

DR/30/22

Report to: DEVELOPMENT & REGULATION (26 AUGUST 2022)

Proposal: MINERALS AND WASTE DEVELOPMENT - Non-Material Amendment to amend the wording of Condition 8 of planning permission ESS/34/15/BTE to allow the delivery and removal of abnormal indivisible loads associated with the piling rigs in connection with the construction of the IWMF.

Ref: ESS/34/15/BTE/NMA3

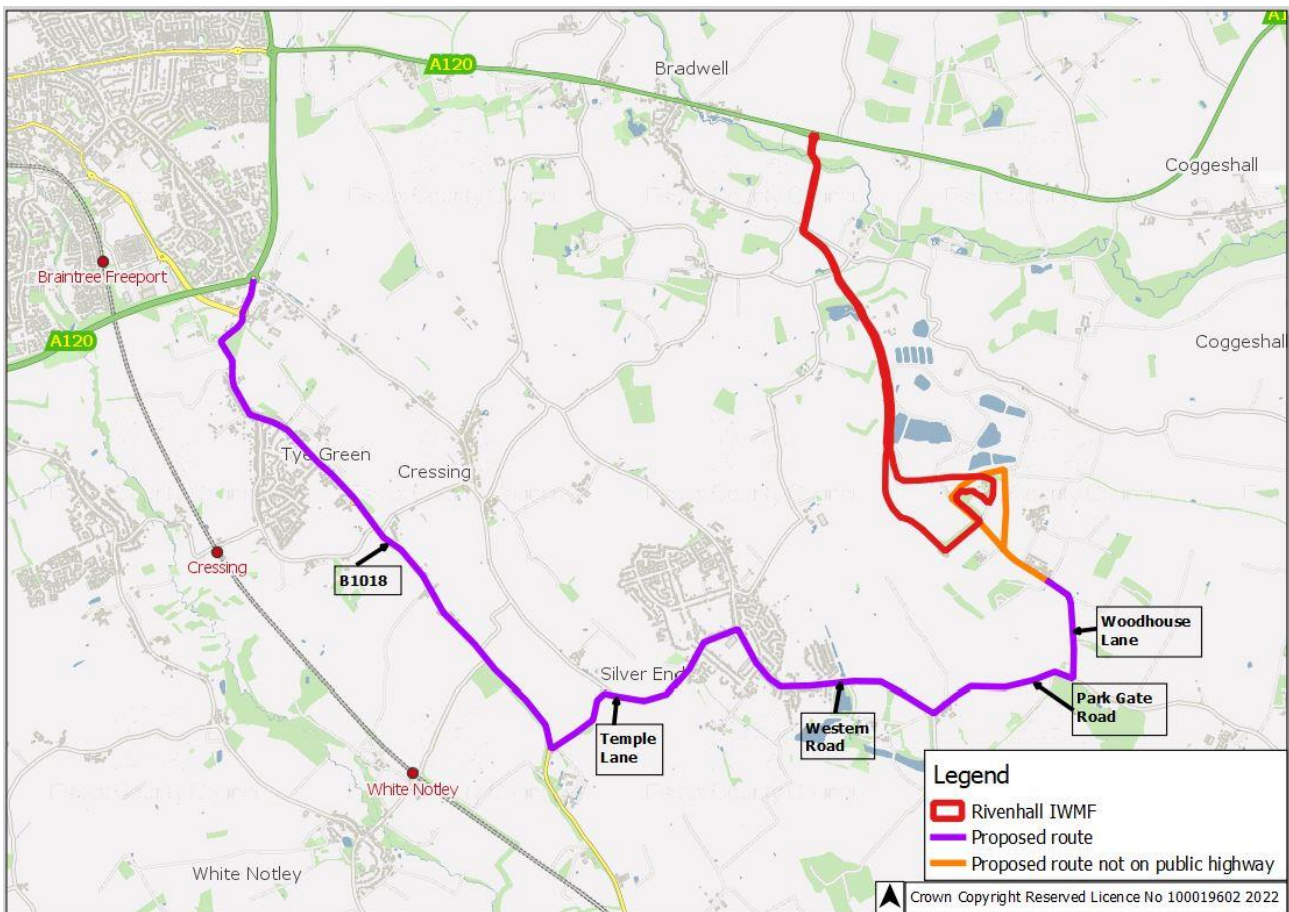
Applicant: Indaver Rivenhall Limited

Location: Land at Rivenhall Airfield, Coggeshall Road, Braintree, C05 9DF

Report author: Chief Planning Officer (County Planning and Major Development)

