Essex County Council

Development and Regulation Committee

10:30	Friday, 25 February 2022	Council Chamber County Hall, Chelmsford, CM1 1QH

For information about the meeting please ask for:
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Telephone: 033301 36601
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		Pages
1	**Membership, Apologies, Substitutions and Declarations of Interest**	**8 - 8**
2	**Minutes** To approve the minutes of the meeting held on 28 January 2022.	**9 - 49**

3 **Identification of Items Involving Public Speaking**

To note where members of the public are speaking on an agenda item. These items may be brought forward on the agenda. Please note that members of the public wishing to speak must email democratic.services@essex.gov.uk no later than 5pm on the Tuesday before the meeting.

4 **Minerals and Waste**

4.1 **Rivenhall Airfield, Coggeshall Road (A120), Braintree** **50 - 311**

To consider report DR/06/22 relating to the details pursuant to Condition 66 (Plan of action for an alternative use or a scheme of rehabilitation) of ESS/34/15/BTE. ESS/34/15/BTE was for "Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of Integrated Waste Management Facility. The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks. And approval of details required by condition (the details taking account of the proposed amended drawings), the conditions sought to be discharged are as follows: 6 (access road, cross over points), 13 (Signage, Telecommunications & Lighting at Woodhouse Farm complex), 14 (Stack design and finishes), 15 (design details and construction materials), 17 (management plan for the CHP), 18 (green roof), 20 (construction compounds, parking of vehicles), 22 (foul water management), 23 (surface water drainage and ground water management), 24 (groundwater monitoring), 37 (signs on access road at footpath crossings), 43 (lighting scheme during construction), 45 (phasing scheme for access road, retaining wall and mineral extraction), 50 (fencing - temporary and permanent), 53 (ecological survey update), 54 (Habitat Management Plan update), 57 (landscaping - bunding & planting), 59 (trees, shrubs and hedgerows - retention and protection), 60 (tree management and watering adjacent to retaining wall), 61 (Woodhouse Farm parking and landscaping), 62 (traffic calming measures at River Blackwater for otters and voles) and 63 (access road crossing points - lining and singing).

Location: Rivenhall Airfield, Coggeshall Road (A120), Braintree, CO5 9DF

Ref: ESS/34/15/BTE/66/01

4.2	**Land South of A1060 (Salt's Green), Chalk End, Roxwell, Chelmsford, CM1 4NJ** To consider report DR/07/22 relating to a sand and gravel quarry and associated works/development including formation of new access and mobile plant area; together with the importation of inert material to facilitate site restoration. **Location:** Land south of A1060 (Salt's Green), Chalk End, Roxwell, Chelmsford, CM1 4NJ **Ref:** ESS/77/20/CHL	**312 - 380**
4.3	**Lufkins Farm, Great Bentley Road, Frating** To consider report DR/08/22 relating to the continuation of the construction of an agricultural reservoir involving the extraction of minerals and the removal of surplus soils without compliance with condition 6 (cessation of development) attached to planning permission ref ESS/41/15/TEN to allow additional time for completion and restoration of the development. **Location:** Lufkins Farm, Great Bentley Road, Frating, CO7 7HN **Ref:** ESS/99/21/TEN	**381 - 405**
5	**County Council Development**	
5.1	**Fairview, Fairview Road, Basildon, Essex** To consider report DR/09/22 relating to the demolition of existing school buildings and structures and the construction of a two-storey building with revised parking, landscaping, boundary treatments and associated facilities. **Location:** Fairview, Fairview Road, Basildon, Essex, SS14 1PW **Ref:** CC/BAS/102/21	**406 - 432**
6	**Information Items**	

6.1	**Widdington Pit, Hollow Road, Widdington** To update Members on enforcement of planning control. **Location:** Widdington Pit, Hollow Road, Widdington, CB11 3SL **Ref:** ENF/1155 Report DR/10/22	**433 - 435**
6.2	**Enforcement of Planning Control Update** To update Members of enforcement matters for the period 01 November 2021 to 31 January 2022 (Quarterly Period 3). Report DR/11/22	**436 - 440**
6.3	**Applications, Enforcement and Appeals Statistics** To update Members with relevant information on Planning Applications, Appeals and Enforcements, as at the end of the previous month, plus other background information as may be requested by the Committee. Report DR/12/22	**441 - 442**
7	**Date of Next Meeting** To note that the next meeting will be held on Friday 25 March 2022, in the Chamber, County Hall.	
8	**Urgent Business** To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	

Exempt Items

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

The following items of business have not been published on the grounds that they involve the likely disclosure of exempt information falling within Part I of Schedule 12A of the Local Government Act 1972. Members are asked to consider whether or not the press and public should be excluded during the consideration of these items. If so it will be necessary for the meeting to pass a formal resolution:

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

9 **Urgent Exempt Business**

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

Agenda item 1

Committee: Development and Regulation Committee

Enquiries to: Emma Hunter, Democratic Services Officer

Membership, Apologies, Substitutions and Declarations of Interest

Recommendations:

To note

1. Membership as shown below
2. Apologies and substitutions
3. Declarations of interest to be made by Members in accordance with the Members' Code of Conduct

Membership
(Quorum: 3)

Councillor C Guglielmi	Chairman
Councillor J Jowers	Vice-Chairman
Councillor J Fleming	
Councillor M Garnett	
Councillor I Grundy	
Councillor M Hardware	
Councillor D Harris	
Councillor B Aspinell	
Councillor S Kane	
Councillor R Moore	
Councillor M Steptoe	
Councillor P Thorogood	

Minutes of the meeting of the Development and Regulation Committee, held in the Council Chamber, County Hall, on Friday, 28 January 2022 at 10:30.

Present:

Cllr C Guglielmi (Chairman)	Cllr S Kane
Cllr J Henry	Cllr I Grundy
Cllr B Aspinell	Cllr R Moore
Cllr M Garnett	Cllr P Thorogood
Cllr D Harris	Cllr M Hardware

1. Membership, Apologies, Substitutions and Declarations of Interest

Apologies were received from Cllr M Steptoe, for whom Cllr J Henry substituted. Apologies were also received from Cllr J Jowers and Cllr J Fleming.

Councillor C Guglielmi declared an interest in item 4.1 of the agenda (Minute 2) concerning Elmstead Hall, Elmstead, Colchester as the site was in his division. Cllr Guglielmi considered that as he had not previously expressed a view on the proposition, he was not precluded from participating in the debate and voting on this item.

2. Minutes

The minutes of the meeting held on 26 November 2021 were agreed as a correct record and signed by the Chairman.

3. Identification of Items Involved in Public Speaking

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

1) Elmstead Hall, Elmstead, Colchester
   To consider report DR/01/22 relating to the:

   (i) Continuation of Construction of an irrigation reservoir without compliance with Condition 2 (Duration) of Planning Permission ESS/24/15/TEN that was for "Construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings" to extend the time period for completion of site operations including restoration on land at Elmstead Hall, Elmstead, Colchester".

   (ii) Continuation of construction of an irrigation reservoir without compliance with Condition 3 (Approved Details) of Planning Permission ESS/24/15/TEN that was for "Construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings" to now provide for retrospective revisions to the location and design of the peripheral environmental bund, aggregate processing plant, mineral stockpile and storage areas, the site entrance, the internal access road and site water management and the addition of a

mobile soil screening plant.
Location: Elmstead Hall, Elmstead, Colchester
Ref: ESS/97/21/TEN and ESS/105/21/TEN

Public speakers:

- Agent on behalf of the applicant: Mr Simon Chaffe.

4. Elmstead Hall, Elmstead, Colchester

The Committee considered report DR/01/22 by the Chief Planning Officer.

Members noted the addendum to the agenda.

Policies relevant to the application were detailed in the report.

Details of consultation and representations received were set out in the report and addendum to the agenda.

The Committee noted the key issues:

- Appropriateness of the time extension.
- Traffic
- Implications for the amended details

In accordance with the protocol on public speaking the Committee was addressed by Mr Simon Chaffe, speaking as the agent on behalf of the applicant. Mr Chaffe made several points:

- The duration of the extension of operations recommended in the report was approximately one year shorter than was sought by the applicant.
- The original planning application for the site allowed for a period of four years for construction, rather than site preparatory works in addition to construction. The permission had required the four-year period to include site preparatory works, as well as restricting the rate of removal of sand and gravel.
- The site operator had frequently been unable to comply with the HGV routing scheme due to the public highway between the site access and the A133 being closed due to the construction of a residential development.
- The applicant considered that under the recommendations it was highly likely they would be required to submit a further application in due course to further extend the duration of construction operations.
- The applicant requested that the extension be approved to the 5 November 2025.

Following comments and concerns raised by members, it was noted:

- Preparation works on the site began in November 2017. Since then, roughly one quarter of the site has been worked.

There being no further points raised, the resolution, was proposed by Councillor Garnett and seconded by Councillor Hardware. Following a vote of 9 in favour, with 1 abstention, it was

Resolved

That for **ESS/97/21/TEN** planning permission be granted subject to the following conditions:

Duration

1. All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the access track and site bellmouth, subject to the other condition requirement below, shall be removed and the site restored in accordance with the conditions of this permission not later than 30th November 2024.

Approved Details

2. Except as may be modified or required by the other conditions to this permission by the Mineral Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details as set out in the application letter from D. K. Symes Associates dated 19th March 2015 and accompanying:

   a) Planning Application form dated 19th March 2015

   b) Planning Statement and Environmental Statement Volumes 1 and 2 dated March 2015.

   c) Drwg Nos: 1003/A/1 entitled “Application Plan” dated 12-03-2015

   d) Drwg Nos: 1003/AD/1 entitled “Proposed Access Detail” dated 13-03-2015

   e) Drwg Nos: 1003/PP/1 entitled “Proposed Processing Plant” dated 27-02-2015

   f) Drwg Nos: 1003/SB/1 entitled “Illustrative Details of Typical Site Buildings” dated 27-02-2015

   as amended by:

   g) The e-mail from Douglas Symes dated 2nd June 2015 and accompanying:

      I. Drwg no: 1003/0/1v7 entitled “Illustrative Operations Plan”, dated 28/04/2015. For clarity this plan only in repsect of depicting the extraction depth in the depecited cross section. Drwg no: 1003/0/1v10 below supercedes this plan in all other respects.

