

DR/21/21

Report to: DEVELOPMENT & REGULATION 1st NOVEMBER 2021

Proposal: MINERALS AND WASTE DEVELOPMENT - Continuation of use of waste recycling facility without compliance with condition 11 (HGV Movement Times) of planning permission ESS/09/18/COL that was for "Erection of Clean Materials Recycling Facility at Existing Established Recycling/Recovery Facility, Relocation of Existing Staff Welfare Facility, Provision of Additional Staff Parking, Culverting Section of Existing Swale, Addition al Landscaping, Rainwater Harvesting together with amendments to site operating hours and HGV movement times to permit 24 HGV Movements between 07:00- 16:30 hours on Good Fridays" to now allow for 6 HGV movements between 05:30 – 0600 hours; 10 HGV movements between 06.00 – 07.00 hours and 10 HGV movements between 07.00 – 07.30 hours to allow more flexibility in early morning movements periods.

Ref: ESS/11/21/COL

Applicant: Colchester Skip Hire

Location: Greenacres, Packards Lane, Wormingford, CO6 3AH

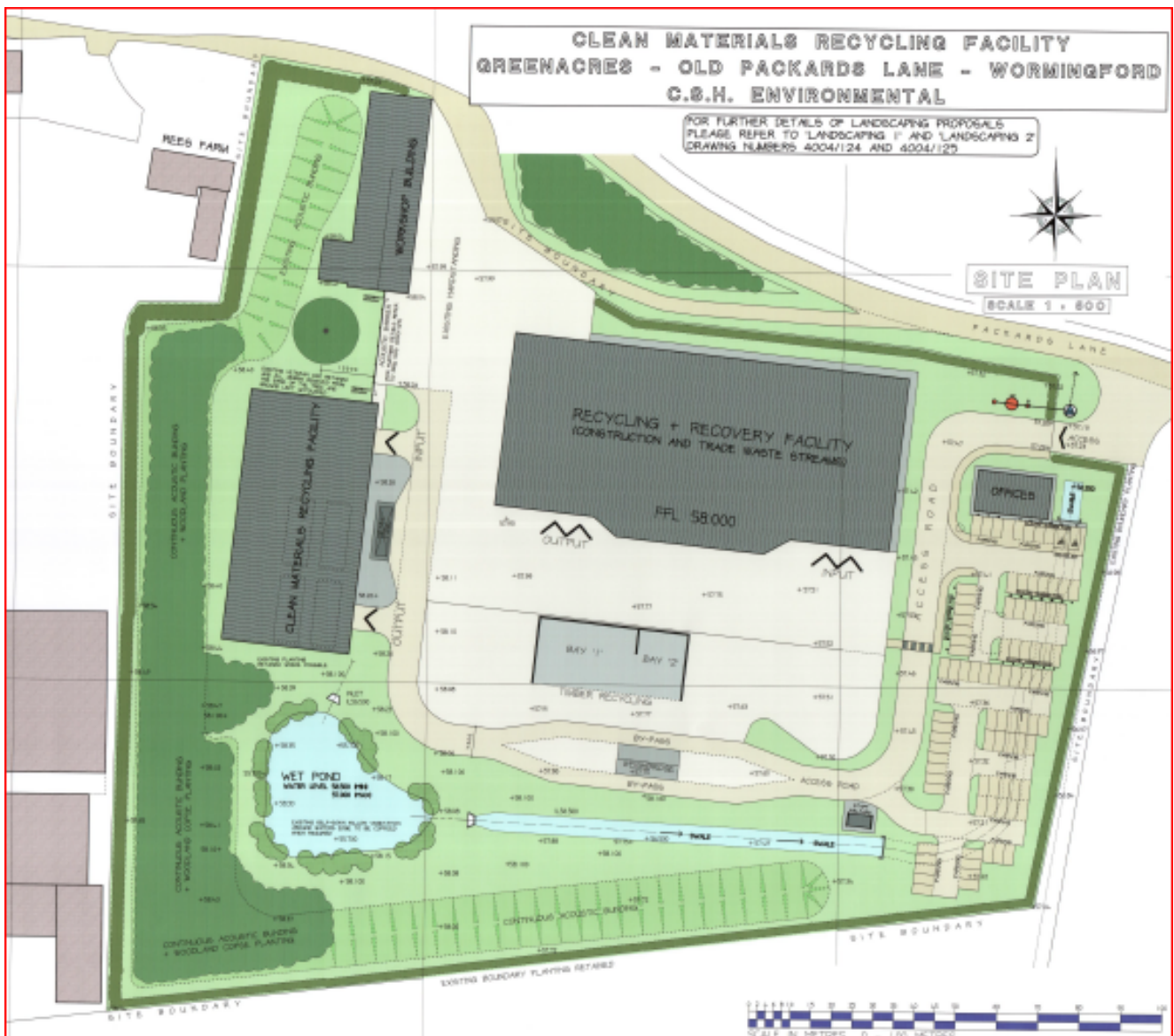
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The full application can be viewed at <https://planning.essex.gov.uk>

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1. BACKGROUND AND SITE

The present Colchester Skip Hire waste management facility was granted approval on appeal in July 2012. The presence of the operator's business at this location goes back to the late 1980's. Implementation of the appeal permission took place with the commissioning of the recycling/recovery building in 2014.

The business is restricted by planning condition restricting a yearly throughput of some 50,000 tonnes comprising a mix of commercial; industrial; construction and demolition wastes. Food wastes are diverted away from the site directly from source to off-site energy recovery facilities.

The business sees the above waste types collected in the operator's own skip/dustcart type vehicles. Collected loads are then delivered to the site during the business day and sorted within the recovery building the largest of the sites three buildings (the other two comprise the site offices and the storage/maintenance

building). A number of planning applications have been determined for the site addressing:

- ESS/21/16/COL (approved July 2016) that provided for the use of the end bay in the workshop/maintenance building to be used for the storage of dry bales and upgrading of part of the northern site perimeter fence. All other activities of waste handling are required to be taking place within the recovery building.
- ESS/29/16/COL (approved October 2016) that provided for continuation of timber processing within designated outside storage bays.
- Good Friday working - ESS/18/17/COL; ESS/05/18/COL with the most recently permitted; ESS/15/19/COL, these three permissions provided for site operations and HGV movements to take place on the respective 2017; 2018 and 2019 Good Fridays.
 - New Building – ESS/09/18/COL was approved in August 2019. Implementation of the permission with ground works initiated has begun.
 - Early Morning Operating Hours - ESS/04/20/COL. Refused March 2020.

At the time of the original application and subsequent appeal, the site saw the involvement of the local action group, Residents Against Skip Hire (RASH), principally comprising the occupiers of the site's three nearest local properties. Their involvement post the appeal Inquiry has continued and relations between the local residents and the site operator have been strained. Over the years the complaints received by the Waste Planning Authority (WPA) have, amongst other matters, comprised noise (mainly reversing beepers), odour, lighting, cladding requirements of the buildings and the positioning of bunding. Of more recent times the issue of noise has been the main concern.

In an effort to establish better relations and understanding on both sides of each other's concerns, a site liaison meeting was initiated by the Waste Planning Authority, comprising the site operators, two of the three original local residents (the third being involved during the early stages although subsequently, and at their request, left out of being party to liaison minutes and invitations), Local Member, County Council Portfolio Holder for Waste; Parish Councils (both Wormingford and Fordham), the WPA and Environment Agency. Invites are also extended to the District Council Member and Planning and Environmental Health Officers.

Pre-Covid 19 lockdown; meetings were held about twice a year and the two original residents have now moved on. Invitations to the new local residents to attend have not been taken up. Whilst issues remain between the remaining original local resident, comments received from them do get raised at the meetings. It is always open to that local resident and for others to raise issues and use the liaison meeting as an avenue for issues to be raised and for following site progress. The meeting has been useful in maintaining face to face contact between interested parties.

In what could be called the Post Covid 19 aftermath, the resumption of the liaison meetings is forecast although it is recognised that there remain frictions between the operator and parish councils which appear to have been taking place outside of the site and the liaison meetings themselves.

The Committee will be aware from previously presented reports that local residents had felt that the operator has not been acting as a good neighbour nor that the Waste Planning Authority (WPA) and Environment Agency who it was felt were ineffective in their dealings with the operator.

Over the history of this site the WPA has been working to help steer the operator to achieving its responsibilities as well as addressing activities that have developed as the business has grown and which required regularising. The WPA has had, and continues to progress, meetings with both the operator and agent (together and separately) in identifying and working through the site operator's activities and future aspirations whilst also liaising with local residents' separately as well as acting as a mediator between the parties, where appropriate.