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



1. BACKGROUND

Planning Permission for the Rivenhall IWMF was first granted by the Secretary of State (SoS) in March 2010 following a call-in public inquiry (ECC Ref ESS/37/08/BTE).

While the original application was determined by the SoS, subsequent applications fall to the Waste Planning Authority (WPA) to determine, unless called-in or legislation requires otherwise. There have been subsequent variations to the planning permission and submissions in response to conditions, which have been dealt with by the WPA. The extant planning permission for the Rivenhall IWMF is ESS/34/15/BTE.

The development of the IWMF is currently progressing to date the works have mainly been preparing the levels prior to actual construction works. Works are in the future to start on stabilising the void walls and preparing the base on which the IWMF would be constructed.

The planning permission for the IWMF requires all access to the IWMF to be via the access road from the A120 to the north of the facility (condition 8). At the time of determination of the original application there was particular concern that there should be no access to the facility from Woodhouse Lane to the south.

Members may recall in April 2022 they considered and granted planning permission (ESS/01/22/BTE) to allow limited access for staff and visitors to the IWMF Information Hub from the south via Woodhouse Lane.

The current non-material amendment (NMA) applications seeks an NMA to the main IWMF permission to allow 10 abnormal loads (5 in and 5 out) to access the site from the south via Woodhouse Lane.

2. SITE

The IWMF site is located east of Braintree, approximately 1km to the north east of Silver End and approximately 3km south west of Coggeshall and approximately 3km south east of Bradwell village. The site is 25.3 ha which includes the access road.

The IWMF site at its northern end comprises a narrow strip of land leading southwards from the A120 Coggeshall Road, the location of the access road. To the south the IWMF site widens into an irregular shaped plot of land. The private access road is shared with Bradwell Quarry.

The private access road crosses the River Blackwater, there are two bailey style bridges one for each direction of traffic. The private access road also crosses Church Road and Ash Lane by single lane crossovers. The access road is two way from the A120 to Church Road, then single lane with passing bays between Church Road and Ash Lane, although works are underway to make this two way. Then from Ash Lane the access road becomes two way again to Bradwell Quarry processing plant.

The IWMF site lies within the boundaries of both Bradwell Parish Council and Kelvedon Parish Council, the access road being mainly within Bradwell Parish Council and the remainder of the access road and IWMF location itself lying within Kelvedon Parish Council.

The nearest residential properties, not including Woodhouse Farm (not occupied), include The Lodge and Allshots Farm located to the east of the IWMF site approximately 450m. To the north/north east on Cuthedge Lane are Heron's Farm at approximately 700m from the site of the IWMF, Deeks Cottage at approximately 850m and Haywards 920m from the site of the IWMF. To the west of the site on Sheepcotes Lane lies Sheepcotes Farm 580mm from the site of the IWMF, also Gosling's Cottage, Gosling's Farm and Goslings Barn and Greenpastures all approximately 1200m from the site of the IWMF. Properties to the southwest within Silver End village lie approximately 850m from the of the IWMF. Parkgate Farm lies south of the site approximately 1000m from the site of the IWMF.

Approximately 400m to the east of the IWMF site boundary and Woodhouse Farm, lies a group of buildings, including the Grade II listed Allshots Farm and a scrap yard.

Approximately 500m to the south east of the IWMF, beyond agricultural fields, there is a group of buildings known as the Polish site. These buildings are used by a number of businesses and form a small industrial and commercial estate to which access is gained via a public highway Woodhouse Lane leading from Parkgate Road.