      II. Drwg no: 1003/CS/1 entitled “Illustrative Crosss Sections – During Operations” dated 12-05-2015.

      III. Drwg No: 1003/CS/2 entitled “Illustrative Cross Sections – Completed Reservoir” dated 12-05-2015.

      IV Drwg No: 1003/R/1 entitled “Illustrative Reservoir Plan” dated 29-04-2015.

h) The e-mail from Douglas Symes dated 27th January 2016 and accompanying Archaeological Solutions Ltd Historic Buildings Impact Assessment entitled "Proposed agricultural Reservoir, Elmstead Hall, Elmstead, Essex Historic Building Impact Assessment" dated 21st December 2015.

i) BLacoustics Environmental Noise Survey dated February 2016 ref no: BDL3519tr2 as amended by letter from LFAcoustics dated 23rd May 2016.

j) The e-mail from Douglas Symes dated 12th September 2016 and accompanying Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.

For Condition 1 (Commencement) the start date for the development is the 06/11/17 as set out in the email from Terry Burns to Simon Chaffe dated 17/05/21.

For Condition 6 (Tree Protection) those details as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July2017 as it relates to Condition 6.

For Condition 9 (Ecological Interest) those details as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

For Condition 11 (Archaeology) those details in so far as they relate to the Written Scheme of Investigation as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

For Condition 15 (Vehicle Routeing) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 15.

For Condition 17 (Vehicle Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 17.

For Condition 23 (Construction Environmental Management Plan (Biodiversity) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
c) Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.

For Condition 24 (Scheme of Working) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.

c) Appendix 4 entitled "Processing Plant/Screener Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.

d) Appendix 5 entitled "Water Pump details"

e) Appendix 6 entitled “Illustrative Cross -Sections” and Drwg No; 1003/CS/1 entitled “Illustrative Cross Sections – During Operations” dated 05/03/2019.

For Condition 30 (Lighting) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 30.
c) Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/19 version 11.

For Condition 31 (Noise Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 31.

Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

For Condition 36 (Dust Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 36.

c) E-mail from Douglas Symes to Terry Burns dated 16th October 2017 at 13:29.

For Condition 37 (Groundwater Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled "Mineral borehole and piezometer locations" dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due".

For Condition 49 (Soil Handling and Storage) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 49.

c) Appendix 7 entitled "Operations Plan showing soil storage bunds" and Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/2019.

For Condition 51 (Soil Movement and Storage Scheme) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 51.

For Condition 55 (Revised Restoration Scheme) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 07/03/19.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.

c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying

d) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils,

engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.

e) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.

f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

For Condition 56 (Landscaping) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 56.

c) E mail from Douglas Symes to Terry Burns dated 9th April 2018 at 12:41 and accompanying "Elmstead Hall Reservoir Landscape Management Plan" Version: Doc_601_005 dated 29th March 2018.

d) E mail from Susan Deakin to Terry Burns dated 21st April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

For Condition 57 (Biodiversity Management Plan) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
c) Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
d) Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

As amended by Planning permission ESS/97/21/TEN and accompanying:

a) Planning application form from R. W. Mitchell and Sons dated 05/11/21.
b) Letter from Matthews and Son LLP dated 05/11/21.

c) Susan Deakin Ecology report entitled "Appendix 1, Elmstead Hall Irrigation Reservoir, Elmstead, Planning Permission Ess/24/715/Ten 1.11.2016; Application For Variation Of Planning Condition, Planning Considerations And Approved Schemes, Statement Concerning Ecological Considerations" dated 03/11/21.

d) Drwg No: 1003/L entitled "Location Plan" dated 05/11/14.

Availability of Plans

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

Protection of Existing Trees and Perimeter Vegetation

4. Existing hedgerows and trees within, and on the perimeter of, the site and identified for retention shall be retained and shall not be felled, lopped, topped or removed without the prior written consent of the Mineral Planning Authority. Any vegetation removed without consent, dying, being severely damaged or becoming seriously diseases (at any time during the development or aftercare period) shall be replaced with trees or bushes of such size and species as may be specified by the Mineral Planning Authority, in the planting season immediately following any such occurrences.

5. The protection of trees on the site shall be carried out in accordance with the details of the Tree Protection scheme approved on 23rd April 2018 under Condition 6 of planning permission reference ESS/23/14/TEN. The approved details of the Tree Protection scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 6.

Boundaries and Site Security

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

7. No soil stripping shall take place until the footprint of the excavation area and those areas to be disturbed in the course of the reservoir construction have been physically pegged out. Those markers that can be retained during the course of the development to maintain demarcation boundaries shall be retained for that period.

Ecological Interest

8. The protection of Ecological Interest on the site shall be carried out in accordance with the details of the Ecological Interest scheme approved on 23rd April 2018 under Condition 9 of planning permission reference

ESS/23/14/TEN. The approved details of the Ecological Interest scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

Bird Nesting

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

Archaeology

10. The protection of Archaeological Interests on the site shall be carried out in accordance with the details of the Archaeological scheme approved on 23rd April 2018 under Condition 11 of planning permission reference ESS/23/14/TEN. The approved details of the Archaeological scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

Processing Plant

11. No processing plant shall be brought onto the application land until the "Plant Area" as shown on Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.has been prepared and is available to accommodate the processing plant.

Limits of Extraction

12. No excavation shall be carried out deeper than 8 metres below existing ground level as provided for in paragraph 3.11.6 of the Environmental Statement and as shown on Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015.

Topographical surveys

13. A survey of site levels shall be carried out at intervals of not less than every 12 months, starting from the date on which soil stripping commences. A copy of the survey shall be submitted to the Mineral Planning Authority within 14 days of being undertaken.

Vehicle Routeing

14. The Vehicle Routeing scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23rd April 2018 under Condition 15 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Routeing comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 15.

15. A written record shall be maintained at the site office of all movements in/out of the site by HGVs. Such records shall contain the vehicle's registration and operating company's identity and time/date of movement. The records shall be made available for inspection by the Mineral Planning Authority if requested and retained for the duration of the life of the development permitted.

16. The Vehicle Monitoring scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23rd April 2018 under Condition 17of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Monitoring comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 17.

Highway Cleanliness

17. No mud or dirt shall be carried out onto Tye Road by vehicles using the site.

Haul Road maintenance

18. The internal haul road shall be maintained with a compacted bound surface/or tarmaced and maintained in good condition throughout the reservoir construction period as provided for in para 3.6.3 of section 3.6 on Access of Volume 1 of the Environmental Statement.

HGV Movements

19. 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 Saturdays: 80 movements (40 in/40 out)

Sundays and Bank/Public Holidays: none

Sheeting Vehicles

20. All HGVs shall be sheeted before leaving the site.

Vehicle Maintenance

21. No servicing, maintenance or testing of vehicles or plant shall take place other than within the excavation void area. (For the purposes of this condition the restriction shall not apply to unforeseen vehicle breakdowns).

Construction Environmental Management Plan (CEMP): Biodiversity

22. The Construction Environmental Management Plan (CEMP): Biodiversity scheme for the site shall be carried out in accordance with the details of the CEMP approved on 12TH May 2020 under Condition 23 of planning permission reference ESS/23/14/TEN. The approved details of the CEMP comprise:

    a. The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
    c. Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.

23. No site preparation work, as defined in Condition 1 of this permission, shall take place until a scheme of working has been submitted to, and received the written approval of, the Mineral Planning Authority. The scheme shall be implemented as approved, or as may subsequently be approved, in writing by the Mineral Planning Authority. The submitted scheme shall make provision for:-

    a) Risk assessment of potentially damaging construction activities;
    b) Identification of biodiversity protection zones;
    c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
    d) The location and timing of sensitive works to avoid harm to biodiversity features;
    e) The times during construction when specialist ecologists need to be present on site to oversee works;
    f) Responsible persons and lines of communication;
    g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and the
    h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.

Scheme of Working

24. The Scheme of Working for the site shall be carried out in accordance with the details of the scheme of working approved on 26th September 2019 under Condition 24 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    d. The application form from R.W. Mitchell and Sons dated 24th July 2017.
    e. Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.

    f. Appendix 4 entitled "Processing Plant/Screener Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.

    g. Appendix 5 entitled "Water Pump details"

    h. Appendix 6 entitled "Illustrative Cross -Sections" and Drwg No; 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 05/03/2019.

Sale of Aggregate

25. There shall be no retailing or direct sales of soils or bagged aggregates to the public from the quarry.

ENVIRONMENTAL PROTECTION

Hours of Operation

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

0700 – 1800 hours	Mondays to Fridays.
0700 – 1300 hours	Saturdays.

b) There shall be no working on Sundays or Bank/National Holidays.

c) This condition shall not apply in cases of emergency when life, limb or property is in danger. The Mineral Planning Authority shall be notified, in writing, as soon as possible after the occurrence of any such emergency.

Importation

27. No materials for infilling or excavated materials, including minerals, shall be imported to the site other than clays for site lining purposes.

Rubbish

28. All rubbish and scrap materials generated on the site shall be collected and stored in a screened position within the site area until such time as they may be properly disposed of to a suitably licensed waste disposal site.

Burning

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

Lighting

30. The Lighting scheme for the site shall be carried out in accordance with the details of the lighting scheme approved on 12th May 2020 under Condition 30 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    i. The application form from R.W. Mitchell and Sons dated 24th July 2017.
    j. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 30.
    k. Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/19 version 11.

Noise – Monitoring

31. The Noise Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under Condition 31 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 31.

    Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

Noise – Temporary Operations

32. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive properties as listed in Condition 33 shall not exceed 70dB LAeq,1hr. Measurement shall be made no closer than 3.5m from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

Temporary operations shall not exceed a total of eight weeks in any continuous 12 month duration. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of a temporary operation. Temporary operations shall include site preparation bund formation and removal, site stripping and restoration and any other temporary activity that has been approved in writing by the Mineral Planning Authority in advance of such a temporary activity taking place.