Site

The existing waste management facility comprising some 4.2 hectares of land, takes access off and lies to the south of Packard Lane which links the Fordham Road (Fordham to Wormingford) and the B1508 (Wormingford to West Bergholt). Immediately bounding the northern site perimeter is a narrow single track lane, Old Packard's Lane, which forms a crescent shape link on to and separated from Packard Lane proper by a narrow belt of mature woodland and which provides access for a number of the residential properties that lie immediately adjacent to the application lands western boundary. Agricultural land lies beyond both the road and to the south and east of the application land. To the immediate north west beyond the application lands bunding and vegetated perimeter boundary lies the nearest of the three closest residential properties, Rees Farm. "The Coach House" and "Rochford's" (a Grade II Listed Building) are situated further to the west beyond the garden of Rees Farm.

A Public Right of Way follows the eastern perimeter. Abutting along the western/south western boundary lies a small light industrial/warehousing complex. Further north west sited beyond Fordham Road lies a large crisp manufacturer together with an associated onsite anaerobic digester facility.

The site accommodates at present the existing recycling/recovery building (measuring some 97 x 47 metres x just over 11 metres to ridgeline) and site offices. The new recently approved additional building would be located to the west and comprise a building some 60 metres x 30 metres x 11.43 metres to ridgeline.

The waste management facility handles some 50,000 tonnes per annum of principally commercial and industrial waste streams with a small proportion of commercial and demolition.

Permitted operating hours are Monday to Fridays 07:30 – 18:30 and Saturdays 07:30 – 13:30 hours. There is no Bank Holiday working; however, the operator has been permitted over the last three Good Friday periods provision to operate HGV movements from and back to the site for collection purposes only.

Provision allows restricted HGV movements outside of the normal permitted hours.

HGV movements are restricted to 150 movements per day Monday to Fridays and 74 movements per day on Saturdays.

As a result of the issuing of ESS/09/18COL the applicant has submitted various schemes as required by the permission. Site activity has taken place such that whilst the applicant has not formally confirmed as required by condition of the implementation of ESS/09/18/COL; to all extent and purposes that permission has been implemented through the scale of groundwork undertaken in preparation for the new building.

This extant permission has conditions, similarly worded to the previous permission, on HGV movements and these are set out below under the Proposals section.

2. PROPOSAL

This application seeks to address the reasons for refusal, in relation to ESS/04/20/COL that sought changes to early morning HGV movement periods. The refusal reasons were: "The proposed early morning vehicle movements (between 05:30 – 06:00 hours) and associated activities (arriving site personnel and their preparatory activities in preparing the HGV's) would cause harm to the rural character of the locality and harm to local amenity from unacceptable noise emissions and artificial light pollution, as well as insufficient information to demonstrate that there would not be harm to nocturnal wildlife, contrary to"

ESS/09/18/COL has operating hours and HGV movement times restricted by condition reading (with the applicants proposed changes in bold and where wording has now been deleted these are struck through):

“Environmental Protection Operating Hours

Environmental Protection
Operating Hours

- (10) The development hereby permitted shall only be carried out during the following times:

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

And, at no other times or on Sundays, Bank or Public Holidays (except for Condition 11 (ii) below).

Reason: For clarity and to control the operating hours against which the application was determined and in the interests of limiting the effects on local amenity, to control the impacts of the development and having regard to The Essex and Southend Waste Local Plan (adopted July 2017) Policy 10.

HGV Movement times

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

Mondays to Fridays: 150 (75 in/75 out) movements
Saturdays: 74 (37 in/37 out) movements
Sundays and Bank/Public Holidays: none (subject to (vi) below)

- (ii) Outside the hours specified in Condition 10 above, any HGV movements associated with the site shall be limited to the following times and numbers:

Mondays - Saturdays: **05.30 -06.00: 6 movements**
06.00- 07.00: **6 10 (3 in/3 out) movements**
07.00- 07.30: **6 10 (3 in/3 out) movements**

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

For the avoidance of doubt, all movements permitted under Condition 11(i) shall count towards the daily limit for that day as set out under Condition 11 (ii).

- (iii) All movements before 07.30 (**07.00**) on any day, permitted under Condition 11 (ii) above shall be limited to out-bound movements only.
- (iv) All movements between 06.00 (**05.30**) - 07.00 on any day, permitted under Condition 11 (i) above shall exit the site by turning right only, towards the B1508.
- (v) No HGV movements of any kind shall take place prior to 06.00 (**05.30**) on any day, or after 18.30 on Mondays to Fridays, or 13.30 on Saturdays.
- (vi) For the purposes of this condition, and for the Good Friday Bank Holiday only, 12 refuse vehicles shall be allowed to leave the site between the hours of 0700 – 07:30 hours and return no later than 16:30 hours making a total of 24 movements. Upon return the 12 refuse vehicles shall park up on the access road in the area coloured red on Drwg No: 120 entitled "Recycling and Recovery Facility Variation of Conditions 03 and 04 Bank Holiday Working" dated Feb 2018.

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

Reason: For clarity and to control the vehicle movements against which the application was determined and in the interests of limiting the effects on local

amenity, to control the impacts of the development and having regard to The Essex and Southend Waste Local Plan (adopted July 2017) Policy 10.

In support the applicant has stated that “*Need and Principle of Development*

The proposed development involves the continued lawful use of the existing site together with allowing HGVs to leave the site from 05:30 which is 30mins earlier than the currently permitted periods. There is no proposed change to the amount or type of waste handled on site nor total amount of HGVs that can enter and leave the site.

WLP Policy 1 identifies shortfalls in waste management capacity and how development would be permitted to meet that shortfall. Although the proposal does not seek to increase the amount of waste accepted or treated, it would ensure that management of waste continues in a sustainable way. Allowing HGVs to leave the site earlier would result in reduced HGV movements during peak traffic periods which in turn would reduce congestion to the surrounding highway network and in town centres including other urban areas where the applicant undertakes their collections. It would also allow waste to return to site earlier, allowing enhanced recovery of waste materials processed within the permitted hours of operation which again, assists the sustainable recycling of material. This, along with currently permitted operations, would ensure no further shortfalls of waste handling would occur, thus aiding the recovery of waste.

Therefore, it is considered that the proposal complies with WLP Policy 1.

The principle of WLP Policy 2 is to ensure permitted waste management facilities, such as the applicants site are protected when a proposed non-waste site may compromise its operation. The applicant’s site has been afforded this level of protection because the Waste Planning Authority (WPA), when producing the WLP, felt it important to grant the site this protection from non-waste related developments that could object to the site’s operation as a key facility in assisting the WPA with maintaining its ability to manage waste arising within its administrative area. The WPA therefore acknowledges the importance of this site and its contribution towards the management of waste. This current application simply seeks to improve the existing operations that are carried out on the site. Granting planning permission for the proposed change to the HGV movements would also ensure that the site would in the future be protected from any potential development in the surrounding area, thus allowing the continued and long term operation of a recycling facility that contributes to maintaining the management of waste capacity in accordance with WLP Policy 2.

The proposal provides for environmental benefits through enhanced recycling and recovery of materials from the waste stream which is a key local and national policy driver. Allowing a limited number of HGVs to leave site from 05:30am would allow those HGVs returning back to site the ability to unload waste onto the processing plant earlier for recycling. Unloading waste would continue take place within the permitted waste processing times of the extant planning permission, however, due to missing traffic during peak traffic periods, currently, this process is being unnecessarily delayed.

HGVs returning to site earlier would allow for the plant to operate at lower speeds

which enhances the ability for the plant and pickers to retrieve more recyclables from the waste (e.g. plastic, glass and metals). In short, the proposal would simply allow more time to process waste which would allow for better recycling and this, in turn, would have a positive impact on the environment.

Impact upon amenity

WLP Policy 10 states, inter alia, that waste management development will only be permitted where it can be demonstrated that the development would not have an unacceptable impact (including cumulative impact in combination with other existing or permitted development) on local amenity. This is supported by the aims of Development Policy DP1 of the adopted Local Plan for Colchester. The following sections assess the proposal with regards on its impact on neighbouring amenity.

Noise

This application is supported by an environmental noise assessment. This was undertaken at two of the closest noise sensitive receptors which are close to Rees Farm and the entrance to Grove Farm. The site contains an existing lawful operational waste management facility which benefits from acoustic bunding for which planning permission was granted on appeal. The proposed changes to the current permitted number of HGV movements are shown in table 1 below.

Table 1: Proposed HGV movements compared to permitted HGV movements

The noise monitoring was continuous from 05:30 to 07:00 on Wednesday 11th November 2020. During the survey, the maximum number of HGV movements leaving the site during a 15 minute period (06:00 - 06:15) was ten. This is the maximum being applied for within a 30 minute period. Throughout the noise modelling the site was operating within normal permitted parameters and the data collected showed that for Location 1 (close to Rees Farm) noise from HGVs moving within and leaving the site were just audible but did not influence the measures levels of ambient noise. The report explains that it is unlikely that inside, even with windows open, the noise from the HGV movements leaving the site would be audible whereas the Flatman Poultry site noise would be expected to be clearly audible.