There are 2 County Wildlife Sites (CWS) within 3 km of the site: Blackwater Plantation West, which is within the Blackwater Valley which the access road crosses. The second CWS is at Storey's Wood (south of the site), which is also an Ancient Woodland.

To the south of the Bradwell processing area, the permitted access road to the IWMF site has not been constructed. However, works have been undertaken to create a construction access road for plant and staff to the IWMF site where a construction compound has been formed. The site of the IWMF has been worked for sand and gravel and the overburden that had been replaced in the void has now been removed and works to stabilise the sides of the void in which the IWMF will be located are underway.

The same area of the IWMF site is allocated in the adopted Waste Local Plan 2017 as a site IWMF2 for residual non-hazardous waste management and biological treatment.

The land comprising the IWMF site has no designations within the Braintree Development Plan.

There are 4 Grade II Listed properties within 1km of the IWMF site including Woodhouse Farm and buildings within 200m, Allshots Farm and Lodge (400m away) to the east, Sheepcotes Farm (1000m) to the west.

Three footpaths (FP's 19, 57 [Essex Way], 58) are crossed by the existing private access road and the extended access road to the IWMF would cross the FP35.

The proposed route for the abnormal loads would utilise the B1018, then east on Temple Lane into Silver End and then south east on Western Road, east on Park Gate Road and the north on Woodhouse Lane. None of these roads are Protected Lanes Silver End village is subject of a Conservation Area.

3. PROPOSAL

Condition 8 of the IWMF Planning Permission (ESS/34/15/CHL) states:

"No vehicles shall access or egress the site except via the access onto the Coggeshall Road (A120 trunk road) junction as shown on application drawing Figure 1-2."

The application is seeking a NMA to allow 10 abnormal loads to access the site not via the A120, but accessing the site via Woodhouse Lane to the south of the IWMF.

The route to Woodhouse Lane and the site would use the B1018 from Galleys Roundabout on the A120 to south Cressing Tye Green and then via Temple Lane to Silver End, then Western Road through Silver End to Parkgate Road and then into Woodhouse Lane.

The abnormal loads are piling rigs that are approximately 35 m long and approximately 3.7m wide and 4.8 m high.

The applicant has stated

This non-material amendment seeks permission to amend condition 8 to allow a limited number of HGV vehicles associated with the piling activities to access the IWMF site via Woodhouse Lane. The details of these vehicle movements are described below:

- Indaver wish to move only 5 abnormal indivisible loads in total to site;*
- This would comprise of 5 incoming abnormal indivisible loads and 5 departing abnormal vehicles (10 movements in total (in and out)). Only the abnormal indivisible loads are proposed to access the site via Woodhouse Lane. The unloaded vehicles will exit the site to the north via the normal construction traffic route as unloaded HGVs.*
- Movements should occur during daylight hours but outside peak times i.e., morning and afternoon between 10.00am and 4.00pm.*
- Indaver will be able to provide 14 days' notice of the exact date for each abnormal indivisible load movement. The anticipated programme is currently as follows:*
 - First inbound individual load movement is likely to be Mid-September 2022 (date to be confirmed). The associated outbound movement for this load is likely to leave the site by end of September 2022.*
 - Second, third and fourth inbound movements are likely to be in mid October 2022 (date to be confirmed). Two associated outbound movements are likely to take place in March 2023, and a further outbound movement likely in April 2023.*

• *The fifth inbound movement is likely to be at the end of October 2023 (date to be confirmed). The outbound movement is likely to leave site by the end of November 2023.*

In general, one movement would take one day from the point the vehicle leaves the A120.

• *Indaver will be able to give 14 days' notice of the exact dates for the departing abnormal indivisible load movements.*

Alternate means of bringing the piling units onto site have been investigated to see if smaller vehicles could be used to bring the piling rigs onto site but the type of piles, size of piles and ground conditions demand large high torque machines.