Noise – Normal Operating Levels

33. Except for temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive premises adjoining the site, due to operations in the site, shall not exceed 1h, the LAeq levels as set out in the following table and identified on the attached plan no: ESS/24/15/TEN/A entitled "Noise Monitoring Locations":

Receptor Location	Criterion / dB LAeq,1hr
Holly way	49 dB
Parsonage Farm	48 dB
Elmstead Hall & Cottages	48 dB
Mount Pleasant Cottages	47 dB
Allen's Farm	47 dB
Balls Farm	48 dB
Fen Farm	55 dB
Fern Villa	54 dB
Edwinstone	48 dB
Friars Hall	48 dB

Measurements shall be made no closer than 3.5m to the façade of properties or other reflective surface and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Loudspeakers

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

Reversing alarms

35. Only broadband sound emitting reversing alarms shall be employed on vehicles and plant engaged in site activities and transport on and off site.

Dust

36. The Dust Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under Condition 36 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 36.

c) E-mail from Douglas Symes to Terry Burns dated 16th October 2017 at 13:29.

Groundwater monitoring

37. The Groundwater Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under Condition 37 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled "Mineral borehole and piezometer locations" dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due".

Surface Water Drainage and Pollution Protection

38. Any oil, fuel, lubricant, paint or solvent within the site shall be stored so as to prevent such materials contaminating topsoil or subsoil or reaching any watercourse.

39. a) Any fixed or free standing oil or fuel tanks shall be surrounded by a fully sealed impermeable enclosure with a capacity not less than 110% of

that of the tanks so as to fully contain their contents in the event of any spillage;

b) If there is multiple tankage, the enclosure shall have a capacity not less than 110% of the largest tank;

c) All filling points, vents and sight glasses shall be within the sealed impermeable enclosure; and

I. There shall be no drain through the impermeable enclosure. (The applicant's attention is drawn to the requirement set out in BS 799 Part 5: 1987.)

40. All foul drainage shall be contained within a sealed and watertight cesspit fitted with a level warning device constructed to BS 6297 "Design and Installation of Small Sewage Treatment Works and Cesspools" (1983).

41. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.

42. No foul or contaminated surface water or trade effluent shall be discharged from the site into either the ground water or surface water drainage systems except as may be permitted under other legislation.

Fixed Plant and Buildings

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

Handling and Storage of Soil and Soil Forming Material

44. Prior to the stripping of any soils from the site, excess vegetation shall be removed from the areas to be stripped (The term 'excess vegetation' in this condition means all vegetation above a height of 154mm (6") above ground level).

45. Before any part of the site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or used for the stacking of subsoil or soil-making material, all available topsoil shall be stripped from that part.

46. No operations involving soil lifting/replacement shall take place between the months of October to March inclusive.

47. No movement of soils or soil-making materials shall take place except when the full depth of soil to be stripped or otherwise transported is in a 'suitably dry' soil moisture condition. Suitably dry means the soils shall be sufficiently dry for the topsoil to be separated from the subsoil without difficulty so that it is not damaged by machinery passage over it.

(For clarity, the criteria for determining "suitably dry soil moisture conditions" and "dry and friable" is based on a field assessment of the soils wetness in relation to its lower plastic limit. The assessment should be made by attempting to roll a ball of soil into a thread on the surface of a clean plain glazed tile (or

plate glass square) using light pressure from the flat of the hand. if the soil crumbles before a long thread of 3mm diameter can be formed, the soil is dry enough to move. The assessment should be carried out on representative samples of each major soil type.)

48. All suitable soils and soil-making material shall be recovered where practicable during the stripping or excavation operations and separately stored.

49. The Soil Handling and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26th September 2019 under Condition 49 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    m. The application form from R.W. Mitchell and Sons dated 24th July 2017.
    n. Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 49.

    o. Appendix 7 entitled "Operations Plan showing soil storage bunds" and Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/2019.

50. The topsoil, subsoil, and soil-making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during the restoration of the site. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their construction. The sward shall be managed in accordance with correct agricultural management techniques throughout the period of storage.

51. The Soil Movement and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26th September 2019 under Condition 51 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    p. The application form from R.W. Mitchell and Sons dated 24th July 2017.
    q. Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 51.

52. Such precautions unless as may be necessary to prevent the mixing of the soil types with any overlap of soil types in a storage mound be kept to the

minimum necessary for the effective formation of that mound and the interface shall be defined on site and on a record plan so that it can be easily located at mound removal stage.

53. All soil and soil forming material storage mounds, together with all areas that remain unworked, or have been restored, shall be kept free of weeds and all necessary steps shall be taken to destroy weed at an early stage of growth to prevent seeding.

54. An annual report, together with plans at a scale to be agreed with the Mineral Planning Authority, setting out the previous year's soil movement and restoration shall be submitted by 31st December each year, or such other date as may be agreed in writing with the Mineral Planning Authority.

Restoration

55. The Revised Restoration scheme for the site shall be carried out in accordance with the details of the scheme approved on 6th April 2021 under Condition 55 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 07/03/19.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.

c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying

d) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.

e) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.

f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

Landscaping

56. The Landscaping scheme for the site shall be carried out in accordance with the details of the landscaping scheme approved on 23rd April 2018 under Condition 56 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir

involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 56.

c) E mail from Douglas Symes to Terry Burns dated 9th April 2018 at 12:41 and accompanying "Elmstead Hall Reservoir Landscape Management Plan" Version: Doc_601_005 dated 29th March 2018.

d) E mail from Susan Deakin to Terry Burns dated 21st April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

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

Biodiversity Management Plan

58. The Biodiversity Management Plan for the site shall be carried out in accordance with the details of the Management Plan approved on 12th May 2020 under Condition 58 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a. The application form from R.W. Mitchell and Sons dated 24th July 2017.
b. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
c. Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
d. Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

Amenity Aftercare

59. Within one year of the date of the commencement of site preparation works as provided for by Condition 1 of this permission a wetland/woodland aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as a reservoir and associated wetland/woodland habitat shall be submitted for the approval of the Mineral Planning Authority. The wetland/woodland aftercare scheme shall be implemented in accordance with the details as approved, or as may subsequently be approved, in writing, by the Mineral Planning Authority. The submitted scheme shall specify the steps to be carried out and their timing within a five year aftercare period, or such longer period as may be proposed, and shall make provision for:-

(i) a management plan and strategy;

(ii) a programme to allow for monitoring the establishment of the wetland and aquatic vegetation which shall provide for:

(a) such work as is necessary to enable the establishment of (ii) above; and

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

(c) For the woodland area the::

cultivation practices;

post-restoration secondary soil treatments;

soil analysis;

fertiliser applications, based on soil analysis;

drainage;

tree planting and maintenance;

weed control;

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

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

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

<u>Cessation</u>

60. In the event of site operations being discontinued for six months in the period specified in Condition (2) then the land as disturbed within the approved extraction area shall be restored in accordance with a scheme submitted by the developer which has the written approval of the Mineral Planning Authority. The scheme shall be submitted not later than one month from the Mineral Planning Authority's issue of written notice that it is of the opinion that land reclamation work has not taken place in the six month period and shall include the requirements of Conditions 55 - 59 inclusive of this permission. The scheme, as approved by the Mineral Planning Authority, shall be commenced within three months of notification of determination of the scheme and shall be fully implemented within a further period of 12 months or such other period as may be approved by the Mineral Planning Authority.

That for **ESS/105/21/TEN** planning permission be granted subject to the following conditions:

Duration

1. All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the access track and site bellmouth, subject to the other condition requirement below, shall be removed and the site restored in accordance with the conditions of this permission not later than 30th November 2024.

Approved Details

2. Except as may be modified or required by the other conditions to this permission by the Mineral Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details as set out in the application letter from D. K. Symes Associates dated 19th March 2015 and accompanying:

   a) Planning Application form dated 19th March 2015

   b) Planning Statement and Environmental Statement Volumes 1 and 2 dated March 2015.

   c) Drwg Nos: 1003/A/1 entitled “Application Plan” dated 12-03-2015

   d) Drwg Nos: 1003/AD/1 entitled “Proposed Access Detail” dated 13-03-2015

   e) Drwg Nos: 1003/PP/1 entitled “Proposed Processing Plant” dated 27-02-2015

   f) Drwg Nos: 1003/SB/1 entitled “Illustrative Details of Typical Site Buildings” dated 27-02-2015

   as amended by:

   g) The e-mail from Douglas Symes dated 2nd June 2015 and accompanying:

      I. Drwg no: 1003/0/1v7 entitled “Illustrative Operations Plan”, dated 28/04/2015. For clarity this plan only in repsect of depicting the extraction depth in the depecited cross section. Drwg no: 1003/0/1v10 below supercedes this plan in all other respects.

      II. Drwg no: 1003/CS/1 entitled “Illustrative Crosss Sections – During Operations” dated 12-05-2015.

      III. Drwg No: 1003/CS/2 entitled “Illustrative Cross Sections – Completed Reservoir” dated 12-05-2015.

      IV Drwg No: 1003/R/1 entitled “Illustrative Reservoir Plan” dated 29-04-2015.

h) The e-mail from Douglas Symes dated 27th January 2016 and accompanying Archaeological Solutions Ltd Historic Buildings Impact Assessment entitled "Proposed agricultural Reservoir, Elmstead Hall, Elmstead, Essex Historic Building Impact Assessment" dated 21st December 2015.

i) BLacoustics Environmental Noise Survey dated February 2016 ref no: BDL3519tr2 as amended by letter from LFAcoustics dated 23rd May 2016.

j) The e-mail from Douglas Symes dated 12th September 2016 and accompanying Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.

For Condition 1 (Commencement) the start date for the development is the 06/11/17 as set out in the email from Terry Burns to Simon Chaffe dated 17/05/21.

For Condition 6 (Tree Protection) those details as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 6.

