

DR/31/15

committee DEVELOPMENT & REGULATION

date 23 October 2015

MINERALS AND WASTE DEVELOPMENT

Proposal: **Importation of 40,000m³ of inert material (soil) to re-profile the site and bring it into beneficial and productive agricultural use.**

Location: **Barling Magna, Barling Hall Farm, Mucking Hall Lane, SS3 0NH**

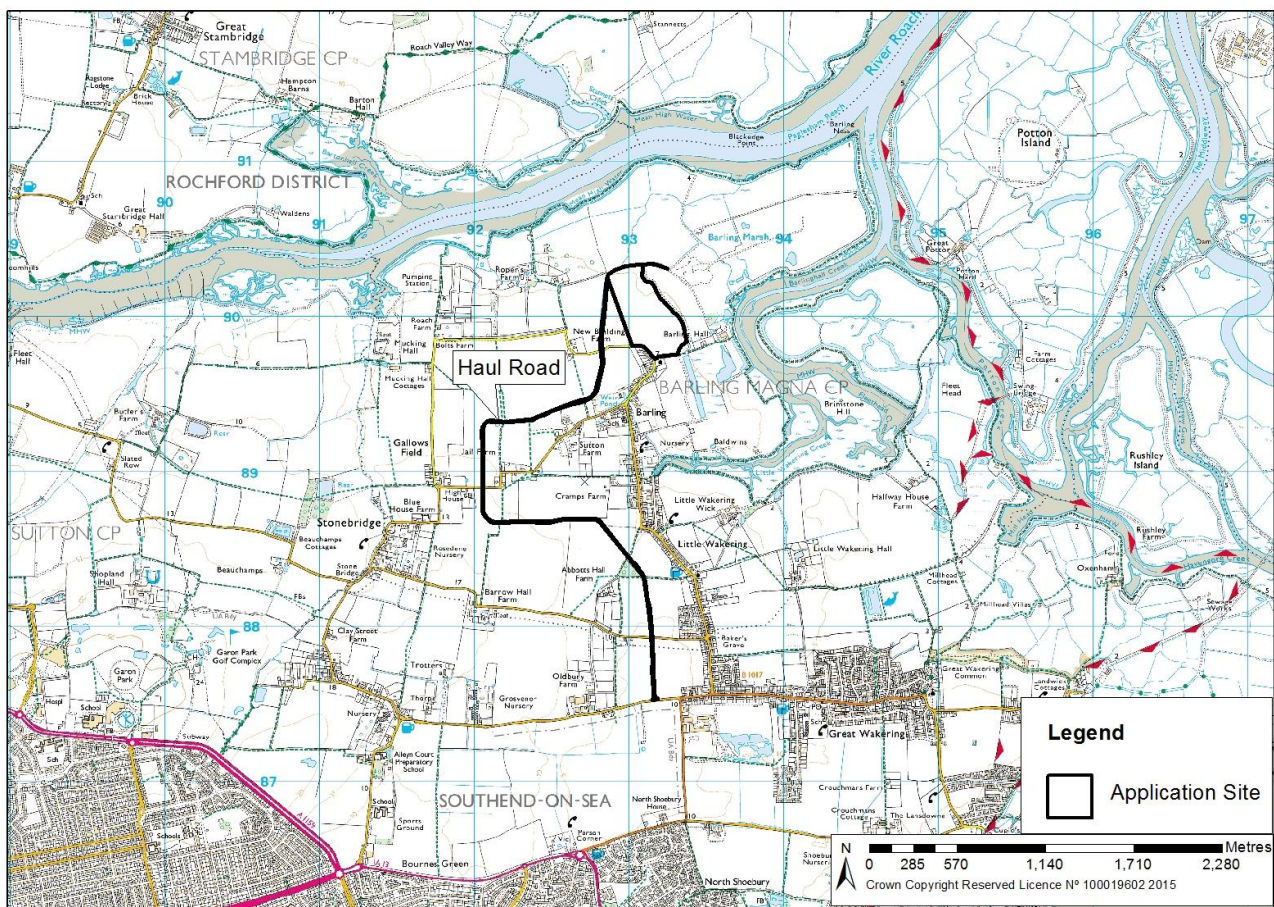
Ref: **ESS/09/15/ROC**

Applicant: **C Rayner Limited**

Report by Director of Operations, Environment and Economy

Enquiries to: Charlotte Powell Tel: 03330 130469

The full application can be viewed at www.essex.gov.uk/viewplanning



1. **SITE AND BACKGROUND**

The Barling Marsh Quarry and Landfill Complex covers an area of approximately 52 hectares (ha), located on the southern bank of the River Roach (Pagelsham Reach) approximately 5 kilometres east of Rochford and 1.5 kilometres north of the hamlet of Barling. Mineral extraction has ceased across the complex and is currently permitted for landfill of non-inert waste.

Planning permission for the application site (ROC/531/70) was granted in 1972 for the extraction of sand and ballast and progressive restoration using suitable filling materials (household, commercial and solid, non-hazardous industrial wastes).