These vehicle movements are sought for the ongoing implementation of the facility. It will be made clear to the contractor that only those vehicles which cannot use the Bailey Bridges will be able to use the entrance from Woodhouse Lane (i.e. only these limited movements will be authorized, and all supporting deliveries related to the piling rigs must use the existing quarry entrance).

The application was also supported by technical note and is summarised by the applicant as follows:

The attached transport note demonstrates that the piling rig can be safely and practically accommodated along the entire section of public highway shown above subject to applying standard abnormal indivisible load traffic management techniques including employing escort vehicles, potentially holding oncoming traffic at locations along the route where the opposite side of the carriageway is needed, potentially cutting back trees/vegetation and temporarily removing street furniture. In addition, the highway or environmental capacity effects would be negligible along the route given the very low number of movements (comprising five incoming movements in 2022 and five departing movements in 2023) and that they will be so infrequent.

The technical assessment of movement of the abnormal loads has demonstrated that the loads can be manoeuvred with the confines of the land within the public highway. Some trees and hedges may need trimming but only those that are within the public highway.

4. POLICIES

The following policies of the, [Essex and Southend Waste Local Plan \(WLP\) adopted 2017](#) and the [Braintree Local Plan Sections 1 and 2 adopted July 222](#) provide the development plan framework for this application. The following policies are of relevance to this application:

WASTE LOCAL PLAN (WLP)

Policy 3 - Strategic Site Allocations

Policy 10 - Development Management Criteria

Policy 12 - Transport and Access

BRANINTREE LOCAL PLAN – sections 1 and 2 (BLP)

LPP42 Sustainable transport

LPP63	Natural environment and green infrastructure
LPP65	Tree protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity)
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

NEIGHBOURHOOD PLAN

KELVEDON NEIGHBOURHOOD PLAN adopted July 2022

Policy MA1 Traffic Congestion And Parking Stress

CRESSING NEIGHBOURHOOD PLAN adopted February 2020

The Revised National Planning Policy Framework (NPPF) was published on 20 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.

Paragraphs 218 and 219 of the NPPF, in summary, detail that the policies in the Framework are material considerations which should be taken into account 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).

5. CONSULTATIONS

National planning policy guidance with respect to applications for NMA states with respect to whether consultation/publicity is required:

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2011.

Due to the high public interest in the Rivenhall IWMF site, it was felt appropriate to consult local councils.

Comments received are summarised as follows:

BRAINTREE DISTRICT COUNCIL: No comments received

HIGHWAY AUTHORITY: No objection. Having reviewed the submitted information, I would not normally wish to see such vehicles using the proposed route however I note and understand the circumstances and the very low number of vehicles involved and therefore from a highway and transportation perspective the Highway Authority has no adverse comments to make on the proposal.

Informative: The applicant should inform Essex County Council, as the Highway Authority, of the intended route of an abnormal load.

BRADWELL WITH PATTISWICK PARISH COUNCIL: No comments received

KELVEDON PARISH COUNCIL: Object on the following grounds:

- The proposal will cause a great deal of inconvenience and potential damage to the local rural road network including culverts, hedges and trees along the proposed route (for example: all of the parking on Western Road, Silver End will have to be removed). Subsequent planning applications may have to be submitted for the removal of street furniture and the trimming back of hedges to allow such exceptional loads through.
- Initial project planning for the site should have accounted for access to the site directly from the A120 for all construction needs associated with the IWMF.
- A dangerous precedent could be set in terms of potentially opening up new and preferred access routes by allowing HGVs non-A120 access in the future.

RIVENHALL PARISH COUNCIL: Object to the so called Non-Material Amendment for the following reasons:

- These will be extremely large load carrying vehicles, 35 metres long and almost 4 metres wide and to travel along the route indicated will inflict serious disruption to local residents in both Cressing and Silver End.

