition;
- Additional or repositioned windows/doors/openings;
- Changes which alter the nature or description of the development;
- New works or elements not part of the original scheme;
- New works or elements not considered by any Environmental Statement submitted with the application;
- Development which raises new planning issues/material considerations that have not previously been considered;
- Where enforcement action has been taken in respect of compliance with approved plans.

There are also physical or operational aspects to a development that will be important although much more case specific. A list of possible criteria that would not normally be considered as non-material follows:

Built Form and Environmental Characteristics

- A development is likely to be re-sited by more than 0.2m in any direction where neighbouring buildings are in close proximity and look onto the development;
- A building is likely to be re-sited by more than 0.5m in any direction where neighbouring buildings are over 20m away and/or look onto the development; or, any amendment which would move a building off the approved footprint by more than 25%;
- Any amendment which creates built form forward of the front/principal elevation;
- Any increase in the approved site area or floorspace greater than 3% or increase in the volume of a building by more than 6%;
- Additional doors and windows that would discernibly affect the external appearance of the development;
- Additional or altered doors or windows that could harm the privacy or visual amenity of the nearby properties;
- The relocation or replacement of plant (e.g. air conditioning, extractor outlets or boiler exhausts) that would materially affect the appearance of the development or increase noise level to a level perceptible to the human ear;
- Changes that would adversely affect the design of a development (including the loss of details or use of lesser quality materials);
- Any amendment which relates to the provision of two or more new pieces of development;
- Any amendment which would reduce the root protection area to or result in compromising or the loss of a tree considered to be of significant amenity value;
- The development would impact upon the character or appearance of a Conservation Area or the setting of a listed building;
- Development which results in a loss of parking/manoeuvring/access facilities so that it falls below a maximum standard;
- Any sub-division of floor area or site area to create a new unit or site operation;
- Any operation that would result in conflict with any planning condition or reason for imposition;
- Any reduction in the size of the development by more than 3% of the floorspace or 6% of the volume;
- Any alteration to the development which result in a discernible increase in pedestrian or vehicular traffic;

Mineral Extraction and Waste Disposal Operations

- Increases in the height/size/volume of a building or plant/machinery that would increase the development beyond those criteria referred in to in the previous list;
- Changes to the extraction or filling area which would increase volumes to such a point that other operational conditions need to be varied;
- Increase in extraction area;
- Changes to the types of material to be used for infilling that would give rise to differing land use impacts than those approved;
- Changes to the types of material extracted that would result in different processing requirements to those already permitted at the site;

- Changes to any plant and machinery or processing operations that would increase the noise level beyond permitted limits;
- Changes to any plant and machinery or processing operations that would require an amendment to any agreed scheme to mitigate environmental impacts;
- Any alteration to the development which would result in a material increase in pedestrian or vehicular traffic.

DR/37/13

committee DEVELOPMENT & REGULATION

date 23rd August 2013

ENFORCEMENT OF PLANNING CONTROL – INFORMATION ITEM

Enforcement update.

Report by Head of Planning, Environment and Economic Growth

Enquiries to Suzanne Armstrong – Tel: 01245 437556

1. PURPOSE OF THE ITEM

To update members of enforcement matters for the period 01 May to 31 July 2013 (Quarterly Period 3).

2. DISCUSSION

A. Outstanding Cases

As at 31 July 2013 there are 23 outstanding cases. Appendix 1 shows the details of sites (16) where, after investigation, a breach of planning control is considered to have occurred.

B. Closed Cases

13 cases were resolved during the period 01 May to 31 July 2013.