For Condition 9 (Ecological Interest) those details as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

For Condition 11 (Archaeology) those details in so far as they relate to the Written Scheme of Investigation as set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

For Condition 15 (Vehicle Routeing) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 15.

For Condition 17 (Vehicle Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 17.

For Condition 23 (Construction Environmental Management Plan (Biodiversity) those details set out in:

d) The application form from R.W. Mitchell and Sons dated 24th July 2017.
e) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
f) Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.

For Condition 24 (Scheme of Working) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.
c) Appendix 4 entitled "Processing Plant/Screener Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.
d) Appendix 5 entitled "Water Pump details"
e) Appendix 6 entitled "Illustrative Cross -Sections" and Drwg No; 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 05/03/2019.

For Condition 30 (Lighting) those details set out in:

d) The application form from R.W. Mitchell and Sons dated 24th July 2017.
e) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 30.
f) Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/19 version 11.

For Condition 31 (Noise Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 31.

Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

For Condition 36 (Dust Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 36.

c) E-mail from Douglas Symes to Terry Burns dated 16th October 2017 at 13:29.

For Condition 37 (Groundwater Monitoring) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled “Mineral borehole and piezometer locations” dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due".

For Condition 49 (Soil Handling and Storage) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 49.
c) Appendix 7 entitled "Operations Plan showing soil storage bunds" and Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/2019.

For Condition 51 (Soil Movement and Storage Scheme) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 51.

For Condition 55 (Revised Restoration Scheme) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 07/03/19.
b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.
c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.
d) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.
e) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

For Condition 56 (Landscaping) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 56.
c) E mail from Douglas Symes to Terry Burns dated 9th April 2018 at 12:41 and accompanying “Elmstead Hall Reservoir Landscape Management Plan” Version: Doc_601_005 dated 29th March 2018.
d) E mail from Susan Deakin to Terry Burns dated 21st April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

For Condition 57 (Biodiversity Management Plan) those details set out in:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
b) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester,
c) Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 58.
d) Appendix 3 entitled “Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019”.

As amended by Planning permission ESS/97/21/TEN and accompanying:

a) Planning application form from R. W. Mitchell and Sons dated 05/11/21.
b) Letter from Matthews and Son LLP dated 05/11/21.
c) Susan Deakin Ecology report entitled “Appendix 1, Elmstead Hall Irrigation Reservoir, Elmstead, Planning Permission Ess/24/715/Ten 1.11.2016; Application For Variation Of Planning Condition, Planning Considerations And Approved Schemes, Statement Concerning Ecological Considerations” dated 03/11/21.
d) Drwg No: 1003/L entitled "Location Plan” dated 05/11/14.

As amended by Planning permission ESS/105/21/TEN and accompanying:

a) Planning application form R. W. Mitchell and Sons dated 02/12/21.
b) “Planning Application and Supporting Statement” dated 02/12/21.
c) Drwg No: SP1174-LAYOUT-01D entitled "Elmstead Plant Upgrade Layout” dated 02/11/20.
d) Drwg No: 1003/O/2 v1 entitled "Illustrative Operations Plan” dated 02/12/21.

<u>Availability of Plans</u>

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

Protection of Existing Trees and Perimeter Vegetation

4. Existing hedgerows and trees within, and on the perimeter of, the site and identified for retention shall be retained and shall not be felled, lopped, topped or removed without the prior written consent of the Mineral Planning Authority. Any vegetation removed without consent, dying, being severely damaged or becoming seriously diseases (at any time during the development or aftercare period) shall be replaced with trees or bushes of such size and species as may be specified by the Mineral Planning Authority, in the planting season immediately following any such occurrences.

5. The protection of trees on the site shall be carried out in accordance with the details of the Tree Protection scheme approved on 23rd April 2018 under Condition 6 of planning permission reference ESS/23/14/TEN. The approved details of the Tree Protection scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 6.

Boundaries and Site Security

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

7. No soil stripping shall take place until the footprint of the excavation area and those areas to be disturbed in the course of the reservoir construction have been physically pegged out. Those markers that can be retained during the course of the development to maintain demarcation boundaries shall be retained for that period.

Ecological Interest

8. The protection of Ecological Interest on the site shall be carried out in accordance with the details of the Ecological Interest scheme approved on 23rd April 2018 under Condition 9 of planning permission reference ESS/23/14/TEN. The approved details of the Ecological Interest scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

Bird Nesting

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

Archaeology

10. The protection of Archaeological Interests on the site shall be carried out in accordance with the details of the Archaeological scheme approved on 23rd April 2018 under Condition 11 of planning permission reference ESS/23/14/TEN. The approved details of the Archaeological scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

Processing Plant

11. No processing plant shall be brought onto the application land until the "Plant Area" as shown on Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.has been prepared and is available to accommodate the processing plant.

Limits of Extraction

12. No excavation shall be carried out deeper than 8 metres below existing ground level as provided for in paragraph 3.11.6 of the Environmental Statement and as shown on Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015.

Topographical surveys

13. A survey of site levels shall be carried out at intervals of not less than every 12 months, starting from the date on which soil stripping commences. A copy of the survey shall be submitted to the Mineral Planning Authority within 14 days of being undertaken.

Vehicle Routeing

14. The Vehicle Routeing scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23rd April 2018 under Condition 15 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Routeing comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 15.

15. A written record shall be maintained at the site office of all movements in/out of the site by HGVs. Such records shall contain the vehicle's registration and operating company's identity and time/date of movement. The records shall be made available for inspection by the Mineral Planning Authority if requested and retained for the duration of the life of the development permitted.

16. The Vehicle Monitoring scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23rd April 2018 under Condition 17of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Monitoring comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 17.

Highway Cleanliness

17. No mud or dirt shall be carried out onto Tye Road by vehicles using the site.

Haul Road maintenance

18. The internal haul road shall be maintained with a compacted bound surface/or tarmaced and maintained in good condition throughout the reservoir construction period as provided for in para 3.6.3 of section 3.6 on Access of Volume 1 of the Environmental Statement.

HGV Movements

19. 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 Saturdays: 80 movements (40 in/40 out)

    Sundays and Bank/Public Holidays: none

Sheeting Vehicles

20. All HGVs shall be sheeted before leaving the site.

Vehicle Maintenance

21. No servicing, maintenance or testing of vehicles or plant shall take place other than within the excavation void area. (For the purposes of this condition the restriction shall not apply to unforeseen vehicle breakdowns).

Construction Environmental Management Plan (CEMP): Biodiversity

22. The Construction Environmental Management Plan (CEMP): Biodiversity scheme for the site shall be carried out in accordance with the details of the CEMP approved on 12TH May 2020 under Condition 23 of planning permission reference ESS/23/14/TEN. The approved details of the CEMP comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
    c) Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.

23. No site preparation work, as defined in Condition 1 of this permission, shall take place until a scheme of working has been submitted to, and received the written approval of, the Mineral Planning Authority. The scheme shall be implemented as approved, or as may subsequently be approved, in writing by the Mineral Planning Authority. The submitted scheme shall make provision for:-

    a) Risk assessment of potentially damaging construction activities;
    b) Identification of biodiversity protection zones;
    c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
    d) The location and timing of sensitive works to avoid harm to biodiversity features;
    e) The times during construction when specialist ecologists need to be present on site to oversee works;
    f) Responsible persons and lines of communication;
    g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and the

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.

Scheme of Working

24. The Scheme of Working for the site shall be carried out in accordance with the details of the scheme of working approved on 26th September 2019 under Condition 24 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.
    c) Appendix 4 entitled "Processing Plant/Screener Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.
    d) Appendix 5 entitled "Water Pump details"
    e) Appendix 6 entitled "Illustrative Cross -Sections" and Drwg No; 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 05/03/2019.

Sale of Aggregate

25. There shall be no retailing or direct sales of soils or bagged aggregates to the public from the quarry.

ENVIRONMENTAL PROTECTION

Hours of Operation

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

0700 – 1800 hours	Mondays to Fridays.
0700 – 1300 hours	Saturdays.

b) There shall be no working on Sundays or Bank/National Holidays.

c) This condition shall not apply in cases of emergency when life, limb or property is in danger. The Mineral Planning Authority shall be notified, in writing, as soon as possible after the occurrence of any such emergency.

Importation

27. No materials for infilling or excavated materials, including minerals, shall be imported to the site other than clays for site lining purposes.

Rubbish

28. All rubbish and scrap materials generated on the site shall be collected and stored in a screened position within the site area until such time as they may be properly disposed of to a suitably licensed waste disposal site.

Burning

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

Lighting

30. The Lighting scheme for the site shall be carried out in accordance with the details of the lighting scheme approved on 12th May 2020 under Condition 30 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 30.
    c) Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/19 version 11.

Noise – Monitoring

31. The Noise Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under Condition 31 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 31.

    Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

Noise – Temporary Operations

32. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive properties as listed in Condition 33 shall not exceed 70dB LAeq,1hr. Measurement shall be made no closer than 3.5m from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

    Temporary operations shall not exceed a total of eight weeks in any continuous 12 month duration. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of a temporary operation. Temporary operations shall include site preparation bund formation and

removal, site stripping and restoration and any other temporary activity that has been approved in writing by the Mineral Planning Authority in advance of such a temporary activity taking place.

Noise – Normal Operating Levels

33. Except for temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive premises adjoining the site, due to operations in the site, shall not exceed 1h, the LAeq levels as set out in the following table and identified on the attached plan no: ESS/24/15/TEN/A entitled "Noise Monitoring Locations":

Receptor Location	Criterion / dB LAeq,1hr
Holly way	49 dB
Parsonage Farm	48 dB
Elmstead Hall & Cottages	48 dB
Mount Pleasant Cottages	47 dB
Allen's Farm	47 dB
Balls Farm	48 dB
Fen Farm	55 dB
Fern Villa	54 dB
Edwinstone	48 dB
Friars Hall	48 dB

Measurements shall be made no closer than 3.5m to the façade of properties or other reflective surface and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Loudspeakers

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

Reversing alarms

35. Only broadband sound emitting reversing alarms shall be employed on vehicles and plant engaged in site activities and transport on and off site.