- All through the discussion process access to the site has been designated as along the haul road from the A120 and if the Bailey Bridge is considered unsafe for such heavy loads then the contractor should strengthen the bridge, not look for alternative routes onto the site.
- This proposal will only have a marginal affect upon Rivenhall but it is the principle that is the major factor. Indaver are opening up the rural access along Woodhouse Lane more and more, which poses a serious risk of many more HGVs travelling through the local villages, if and when the waste site becomes operational.
- For these reasons, Rivenhall Parish Council requests that this application be considered by the appropriate ECC Committee, not appraised by an Officer, and that it be refused.

SILVER END PARISH COUNCIL: No comments received

FEERING PARISH COUNCIL: Object pending a structural engineering assessment of the bailey bridges on the haul road being undertaken. The bailey bridges need to fit for purpose for the next 20+ years to cope with planned future uses.

COGGESHALL PARISH COUNCIL: No comments received

LOCAL MEMBER - WITHAM NORTHERN: Objection

I object in the strongest possible terms to the request of this Non-Material Amendment by the IWMF developer, Indaver. Regrettably, I also do not believe that the response from Essex Highways to this application fully appreciates the severity of this amendment, and circumstances within which it is being made.

The very reason Condition 8 was placed on the developer originally was to maintain highways safety and local amenity, the request from the developer starkly makes clear the risk that would be created if this amendment was agreed to. This would result in an unacceptable level of obtrusion and disruption to the local residents and the highway from a developer who has always claimed to want to work with the community.

The disruption includes removal of street furniture (including ECC assets), cutting back trees/vegetation and holding oncoming traffic. Presumably, this would also include powers to remove parked cars on residential streets (Temple Lane, Western Road) in Silver End? There are also multiple businesses accessed via Woodhouse Lane and no consideration appears to have been given to them or the possible effect this would have on their trade.

It is also important to emphasise that the developer does not complying with Condition 8 fully at this present time already. On a weekly, sometimes daily basis, residents of mine in Bradwell write to me complaining that HGVs accessing the IWMF are using residential roads (The Street, Church Road), rather than the agreed route via the A120. Agreeing to this amendment would be rewarding poor adherence to the very condition they wish to discharge formally.

From the developer's application it is not clear that they have investigated any alternative solutions with Plan A surely being reenforcing the existing Bailey

Bridges. Was the responsible Planning Officer made aware or asked about this during the preapplication period? I am not an engineer, but I do not believe this is an unreasonable ask or that it would be an impossible feat by any means.

The fact that there is yet again another request to discharge yet another condition is a flagrant example of planning creep. No one can give certainty that it will be 'only' 10 abnormal loads the developer seeks permission for. This sets another dangerous precedent when the local community and the Liaison Group have been told all along construction vehicles will never use Woodhouse Lane to access the site.

Due to the impact this amendment would have to the public highway and Essex residents in my division, I must urge that it is put before the Development and Regulation Committee for full consideration. There must be democratic oversight over this decision and accountability to the adverse impact it would have if it were to be agreed to.

LOCAL MEMBER - BRAINTREE EASTERN: I object to the above on the following grounds

These will be extremely large load-carrying vehicles, 35 metres long and almost 4 metres wide. To travel along the route indicated will inflict serious disruption, congestion and pollution upon local residents in both Cressing and Silver End.

All through the many years covering the planning process for the waste site, access has always been defined as being along the dedicated private haul road from the A120.

If the Bailey Bridges on that haul road are considered unsafe for such heavy loads it should be the responsibility of the developer to strengthen them, not to look for alternative routes to the site through local villages via a second access.

Many people have already objected to the waste site and incinerator. This latest application is more 'goalpost moving' and will inflict further harm on rural villages. As well as the direct impacts and disruption that will be caused by this proposal, the principle of using the second access is a major factor. The waste site developers, Indaver, are opening up the rural access along Woodhouse Lane more and more, which poses a serious risk of many more HGVs travelling through these villages if and when the site becomes operational. Local villages have already seen a large increase in HGV traffic due to other developments in the area.

If built the waste site has consent for up to 404 HGV movements per day. It is essential that now and in the future all HVG and other traffic accessing the waste site does so via the dedicated haul road from the A120, with no second access into the site.

I therefore ask that this application be considered by the appropriate ECC Committee, not decided by an officer, and that it be refused.