The application site is located to the north of Barling village and extends to 17.41ha. Operations at the application site commenced in 1973, which was followed by infilling and restoration to an agricultural afteruse by the late 1980's. The application site has been subject to a number of agricultural operations, initially to arable crops. The site is bounded to the south by Church Road / Mucking Hall Road with Barling Village and All Saints Church beyond. To the west and north lies open agricultural land and to the east north east, across agricultural fields is Barling Landfill Site.

The nearest residential properties front Mucking Hall Road, 60m to the south of the Site. Barling Hall Cottages are located 80m to the east with Barling Hall beyond at 150m from the site.

Footpath 25 borders the south of the site from Grade II* Listed All Saints Church along Church Road to the east. The site is bordered by ditches on the north and east boundaries.

Access to the Complex and application site is via 5 kilometre long private haul road owned by Cory Environmental which traverses the west and north of Barling and crosses three public highways beyond its main entrance on the B1017, Southend Road. All vehicular access to the site is hence, currently, diverted away from the narrow and residential streets of Barling. Access to the site would be in agreement with Cory Environmental Limited via the main access road. Soil delivery vehicles would then use an existing track on the eastern site of the application site. Delivery vehicles would leave via the same route.

Gradual deterioration of ground conditions and uneven settlement the land has resulted in the site supporting low quality grassland and is no longer suitable for active farming. The deterioration in ground conditions is the consequence of a combination of factors including differential settlement of the deposited materials. This has resulted in high and low spots, inadequate drainage and ponding of water.

The Coastal Protection Belt follows a wide stretch of land along the River Crouch and the River Roach. The site is located within the Coastal Protection Belt.

The site is located within the Green Belt. Foulness Special Area of Conservation

(SAC) and Foulness Site of Special Scientific Interest (SSSI) are the nearest statutory designated sites and are located approximately 400m to the east at their closest, though extend inland both to the north and south of the site.

2. **PROPOSAL**

The proposed scheme involves the phased sequential stripping of soil, filling and then soil reinstatement. The works will be carried out in 5 separate phases. Phase A is closest to the residential receptors along Church Road and works would move away from the properties in a northerly direction upon completion of each phase.

It is proposed that 35cm of topsoil would be stripped and stored in two bunds (3m maximum height), one of which would run adjacent to the south west boundary in the working margin and the other located in the northern corner of the site (3m maximum height), where re-profiling is minimal.

There would be a working margin from Mucking Hall Road. The restoration works would be at 60 metres from the residential properties. The south western bund would be constructed in the working margin.

Imported clean soils from the Essex area would be placed in the void to a 'fill' level 35cm below the 'final' level. Once approximately 60% of Phase A has been completed to 'fill' levels the stripping of Phase B topsoil would commence. This Phase B topsoil would be used to complete Phase A to 'final' levels. The process would be repeated. Filling as necessary would occur in areas that need additional reprofiling. The re-profiling will result in maximum slope gradients of 1 in 60.

Deliveries of soils would be imported on to the site via the main access Haul road in agreement with the operator of the landfill. The footpath crossing points on the access road would not be impaired or restricted. It is predicted that there would be on average two deliveries per hour, per day over an 18 month period Monday to Friday during an 8 hour delivery period (08:00 and 16:00). Operations on site would take place until 17:00. It is expected deliveries would only occur for 40 weeks a year, to avoid the winter period. The intention is to accept standard HGV's which will have a payload of approximately 10m³. Works would be carried out on a campaign basis.

The applicant would inform closest residents ahead of initial soil stripping operations, which would only commence when soil and weather conditions permitted. During operations close to residential property measures to control dust would be used; such as damping down with a water bowser or ceasing work, having regard to wind direction, in extreme conditions. If necessary, the soil bunds would be compacted and seeded to avoid soil blow.

The application is supported by:

- Dust Management Scheme (July 2015) which concluded the potential for dust arising can be successfully mitigated through the implementation of operating controls. These measures are recognised as good practice.
- Agricultural Report (Appendix A) (2006) which recommends raising the soil

profile whilst retaining the present soils.

- Desk Top Investigation (March 2015) which identified the test pits and quantity of soils.
- Phase 1 Habitat Survey, Biodiversity Statement and Mitigation Plan (April 2015) which concluded the proposals, provided the recommended mitigation measures are implemented, would have no detrimental effect. The applicant as a result, amended the application site boundary to exclude the field margins.
- Noise Assessment (August 2015) which concluded for the nearest residential receptors the proposed operations would be within existing noise limits for temporary and routine operations.
- Noise Supplementary Technical Note (September 2015) which concluded the proposed mitigation measures to be employed during the works would reduce noise levels at the nearest residences as far as reasonably practicable without imposing an unreasonable burden on the operator.