Dust

36. The Dust Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under

Condition 36 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 36.

c) E-mail from Douglas Symes to Terry Burns dated 16th October 2017 at 13:29.

Groundwater monitoring

37. The Groundwater Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23rd April 2018 under Condition 37 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled "Mineral borehole and piezometer locations" dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due".

Surface Water Drainage and Pollution Protection

38. Any oil, fuel, lubricant, paint or solvent within the site shall be stored so as to prevent such materials contaminating topsoil or subsoil or reaching any watercourse.

39. Any fixed or free standing oil or fuel tanks shall be surrounded by a fully sealed impermeable enclosure with a capacity not less than 110% of that of the tanks so as to fully contain their contents in the event of any spillage;

    a) If there is multiple tankage, the enclosure shall have a capacity not less than 110% of the largest tank;

b) All filling points, vents and sight glasses shall be within the sealed impermeable enclosure; and

c) There shall be no drain through the impermeable enclosure. (The applicant's attention is drawn to the requirement set out in BS 799 Part 5: 1987.)

40. All foul drainage shall be contained within a sealed and watertight cesspit fitted with a level warning device constructed to BS 6297 "Design and Installation of Small Sewage Treatment Works and Cesspools" (1983).

41. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.

42. No foul or contaminated surface water or trade effluent shall be discharged from the site into either the ground water or surface water drainage systems except as may be permitted under other legislation.

Fixed Plant and Buildings

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

Handling and Storage of Soil and Soil Forming Material

44. Prior to the stripping of any soils from the site, excess vegetation shall be removed from the areas to be stripped (The term 'excess vegetation' in this condition means all vegetation above a height of 154mm (6") above ground level).

45. Before any part of the site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or used for the stacking of subsoil or soil-making material, all available topsoil shall be stripped from that part.

46. No operations involving soil lifting/replacement shall take place between the months of October to March inclusive.

47. No movement of soils or soil-making materials shall take place except when the full depth of soil to be stripped or otherwise transported is in a 'suitably dry' soil moisture condition. Suitably dry means the soils shall be sufficiently dry for the topsoil to be separated from the subsoil without difficulty so that it is not damaged by machinery passage over it.

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

48. All suitable soils and soil-making material shall be recovered where practicable during the stripping or excavation operations and separately stored.

49. The Soil Handling and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26th September 2019 under Condition 49 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 49.

    c) Appendix 7 entitled "Operations Plan showing soil storage bunds" and Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/2019.

50. The topsoil, subsoil, and soil-making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during the restoration of the site. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their construction. The sward shall be managed in accordance with correct agricultural management techniques throughout the period of storage.

51. The Soil Movement and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26th September 2019 under Condition 51 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

    a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
    b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 51.

52. Such precautions unless as may be necessary to prevent the mixing of the soil types with any overlap of soil types in a storage mound be kept to the minimum necessary for the effective formation of that mound and the interface shall be defined on site and on a record plan so that it can be easily located at mound removal stage.

53. All soil and soil forming material storage mounds, together with all areas that remain unworked, or have been restored, shall be kept free of weeds and all

necessary steps shall be taken to destroy weed at an early stage of growth to prevent seeding.

54. An annual report, together with plans at a scale to be agreed with the Mineral Planning Authority, setting out the previous year's soil movement and restoration shall be submitted by 31st December each year, or such other date as may be agreed in writing with the Mineral Planning Authority.

Restoration

55. The Revised Restoration scheme for the site shall be carried out in accordance with the details of the scheme approved on 6th April 2021 under Condition 55 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 07/03/19.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.

c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying

d) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.

e) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.

f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

Landscaping

56. The Landscaping scheme for the site shall be carried out in accordance with the details of the landscaping scheme approved on 23rd April 2018 under Condition 56 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24th July 2017.

b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 56.

c) E mail from Douglas Symes to Terry Burns dated 9th April 2018 at 12:41 and accompanying "Elmstead Hall Reservoir Landscape Management Plan" Version: Doc_601_005 dated 29th March 2018.

d) E mail from Susan Deakin to Terry Burns dated 21st April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

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

Biodiversity Management Plan

58. The Biodiversity Management Plan for the site shall be carried out in accordance with the details of the Management Plan approved on 12th May 2020 under Condition 58 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

e. The application form from R.W. Mitchell and Sons dated 24th July 2017.
f. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
g. Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
h. Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

Amenity Aftercare

59. Within one year of the date of the commencement of site preparation works as provided for by Condition 1 of this permission a wetland/woodland aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as a reservoir and associated wetland/woodland habitat shall be submitted for the approval of the Mineral Planning Authority. The wetland/woodland aftercare scheme shall be implemented in accordance with the details as approved, or as may subsequently be approved, in writing, by the Mineral Planning Authority. The submitted scheme shall specify the steps to be carried out and their timing within a five year aftercare period, or such longer period as may be proposed, and shall make provision for:-

(i) a management plan and strategy;

(ii) a programme to allow for monitoring the establishment of the wetland and aquatic vegetation which shall provide for:

(a) such work as is necessary to enable the establishment of (ii) above; and

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

(c) For the woodland area the:

cultivation practices;

post-restoration secondary soil treatments;

soil analysis;

fertiliser applications, based on soil analysis;

drainage;

tree planting and maintenance;

weed control;

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

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

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

Cessation

60. In the event of site operations being discontinued for six months in the period specified in Condition (2) then the land as disturbed within the approved extraction area shall be restored in accordance with a scheme submitted by the developer which has the written approval of the Mineral Planning Authority. The scheme shall be submitted not later than one month from the Mineral Planning Authority's issue of written notice that it is of the opinion that land reclamation work has not taken place in the six month period and shall include the requirements of Conditions 55 - 59 inclusive of this permission. The scheme, as approved by the Mineral Planning Authority, shall be commenced within three months of notification of determination of the scheme and shall be fully implemented within a further period of 12 months or such other period as may be approved by the Mineral Planning Authority.

5. Dollymans Farm, Doublegate Lane, Rawreth, Wickford

The Committee considered report DR/02/22, by the Chief Planning Officer, concerning Dollymans Farm, Doublegate Lane, Rawreth, Wickford.

Following comments and concerns raised by members, it was noted:

- The Environment Agency had made an unannounced visit and discovered the void, then reported this to Essex County Council. The Environment Agency and Essex County Council maintained a close relationship on enforcement matters.
- The Enforcement Notice came into effect on Friday 28 January, and no appeal had been lodged, as far as officers were aware.
- The railway to the south of the site was not close to the void, therefore, there had been no impact upon the railway network.
- It was noted that the 12-month restoration period would run alongside the overarching 10-year planning permission, which included the requirement to restore the site.
- It was believed that the material removed was clay, and that the void would be restored using inert waste.

The Committee NOTED the report.

6. Report on the Programme of Periodic Review of Mineral Planning Permissions

The Committee considered report DR/03/22, by the Chief Planning Officer, on the Programme of Periodic Reviews of Mineral Planning Permissions.

Members noted the addendum to the agenda.

The Committee NOTED the report.

7. Applications, Enforcement and Appeals Statistics

The Committee considered report DR/04/21; applications, enforcement and appeals statistics, as at the end of November 2021.

The Committee NOTED the report.

8. Applications, Enforcement and Appeals Statistics

The Committee considered report DR/05/21; applications, enforcement and appeals statistics, as at the previous month.

The Committee NOTED the report.

9. Date of Next Meeting

The Committee noted that the next meeting was scheduled for 10.30am on Friday 25 February 2022, to be held in the Council Chamber, County Hall, Chelmsford.

There being no further business, the meeting closed at 11:13am.

DR/06/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)

Proposal: MINERALS AND WASTE DEVELOPMENT

Details pursuant to Condition 66 (Plan of action for an alternative use or a scheme of rehabilitation) of ESS/34/15/BTE. ESS/34/15/BTE was for "Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility. The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks. And approval of details required by condition (the details taking account of the proposed amended drawings), the conditions sought to be discharged are as follows: 6 (access road, cross over points), 13 (Signage, Telecommunications & Lighting at Woodhouse Farm complex), 14 (Stack design and finishes), 15 (design details and construction materials), 17 (management plan for the CHP), 18 (green roof), 20 (construction compounds, parking of vehicles), 22 (foul water management), 23 (surface water drainage and ground water management), 24, (groundwater monitoring), 37 (signs on access road at footpath crossings), 43 (lighting scheme during construction), 45 (phasing scheme for access road, retaining wall and mineral extraction), 50 (fencing - temporary and permanent), 53 (ecological survey update), 54 (Habitat Management Plan update), 57 (landscaping - bunding & planting), 59 (trees, shrubs and hedgerows - retention and protection), 60 (tree management and watering adjacent to retaining wall), 61 (Woodhouse Farm parking and landscaping), 62 (traffic calming measures at River Blackwater for otters and voles) and 63 (access road crossing points - lining and signing)"

Ref: ESS/34/15/BTE/66/01	**Applicant:** Indaver

Location: Rivenhall Airfield, Coggeshall Road (A120), Braintree, CO5 9DF

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

Enquiries to: Claire Tomalin Tel: 03330 136821
The full application can be viewed at https://planning.essex.gov.uk