At Location 2 (entrance to Grove Estate) there were no HGV movements recorded between 05:45 and 06:00 but 10 movements during the following 15-minute period. The increase in ambient noise due to the HGV movements in the worst case 15-minute period was 2.8dB.

The results from the noise survey clearly show that there is little difference in ambient noise between 0 and 10 HGVs movements. It also concludes that six movements in the half hour 05:30 to 06:00 would give a smaller increase in ambient noise levels than the 10 movements measured within a 15-minute period (as set out above). The noise impact assessment for the proposed period between 05:30 and 06:00 would therefore be no worse than that from 06:00 to 06:15, as currently permitted.

Table 2 below sets out the IEMA Noise Impact Effect Descriptors which is, as follows: Table 2: IEMA Noise Impact Effect Descriptors

The DEFRA Noise Policy Statement for England (NPSE) is referred to in the Framework (paragraph 180) and this sets out that the Government's policy is to "avoid significant adverse impacts on health and quality of life" due to noise. Given

the NPSE guidance that noise from a development should not give rise to significant adverse effects, it is clear from Table 2 above, and the results of the noise monitoring which was undertaken over a 15-minute worst case scenario period, that the proposal would fall within a “slight impact” category. For the longer assessment period, i.e. 30mins or the period when fewer HGV movements occurred from the site, the increase in ambient noise level would be lower and fall into the None/Not significant category of Table 2.

The development is therefore not considered to have a harmful impact on the amenities of neighbouring occupiers.

Notwithstanding the above, and to further avoid any potential impact on neighbouring occupiers, it is important to note that the nearest noise sensitive receptors are located to the north west of the site, while it is proposed that HGV’s will only be allowed to leave the site to the right, i.e. in the opposite direction of the residential properties which is as per the current permitted use.

Lighting and Ecological Impacts

The application is also accompanied by a Lighting Assessment which presents the predicated night-time artificial lighting effects on existing receptors that are likely to result directly from the proposal. This Lighting Assessment has also been informed by the Preliminary Ecological Appraisal update and Bat Survey which has been undertaken to ensure no impact arises with regards to ecological matters. The Lighting Assessment considered the site as rural surrounding, due to its outer suburban location and was therefore placed in the more stringent zone for assessment which is E2 as shown in Table 3 below. It is also important to note that when lighting assessments are undertaken, they consider sites to be flat topography (with no dips or bunding taken into consideration) and with no vegetation surrounding the site which could reduce light spill.

Table 3: Environmental Zones (extract ILP GN01)

In summary, the Lighting Assessment demonstrates that lux levels in the immediate areas around the veteran tree, hedgerow and pond will be below level 3 with the lux level climbing to the east of the veteran tree and pond into the existing site away from sensitive receptors to the west with Lux levels being no different to existing approved lighting. The assessment also highlights that using the methodology proposed that the Lux level at the nearest residential property (Rees Farm) would be Lux 0.

It is therefore held that there would be no impact upon amenity from light spillage which is further endorsed by the fact that the Lighting Assessment has used the E2 criteria and would not have taken into account the fact that the site is surrounded by bunding and fencing which stops lights from HGVs spilling outside the site. This coupled with existing tree and hedgerow planting already reduces light pollution from the proposal.

Consequently, it is rightly considered that the proposal would not cause an adverse impact to nearby sensitive receptors from light pollution; however, it is also important to assess the potential ecological impacts from lighting.

WLP Policy 10, in summary, permits waste management development where it can be demonstrated that it would not have an unacceptable impact on the natural and

geological environment (including internationally, nationally or locally designated sites and irreplaceable habitats), among other requirements.

The bat survey demonstrates that bats use the site irrespective of the existing lighting and were identified foraging around the floodlights on site. The evaluation section of the report notes, in summary, that the data indicated bats using the site are tolerant of levels of lighting and disturbance. Bats were recorded up until 05:38 which is minutes prior to sunrise, indicating presence of a bat roost close by however, no bats were observed returning to any buildings or trees on/adjacent the site during the survey.

The bat activity impact assessment highlights that the proposal will involve altering the operational hours, to enable drivers to start at 05:30am, 30 minutes earlier than existing. It is noted that the Preliminary Ecological Assessment (2018) (PEA) recommended that work should not take place between sunset and sunrise between April and September, but this is not based on any bat activity data and it is an assumption that earlier start times would impact bat activity.

The assessment notes that in April, sunrise is after 05:30 and therefore any alteration to working hours during this month could in theory impact bat activity. During April, bat activity is low and restricted to warmer nights (when temperatures exceed 10 degrees Celsius). This is reflected in the Bat Conservation Trust's 2016 Guidelines which only recommend emergence/re-entry surveys between May and August inclusive, because bat activity can be inconsistent. Therefore, bat activity during April, when the earlier operational hours include the period of time bats could potentially be active will be limited and sporadic. Given the position in the landscape, there is no reason to suspect that bats would commute across it to access summer roosts.

Between 1st May and 9th August, sunrise is prior to 05:30. The PEA and Bat Assessment highlights that during this period the earlier start time will have no impact on bat activity as bats would have already returned to roost by the time the proposed HGVs left at 05:30am. From 9th August onwards, sunrise is after 05:30am, meaning that any bat activity between 9th August and the end of the bat active season (October) has the potential to be affected by the alterations in operational hours. Soprano pipistrelle is known to return to roost until sunrise, but there is no available building or tree roosting habitat on site, so foraging bats using the site will leave earlier, as demonstrated by the last bat being detected at 05:38, 22 minutes prior to sunrise. This leaves a small window of 8 minutes where the earlier operational hours would come into conflict with bat activity. Notwithstanding this, soprano pipistrelle are known to be tolerant of light, as demonstrated by the bat transect data which demonstrates that bats will readily fly and forage around floodlights.

The assessment concludes that when taking all factors into consideration, there is no reason that altering working hours would impact bat activity, by virtue of the species' tolerance to light and disturbance, the limited time window where bats will be active during operational hours and the times of year (April and 9th August onwards) where sunrise is later.

To ensure due diligence, impacts on other nocturnal species were assessed and it is noted that no other nocturnal animal species (e.g. badger, hedgehog) were observed using the site during the dawn bat survey, and there is no reason to suspect that a change to working hours would impact any nocturnal wildlife.

The updated Preliminary Ecological Assessment and accompanying Bat assessment identified all ecological constraints to development and considers

there is no overriding reason to refuse a planning application on biodiversity grounds. The development is therefore considered to maintain the ecology status of the site as per its existing lawful use, in compliance with WLP Policy 10.

Conclusion

For the reasons set out in the above assessment, we believe that the proposal to allow HGV's to leave the site between 05:30 and 06:00 (note they are already permitted between 06:00 and 07:00 although at a lower number of six with an increase in 4 movements being sought) constitutes sustainable development that would be entirely appropriate in planning terms. National and local planning policy acknowledges the need to reduce the amount of waste going to landfill through recycling and the proposal would provide an environmental benefit because it would assist with reducing congestion in town centres and other urban locations by virtue that they HGVs gain access to these areas outside high traffic commuter periods. It would also allow unloading of HGVs from 07:30am onwards giving a greater period throughout the day for recycling as the plant can operate at lower speeds aiding with recovery of waste.

The proposal would not increase the amount or type of waste, the total number of vehicular movements currently permitted or the hours of operation for processing. The site is located within an existing permitted materials recycling facility where the use of such facilities within this location was deemed appropriate through the grant of previous planning applications.

Furthermore, the details of this application have demonstrated appropriate mitigation against the potential impacts of the proposed development to adjacent residential properties and sensitive areas. The proposal fully accords with both local and national planning policies, which seek to encourage economic development and would have a positive impact on the environment".

3. POLICIES

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

The development plan comprises:

- i) The Essex and Southend Waste Local Plan (adopted July 2017)
- ii) Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014).
- iii) Submission Colchester Borough Local Plan 2017-2033:

Other material considerations include:

- i) The National Planning Policy Framework (NPPF) July 2021.
- ii) The National Planning Policy for Waste October 2014
- iii) Planning Practice Guidance
- v) "Resources and Waste Strategy "Our Waste, Our Strategy Our Resources A Strategy for England" 2018.

The following policies of the Essex and Southend Waste Local Plan (adopted July 2017) and the Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014). (paraphrased or in quotation marks if set out in full) are of relevance to this application:

In the Essex and Southend Waste Local Plan (adopted July 2017) relevant policies are:

Policy 10 (Development Management Criteria)

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

- iii) Local amenity
- iv) Safety and capacity of road network
- v) Appearance quality and character of the landscape and visual environment.
- vi) The natural environment

Policy 12 (Transport and Access)

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

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

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

In the Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014).