3. POLICIES

The following policies of the Essex Minerals Local Plan, (MLP), Adopted July 2014, the Essex and Southend Waste Local Plan, (WLP), the Rochford District Replacement Local Plan (adopted 2006) and Rochford District Core Strategy (adopted 2011) provide the development plan framework for this application. The following policies are of relevance to this application:

| | <u>MLP</u> | <u>WLP</u> | <u>RDCS</u> | <u>RDRLP</u> |
|--|------------|------------|-------------|--------------|
| Presumption in favour of sustainable development/ Sustainable development locations | S1 | | | |
| Protecting and enhancing the environment and local amenity | S10 | | | |
| Mineral Site Restoration and After-Use | S12 | | | |
| Development management criteria | DM1 | | | |
| Water Pollution and Flood Control | | W4A | | |
| Water Pollution and Flood Control | | W4B | | |
| Highways | | W4C | | |
| Landfill | | W9B | | |
| Planning Applications – landfill | | W10C | | |
| Application considerations | | W10E | | |
| Hours of operation | | W10F | | |
| Airport safeguarding | | W10H | | |
| Green Belt | | | GB1 | |
| Protection and Enhancement of the Natural Landscape and Habitats and the Protection of Historical and Archaeological Sites | | | ENV1 | |
| Coastal Protection Belt | | | ENV2 | |
| Flood Risk | | | ENV3 | |
| Moving towards sustainable development | | | | CS1 |

Protecting and enhancing the built
and natural
environment
Heavy lorry routes

CS2

TP4

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

The National Planning Policy for Waste (NPPW) (2014) promotes sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy.

Paragraph 214 of the NPPF states that, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

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

The Essex Minerals Local Plan, Adopted July 2014, is considered to have full weight in the decision-making process, since it has been adopted taking the NPPF fully into account.

The emerging Essex and Southend Waste Local Plan is considered to be at too early a stage of preparation to be allocated any significant weight in the decision-making process.

The Rochford District Replacement Local Plan (2006) (RDRLP) and Essex & Southend Waste Local Plan (2001) (WLP) however are considered to fall under paragraph 215 as these were adopted prior to 2004 or under a previous/or different interpretation of the Planning & Compulsory Purchase Act 2004. Paragraph 215 of the NPPF states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. This level of conformity and a discussion with regard to weight applied to policy considerations of the WLP and RDRLP is contained within the appraisal section of this report.

4. **CONSULTATIONS**

ROCHFORD DISTRICT COUNCIL – No objection, subject to the following:

- Limit the start time of any operations (deliveries/vehicle movements/operation of equipment, plant or machinery) in Area A immediately adjacent to residential properties to not before 7am to avoid nuisance reversing beepers or other equipment noise adversely affecting the amenity of occupants of nearby residential properties;
- Consideration be given to a condition to require use of the haul road only

- to guard against vehicle movements through the nearby residential streets;
- The removal of the temporary earth bunds once the land levels have been raised as applied for which may otherwise look out of place as features in this largely flat landscape.

ENVIRONMENT AGENCY – No objection. The applicant has provided information to confirm that the fill will not exceed 1m in depth. Consequently a previous request for a risk assessment was not justified and now have no reason to object to the proposal on the basis of groundwater protection.

NATURAL ENGLAND – No objection

HIGHWAY AUTHORITY – No objection, subject to the following

- Access to the site shall be in accordance with the proposals made in the Planning Application Supporting Statement, Dec 2014.
- The public's rights and ease of passage over public footpath/bridleway/byway no. 30, 4, 11, 13, 17, 22 and 33 shall be maintained free and unobstructed at all times.

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

- COUNTY COUNCIL'S NOISE CONSULTANT – No objection, subject a condition requiring noise compliance, namely;

Noise levels from the site are limited to the following

- Mill House – 50 dB LAeq,1hr (free field)
- Barling Hall Cottages - 50 dB LAeq,1hr (free field)
- Barling Hall - 49 dB LAeq,1hr (free field)

COUNTY COUNCIL'S AIR QUALITY CONSULTANT – No objection

- Within the Planning Application it states that '*the nearest residential properties front Mucking Hall Road, some 60 metres to the south of the Site*'. However a review indicates that the nearest residential property is 25 metres.

Comment: The '60 metres to nearest residential properties' includes a working margin from Mucking Hall Road. The restoration works would be at 60 metres, whilst temporary operations would construct the bund within the margin.

- The Planning Application does not include any mitigation measures apart from the screening bund for the proposed works. It is recommended a number of key mitigation measures/good practices should be identified to ensure minimal disturbance to nearby receptors.

PLACE SERVICES (Ecology) – No objection, subject to the development being carried out in strict accordance with Section 5 'Mitigation Plan' and the associated Figure 5.1 'Reptile and Great Crested Newt Mitigation'.

PLACE SERVICES (Trees) – No objection.