6. REPRESENTATIONS

There is no requirement for an application NMA to be subject of consultation with neighbours and therefore neighbours were not notified of the application. However, 28 letters of representation have been received. These relate to planning issues, summarised as follows:

<u>Observation</u>	<u>Comment</u>
Applicant should have planned for this and thus proposals are unacceptable	See appraisal
It was known for years the bridges would need reinforcement. Unacceptable to have such loads passing through local villages, on bus routes and passing residences and 2 local schools, with potential loss of ancient hedgerows and trees.	See appraisal
Applicant have known Bailey Bridges would not be strong enough for the large over-sized loads. They have had over 10 years to address issue	The applicant has been unable to establish whether the foundations for the existing bridges would be strong enough to support a temporary bridge that could support the abnormal loads.
The developer should strengthen the existing bridges, not look for alternative routes	See appraisal
The existing two bailey bridges are designed for the quarry, empty HGVs arriving and full HGVs leaving	Both bridges are capable of taking fully laden HGVs
The abnormal loads are potentially dangerous and would disturb local residents.	See appraisal
The local rural roads are unsuitable for these abnormal loads.	See appraisal
The abnormal loads would cause disruption and pollution and change the face of our villages.	See appraisal
The Woodhouse Farm Lane access is being used more and more by the developers. The only access should be that via the A120.	See appraisal
If access is permitted via Woodhouse Lane, then more HGV movements may	See appraisal

be permitted via this route using narrow country lanes.

If use of this second access is allowed it would set a precedent for a second access for HGVs, contrary to what the Planning Inspector required.

See appraisal

If allowed on this occasion it may become the norm for HGV traffic as an easier more direct access, or for those blindly following sat navs.

See appraisal

The IWMF is permitted 404 HGV movements a day, it is essential all HGV and other traffic to the IWMF is the via the dedicated access and private access road, no second access should be permitted via Woodhouse Lane. Request the application is considered by the Committee rather than officers.

See appraisal

Actioned

Temple Lane and Western Road are part of Silver End Conservation Area and the roads are already congested with residents vehicles as no off road vehicular access is available making visibility an issue.

See appraisal

Many local people have objected to the waste site and incinerator, this latest application is more "goalpost moving" with more harm to rural villages.

See appraisal

Massive disruption to the local community and damage with zero benefit for the community at all is unacceptable.

See appraisal

These abnormal roads will inflict serious disruption to local villages residents in both Cressing and Silver End.

See appraisal

What is the point of conditions applied within planning applications if they can just be changed to suit later on? If allowed, it undermines public credibility in the whole process.

See appraisal

The applicant has failed to spend the money to make the necessary and

The extant planning permission does not require improvement of the bridges

proper improvements to the existing access routes as set out in their original planning application and is now applying to bring vehicles through village streets that are totally unsuitable for this type of use.

across the River Blackwater, as the matter was not raised as part of the consideration of the original or subsequent applications.

If Indaver get permission, they can order resident's vehicles to be moved, remove signs and cut trees and hedges.

See appraisal

Object as tree lined village roads would be destroyed and resident would be required remove their fences.

See appraisal

Why are exiting loads able to cross the bridge

The vehicles delivering the rigs when not laden with the rigs would be able to exit the site crossing the bailey bridges. When removing the rigs from the site the vehicles would need to exit via Woodhouse Lane.

Silver End has a Conservation Area such that trimming of trees and hedges would require authorisation

It is understood the Highway Authority have permitted rights to trim vegetation if within the need for without the need for a Conservation Area consent.

The abnormal loads will require removal of trees and street furniture in a Conservation Area

There would be no removal of trees only trimming. The removal of street furniture would only be temporary.

Initially it was understood it would be 3 loads, now there are more and to be in place until the plant opens in 2024.

The proposal is 5 abnormal loads in, 5 abnormal loads out, to occur over the next 15 months i.e. until November 2023.