Policy DP1: Design and Amenity (Revised July 2014) which requires development to be designed to a high standard, avoid unacceptable impacts on amenity, and to protect existing public and residential amenity, particularly with regard to amongst other matters noise and disturbance.

The policies of the North Essex Authorities’ Shared Strategic Section 1 Plan (Adopted February 2021) are relevant where applicable. In respect of this particular application, Policy SP1 “Presumption in Favour of Sustainable Development” within this plan is considered to be most relevant.

Section 2 of the Colchester Plan is currently being examined by Inspectors appointed by the (newly called) Secretary of State for Levelling Up, Housing and

Communities. In terms of progress, following examination session, Colchester are proposing Main Modifications, however their consultation on these is currently on-going (4 October to 15 November 2021). Whilst Section 2 of the Plan progressing, as neither have yet been found sound, it is not considered that full weight can be given to these policies. That said, given the stage of this Plan, it is considered that reference, as appropriate, can be made to policies which are of relevance.

Section Two Colchester Local Plan – Publication Draft (2021)

ENV5 – Pollution and contaminated land, that supports proposals provided, inter-alia, they do not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to the potential of air pollution, noise nuisance, surface / ground water sources or land pollution.

DM15 – Design and amenity that states, inter-alia that development proposals must demonstrate that they, and any ancillary activities associated with them, will protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight;

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

For decision-taking the NPPF states that this means; approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole.

Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014).

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

according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Sustainable development is at the heart of the NPPF which sets as its beacon the Brundtland definition (United Nations General Assembly quote prior to Paragraph 6). The Government's "broad" interpretation has the NPPF setting the scene for placing sustainable development at the heart of the planning system with three principally dimensions; that of economic, social and environmental. The Government sets a series of core planning principles to be applied at both plan making, as well as at decision making and that these include in relation to this application:

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

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

The NPPF recognises that transport issues, through their movement and mode contribute to facilitating sustainable development and that encouragement should be given to reductions in greenhouse gases to help towards achieving a low carbon future. Furthermore, promoting and exploiting such opportunities for sustainable transport development can be assisted through appropriately located and designed development that accommodates the efficient delivery of supplies.

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

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

National Planning Policy for Waste (NPPW)

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

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

Waste planning authorities should also:

“undertake early and meaningful engagement with local communities so that plans, as far as possible, reflect a collective vision and set of agreed priorities when planning for sustainable waste management,.....;

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

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

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

Resources and Waste Strategy “Our Waste, Our Strategy Our Resources A Strategy for England” 2018.

This guidance strategy is primarily focussed on “preserving the stock of material resources through waste minimisation, promotion resource efficiency and moving towards a circular economy. The strategy blueprint is to eliminate plastic waste over the lifetime of the Governments 25 Year Environment Plan.

The strategy sets out steps to promote the market for recycled plastic via the tax system. It recognises and seeks improvements in the raising of recycling quality and quantity standards and investment in the domestic recycling materials market.

The Strategy seeks to preserve the stock of natural resources through waste minimisation, promoting resource efficiency and moving towards a circular economy. The strategic blueprint is to eliminate avoidable plastic waste over the life time of the Government's 25 year Environment Plan.

The strategy seeks to promote the recycling process that keeps resources in use for longer periods and prevents damage to the ecosystem. Within the strategy it acknowledges that valuable recyclate is lost to landfill/incineration and there is thus a need to preserve our stock of natural capital.

4. CONSULTATIONS

COLCHESTER BOROUGH COUNCIL: *“Objects to the application and agrees with the concerns raised by the Parish Council, as attached below. Further CBC comments may follow dependent upon consultee responses”.*

WEST BERGOLT PARISH COUNCIL: *“West Bergholt Parish Council would support Wormingford Parish Council wholeheartedly in their objection in respect that the earlier operating hours will impact on West Bergholt. When granted planning permission previously, the Council believed it was on the understanding that there would be no additional applications for earlier times or increased HGV movements”.*

WORMINGFORD PARISH COUNCIL: *“Wormingford Parish Council discussed this application at their meeting on the 11th February 2021. It was the Council's view that there is no material difference between this application and the one rejected by ECC last year. Consequently our response remains very much the same as our response in 2020 and would ask that this application is rejected. Wormingford is situated in a rural location in North Essex on the border with Suffolk, parts of our village are within the boundaries of the Dedham Vale AONB. Over the last ten years residents have witnessed a significant reduction of amenity due to the increasing industrialisation of our small community. We have seen the arrival of a crisp manufacture with its associated odours and vehicle movements. We have experienced the development of a large gas generating bio-digestion plant processing maize, rye and grass to produce gas which is fed into the national grid. This again generates a very substantial number of vehicle movements at the various harvest times throughout the summer. We have Colchester Skip Hire (CSH), a business processing and recycling waste; a commendable activity in today's environment but one which again generates many vehicle movements, produces noise, light pollution and odours. Against the above background Wormingford Parish Council wishes to express it's concerns that any change to CSH's working or transport operating hours, which extend the existing operating times will have a significant impact on the amenity of the residents living nearby or residing close to routes used by CSH's often noisy, clanking vehicles!*

Operating vehicles from 05.30 will result in greater disturbance for residents living in the vicinity as staff will invariably arrive prior to opening times. This would cause harm to the rural character of the locality and harm to local amenity from unacceptable noise emissions and artificial light pollution. This problem is not confined to the residents in the immediate vicinity and will impact on those villages such as Fordham and West Bergholt which are along the routes used by staff coming to work. It is also our belief that once CSH's gates have opened in the morning that other vehicles not owned by the Company will be able to access the site to deliver or collect without restriction which potentially will add to the levels of early morning disturbance.

In addition to noise problems associated with vehicles and recycling processes which are experienced by nearby residents there is a light pollution issue; complaints have been made about lights being left on continuously over weekends. This is most unsatisfactory and is in breach of existing restrictions. This is just one example of how existing regulations are abused.

The last planning application sought to try and relocate the car parking closer to the boundary reducing the existing landscaping; this proposal seeks yet again to further erode the existing boundary landscaping and therefore reducing the buffer to the surrounding area making the site more visible, which is unacceptable.

Also by relocating the car parking this removes the existing swale and would harm the existing ecology within the area at the expense of further hardstanding to accommodate car parking. The loss of a natural filtering swale and conversion to a pipe culvert is not in keeping with current ECC SUDs recommendations. As such both of these items are in our opinion unacceptable.

Wormingford Parish Council is very concerned by the continual pressure being exerted by local businesses including CSH to increase their operating hours. This would not be an issue if these businesses were situated in an appropriate business park served by a decent road infrastructure. However this is not the case in their current rural location and any further expansion comes at a considerable cost for the residents of Wormingford and nearby villages. In our opinion this is an unacceptable price to be paid and we seek your support by asking you to reject this application”.

Following the revised details: “Wormingford Parish Council’s view has not changed since the comments made on the 12th February 2021 despite the additional documents. Extending working hours will be detrimental to residents and sets a precedence going forward. We would ask that Essex County Council reject this application in order to protect the amenity to residents and neighbouring villages”.

FORDHAM PARISH COUNCIL: “Although this application falls within the bailiwick of Wormingford Parish Council it nevertheless has a negative impact on our village and its resident population, therefore Fordham Parish Council consider it necessary that the views of our Parish are also taken into the decision making process.

We concur with the opinions /views proffered by our adjoining Wormingford Parish Council, that the noise/disturbance that will be created by this proposed earlier business working hours will impact on the residents as the vehicles traverse the already severely damaged Roads through Fordham Village.

The existing times as they stand should not be changed for the benefit of CHS and the detriment of the residents of Fordham Village therefore Fordham Parish Council object to this planning application”.

Following the revised information the Parish commented: *“Fordham's main issues are damage to the roads/ speeding/ volume /noise of traffic through the village at all times of the day which CSH and Fairfields Farm are both contributors.*

There are no further comments from Fordham at this time. The comments still stand in that they do not support the amendment the operating hours and that what is in place already has a negative impact on the village”.

COUNTY COUNCIL’S LIGHTING CONSULTANT – *“We are therefore unable to support this application at the present time. We would require the applicant submits additional information highlighted above and which demonstrates, in accordance with the National Planning Policy Framework, that the proposals limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.*

COUNTY COUNCIL’S NOISE CONSULTANT (CNC) : *“The noise assessment undertaken to support this application has not included the full time period for where the applicant is seeking changes to the number of movements. This period (i.e. from 05:30 to 05:45) is considered essential to support the application. In addition, it cannot be confirmed that the proposals can comply with the existing planning noise limits detailed by Condition 12 of ESS/09/18/COL for the early morning period.*

We are therefore unable to support this application at the present and we require the applicant to submit further details to sufficiently cover the period where changes are sought. Furthermore, compliance with the existing planning conditions should also be demonstrated”.