PLACE SERVICES (Historic Buildings) – No objection

PLACE SERVICES (Landscape) – No objection

SOUTHEND AIRPORT – No comments received

BARLING MAGNA PARISH COUNCIL – Object, on the following grounds

- What is the quality of the inert material (soil) being imported to re-profile the area? Will it include material other than soil e.g. builders rubble and/or hard core?
- Where is this inert material (soil) being imported from?
- Note that the proposal is for the importation of 40,000m³ of inert material (soil). How long is this going to take?
- What is the size (length, weight) of the vehicle(s) that will be importing this soil?
- What impact will these vehicles have on the surface and integrity of the approach roads to the site?
- How many trips per week will be made by these lorries to import the soil?
- It is noted that the procedure requires "doming" of the existing pits. We believe that "doming" creates a potential flooding problem. Has provision been made for the existing drainage ditches to be maintained to deal with this potential extra flooding?
- Seek assurance that the existing access road (Haul Road) will be kept open and operative during the completion of the proposed works.
- What provision is being made to ensure that all works will be done within normal working hours (9.00 am to 5.00 pm - Monday to Friday) and that residents living in proximity to the site will not be inconvenienced by the possible increased level of noise from the site?
- Concerned about the possible impact upon the public footpaths and bridleways in the area and how these may be affected. Will access be impaired and/or restricted.

LOCAL MEMBER – ROCHFORD – Rochford South – Any views received will be reported.

5. REPRESENTATIONS

202 properties were directly notified of the application. One letter of representation has been received stating in summary:

Observation

Do not want disturbance from plant and HGV's for 18 months.

Comment

See appraisal

6. APPRAISAL

The key issues for consideration are:

- A. PRINCIPLE OF DEVELOPMENT AND NEED
- B. GREENBELT, LANDSCAPE AND VISUAL IMPACT

- C. TRAFFIC AND HIGHWAYS
- D. IMPACT ON AMENITY
- E. WATER ENVIRONMENT
- F. AIRPORT SAFEGUARDING
- G. ECOLOGY

A PRINCIPLE OF DEVELOPMENT AND NEED

The NPPF states that there are three dimensions to sustainable development: economic, social and environmental. It goes on to state that these roles should not be undertaken in isolation, but should be sought jointly and simultaneously through the planning system.

Following completion of mineral extraction and the subsequent infilling of the void with waste, the site was restored to agricultural use towards the end of the 1980's and farmed for a number of years. However, differential settlement amongst other factors has resulted in the progressive development of high and low spots across the site, inadequate drainage of the site and ponding. The conditions have made agricultural use of the land impracticable.

Policy S12 of the MLP, in summary, permits minerals development when restoration is capable at the earliest opportunity with beneficial after use and positive benefits to the environment, biodiversity and local communities. WLP policy W10C also seeks to ensure satisfactory restoration of landfill sites. The site was restored by the end of the 1980's with household, commercial and solid, non-hazardous industrial wastes to an agricultural afteruse.

Policy DM1 of the MLP states in summary that proposals for minerals development will be permitted subject to demonstration that the development will not have unacceptable impacts upon local amenity, water quality, land stability, natural and geological environment, historic environment and soil resources.

Policy W9B of the MLP states in summary that landfill, or landraising, for its own sake, without being necessary for restoration, will not be permitted. Landfill will not be permitted when at a scale beyond that which is essential for restoration of the site.

Policy CS1 of the RDRLP in summary aims to improve and enhance the environmental wealth of the district by only permitting development that is environmentally, socially and economically sustainable.

Policy CS2 of the RDRLP in summary aims to protect sustain and enhance natural resources and cultural heritage, and ensure new development contributes to environmental quality.

The application is supported by an Agricultural Assessment (2006) which identified the need for remedial works to be undertaken to enable the site to be returned to productive agricultural use through elimination of high and low spots. The assessment identified the top soil being of good quality, as such, the proposal makes beneficial use of the good quality top soils.

Policy S1 of the MLP in summary secures minerals development that improves

the social, economic and environmental conditions in the area. It is considered the proposed quantity of inert material would enable levels to reflect adjacent restored land, currently it has a change in levels which prevents the area being managed such that it can be brought into the intended agricultural afteruse and the proposals are therefore justified. Therefore the principle and need of the proposed infilling is established.

Subject to conditions it is considered the importation of material is justified and would allow the land to return to beneficial agricultural use in accordance with WLP Policy W9B. The proposed restoration scheme is considered in accordance with WLP Policy W10C, MLP Policy S1, DM1 and S12 and RDRLP Policies CS2 and CS1.

B GREENBELT, LANDSCAPE AND VISUAL IMPACT

In context of the re-profiling of the site it is considered that the works do not conflict with the five purposes of designating land as green belt, and due to the scale and temporary nature of the proposals they would not impact on the openness of the Greenbelt. Policy GB1 of the RDCS in summary directs development away from the Green Belt as far as practicable and will prioritise the protection of Green Belt land based on how well the land helps to achieve the purposes of the Green Belt. This is supported by WLP Policy W10E which in summary ensures satisfactory provision is made with regard to the effect of the development on the purposes of the green belt, and the effect of the development on the landscape and the countryside. Additionally MLP Policy S10 in summary permits minerals development that demonstrates opportunities have been taken to improve/enhance the environment and amenity and character of the landscape.

Policy ENV2 of the RDCS states in summary that in the Coastal Protection Belt protection and enhancement of the landscape, wildlife and heritage qualities will be promoted.