7. APPRAISAL

The key issues for consideration are:

- Need
- Highways
- Hedges and Trees
- Residential Amenity

A NEED

Development of the IWMF is progressing and piling rigs are required for the next stage of construction. These pilings rigs need to be transported to the site.

The private access road from the A120 includes two bailey style bridges over the River Blackwater, which are suitable for normal HGV traffic visiting the quarry and IWMF site. However, the developer has not been able to establish whether the

existing reinforced bridge abutments (foundations) are adequate from a structural and geotechnical viewpoint to accept the vehicle and load required to transport the piling rigs. Various alternatives have been considered by the applicant to enable the existing access to the site to be used, including breaking the piling rigs into parts, lifting them with a crane over the river, but the conclusion is the only optional available at this time is to bring the abnormal loads via the Woodhouse Lane to the south of the site.

The extant planning permission (condition 8) requires all access to be from the north via the A120. Recently temporary planning permission was granted for visitors and staff to access the Information Hub from Woodhouse Lane.

The number of abnormal loads is 10 in total , 5 in and 5 out. The piling rigs would arrive between mid-September and October 2022 and leave over the course of 2023, the last likely to leave in November 2023. The unladen vehicles that transport the piling rigs could leave via the normal A120 route. As this is a discrete request it is considered by the WPA that the matter can be dealt with by a NMA to the existing planning permission.

It is acknowledged there has always been great sensitivity as to the use of route from the south along Woodhouse Lane and objections have been raised concerned that it might be used by more HGVs delivering construction materials to the site or in the future waste to the site. If an application were to be made for regular HGV access via Woodhouse Lane it would be strongly resisted by the Waste Planning Authority. One of the specific issues for allocation of the site within the Waste Local Plan is that access should only be via the A120, so there is policy support for regular/normal access to be only via the A120. The application is not for a permanent change to the access arrangements.

It is the current intention of the applicant in the future to install a temporary new bridge, subject to obtaining the necessary consents, with new supporting abutments to accept the scheduled abnormal loads necessary to build the IWMMF. On completion of future abnormal loads the new temporary bridge would be removed and the existing bridges reinstated. The applicant is unable to confirm that these abnormal loads would be the only loads to come via Woodhouse Lane, as the temporary bridge requires the applicant to obtain the necessary consents. In the event that further discrete abnormal loads are required to be brought into the site via Woodhouse Lane, a further separate consent would be sought.

The Rivenhall site is an identified site within the Waste Local Plan for waste development (WLP policy 3), while the site was granted planning permission initially in 2010, it remains the case that the site has an extant planning permission for waste development. Since Indaver have taken on the development of the site, they have progressed implementation of the development and have sought to be open and transparent with the authority, local councils and residents, holding regular liaison meetings, at which the potential need for these abnormal loads has been raised on several occasions.

The applicant has stated that if access via Woodhouse Lane for these piling rigs cannot be made via Woodhouse Lane, it would significantly delay progress of the development.

It is considered that the request for 10 abnormal loads via Woodhouse Lane is in principle acceptable, subject to no unacceptable environmental impacts.

B HIGHWAYS

The Highway Authority has raised no objection, acknowledging that they would not normally wish to see vehicles of this size using the proposed route, but due to the low number of movements and the circumstances they have no adverse comments to make.

As well as this NMA the applicant would be required to seek authorisation from the Highway Authority for the abnormal loads.

Objection has been raised that during the movement of the abnormal loads residents along the route would be required to not park vehicles on the road, this is potentially likely but this would only impact 10 days in total, the individual days spread over several months. The loads would be supported by the necessary warning support vehicles.

Comments have been made that the constraints of the bridges over the River Blackwater have been known for some time and therefore the applicant should have forward planned for these abnormal loads. The bridge crossing is in a sensitive location over the River Blackwater, within the Blackwater Plantation West Local Wildlife Site, such that strengthening of the abutments would need to be done carefully requiring no doubt ecological assessments, geotechnical assessments and assessment of impacts on the river. As explained it is the applicant's intention to improve the abutments and use a temporary bridge for future abnormal loads, but to obtain the necessary consents requires a greater lead in time than is currently available.