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

HIGHWAY AUTHORITY – No objection.

PLACE SERVICES (ARBORICULTURE): Support subject to conditions to address any additional car parking and landscaping measures.

PLACE SERVICES (ECOLOGY) Commented “We have reviewed the letter from Hybrid Ecology Ltd, dated 25th January 2021, entitled Preliminary Ecological Appraisal update and Bat Survey – Application: ESS/04/20/COL, relating to the likely impacts of development on protected & Priority habitats and species and identification of proportionate mitigation, and the Lighting Assessment (Create Consulting Engineers Group, October 2020).

Before setting out a final view, we seek further clarification on a number of issues, as set out below.

The ecologist visited the site in August 2020. The Bat Survey advises that Bats already using the site may be slightly affected in April and from 9 h August to the end of the active season in October, which is approximately half of the active season. However, the only bat species seen on the Bat Survey to be

using the site were those that can tolerate such lighting.

This is probably to be expected, given that there is already some flood lighting on the site all night. It is noted that lorries started arriving at approximately 5am on the morning of the bat survey, when it is understood that the current permission is for no earlier than 6am (ESS/09/18/COL, Condition11).

We seek clarification on the continuous floodlighting being on all night as it is understood that this should not currently be occurring. Light sensors should be used instead. We also seek clarification as to why lorries are already using the site at 5am.

Notwithstanding the above, the proposals can be made acceptable, providing that the above issues can be resolved and it can be clarified that only the lighting currently permitted is being used and there is no continuous lighting”.

PLACE SERVICES (HISTORIC BUILDINGS) – No objection

PLACE SERVICES (HISTORIC ENVIRONMENT) – No objection

PLACE SERVICES (LANDSCAPE): Objection. The Landscape Officer has commented that *“The proposed amendments to the permitted access hours and numbers of HGVs serving the waste recycling site will have an impact on the local rural environment in terms of tranquillity, lighting, noise, vehicle movements. There will be a consequent adverse impact on landscape character and residential amenity.*

The extension of the car park on the east boundary of the site has resulted in parked vehicles being placed close to the boundary hedge removing the landscape buffer. Both the car park and site vehicle movements are more prominent in views from the eastern approach to the site.

There are outstanding aspects relating to the slow progress on implementation of the approved landscape scheme and its subsequent management which does result in concerns relating to the effectiveness of the planting to reduce the prominence and impact of the facility on the rural environment. Whilst this matter is in hand it does highlight the need to ensure that other activities, which will result in further incremental impacts, continue to be carefully controlled. There is a need to ensure that the operational does not create further adverse impacts on the character of the local environment”.

PLACE SERVICES (URBAN DESIGN): - No objection

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

The determination process of this application overlapped with a council local election process. The Former Local Member responded on this application stating: “I support everything that the two parish councils say about this application. No change should be made in the hours that this business is able to function”.

REPRESENTATIONS

5.

Site, press (Essex County Standard) and neighbour notification (22 properties) was undertaken and as a result 8 representees have made representations concerning the original and re-consultation process.

The representations relate to, in summary:

Observation

Comment

1. For vehicles to leave at 5.30am the site needs to be illuminated at or shortly before 5.00am causing light nuisance to residential properties. This will be particularly bad in Winter when the area is very dark. No other business in the vicinity start this early and the rural roads are unlit meaning CSH will light up a dark location.

Noted and addressed where relevant in appraisal

2. Staff vehicles will be arriving at this time and there is already a great deal of noise associated with the vehicles leaving in the morning including idling of engines, compressors to pump up tyres, slamming of doors and reversing beeps. Bringing forwards the vehicle operations will make the nuisance even worse during a time when it is reasonable for residential occupants to expect the area to be quiet.

3. As for Good Friday CSH are now moving towards turning this into a normal operating day. This might now be the norm for retail units but surely not for waste operation adjacent to residential properties.

4. They should be confined by the fact that they have chosen to operate directly next to residential properties.

For vehicles to leave at 5.30am the site needs to be illuminated at or shortly before 5.00am!

My wife and I would like to object to this application for the following reasons: 1.

Noted and addressed where relevant in appraisal

A very similar application by CSH was recently refused. We do not see that anything has changed to affect the previous refusal. 2. This application would reduce our amenity even further. 3. 4 of the 5 nearest building to us are residential. This is NOT an industrial area. Starting vehicle movements at 5.30am is not appropriate for a primarily residential area. 4. For vehicles to leave at 5.30am staff would need to arrive on site much earlier generating noise and light during a period which should be quiet according to the statutory nuisance statements within the Government's website. 5. This application would mean noise and light pollution even earlier in the day for 6 days of the week only providing respite on Sundays.

I wish to object in the strongest terms to the application for change of hours. We are already greeted at a few minutes past 7am with the clanking of the chains on the skip lorries (all without dampers), the shaking of the house and the empty trailers towed behind making a dreadful noise as they pass over the bumps. The noise starts as they enter Fordham and lasts until they reach the river at the bottom of Mill Road. When Skip Hire was originally allowed to operate, it was on the basis that the lorries turned right out of the yard onto the B1508. I am not suggesting people on that road should suffer, but it shows how the conditions have been manipulated by Skip Hire. With Fairfield about to begin their hundreds of movements a day to plant potatoes and deal with the digester waste, life will be unbearable if any extension to hours at all is permitted. This is a minor road and Skip Hire is in totally the wrong place. Huge lorries come past before 7am to remove waste from Skip Hire's site - how is this permissible

I have read through the new noise report that covers the site and adjoining farm but does not address the roads

Noted and addressed where relevant in appraisal

Noted and addressed where relevant in appraisal

from A12 to the site. Already vehicles from CSH are using Church Road before 7am - impossible if they turn right out of the yard. Sleeping in the morning is impossible, the fumes and noise caused by CSH vehicles mean that we cannot have windows open even in this heat. Residents in Plummers Road Moat Road and Church Road are ignored once again. The skip lorries do not use dampers on the chains, the empty containers make a dreadful noise on the bumpy roads. To permit earlier starting times without enforcing the present ones would show how little regard ECC Councillors and Officers have for residents.

Further to the above application I am writing to report that Colchester Skip Hire are breaching their existing commencement times. The most recent breach was this morning 17th May 2021 when the lorry passed through Church Road Fordham at 6.50am. Clearly, any relaxation of the conditions should be refused bearing in mind the failure to observe existing conditions. The enormous waste lorries that remove the sorted waste are also travelling through the village before 7am. I have already lodged an objection but felt that the above up-to-date information was germane to your considerations.

As a resident of the village of Fordham my wife and I wish to object to any variations of the operating hours Colchester Skip Hire are permitted to operate. The present situation is bad enough with their lorries thundering past our house from 07:00 and with the chains on their wagons crashing into the sides of the skips as they drive past; there is never a chance of sleeping through the noise. The thought of them starting any earlier, as they are requesting, goes beyond what any reasonable person would consider acceptable. I understand that

Noted and addressed where relevant in appraisal

Noted and addressed where relevant in appraisal

Wormingford Parish Council have also logged an objection and I would like to endorse their concerns from their neighbouring village.

Once again our lovely village of Fordham is being blighted by ongoing increases to traffic, noise and traffic safety issues by these types of companies operating in the area. I moved to this lovely village 5 yrs ago to get away from all this only to find it is now increasing in this location too. When is the councils going to stand up to these actions and not allow them to be approved. As a member of the Fordham Speedwatch I speak with experience that this is only going to increase the movement of traffic through the village and increase the safety issues on the main road. Totally object to this or any other application of this nature!

Noted and addressed where relevant in appraisal

How many time do we have the complain about these activities in our lovely village we already have speeding issues through the main road and the continuous noise of traffic which during the summer months is really intense and with windows open it is really stressfully noisy. This new activity of HGV's is only going to intensify the situation and why do they need to work on Bank Holidays please take note on the residential requests and stop this application!

CSH will not be happy until every resident of Eight Ash Green, Fordham Heath, Fordham, West Bergholt and Wormingford have upped sticks and moved because they simply cannot tolerate more and more and more movements from CSH lorries, and earlier and earlier. They are simply a blight on the afore mentioned villages. I am sure given time, they will ask to operate EVERY DAY of the year 24 hours a day. Of course it would help if CHS lorries actually obeyed the speed limits through the villages as they certainly don't during the early operating

Noted and addressed where relevant in appraisal

hours. We only get Saturday afternoons and SUNDAYS off from these lorries. Allowing this application will only fuel FAIRFIELD FARM, also located in Wormingford to ask to increase their hours etc... too. The afore mentioned villages' roads are suffering and need constant repair by ECC due to the lorries weight, the verges are being destroyed and it is nothing unusual for 2 of these lorries to meet on the local roads and have to mount the pavement to pass each other. They also fail to put any kind of silencing equipment on the chains etc of the lorries so you also hear them before they thunder past in the metal. Please do not allow this application and give the residents of the villages they blight a break.