Furthermore paragraph 81 of the NPPF states *“local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as ... to improve damaged and derelict land.”*

The proposed re-contouring would raise the land by between 10cm and 90cm in order to provide a free draining profile. An existing border of mature trees and shrubs exists on the south and south western boundaries. Soil screening bunds consisting of the stripped top soil are proposed to be provided along the south western and north western boundaries of the site in the working margin to further improve the screening of the site during the proposed works from the closest residential properties.

The Council's Landscape Officer has not raised any concerns with regards to landscape and visual impact.

It is considered the proposed restoration of the Site would create visual continuity with the surrounding area; it would not impede the openness of the area and provides a long term sustainable productive improvement to the landscape

character. The main purpose of the Coastal Protection Belt is to protect the landscape, wildlife and heritage qualities of the coastline as such this proposal complies with MLP Policy S10 and WLP W10E. With regards to RDCS policies GB1 and ENV2, and WLP Policy W10E, it is considered that the proposal represents appropriate development within the Green Belt and the Coastal Protection Belt, as the landscaping and reprofiling proposed would represent a minor and temporary physical intrusion, and in the long term reinstate agricultural land in keeping with the surrounding area.

C TRAFFIC AND HIGHWAYS

The number of vehicle movements proposed by the application has raised concerns regarding disturbance from HGV's and operational plant to local residents.

Policy TP4 of the RDRLP states in summary that applications for development likely to create adverse traffic impacts or that would give rise to other adverse environmental impacts will be refused.

Policy W4C of the WLP states in summary that access for waste management sites will normally be by short length of existing road to the main highway network. The applicant states deliveries would be via the existing Haul Road which serves the adjacent landfill and as such it is considered the proposals would not have a material impact on traffic generation and/or efficiency of the surrounding roads.

Policy W10E of the WLP states landfill and waste development will be permitted where satisfactory provision is made in respect of *"the impact of road traffic generated by the development on the highway network"*. The Planning Statement and additional information states that over an 18 month period, on average, 2 deliveries would take place per hour per day (with the average totalling 32 movements, 16 in, 16 out) and would be accommodated within the existing total permitted vehicle movements for the adjacent landfill. The applicant has also confirmed the number of vehicle movements would be dependent on the availability of soil and works carried out on a campaign basis. Approved operating hours are between 0700 and 1800; the applicant states that operations would take place between 0800 and 1700. A nine-hour operating time, with 2 HGV deliveries per hour would result in 36 movements per day. If permission is granted, a condition could be imposed to restrict the number of daily movements associated with the proposal.

The Highway Authority has not raised any objection to the application subject to conditions which stipulate that vehicle movements are via the existing Haul Road and public rights of way remain unobstructed.

Rochford District Council has not raised an objection to the application subject to conditions which limit the start time of any operations to not before 0700 and the use of the haul road only to guard against vehicle movements through the nearby residential streets.

The proposed number of HGV movements is to be absorbed into the current

permitted figures of Planning Applications ref. ESS/47/10/ROC and ref. ESS/51/08/ROC which permit the total number of vehicle movements associated with the existing landfill site when combined shall not exceed 360 (180 in and 180 out) Monday to Friday, and 180 (90 in and 90 out) Saturdays along the Haul Road.

Should permission be granted, although there would not be an increase in permitted vehicle movements, it is likely that on site activity would increase.

Considering the Highway Authority and Rochford District Council have not objected to the proposal on highway safety grounds, subject to the imposition of relevant conditions, it is considered that the proposal is compliant with WLP policy W4C, W10E and RDRLP policy TP4 for traffic impacts and trip generation.

D IMPACT ON AMENITY

Noise and Air Quality: Continuing on from the above section, and vehicle movements, whilst the proposal may be compliant from a highway policy, safety and efficiency stance there are other implications from vehicle movements which could materially impact the determination. It is stated that the number of movements would not exceed permitted levels (on average 32 movements per day - 16 in/16 out) and would be carried out on a campaign basis. The vehicles would reach the site via the haul road, which bypasses the village of Barling.

Vehicle movements can give rise to a number of issues; namely within the environmental and social domains of the NPPF. WLP policy W10E states that in summary developments will only be permitted where satisfactory provision is made in respect of the amenity of neighbouring occupiers, particularly from noise, smell, dust and other potential pollutants. Further to this it details provision needs to be taken for the effect of the development on the landscape, the impact of road traffic generated the effect on land drainage, the effect on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations and the Green Belt.

Paragraph 120 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning policies and decision should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

The operator is proposing a bund 3 metres above local ground level around the boundary of the stand-off zone 65 metres from Mucking Hall Road and a bund 3 metres above local ground level around the eastern site boundary of Phase A and part of Phase B. The applicant states that a site speed limit of 15mph will be maintained and enforced, mobile plant will be restricted to specific haul routes, and soil drop heights will be kept to a minimum.

The applicant intends to notify closest residents ahead of initial soil stripping operations, which would only commence when soil and weather conditions permitted. During operations close to residential property measures to control

dust would be used; such as damping down with a water bowser or ceasing work, having regard to wind direction, in extreme conditions. If necessary, soil bunds would be compacted and seeded to avoid soil blow.