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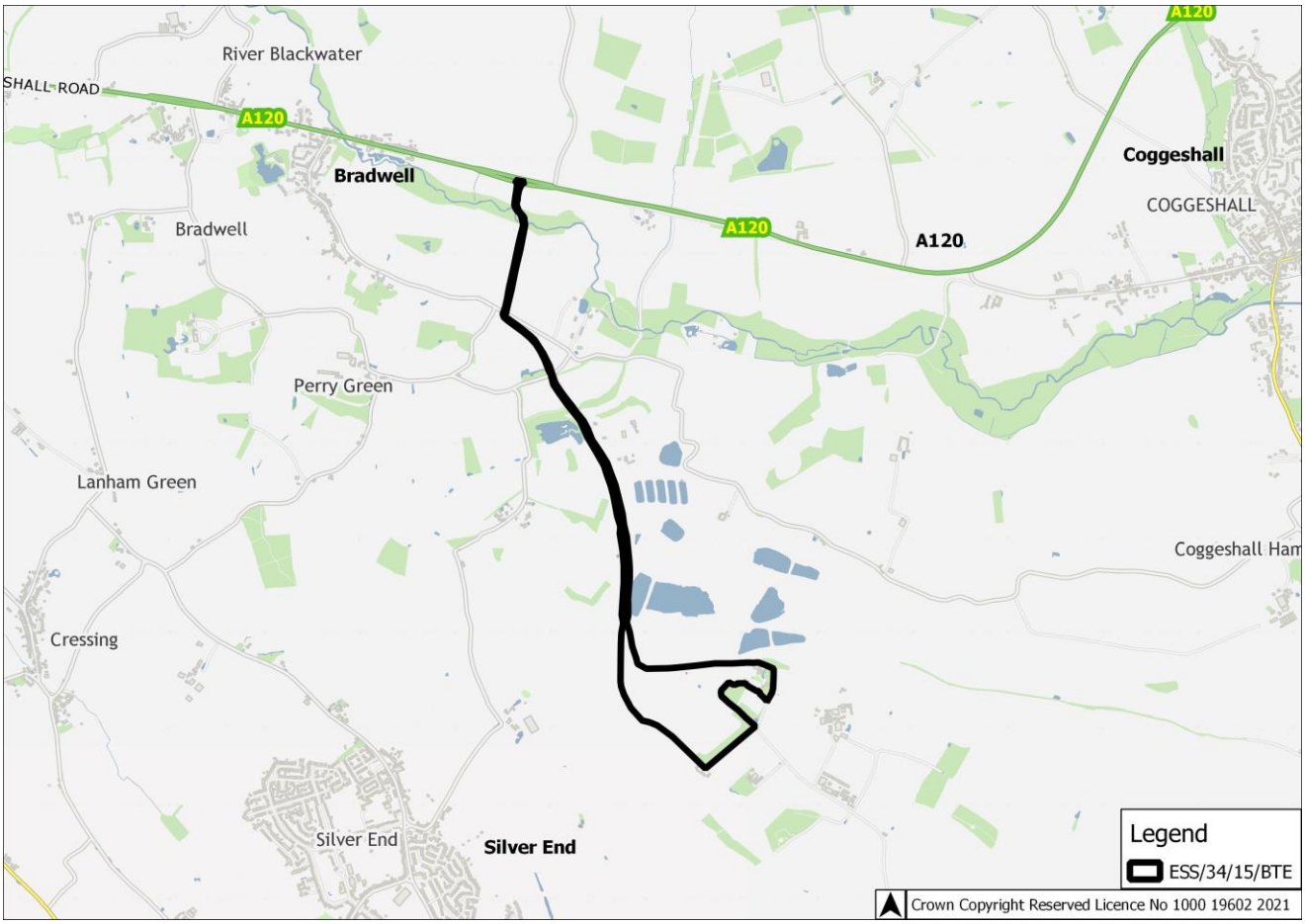

1. BACKGROUND

The current application is not a planning application, but an application to discharge details reserved by condition, in this case condition 66 of the planning permission ESS/34/15/BTE for Rivenhall Integrated Waste Management Facility (IWMF).

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). The Inspector's Report and SoS Decision are at Appendix A and B.

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 summary below focuses on those relevant to the current application.

The 2010 planning permission was required to be implemented by March 2015. In 2014 a planning application (ESS/41/14/BTE) was made to the WPA to extend the implementation period by 2 years. In December 2014, planning permission was granted for a 1 year extension only, such that the planning permission was required to be commenced by March 2016.

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In 2015 a planning application (ESS/34/15/BTE) was made to amend the capacities of the different elements of the IWMF, in particular increasing the capacity of the Combined Heat and Power Plant (CHP) from 360,000tpa to 595,000tpa. The application also incorporated details to discharge a number of conditions of the original permission. The planning permission was granted in February 2016 (copy of the decision notice is at Appendix C) and at that time additional conditions were added, including condition 66. This condition sought to address the possibility that if the development was started but did not progress, the site would not be left without a beneficial use. Implementation of planning permission ESS/34/15/BTE was undertaken in March 2016.

In 2017 two planning applications were made (ESS/37/17/BTE & ESS/36/17/BTE) which in combination sought to increase the height of the stack of the CHP. An Environmental Permit (EP) had been granted by the Environment Agency (EA) but with a higher stack than that permitted by the planning permission, the applications sought to increase the stack height in line with EP. These planning applications were refused in May 2019 primarily as it had not been demonstrated that the harm to the landscape, visual amenity and setting of Listed Buildings was not outweighed by other factors, notably the need for the capacity of the facility. The extant permission for the IWMF therefore remains ESS/34/15/BTE.

The applicant/developer had been Gent Fairhead & Co until October 2018, when it was announced that Indaver would be working with Gent Fairhead & Co. Indaver has since taken on a long-term lease for the IWMF site and works commenced on site in winter 2019/20. Gent Fairhead & Co have an option to lease the land on which there is permission for a market de-ink paper pulp plant facility that forms part of the IWMF.

The planning permission for the IWMF gives consent for:

- A CHP plant (595,000tpa) utilising Refuse Derived Fuel (RDF) generated on site and imported RDF/Solid Recovered Fuel (SRF) to generate heat, steam and electricity to be used on site. Some electricity to be exported to the National Grid.

- Merchant De-Ink Paper pulp plant (MDIP – 170,000tpa) to reprocess waste paper imported to the site, as well as any suitable paper recovered by the MRF and would utilise, heat, steam and power generated by the CHP. Paper pulp board to be exported from the site.

- Anaerobic Digestion (AD – 30,000tpa) facility to treat food and green waste generating biogas for production of electricity on site and generating a compost like output for export.

- Materials Recycling Facility (MRF – 300,000tpa) to sort through imported waste recovering recyclables such as paper, card, plastics and metal.

- Mechanical Biological Treatment Facility (MBT – 170,000tpa), to treat waste by mechanical treatment e.g. shredding and then biological treatment using air and moisture to bio-stabilise the waste, the output being an RDF.

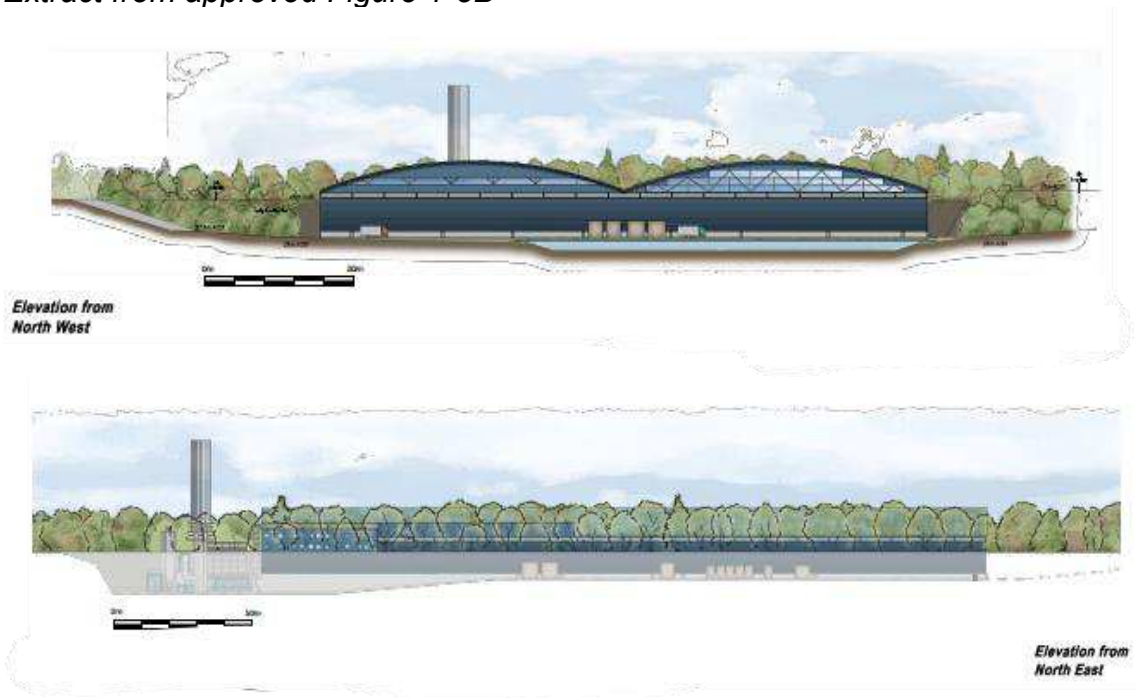
The total amount of waste that can be imported to the site is limited by condition to 853,000tpa. The maximum number of HGV movements is limited to 404 a day Monday to Friday and 202 on Saturday mornings.

The permission also includes the creation of an extended access road from the A120 and refurbishment of the Woodhouse Farm Listed Buildings complex and other associated infrastructure.

Extract from Figure 1-5B

The MDIP, MRF, MBT and AD are permitted to be housed in a double arched building, where the majority of the building is to be located below natural ground. The CHP and other associated infrastructure is to be located also partly below ground to the rear of the IWMF building.

Extract from approved Figure 1-5B



The IWMF site overlaps in part with the worked-out areas of Bradwell Quarry, operated by Blackwater Aggregates (a joint company of Cemex and Gent Fairhead & Co). Planning permission for extraction and restoration of sites A3 and A4[1] (see plan below) incorporated the possibility of overburden from within the IWMF site to be utilised to restore sites A3 and A4 to near natural levels rather than low-level restoration. In Spring 2021 works commenced to remove overburden from the IWMF site and be placed in sites A3 and A4 to achieve restoration to near natural levels. These works are ongoing.

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 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 itself lying within Kelvedon Parish Council.

The IWMF site lies on the southern part of the former Rivenhall airfield; the runways have been removed as part of mineral extraction. The IWMF site (not including the access road) is located approximately 1.7km south of Coggeshall Road (A120T) and includes the Grade II Listed Buildings of Woodhouse Farm.