The area surrounding the recycling plant is a rural, largely non-industrial area characterized by a number of listed buildings worthy of protection. The residential amenities in this area must be protected. We urge Council planning officers and elected representatives to retain the restrictions on vehicle movement in the early mornings on bank holidays, which mean that residents are able to get some rest and enjoy their right to peace and quiet. This is otherwise in very short supply given the significant disruption that the plant and vehicle movements cause to local residents. We are not asking for anything beyond what is reasonable - and that's that vehicle movements between 5:30 and 7am (the very early hours of the day) continue to be restricted.

Noted and addressed where relevant in appraisal

To increase even more traffic would be a terrible intrusion on Village life. Already Colchester skip hire are scaling up with one vehicle plus a second trailer the same size as the vehicle towing it. The noise these vehicles make is intolerable, our village roads are not big enough to take the existing skips to allow any increase in hours / earlier

Noted and addressed where relevant in appraisal

starts. Both Fairfields Crisp factory and Colchester skip hire are scaling up it is time the council put a stop to this activity. It is time to put public well being over commercial gain! Please reject this application.

I'm a little confused at the way planning permission is sought, this is the third or fourth iteration of this application and we have replied each time with an objection. I'm not sure if the aim is to gradually wear down the house owners in this residential area, so the planning goes through by default. I have seen on the website that the previous planning was granted - although i don't believe we were ever notified, even though there were strenuous and valid objections from numerous parties. The objections remain the same, noise, smell and dust. This is a residential area, one of the few times we get much needed time off is a bank holiday, having 10 tonne+ trucks thundering around at 5:30am is not acceptable. Residents don't mow their lawns before 9am on weekends/bank holidays out of consideration, but HGVs moving, and beeping when reversing, don't have the same consideration. At what point does this stop? At what point do you decide that having floodlights on, to light the area, for the trucks to move around is acceptable? At what point, does 24 hour working, with containers being moved and banging and crashing into each other become acceptable? At what point does the increase in large, heavy and wide traffic moving along narrow country lanes become too much of a danger to cyclists, walkers and motorists enjoying the Essex countryside become too much? There needs to be very serious consideration of the impact to the environment and the residents of the increase suggested and where this is inexorably leading.

Noted and addressed where relevant in appraisal

6. APPRAISAL

This present application seeks to address the grounds for refusal for the last application seeking the early morning time extension, ESS/04/20/COL. The background to the refusal reasons was the appraisal section of the previous report and this section is set out in Appendix A.

It is considered that the previous appraisal headings are again relevant to this application and it is pertinent that an assessment is now made as to whether this application now addresses those previous comments.

The principal issues in respect of this proposal are:

- A. Appropriate location for future expansion of activities and policy guidance.
- B. Environmental aspects –Noise
- C. Lighting/Ecology
- D. Traffic

A APPROPRIATE LOCATION FOR FUTURE EXPANSION OF ACTIVITIES AND POLICY GUIDANCE.

The business has been in operation for a number of years and as previously reported has become a successful enterprise.

The Waste Management Plan for England recognises the need for positive planning and the role waste management has as an integral element in today's society and for ensuring that all realms of society go hand in hand.

However, the National Planning Policy Framework para 185 has as previously reported "requires that new development needs to be appropriate to its location and takes account of "the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation".

Likewise, the NPPW whilst seeking to support the waste management programme balances this "without endangering human health and without harming the environment". For waste planning authorities in determining waste related applications that consideration is given to the "impact on the local environment and on amenity against the criteria set out in [within this criteria list is that of noise, light and vibration arisings including that of HGV movements] as well as ensuring that waste management proposals are "well-designed, so that they contribute positively to the character and quality of the area in which they are located."

It was against such guidance advice that the previous application was assessed and that the issues of noise; lighting/ecology and the traffic element was considered to tip that balance against the application.

The physical attributes of the waste management facility have not changed since the last applications refusal and on that basis this present application would again on the face of it be considered an unwarranted expansion/intensity of business in this location. The nature of the local environment has been referenced previously concerning the degree of its rurality.

As reported at the time of the earlier application: *“This present proposal is considered to be a significant change from the previous applications by introducing an element of expansion, in terms of the extended time period now being sought, of waste management activities within a rural setting. Such introduction would not protect nor enhance the amenity of the locality nor safeguard the quality of life of sensitive receptors.*

Whilst the applicant may not be seeking a physical “switching on” of the main recycling activities before the official site operating times; the arrival and preparation activities of site personnel associated with the HGV transport would introduce consequential noise, lighting and traffic implications. These aspects are set out further below.

Extending the time period of the “operational day” would further contribute to the feeling of creeping development and “rural dilution” by the community. The Inspector at the earlier public inquiry set the scene for this waste management facilities presence in its current form by considered the location as being suitable for waste management purposes.

Both the Inspector and the more recent committee report for the new building noted that the locality was predominantly rural. The committee report for the new building in its support for that proposal noted that previous determinations of planning applications in respect of this facility, i.e. the wood processing etc where themselves not introducing either throughput increases nor additional HGV movements.

This present application does prejudice that earlier support. This early morning additional activity would represent an unacceptable and noticeable dilution to a rural location at the expense of the community. This waste management facility now with the new building approved could be considered to have reached its natural growth state and further expansion, whether physical build or intensity, through increasing operation periods and movement numbers is not appropriate to this location.

The revisions made through this planning application are not considered such as to overcome the principal concern that this is not the location for seeking expansion and therefore in terms of the site being an appropriate location the proposals are not considered to be appropriate; represent an intensity of use and to conflict with Policy 10; DP1; Policy SP1 and emerging policies ENV5 and DM15 and not to be an appropriate setting nor contributing to sustainable development in the light of the NPPF and NPPW.

B NOISE

The previous application seeking the early morning movements was considered by the CNC as objectionable unless *“the applicant submits a noise assessment which demonstrates, in accordance with the National Planning Policy Framework and Noise Policy Statement for England that the proposals will have no significant adverse impacts on health and quality of life for local residents and that any adverse impacts on health and quality of life are mitigated and minimised. Furthermore, compliance with the existing planning conditions should also be demonstrated”*.

As part of this new application the applicant has undertaken a new noise assessment and this was further partially amended to accommodate some but not all of the CNC's comments which remain unanswered as reported earlier in this report. The CNC essentially raised comment that there remains insufficient information as to the full time period for where the applicant is seeking changes to the number of movements. *“This period (i.e. from 05:30 to 05:45) is considered essential to support the application. In addition, it cannot be confirmed that the proposals can comply with the existing planning noise limits detailed by Condition 12 of ESS/09/18/COL for the early morning period.*

We are therefore unable to support this application at the present and we require the applicant to submit further details to sufficiently cover the period where changes are sought. Furthermore, compliance with the existing planning conditions should also be demonstrated”

It is the disturbance that the local representations have again, as with the earlier application, referenced with their experience from engine noise, clanking of chains etc. The Planning Inspector at the time of the earlier appeal recognised that whilst the waste management facility location may not have been ideal, the benefits of that facility outweighed the harm. In noise terms the Planning Inspector's conditions were imposed and set the baseline for ensuring control for the undertaking of the business activities to operate alongside the adjoining neighbours.

It is important to note that the Planning Inspector when considering the original site proposed noise control conditions to secure the amenity of the local area. The Planning Inspector's consideration of the business activities was not one to which there was going to be a total absence of environmental emissions but a recognition that for the applicants then proposals that noise, did occur but on balance could be out weighted by the benefits.

Throughout the determination of this application the opportunity has been taken to seek a balance between the business request and that of ensuring the integrity of the local amenity and local residents reasonable expectations.

From a purely technical aspect the CNC has not been able to fully assess the early morning noise levels and so give advice either way.

As the application has progressed one of the areas looked at from a Planning Officers perspective, has been whether an earlier practice undertaken by the applicant during earlier Easter Bank Holiday periods could be utilised as a potential way forward were an early morning extension period considered supportable. The applicant has on previous Easter Bank Holiday periods pre positioned, the night before, dustcarts along the internal haul road on the sites eastern side. This operation has been completed successfully and has not knowingly elicited local residents concerns. The applicant had submitted on their Landscaping Plan as part of the present application package an annotation to show the location of such pre positioning. For note this plans annotation of the pre positioning had text "HGV parking between 0500 – 0630 for associated with ESS/11/21/COL".

Whilst appreciative of local representations connected with the past experience of noise generation, the pre positioning process had some merit during previous Bank Holiday periods albeit, what is being proposed now in terms of HGV movements is for even earlier start times than the Easter periods.