The County's Air Quality Consultant raises no objection and concludes the dust management scheme submitted by the applicant is expected to contribute to the reduction and suppression of dust emission. It is considered that the proposed control measures would likely provide suitable mitigation to any potential impact during the operation of the proposed development in line with Policy W10E of the WLP.

Subject to conditions requiring compliance noise monitoring and noise levels being limited at Mill House, Barling Hall Cottages, and Barling Hall, the County's Noise Consultant raises no objection and is of the opinion all reasonable measures to minimise noise emissions from the site are being made. It is considered that the proposed mitigation would likely provide suitable mitigation to any potential impact during the operation of the proposed development in line with Policy W10E of the WLP.

W10F of the WLP requires the restrictions of hours of operation. The Haul Road which is to be used is consented to accept 360 movements (180 in, 180 out) Monday to Friday and the Landfill site has approved operating hours of 0700 and 1800. The applicant has indicated deliveries would be between 0800 and 1600, with operations onsite until 1700 Monday to Friday.

It is therefore considered that the proposed mitigation measures conform to policies W10F and W10E of the WLP.

E WATER ENVIRONMENT

The site is within Flood Zone 1, this zone is assessed as having less than 1 in 1,000 year annual probability of river or sea flooding. All uses of land are appropriate in this zone.

Policy W4A of the WLP states in summary waste management developed will only be permitted where "*there would not be an unacceptable risk of flooding On site or elsewhere as a result of impediment to the Flow or storage of surface water.*" This is additionally supported by Policy W4B of the WLP which in summary only permitted development where there would not be an unacceptable risk to the quality of surface and ground waters or of impediment to groundwater flow.

The applicant states the reprofiling will be free draining with surface water flows being directed to the existing drainage ditches to the north of the Site. The proposal is considered to be sustainable and suitable in terms of flood risk with gradients of 1:60 following completion of the proposed works.

RDCS Policy ENV3 in summary directs development away from areas at risk of flooding by applying the sequential and exceptions tests and close liaison with the Environment Agency. This is additionally reflected in ENV2 of the RDCS which in summary aims to protect and enhance landscape, wildlife and heritage

qualities in the Coastal Protection Belt.

The Environment Agency has not objected to the proposal, however has offered some advice in relation to pollution prevention and permitting.

It has been suggested that the reprofiling would ensure that surface water would be directed to the existing drainage ditches to the north of the site. In consideration of this and the consultation response received from the Environment Agency it is considered that the proposal is compliant with RCS policy ENV2, ENV3 and WLP policy W4A and W4B.

F AIRPORT SAFEGUARDING AREA

WLP policy W10H states proposals for waste management facilities within the safeguarding areas of airports and aerodromes will be resisted unless it can be demonstrated that the development and the nature of the waste materials involved would not constitute a hazard to air traffic. No response has been received from the relevant consultee. The proposal is not considered a particular hazard as the waste type proposed (inert) would normally not pose any additional risk of bird strike and as such considered compliant with WLP policy W10H

G ECOLOGY

Policy W10E of the WLP states landfill and waste development will be permitted where satisfactory provision is made in respect of *“the effect of the development on nature conservation, particularly on or near SSSI or land with other ecological or wildlife designations”*.

Policy ENV1 of the RDCS aims in summary for the protection and enhancement of the natural landscape and habitats and the protection of historical and archaeological sites.

A Phase 1 Habitat Survey submitted with the planning application sets out a proposed mitigation scheme. It identifies that there were no plant species of particular conservation importance or species protected by wildlife or biodiversity legislation present in the application site. The site was found to be of generally of low ecological value in terms of habitats and species, but the application site is of potential value to ground nesting birds. To avoid detrimental impacts any clearance of vegetation should take place outside of the recognised bird breeding season or following an inspection by a suitably qualified ecologist. To discourage breeding, the grassland should be mown to maintain a short sward with no tussocks prior to the start of the recognised bird breeding season (mid-march).

Natural England in its consultation response identifies, as stated previously in this report, that the application site is in the vicinity of the Crouch and Roach Estuaries SSSI; and Foulness SSSI. These SSSIs respectively form part of the Crouch and Roach Estuaries SPA and RAMSAR site; and Foulness Special Protection Areas (SPA) and RAMSAR. Natural England does not object to the proposals but offer best practice guidance regarding soil handling.

No objection has been raised by the County's Ecologist subject to condition. It is

considered that, if the development is undertaken in strict accordance with the details submitted that, it is unlikely to have a significant effect, requiring specific mitigation, on the interest features for which the SPAs and RAMSARs were designated. The SSSIs are considered by Natural England not to represent a constraint in the determination of this particular application. In view of the above it is considered that the proposal would not materially affect them to a level to sufficient to be contrary to RCS policy ENV1 or WLP Policy W10E.

7. **CONCLUSION**

It is considered the principle of restoration has been established and is in accordance with Policies W9B, W10C, W10E of the WLP, & S1, S10 and S12 of the MLP.

The need for the restoration is considered to have been proven and the requirement within the NPPF and NWMPE for restoration has been taken into account.