LOCAL MEMBER NOTIFICATION

Countywide

APPENDIX 1

District	Site Address	Breach of Planning Control	Required Action	Remarks
Basildon BC	Marsh Farm, Brickfield Road, Vange, Basildon, Essex SS16 4QG	Waste Transfer Site	Removal of skips	Storage of skips - The skips at present are being used to clear the site, they will then be removed. On-going monitoring
	Marsh Farm, Vange, SS16 4QG	Skips full of waste	Cease importation of waste and clear the land	The site is being used for unlawful importation of waste, associated activities and skips storage. Continued monitoring of the site, waste to be removed, as requested. Part of the site has been cleared. The remainder will be removed within 28 days. Joint working with the EA to resolve the breach. Visit scheduled.
Braintree DC	Dannatts Quarry, Hatfield Peverel	Non completion of restoration & deposit of waste	Cease waste importation and restore land	No current site activity, waste importation has ceased. Ground contamination investigations continue.
Brentwood BC	No formal cases			
Castle Point BC	No formal cases			
Chelmsford CC	Hall Farm, Church Road, Boreham	Importation of Waste		Waste has been imported for works to the Haul road. Continued investigation
	Land adjacent to Cock Inn, Boreham	Use of land for concrete crushing	Cease importation of concrete (per se). TSN served requiring cessation.	TSN complied with. The land benefits from a District CLUED (1999) for soil screening. Site meeting January 2013. Unauthorised waste importation has ceased, only authorised materials coming in to the site. Meeting resolved issues relating to stockpiles, matter to be dealt with by the Operators. There has been an improvement in the appearance of the site since our previous visit. Further regular monitoring will be undertaken to ensure compliance
	Land opposite Toby Carvery, Runwell Road, Runwell	Dumping of waste materials on land	Monitoring action	Joint visit with CCC enforcement officers, a bund had been created, however this was an engineering operation in relation to a building development on the land for which planning permission has not been sought or given. The earth movements and bunding were considered ancillary to the unauthorised development and therefore the WPA considers that based on the evidence obtained during the visits that CCC are the appropriate Authority to deal with this

				particular case. A TSN has been served by CCC
	Mid Essex Gravel Site	Unauthorised activity on land outside planning permission	Continued removal of materials. Weekly monitoring	Unauthorised waste stockpiles and waste materials on site. A time scale has been agreed with the operator to remove the materials outside of the confines of the waste transfer site. Weekly monitoring visits to check progress and on-going monitoring.
	Mid Essex Gravel Site, Regiment Way	Wood stock piles in excess of 3 metres (ESS/20/12/CHL) breach of condition	Reduction of stockpiles of wood Weekly monitoring	Stockpiles of wood on the site are exceeding the height permission on the current planning permission. The operators are currently removing some of the wood so that it falls within the restriction of the planning permission. On-going monitoring.
Colchester BC	Geantree The Causeway Great Horkesley, Colchester. CO6 4EJ	Importation of waste	Cease importation and restore land	Unauthorised importation deposition and spreading of waste materials resulting in land raising. Part of a joint investigation with the Environment Agency. Owner has agreed to remove the materials and restore the land. Site is being monitored.
Epping Forest DC	Bansons Yard, High Street, Ongar Essex	Breach of Condition	Monitoring	Condition requires submission of the restoration scheme. The land has been sold to developers; it would appear that the restoration and landscaping would be part of the greater development scheme. Application to EFDC for the redevelopment of the land, including demolition of existing structures, erection of 14 dwellings including landscaping. On-going monitoring
	Brickfield, Old House Lane, Roydon	Importation of waste and land raising	Cease importation	Importation of waste, subsequently raising the land for agricultural restoration. Planning permission is required. Land owner has ceased importing waste and is seeking guidance on the submission of a retrospective application in order to regularise the situation. Further visit arranged with the EA. On-going investigation.
	Land at Oak Hill Farm, Coppice Row, Theydon Bois	Materials imported from building works to AGR land	Removal of waste materials	Planning permission granted for demolition of existing dwelling and erection of replacement dwelling, large amounts of materials excavated from the ground works are on adjacent land. Continued monitoring (on completion of works materials