The previous pre positioning control had attempted to ensure movement activities away from the more "sensitive" areas of the business in relation to adjoining receptors. It was considered from a purely planning perspective, and it should be noted that which the CNC had noted the proposed practice of pre positioning this had not been technically assessed by the CNC.

Questions have remained as to the ability of the applicant to adhere to such a pre positioning plan during the longer term. Concerns have continued to be received from local residents about early morning activities at the site and after the exploring of the Pre Positioning idea arose. The most recent local comments have highlighted not only a continuation of early morning disruption but that such activities are allegedly occurring even earlier than what the present application is seeking. The local resident comments identify activities of vehicles entering/leaving site at 05:20. These recent local residents comments have, to date, not been answered by the applicant. In any event, substantiated or not, the applicants own Ecology consultant themselves in their bat survey report in support of this present application noted that "*The data indicate that bats using the site are tolerant of levels of lighting and disturbance, since lorries began arriving at approximately 5am when the survey was being carried out*".

That such early morning activities are continuing, what trust in the applicant to even abide by what they have formally requested is questionable when such infringements occur at earlier time periods.

Even were approval to be forthcoming, these additional and even earlier pushing of the operating periods raises questions as to the applicants ability/willingness to abide by the extant planning conditions let alone any relaxation being proposed.

On balance the applicants inability to abide by the existing conditions does not give the confidence that any relaxation of operating hours would remain but that pushing of the boundaries would, and apparently, does already take place. Amenity protection is weakened and the safeguards put in place by planning control further eroded.

The applicant's agent has in correspondence questioned, with reference to another waste management business, that other similar businesses do not have restrictions of operating hours placed on them.

Operating hours have been placed in Planning terms, whether by the Planning Inspectorate or Waste Planning Authority at this location for specific reasons; protection of the local amenity. The example given by the agent relates to a waste Management facility located within a large busy industrial estate in an urban setting of Maldon. Similarities between the application land and the aforementioned site are clearly different.

From an appropriateness point of view the proposals are therefore considered contrary to Policies WLP 10; 12; DP1 and policies SP1 ; emerging policies ENV5 and DM15 the NPPF and NPPW.

C LIGHTING

At the time of the previous report the impact of lighting was addressed with "This location being in the countryside also exhibits very little lighting pollution. The existing site has in place a lighting scheme comprising outside security lighting fixed to the waste management buildings. This lighting has generated in the past concerns expressed from adjoining residents concerning the glare/lighting times impacting their amenities. Whilst such concerns appear now to have stopped, the Waste Planning Authority are aware that local residents have in the past not always notified the relevant Regulatory body when issues have occurred; and so necessitated a review of such factors as the installed lighting coverage/operating times. The provision of the lighting at the facility, whilst it may not be appearing to spill outside of the site boundary, it is noticeable in the low light environment to local residents and from the public highway/footpaths.

To neighbours this lighting is on their boundary and visible. Introducing even earlier timings for activities within the facility would necessitate lighting to aid safe access and movement around the site. This introduces, along with the general noise and associated movements of personnel, the lighting up of the facility at the expense of the peace and tranquillity and further light disturbance to local resident amenity".

The report also noted the concerns by the County Ecologist over the "unquantified impact on wildlife interests such as bats and other nocturnal animals". The applicant has undertaken assessments of the bat use of the area and this has been reported earlier in this report. The County Ecologist has

In terms of the present application the CLC has commented that "*The additional lighting assessment submitted has been reviewed considering the impact on the sensitive receptors around the site if operations begin at 5.30am and new permanent lighting added.*

Section 2.14 with the lighting assessment has recommendations:

- *All lighting is to be aimed at its intended target, being aimed downward and away from neighbouring properties and identified habitat or commuting*

routes which is likely to include: trees, hedgerows, rivers, ponds and bat / bird flight zones.

- *Where possible, full cut-off luminaries will be used and it is expected that shields, hoods, cowls, baffles or louvres will be employed to aid in further control of new lighting near sensitive areas to limit upward light or direct views of light sources.*
- *New permanent or temporary lighting in locations near sensitive ecological receptors should limit output in the blue/ultraviolet range to avoid a change to insect behaviours.*

Please outline where these mitigation measures will be employed as it is unclear on the lighting plan. High levels of light onto the eastern hedgerow and some of the southern hedgerow would suggest that mitigation measures are required. Section 2.17 mentions new permanent lighting. Please highlight on the lighting design which lighting is new and which is existing. Please calculate the spill light with a maintenance factor of 1.

Section 2.21 mentions lighting controls, dimming and switching off. Please specify what lighting will be controlled and provide a drawing including new and existing lighting that will remain operational during the hours of darkness, the times the lighting will revert to night time levels and what lighting will be switched off. Also please outline if all lighting will be switched on at 5.30am.

Please outline what the upward light ratio is. The lighting assessment indicated full cut-off lanterns (section 2.14, and 4.26) will be used, but with a tilt shown on the lighting design of 15 degrees this is not a cut-off lantern. Upward light pollution in a E2 is limited to 2.5% as outlined in your report section 3.24 with lanterns tilted at 15% this would be impossible to achieve.

We are therefore unable to support this application at the present time. We would require the applicant submits additional information highlighted above and which demonstrates, in accordance with the National Planning Policy Framework, that the proposals limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

Notwithstanding the CLC comments related to this application; it should be noted that there is an extant condition within the permission for the new building, Condition 7, that requires a scheme of lighting should additional lighting to that already approved, being submitted for consideration.

Early morning lighting has been referenced in the applicants ecological bat survey work and so it is known that elements of the applicants land is lit from early hours.

It is apparent and without the further confirmation from the applicant on the lighting aspects, that whilst lighting may therefore be on before the planned times; that it does little to reduce the visual presence of the applicants business within the local environment and further supports the County Landscape Officers where she has referred to the “*impact on the local rural environment in terms of tranquillity, lighting, noise, vehicle movements. There will be a consequent adverse impact on landscape character and residential amenity*” as a consequence of the proposal.

The applicants revised proposals set out in this application does little to reduce that visual presence and degradation of amenity contrary to Policies 10; 12; DP1; Policies SP1; emerging polices ENV5 and DM15 the NPPF and NPPW.

TRAFFIC

This application as with the earlier application, has not been one specifically raising concern over traffic generation levels in respect of highway capacity limitations.

The previous report on the traffic element remains valid to all extent and is not changed by this application. Local representations have referred to the impact arising from traffic related aspects.

Vehicles on the public highway, of whatever description, are not usually a controllable feature under planning. The state and maintenance of roads, as does driver behaviour, varies. In particular vehicles, particularly HGV's have a tendency to vibrate and with clanging chains or "bodyslap" this is audible as they pass over uneven road surfaces. These effects can be more pronounced when heard during tranquil hours and is more a result of road conditions as opposed to actual vehicle noise itself. However, that is not said to diminish an effect that does cause disturbance.

The applicant has in support of the application confirmed that the early morning extension is to enable flexibility for use of dustcarts and not the skip vehicles. They have also confirmed, and set out in the third party representations section below that a reason for the earlier operating hours would *"assist with reducing congestion in town centres and other urban locations by virtue that they HGVs gain access to these areas outside high traffic commuter periods. It would also allow unloading of HGVs from 07:30am onwards giving a greater period throughout the day for recycling as the plant can operate at lower speeds aiding with recovery of waste"*. On the one hand earlier start to benefit the applicant yet at the expense of residential amenity at the source site; earlier visits at the collection point and potentially more traffic movements as vehicles would have a longer day to do more trips.

This revised application does little to address other concerns including conveying of HGV's from the facility and that these practices continue even under the existing arrangements to cause disturbance to both adjoining residents and communities.

As previously referenced in the last report, no consideration has been proposed in addressing visiting third party HGV traffic before the 07:30 site operating times and this omission reflects the applicants further disregard to the planning permission conditions already in place. It is not considered that the applicant can suitably control such visiting traffic which further exacerbates the disturbance the local community are having to face from having a waste management facility open at such later night/early morning periods.

Traffic implications are therefore considered contrary to Policies 10; 12; DP1; policy SP1, emerging polices ENV5 and DM15; the NPPF and NPPW.

ECOLOGY

In terms of the ecological implications for early morning start-ups, there had been concern expressed by the County Ecologist at the time of the previous application around the artificial light pollution, as well as insufficient information to demonstrate that there would not be harm to nocturnal wildlife.

The applicant has engaged an Ecologist and their report notes that “The data indicate that bats using the site are tolerant of levels of lighting and disturbance, since lorries began arriving at approximately 5am when the survey was being carried out”.

In terms of the survey referred to this included two site visits 11th and 27th August 2021 although it is not clear which date the early morning traffic was noted on.