The restoration and working scheme of the site is considered to be well thought out to minimise adverse impacts to local amenity and the environment. No ecological issues have been identified and the scheme incorporates gradients which allow the drainage of the site in accordance with MLP policies DM1, S12, S10, WLP policies W10E and W4A, RDCS policies ENV1 and ENV2, and RDRLP policies CS1 and CS2.

In terms of residential impact, it is considered the proposals can be carried out without any unacceptable detrimental impacts on surrounding amenity, in accordance with the provisions of WLP policies W10E, W10C, W10F, and W4C.

Finally, it is considered that gains would be made in the 3 dimensions of sustainable development: economic, social and environmental and that the development would fully comply with the development plan as whole, namely WLP Policies W10C, W10E, W10F, W4A, W4B, W4C, and W9B, MLP Policies S1, DM1, S10 and S12, RDCS Policy GB1, ENV1, ENV2, and ENV3, and RDRLP CS1, CS2 and TP4.

8. **RECOMMENDED**

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

Approved details

1. The development hereby permitted shall be begun before the expiry of 3 years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.
2. The development hereby permitted shall be carried out in accordance with

the details of the application dated 30.12.2014, together with;

- Figure 1.1 Site Location Plan dated 24.03.2015,
- Figure 1.2 Application Site Plan dated 24.03.2015,
- Figure 3.1 Proposed Restoration Contours dated 24.03.2015,
- Figure 3.2 Churchfields Sections dated 26.03.2015,
- Figure 3.3 Proposed Progressive Material Movements 24.03.2015,
- Appendix A Agricultural Report dated 11.11.2006,
- Appendix B Site Investigation dated 24.03.2015,
- Appendix Ca View from south east corner dated 11.12.2014,
- Appendix Cb View from north east corner dated 11.12.2014,
- Planning Application Supporting Statement dated December 2014,
- Phase 1 Habitat Survey, Biodiversity Statement and Mitigation Plan dated April 2015,
- Covering Letter dated 08.04.2015,
- Email ESS/09/15/ROC – Land to the North of Mucking Hall Lane Barling Magna dated 20.05.2015,
- Email Barling Hall Farm application dated 27.05.2015,
- Dust Mitigation Strategy dated July 2015;
- Noise Assessment dated 14.08.2015;
- Technical Note dated 17.09.2015 Ref. 4430; and
- Email dated 05.10.2015 Subject: Land Formerly Part of Barling Hall Farm – Noise Assessment.

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

3. The developer shall notify the Waste Planning Authority in writing within 7 days of the dates of the following:
 - i) implementation of this planning permission;
 - ii) commencement of a new phase of soil stripping;
 - iii) commencement of filling;
 - iv) completion of each phase;
 - v) completion of restoration of each phase;
 - vi) completion of final restoration under this planning permission.
4. No waste materials other than those waste materials defined in the application details shall enter the site.
5. The development hereby permitted shall be limited to a period of 2 years from the notified date of commencement of the development by which time operations shall have ceased and the site shall have been restored in accordance with the scheme approved under Condition 21 and shall be the subject of aftercare for a period of 5 years (in accordance with a scheme approved under Condition 22 of this planning permission).

Stockpile heights

6. No top soil or sub soil shall be stockpiled or stored at a height greater than 3 metres when measured from adjacent ground level and shall then only be in the locations identified on drawing reference plan Figure 3.3 Proposed Progressive Material Movements dated 24.03.2015.
7. All topsoil, subsoil and soil making material shall be retained on the site (and used in restoration scheme as indicated on plan Figure 3.1 dated 24.03.2015).
8. Topsoil, subsoil and soil making materials shall be stored in accordance with the details in Figure 3.3 dated 24.03.2015 and in separate mounds which shall:
 - a) Not exceed 3 metres in height;
 - b) Be constructed with only the minimum amount of soil compaction to ensure stability and shaped so as to avoid collection of water in surface undulations;
 - c) Not be subsequently moved or added to until required for restoration;
 - d) Have a minimum 3.0 metre standoff, undisturbed around each storage mound;
 - e) Comprise topsoil's on like-texture topsoil's and like-texture subsoil's;
 - f) In the case of continuous mounds, ensure that dissimilar soils are separated by a third material, which shall have previously been agreed in writing by the Waste Planning Authority.

Operating hours and access

9. The development hereby permitted shall not be carried out unless during the following times: 08:00 hours to 17:00 hours Monday to Friday and at no other times, including on Saturdays, Sundays, Bank or Public Holidays.
10. The surfaced section of the access road from the junction with Mucking Hall Road shall be kept free of mud, dust and detritus to ensure that such material is not carried onto the public highway.
11. During the duration of the development hereby permitted no commercial vehicle shall leave the site unless its wheels and underside chassis have been cleaned to prevent materials, including mud and debris, being deposited on the public highway.
12. The total number of HGV¹ movements associated with the development hereby permitted (when combined with the vehicle maximum permitted vehicle movements under planning permission ESS/47/10/ROC (Extension of time and revision of pre-settlement contours) and ESS/51/08/ROC (ROMP) shall not exceed the following limits: 360

¹ for the avoidance of doubt a heavy goods vehicle shall have a gross vehicle weight of 7.5 tonnes or more

movements (180 in and 180 out) per day (Monday to Friday). No HGV movements shall take place outside the hours of operation authorised in Condition 9 of this permission.