It is acknowledged that since works started on the site, there have been several occasions when vehicles, including HGVs have tried to approach the site not from the A120. The applicant has worked with its contractors to ensure drivers are aware of the correct route to the site and has temporarily put banksmen in place to direct traffic, when new contractors started at the site. Discussions are also ongoing with the Highway Authority and National Highways for additional road signage.

In highway safety and capacity terms there is no reason to withhold granting this NMA and the proposals are considered not to be in conflict with WLP policy 10 (Development management) and policy 12 (Transport and access), BLP policy (LPP42 Sustainable transport) and KNP policy MA1 (Traffic Congestion And Parking Stress).

VEGETATION AND SIGNAGE ON ROUTE

It is stated by the applicant that there may have to be some trimming of hedges and trees. Considerable concern has been raised by objectors as to the potential visual and ecology impact that could be caused by the trimming of hedges and trees. The applicant has confirmed that a technical analysis has been undertaken

that has demonstrated that the abnormal loads can be moved within land that forms the public highway and that any trimming of hedges and trees would only be those within the public highway, which the highway authority has the right to trim. Concern has been raised that the abnormal loads might require private garden fences to be removed, this would not be the case, as these would not be within the public highway. Private hedges that overhang into the public highway could potentially require trimming. The start of the abnormal loads are not planned until mid-September such that any hedge/tree trimming required would be outside the bird nesting season.

It is therefore considered the proposals would not be in conflict with WLP policy 10 (Development Management) and BDLP policies LPP63 (Natural environment and green infrastructure), LPP65 (Tree protection) and LPP66 (Protection, Enhancement, Management and Monitoring of Biodiversity).

C RESIDENTIAL IMPACT

The loads would be moved between 10 am and 4pm to avoid the busier periods of the day and each loads would take 1 day to move. It may require vehicles to be temporarily halted during the journey. Such that there might short periods of disruption for local traffic. The loads would be moved relatively slowly, such that noise is unlikely to be an issue and emissions from exhausts would be similar to HGVs which while not regularly using these routes are permitted.

The proposals are therefore not considered to be contrary to WLP policy 10 (Development management) or BLP policies LPP70 (Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards).

8. CONCLUSION

It is considered due to limited number of abnormal movements and in view of the fact the applicant has considered other of alternatives, but these are not deliverable within a practical timescale, the amendment to condition 8 to allow these abnormal is acceptable as a NMA to the planning permission.

An application for a NMA cannot be subject of an appeal if refused. If the NMA were denied, the applicant can seek a “material amendment” to the application through a variation application (S73 of the TCPA), for which there is a right of appeal. The consideration of issues would be not different under a S73 application than are currently considered within this report and thus the recommendation would likely remain the same, unless other material considerations were identified in the interim.

As the outcome would likely be the same it is considered there is no justification to withhold consent for this discrete NMA to condition 8 and withholding permission would delay implementation of an extant planning permission.

9. RECOMMENDED

That a NMA to condition 8 of planning permission ESS/34/15/BTE be granted, such that condition 8 reads as follows:

No vehicles shall access or egress the site except via the access onto the Coggleshall Road (A120 Trunk Road) junction as shown on application drawing Figure 1-2, except for the movement of the abnormal indivisible loads associated with the piling rigs in connection with the construction the IWMF, as detailed in non-material amendment application (ref ESS/34/15/BTE/NMA3) dated 27 July 2022, Cover Letter from RPS dated 29 July 2022, Technical Note prepared by RPS (Referenced JNY11225-02B, dated 15 July 2022) and email from RPS dated 16 August 2022. The Waste Planning Authority shall be informed at least 14 days before any abnormal indivisible loads are brought to site.

BACKGROUND PAPERS

Consultation replies
Representations

EQUALITIES IMPACT ASSESSMENT

This report only concerns the determination of an application for non material amendment to a 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 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 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

BRAINTREE – Witham Northern
BRAINTREE – Braintree Eastern