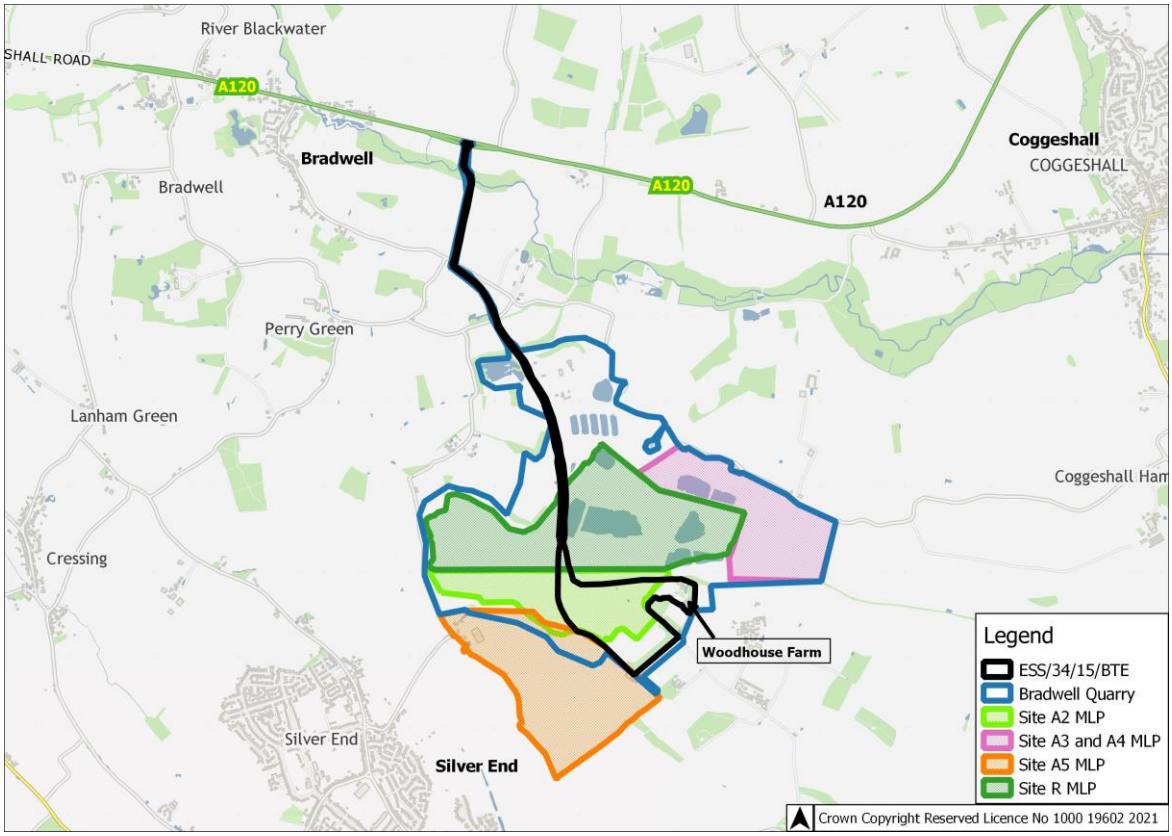
Woodhouse Farm buildings are located on the south eastern side of the IWMF site and included in the IWMF planning permission area. The IWMF site also includes woodland protected by Tree Preservation Order, which surrounds the southern boundary of the IWMF itself.

The IWMF site also included an airfield hangar which upon implementation of IWMF permission in 2016 was removed.

The IWMF site overlaps with Bradwell Quarry where sand and gravel extraction is currently taking place within Minerals Local Plan Preferred site A5. The location plan below shows the extent of previous and current mineral extraction areas; Site R permitted in 2001; site A2 permitted in 2011 (which included extraction in part of the site for the IWMF); and sites A3 and A4 permitted in 2015 and site A5 granted in 2019. Previously worked out areas of the quarry have been restored at low level to arable agriculture with new hedgerows and woodland planting. There are, however, areas of Bradwell Quarry (sites A2, R and A3 and A4) which are awaiting restoration to a combination of arable, woodland and water. The delay in completion of the restoration in these areas has in part been due to the uncertainty as to the progression of the IWMF. With progression of the IWMF, works to

[1] Sites A3 and A4 are identified as preferred sites for extraction in the Minerals Local Plan (2014)

complete unrestored mineral workings is now ongoing.



The IWMF site is set within a predominantly rural character area, consisting of arable crops in large fields, often without boundaries resulting in an open landscape in gently undulating countryside. The landform around the site forms a flat plateau at about 50m AOD, although the restored minerals workings to the northwest (site R) and southwest (site A5) have been or will be restored at a lower level, creating bowls in the landscape. Site A3 and A4 as previously mentioned are to be restored to near natural levels utilising overburden from the IWMF site.

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.

A further business operates on the south west edge of the IWMF site, at the "Elephant House", the building being the fire station for the redundant airfield. The site is used by a road sweeping company, but the site is well screened by mature evergreen trees.

The permitted vehicular route to the IWMF site shares the existing access on the A120 and the private access road for Bradwell Quarry. The access route crosses the River Blackwater by two bailey style bridges and crosses Church Road and Ash Lane (a Protected Lane as defined in Braintree District Local Plan Review 2005). The access road is two way from the A120 to Church Road, then single lane with passing bays between Church Road and Ash Lane and then two way south of Ash Lane to Bradwell Quarry processing plant. The crossing points on Church Road and Ash Lane are both single lane width only. Some works have already taken place with respect to the IWMF including preparing the access road to be two way between Church Road and Ash Lane, as well as speed bumps and signage.

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 largely worked for sand and gravel but then the overburden was replaced. The remaining unworked mineral area within the IWMF site has been cleared of vegetation and topsoils and the subsoils stripped, and overburden is currently being removed to create the void for the IWMF plant and buildings. The remaining mineral within the site will be extracted for which there is planning permission.

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 two County Wildlife Sites (CWS) within 3 km of the site at 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.

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 quarry access road and the extended access road to the IWMF would cross the FP35. There is also a public footpath No. 8 (Kelvedon) which heads south through Woodhouse Farm complex. FP 8 (Kelvedon) links with FPs 35 and 55 (Bradwell) to provide links west to Sheepcotes Lane and FP 44 (Kelvedon) runs eastwards

linking with bridleway 1 (Kelvedon - Pantlings Lane) towards Coggeshall.

3. PROPOSAL

The application seeks to address the requirements of condition 66 of ESS/34/15/BTE; the wording and reason for condition 66 are set out below.

> In the event that the IWMF is not brought into beneficial use within 5 years of commencement of the development (as notified under condition 1) the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.
>
> *Reason: To ensure that if the development of the IWMF is not progressed to a beneficial use within a reasonable period, that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation and in accordance with WLP W8A, W10E and MLP DM1 and BCS policies CS5 and CS8.*

It should be noted that the Policies referred to within the reason for the condition are those from the 2001 Waste Local Plan, which has since been superseded by the Waste Local Plan 2017. Policy W8A related to allocated sites of the WLP 2001 and is superseded by Policy 3 (Strategic Site Allocations) of the WLP 2017. The site allocated in the WLP 2001 was smaller than that allocated in WLP 2017. The site in the WLP 2017 is similar to that of the permission area for the IWMF. Policy W10E was with respect to Development Control Criteria, now superseded by policy 10 (Development Management Criteria) of the WLP 2017.

The applicant has submitted a letter to address the requirements of condition 66 (a copy of the letter is included as Appendix D) and a clarifying email and the "plan of action" is as follows:

Plan of action
RPS [applicant's agent] proposes the following staged plan of action which we believe reflects the circumstances and decisions we currently face. They are presented in a manner which aims to provide the planning authority with transparency in relation to our intentions for the site. In sequence the plan is:

1. To build out the permission as authorised by the Planning Permission. Indaver regard this permission as valuable commercially and necessary to deal with the waste management needs arising in the area. As is well known, their immediate focus is to deliver the CHP (or Energy from Waste (EfW)) component within the approved building. They are looking at developing the other consented waste management and energy components too, with the help of GFC, but we cannot yet confirm details of these and when they might be brought forward.

If, in the event that for technical or commercial reasons, Indaver is unable to bring forward all parts of the consented development e.g. the market or technology has

changed, then they are likely to wish to resort to options under stage 2 or 3 of the plan of action, as set out below.

2. Build out those elements within the consent which are technically and commercially viable, all within the building which currently has consent, and/or;

3. Submit an application for consent for alternative waste management and/or energy generation uses.

Option 2 allows for the possibility of us not building out certain elements of the consented scheme if they prove untenable technically or commercially. In particular, we are concerned that at present the paper pulp plant may fall into this category, and therefore lead us to initiate options 2 or 3 of the plan.

Finally, in terms of Option 3, we are exploring the possibility of increasing the power output of the EfW to above the 50 MWe threshold, which would require consent from the Secretary of State under the Planning Act 2008 (a Development Consent Order). Option 3 of the plan caters for this scenario. In addition, although not currently planned, should we wish to apply for something that falls outside the scope of the current planning permission, we will of course approach you and the local liaison committee in advance to set out those plans.