				should be removed.)
	Land at Weald Place Farm, Thornwood	Deposit of Waste	Enforcement Notice served	Enforcement Notice served against the unauthorised use of the land for the deposition of waste materials and consequential raising of land levels in order to remedy the breach of planning control. Appeal has been submitted, await outcome.
Harlow DC	No formal cases			
Maldon DC	No formal cases			
Rochford DC	JKS Construction, Purdeys Industrial Estate, Purdeys Way, Rochford, Essex. SS4 1LZ	Mud on Road	Monitoring visits	Mud on roads. This development is situated within a busy industrial area with a number of heavy goods vehicles from a number of businesses. The road is very muddy at times and the area is very dusty. Although it is evident that not all of the problems are directly from this site, the operators are keeping the brower running on site to control the dust and the road sweeper will be used on a daily basis. Site being monitored.
	Lovedown Farm, Hockley	Deposit of waste / landraising	Cease waste importation	No current site activity, waste importation has ceased. WPA, EA, and Natural England are consulting on action required to be taken by the landowner.
	Michelins Farm, Rayleigh	Deposit of waste / land raising	Enforcement notice served	Enforcement notice upheld by Planning Inspector. Removal of waste compliance due.
	Rawreth Industrial Estate Rayleigh Lane Rayleigh Essex SS6 9RL	Expansion of Site	Site History from Rochford DC	The current planning permission for this site does not cover the entire site area to which the operators have an Environmental Permit and it may therefore be that operations currently being undertaken on the additional land are being done so without the benefit planning permission. Operators are seeking pre-application discussions with ECC. An application will be submitted, if required.
Tendring DC	Foxhall Road, Southminster	Deposit of waste	Retrospective application	Retrospective planning application for the importation and depositing waste. Await outcome of application
	Lane Farm, Wix	Breach of planning condition (highway works)	Undertake required highway works	Operator relocating to Parkstone Quay, Harwich.
Uttlesford DC	Armigers Farm, Thaxted	Deposit and storage of waste	Enforcement notice served, clear waste from land. Monitoring visits	No appeal was lodged. Compliance required by 25 August 2013.

	Land North West of Dunmow Bypass	Construction Waste disposal on land (may be in excess of 9 years)	Awaiting Confirmation of District permission	Construction waste has been deposited on this land in excess of 9 years. The waste is from the Woodlands Park development in Dunmow and part of the planning permission relates to the use of this land and future restoration therefore a District permission. Awaiting confirmation from Uttlesford DC
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DR/38/13

Committee DEVELOPMENT & REGULATION

date 23rd August 2013

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

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

Enquiries to Tim Simpson – tel: 01245 437031

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

1. PURPOSE OF THE ITEM

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

BACKGROUND INFORMATION

None.

Ref: P/DM/Tim Simpson/

MEMBER NOTIFICATION

Countywide.

SCHEDULE**Minerals and Waste Planning Applications**

No. Pending at the end of previous month

22

No. Decisions issued in the month

4

No. Decisions issued this financial year

15

Overall % age in 13 weeks this financial year

67%

% age in 13 weeks this financial year (CPS returns count)	60%
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Nº Delegated Decisions issued in the month	2
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Nº Section 106 Agreements Pending	1
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County Council Applications

Nº. Pending at the end of previous month	11
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Nº. Decisions issued in the month	8
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Nº. Decisions issued this financial year	19
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Nº of Major Applications determined (13 weeks allowed)	0
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Nº of Major Applications determined within the 13 weeks allowed	0
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Nº Delegated Decisions issued in the month	5
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% age in 8 weeks this financial year (Target 70%)	84%
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All Applications

Nº. Delegated Decisions issued last month	7
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Nº. Committee determined applications issued last month	5
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Nº. of Submission of Details dealt with this financial year	73
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Nº. of Submission of Details Pending	92
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Nº. of referrals to Secretary of State under delegated powers	0
---	---

Appeals

Nº. of appeals outstanding at end of last month	4
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Enforcement

Nº. of active cases at end of last quarter	23
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Nº. of cases cleared last quarter	13
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Nº. of enforcement notices issued last month	0
Nº. of breach of condition notices issued last month	0
Nº. of planning contravention notices issued last month	0
Nº. of Temporary Stop Notices Issued last month	0
Nº. of Stop Notices Issued last month	0