13. No vehicles and/or mobile plant used exclusively on site shall be operated unless they have been fitted with (white) noise alarms to ensure that, when reversing, they do not emit a warning noise that would have an adverse impact on residential or rural amenity.
14. All vehicular access and egress to and from the site shall be from the Haul Road off Mucking Hall Road, as indicated on drawing ref. Figure 1.2 Churchfields Application Site Plan, dated 24.03.2015. No other access shall be used by vehicles entering or exiting the site.
15. The public's rights and ease of passage over public footpath/bridleway/byway no. 30, 4, 11, 13, 17, 22 and 33 shall be maintained free and unobstructed at all times.

Surface water drainage and pollution protection

16. No extraction, tipping or temporary storage of materials shall take place within 5 metres of any watercourse. No material shall be tipped or deposited within any watercourse or culvert.

Ecology

17. The development hereby permitted shall be implemented in accordance with the biodiversity mitigation measures submitted with the application as detailed in the approved Phase 1 Habitat Survey, Biodiversity Statement and Mitigation Plan (April 2015) and shall be implemented in accordance with the timetable specified in the submitted details and completed in full prior to the first bringing into use of the development hereby permitted. The mitigation / enhancement measures shall be permanently maintained and retained in accordance with the approved details, unless otherwise approved in writing by the Waste Planning Authority.

Noise

18. The free field Equivalent Continuous Noise Level (LAeq, 1 hr) at noise sensitive properties
 - Mill House – 50 dB LAeq, 1hr (free field)
 - Barling Hall Cottages - 50 dB LAeq, 1hr (free field)
 - Barling Hall - 49 dB LAeq, 1hr (free field)shall not exceed the above measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

19. Noise levels shall be monitored at three monthly intervals from the date of the commencement of development at noise sensitive properties to be agreed in advance in writing by the Waste Planning Authority. The results of the monitoring shall include LA90 and LAeq noise levels, the prevailing weather conditions, details and calibration of the equipment used for measurement and comments on other sources of noise which affect the noise climate. The monitoring shall be carried out for at least 2 separate durations during the working day and the results shall be submitted to the Waste Planning Authority within (1 month) of the monitoring being carried out. The frequency of monitoring shall not be reduced, unless otherwise approved in writing by the Waste Planning Authority.

Landscaping and restoration

20. Upon the completion of restoration, no part of the restored land shall exceed the pre-settlement contours as shown on drawing number Figure 3.1 Proposed Restoration Contours dated 24.03.2015. Details of the final levels on site shall be submitted to the Waste Planning Authority once infilling is complete (on any phase or part phase).
21. Final landform and surface restoration levels shall accord with the landform shown on drawing reference Figure 3.1 dated 24.03.2015.
22. An aftercare scheme detailing the steps that are necessary to bring the land to the required standard for agricultural use shall be submitted to and approved in writing by the Waste Planning Authority prior to commencement of restoration works on site. The submitted Scheme shall:
- a. Provide an outline strategy in accordance with Paragraph 57 the Planning Practice Guidance for the five year aftercare period. This shall broadly outline the steps to be carried out in the aftercare period and their timing within the overall programme.
 - b. Provide for a detailed annual programme, in accordance with Paragraph 58 to the Planning Practice Guidance to be submitted to the Waste Planning Authority not later than two months prior to the annual Aftercare meeting.
 - c. Unless the Waste Planning Authority approved in writing with the person or persons responsible for undertaking the Aftercare steps that there shall be lesser steps or a different timing between steps, the Aftercare shall be carried out in accordance with the submitted Scheme.
- The development shall be implemented in accordance with the approved aftercare scheme.
23. No stripping of topsoil shall take place until a scheme of machine movements for the stripping and replacement of soils has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall define the type of machinery to be used and all the machine

movements shall be restricted to those approved.

INFORMATIVE

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August, inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Despite ecological surveys being undertaken which suggest that protected species are not using the application site, it is possible that protected species may be encountered once works commence. As such Natural England recommends that the following informative should be appended to any such consent:

Should any protected species or evidence of protected species be found prior to or during the development, all works must stop immediately and an ecological consultant or the Council's ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

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

The proposed development would be located within 400m from a European site, the Essex Estuaries SAC and Crouch & Roach Estuaries SPA and would not be directly connected with or necessary for the management of that site for nature conservation.

Following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European sites, either individually or in combination with other plans or projects.

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

EQUALITIES IMPACT ASSESSMENT

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

Throughout consideration of the application, the applicant has been informed of consultation responses. The opportunity has been given for issues to be addressed through the submission of additional supporting information, with the result of a timely decision.

LOCAL MEMBER NOTIFICATION

ROCHFORD - Rochford South