Bat surveys were undertaken and following a bat transect survey carried out on 27th August 2020 the results show that floodlighting appears to have been at various points across the site from when the survey began at 04:36. The applicants Ecologist also noting that “*Floodlights are on continuously between dusk and dawn, and illuminate the entrance, access road and road to the south of the recycling facility*”.

The County Ecologist has reviewed the applications supporting letter from Hybrid Ecology Ltd, dated 25th January 2021, entitled Preliminary Ecological Appraisal update and Bat Survey – Application: ESS/04/20/COL as well as the Lighting Assessment (Create Consulting Engineers Group, October 2020).

The CEO noting that “*Before setting out a final view, we seek further clarification on a number of issues, as set out below. The ecologist visited the site visited the site in August 2020. The Bat Survey advises that Bats already using the site may be slightly affected in April and from 9 h August to the end of the active season in October, which is approximately half of the active season. However, the only bat species seen on the Bat Survey to be using the site were those that can tolerate such lighting. This is probably to be expected, given that there is already some flood lighting on the site all night. It is noted that lorries started arriving at approximately 5am on the morning of the bat survey, when it is understood that the current permission is for no earlier than 6am (ESS/09/18/COL, Condition11). We seek clarification on the continuous floodlighting being on all night as it is understood that this should not currently be occurring. Light sensors should be used instead. We also seek clarification as to why lorries are already using the site at 5am. Notwithstanding the above, the proposals can be made acceptable, providing that the above issues can be resolved and it can be clarified that only the lighting currently permitted is being used and there is no continuous lighting. In addition, we note that no details with respect to the lighting condition is required (condition 7 of ESS/09/18/COL) have yet been provided. How will those details dovetail with the lighting details supplied with the information for this application?*”

As with the lighting considerations referenced earlier the interaction of lighting and nocturnal wildlife does little to reduce potential impacts and continued degradation for wildlife interests contrary to Policies 10; 12; DP1; Policy SP1; the NPPF and NPPW.

Third Party Representations

The applicant's agent has commented upon the various third party representations and comments:

- *“Light Pollution – It has been stated that no other employment/industrial uses within the area have lighting on within morning periods - In the immediate vicinity to the site, bordering the boundary, are multiple existing employment areas, such as, Moto V Ducati, a motorbike repair shop, Atlas signs, a sign manufacturer, Flatmans Yard which is a poultry farm and Daddyoaker Timber a timber merchants. These neighbouring employment areas have no restrictions upon them relating to hours of operation, vehicular movements, or lighting of the site.*

Putting aside that neighbouring uses are allowed and do have lighting which is unrestricted, the Lighting Assessment submitted as part of the application demonstrates that lux levels in the immediate areas around the veteran tree, hedgerow and pond will be below level 3 with the lux level climbing to the east of the veteran tree and pond into the existing site away from 17 sensitive receptors to the west with Lux levels being no different to existing approved lighting. The assessment also highlights that using the methodology proposed that the Lux level at the nearest residential property (Rees Farm) would be Lux 0. 5.16 It is therefore held that there would be no impact upon amenity from light spillage which is further endorsed by the fact that the Lighting Assessment has used the E2 criteria and would not have taken into account the fact that the site is surrounded by bunding and fencing which stops lights from HGVs spilling outside the site. This coupled with existing tree and hedgerow planting already reduces light pollution from the proposal.

- *Noise – It has been stated that HGV's leaving early will cause harm through noise – As noted above, there are a number of existing employment areas within the immediate area that have no restrictions on noise emissions, hours of operation or HGV movements. The results from the noise survey undertaken by the applicant for this application clearly show that there is little difference in ambient noise between 0 and 10 HGVs movements. It also concludes that six movements in the half hour 05:30 to 06:00 would give a smaller increase in ambient noise levels than the 10 movements measured within a 15-minute period. The noise impact assessment for the proposed period between 05:30 and 06:00 would therefore be no worse than that from 06:00 to 06:15, as currently permitted. Notwithstanding the above, and to further avoid any potential impact on neighbouring occupiers, the applicant is proposing the HGVs that leave within the 05:30 – 06:00 time period be located within the east of their site adjacent to the office to ensure additional screening from the two waste transfer building as shown by the attached plan. It is important to note that the nearest noise sensitive receptors are located to the north west of the site, while it is proposed that HGV's will only be allowed to leave the site to the right, i.e. in the opposite direction of the residential properties which is as per the current permitted use.*
- *Vehicular Movements – It has been stated that HGVs are turning left out of the site and driving through villages before 7am – It should be noted that HGVs*

are already permitted between 06:00 and 07:00 although at a lower number of six with an increase in 4 movements being sought. The applicant has confirmed that all HGVs are required to turn right out of the site, they have a travel plan requiring this and all drivers are instructed to adhere to the travel plan. National and local planning policy acknowledges the need to reduce the amount of waste going to landfill through recycling and the proposal would provide an environmental benefit because it would assist with reducing congestion in town centres and other urban locations by virtue that they HGVs gain access to these areas outside high traffic commuter periods. It would also allow unloading of HGVs from 07:30am onwards giving a greater period throughout the day for recycling as the plant can operate at lower speeds aiding with recovery of waste.

It should also be noted that the vehicles being requested to leave early are the dust cart/compactor lorries and not vehicles holding skips which sometimes can be alleged to generate greater noise via chains rattling etc.

- *Competition and other Waste Management Operational Hours – It should be noted that other waste management companies throughout the county do not have restrictions on vehicle movement times, I have attached an example of this whereby condition 3 states ‘Operations authorised by this permission, excluding vehicle movements’ which again reduces congestion in town centres and other urban locations by virtue that the HGVs gain access to these areas outside high traffic commuter periods. The same would be for the applicant should planning permission be granted.*
- *Increase in operations - The proposal would not increase the amount or type of waste, the total number of vehicular movements currently permitted or the hours of operation for processing. The site is located within an existing permitted materials recycling facility where the use of such facilities within this location was deemed appropriate through the grant of previous planning applications.*

Having reviewed the representations, I am confident the details of this application have demonstrated appropriate mitigation against the potential impacts of the proposed development to adjacent residential properties and sensitive areas. The Statutory consultees have raised no objections to the proposal which fully accords with both local and national planning policies, which seek to encourage economic development and would have a positive impact on the environment”.

In terms of other operators not having operational hour restrictions, the example given by the agent is for a waste management company operating from an established large scale industrial estate in an urban area and not one resembling the locality of the application site.

The applicant’s responses are to the various third-party representations and are noted. They do little to change any consideration of the application and those comments as they relate to the lighting and noise aspects are not in themselves answers to the consultees outstanding questions reported elsewhere.

7. CONCLUSION

This application has, as with all planning applications, necessitated a balancing of issues. In this particular case it is whether, set against the previous reasons for refusal and the appraisals that informed that decision, the applicant has suitably addressed such matters and whether other material considerations are introduced.

The report has found that the locational aspects remain unaltered in so far as the business relates. The business has conditions imposed by the then Planning Inspector to enable it to operate within the confines of its juxtaposition to adjoining sensitive receptors.

The principal concern raised through the application has been the early morning time extension implications. Any time extension could be considered an “intensification” albeit the nature of that intensity varies. In this particular case the intention is to provide for the operator the ability to avoid higher traffic congestion at pick up points. The time extension does not seek any changes to the actual start up of the business premises proper, nor changes to the wider staff shift patterns.

Earlier benefit of uncongested roads however would be at the expense of communities around the site who are impacted by the start-up process.

Questions remain as to the noise generation impacting the sensitive receptors and no technical support has been given to alternatives which from a planning perspective only had been raised in this report. Irrespective of the merits of any alternatives, the continued breaching/pushing of early morning operating periods has raised the question as to whether any early morning relaxation would be adhered to or even be effectively enforced.

An early morning extension through the lighting and visual aspect further degrades the local amenity and for this particular location is not acceptable.

The previous grounds for refusal in respect of the earlier similar application have not been satisfactorily overcome and remain relevant and the proposal is, on balance, considered to be contrary to the policies in the development plan.

8. RECOMMENDED

That planning application ESS/11/21/COL be refused for the following reason:

The proposed early morning vehicle movements (between 05:30 – 06:00 hours) and associated activities (arriving site personnel and their preparatory activities in preparing the HGV's) would cause harm to the rural character of the locality and harm to local amenity from unacceptable noise emissions and artificial light pollution contrary to Policies 10 and 12 of the Essex Waste Local Plan (2017); Policy DP1 of the Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014); Policy SP1 of the North Essex Authorities' Shared Strategic Section 1 Plan (Adopted February 2021), emerging policies ENV5 and DM15 of Section Two Colchester Publication Draft Local Plan (Oct 2021) and the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW).

BACKGROUND PAPERS

Consultation replies
Representations

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

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

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2017 is not required.

EQUALITIES IMPACT ASSESSMENT

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

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

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

LOCAL MEMBER NOTIFICATION

Constable ED