4. POLICIES

The following policies of the Minerals Local Plan, adopted July 2014, Essex and Southend Waste Local Plan adopted 2017 and Braintree Local Plan 2013-2033 - Section 1 adopted February 2021, the Braintree Core Strategy adopted September 2011 and Braintree District Local Plan Review adopted July 2005 provide the development plan framework for this application. The following policies are of relevance to this application:

MINERALS LOCAL PLAN (MLP)
S8 - Safeguarding mineral resources and mineral reserves

WASTE LOCAL PLAN (WLP) 2017
Policy 1 - Need for Waste Management Facilities
Policy 2 - Safeguarding Waste Management Sites & Infrastructure
Policy 3 - Strategic Site Allocations
Policy 10 - Development Management Criteria
Policy 11 - Mitigating and Adapting to Climate Change

BRAINTREE DISTRICT LOCAL PLAN (BLP S1) 2013-2033 Section 1
SP 7 Place Shaping Principles

BRAINTREE DISTRICT COUNCIL LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY (BCS) adopted 2011
CS5 Countryside
CS8 Natural Environment and Biodiversity

BRAINTREE DISTRICT LOCAL PLAN REVIEW (BDLPR) 2005
RLP 36 Industrial and Environmental Standards

RLP 62	Development Likely to Give Rise to Pollution, or the Risk of Pollution
RLP 63	Air quality
RLP 65	External Lighting
RLP 72	Water Quality
RLP 80	Landscape Features and Habitats
RLP 81	Trees, Woodlands, Grasslands and Hedgerows
RLP 84	Protected species
RLP 87	Protected Lanes
RLP 90	Layout and Design of Development
RLP 100	Alterations, extensions and changes of use to Listed Buildings and their settings
RLP 101	Listed agricultural buildings
RLP 105	Archaeological Evaluation
RLP 106	Archaeological Excavation and Monitoring

NEIGHBOURHOOD PLANS

Bradwell With Pattiswick Neighbourhood Plan 2019
Policy 1 Protecting and enhancing the Natural Environment and Green Infrastructure

Coggeshall PC (adjacent parish) Neighbourhood Plan (CNP) was adopted by Braintree District Council as part of the Development Plan in July 2021.
Policy 11 Preventing Pollution (including air and water quality, noise and light)

Kelvedon PC Neighbourhood Plan is at too earlier stage to have weight.

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.

Planning policy with respect to waste is set out in the National Planning Policy for

Waste (NPPW published on 16 October 2014). Additionally, the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management and is a material consideration in planning decisions.

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).

Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF. Braintree District Council is currently awaiting the outcome of the Examination of Section 2 of the Local Plan 2013-2033, the emerging policies can therefore only be given limited weight.

5. CONSULTATIONS

Summarised as follows:

BRAINTREE DISTRICT COUNCIL: Objection
Braintree District Council expressed its objection in the strongest terms during the consideration of the IWMF at Rivenhall Airfield by the SoS in 2010. However it had to accept the decision of the planning process via the Secretary of State that the proposal was acceptable in principle and has since sought to work proactively with the statutory planning and licencing bodies (namely ECC and the EA) to minimise the impacts on local residents, amenity, infrastructure and the environment. Despite this our local residents continue to express their concern on these proposals. Our recent community engagement exercise on our own climate change strategy saw a significant number of comments about the incinerator which would become the biggest single emitter of carbon dioxide in the District and how impactful that would be on the environment and residents' health.

The Council wishes to express its increasing concern and disappointment that that site owners seem unwilling to bring the site forward in the manner that was consented and that all but the CHP now appear to be lost. The Council would ask that ECC take all possible legal steps to consider how it can compel the applicant to develop the proposal originally consented, or alternatively consider that a new application should be sought to consider properly the proposals as they now stand.

Alternatively, we note that the applicant has stated that they are considering whether they will propose to increase the output of the incinerator to above 50MW, and as stated we believe this would require a new permission through the NSIP process.

Condition 66 was imposed by Essex County Council as part of the permission granted on 26th February 2016. The Officer Report to the County Council's Planning Committee refers to the fact that the planning permission was being granted before the applicant had obtained the required EP from the EA. It is clear therefore that the intention of condition 66 is to prevent the situation that we currently find ourselves in, where some 11 years after the application was originally granted, the proposal has not been brought forward. Indeed the information from the landowner/developer now considers that proposals for part of the permission will come forward in 2024/25. This level of uncertainty for local residents in particular, is not acceptable.

The Plan for Action submitted to discharge this condition appears to be less than a page long and provides little detail, noting technical and commercial reasons but provides none of the details of these reasons that prevents four fifths of the consented scheme being developed. In our view this is a disingenuous approach to the discharging of this condition and the local resident's concerns. The details submitted to discharge condition 66 therefore seem to lack either a plan or action.

The applicant states that the only element of the consented scheme which is currently under active consideration for implementation is the CHP (the Combined Heat and Power Plant). Again the plan of action lacks any substance or detail, simply stating that 'The commissioning of this part of the plant is not expected until 2024/5'. The plan of action provides no details of how, or when, the CHP will be delivered beyond this vague statement. Even allowing a further four years for the CHP to come into beneficial use the plan of action fails to provide a clear programme of how the applicant will achieve this. The District Council considers that a further 4 year period until there is an operational use on the site, which bears limited resemblance to the consented scheme, does not meet the requirements set out in condition 66. There is no plan of action for an alternative use which can be implemented within six months. Indeed the third alternative use would require the submission of an application for consent for alternative waste management and/or energy generation uses. There is no commitment or timeframe given for this to happen. As such the application to discharge this condition should be refused.

A new application, whether to ECC or through the NSIP process appears the only sensible way in which residents, stakeholders and statutory bodies can properly engage and have their say on the plans as they are currently are, and consider these revised proposals in the changed context of the NPPF and increasing focus on the impacts of climate change.

ENVIRONMENT AGENCY: No objection
Option 1 is to continue and build the complete IWMF with the intention of delivering the first phase (EfW plant) from 2024/25. Option 1 has no environmental permit issues as the permit was issued on the basis of all elements of the IWMF being built.

Option 2 is to only build those elements of the IWMF which are 'technically and commercially viable'. Depending on what elements were removed, Option 2 may need the developer to apply for a permit variation. This is due to the fact that all the elements of the IWMF are interconnected (integrated) and therefore removing one of more elements of the scheme may have an impact on emissions to the

environment. As a minimum, removal of certain elements is likely to affect the overall energy efficiency of the scheme and also its carbon footprint.

Option 3 provides for a planning application to be made for 'alternative waste management and/or energy generation uses'. Option 3 would need a new environmental permit application to be submitted and a permit to be issued before any commencement of alternative waste treatment and/or energy generation uses.

BRADWELL WITH PATTISWICK PARISH COUNCIL: Objection – consider the details are incomplete as they should provide details of when all the components of the IWMF will be commenced and completed. Option 3 suggests only the incinerator will be built and permission sought to increase its power output. WPA should require a complete plan of action.

KELVEDON PARISH COUNCIL: Objection. The plan of action does not meet the full requirements of condition 66. The plan of action is in contradiction of the authorised permission granted in 2016 and goes against the wishes of the Inspector's original decision.

The plan of action represents a material change and therefore requires a new planning application. It has become clear that the commercial feasibility of a paper pulping plant is currently lacking and therefore, for at least the time being, the IWMF will be little, if anything, more than an incinerator. Commercial reasons should not allow for Condition 66 to be discharged.

The plan of action also does not comply with the waste hierarchy as stated in the ESS/36/17/BTE stack height refusal. Kelvedon Parish Council objects to the construction of an incinerator at this point in time, when Braintree District Council have declared a climate emergency and when there does not appear to be a current shortage of incinerator capacity in this region. There is also the pressing issue of air contamination from both the incinerator and the considerable number of vehicle movements that will be required in order to supply such an enormous incinerator with waste. Current research indicates a very detrimental impact of air pollution on health - linking to asthma and early death.

Furthermore, Kelvedon Parish Council objects to the discharge of Condition 66 on the basis that the applicant appears to have shown disregard for the Planning Authority, the Secretary of State and the planning process, through a process of planning creep and continuous change.

SILVER END PARISH COUNCIL (adjacent Parish): No comments received

COGGESHALL PARISH COUNCIL (adjacent Parish): Objection. The plan of action does not meet the full requirements of condition 66 on the basis:
1. Is non-compliant;
2. Contradicts the Authorised permission granted in 2016;
3. Is not viable as consented by their own admission and therefore ECC must stop the development;
4. Goes against the express wishes of the Inspector's original decision;
5. Does not comply with waste hierarchy as stated in the ESS/36/17/BTE stack height refusal;

6. Does not represent 'non-material changes' and as such requires a new application;
a. Changes significantly,
b. Is described in a different way,
c. Has components removed meaning it is designed differently,
d. Will result in different objections;
and
7. Contravenes the policies W8A and now W10B and W10C.

In addition the applicant has stated they will not adhere to the authorised permission, CPC requires ECC to enforce condition 66 and cessation of the development coupled with a scheme of rehabilitation.

The response was accompanied by a statement expanding upon the points raised above and the full response is attached at Appendix E

FEERING PARISH COUNCIL (nearby Parish): Objection. We have read the objection comments received by Bradwell with Pattiswick Parish Council and we agree with their comments. The document which has been submitted as a plan of action is missing important information and until this plan of action is complete, we cannot support the discharge.

Feering Parish Council would also like clarity as to Indaver's role in the application for the discharge of condition 66. The original application ESS/34/15/BTE was submitted by Gent Fairhead and permission was given to Gent Fairhead. There is confusion between the relationship between Indaver and Gent Fairhead. Will Indaver be delivering the whole of the Integrated Waste Management Facility or are they just delivering part of it? We would like clarity as to who the "operator" is.

Officer Comment: The planning permission runs with the land, not the applicant.

RIVENHALL PARISH COUNCIL (nearby Parish): Objection, submission made on last day possible and is not "a plan of action for an alternative use" only speculative suggestions and there is no site restoration proposal is included. The restoration scheme should include replanting the woodland.

Condition 66 has been triggered because there has been no beneficial use of the site, in fact nothing has been built since it was granted in March 2010, some 11.5 years ago and it has been stated no waste processing will take place before 2024/5.

Option 1 says that the IWMF will be built as permitted, but it has been stated at Liaison meetings by Gent Fairhead/WREN that the paper pulp plant is now not commercially viable. Indaver have stated at liaison meeting that alternatives are being explored "on and off site" to take heat from the incinerator. Such uses would be outside the scope of the current consent.

Option 2 is to "build out those elements within the consent which are technically and commercially viable, all within the building which currently has consent". But this also does not align with the known facts. Indaver has stated at the liaison meeting, and in writing to the planning authority, that the only element they are

committed to construction is the waste incinerator, with commissioning by 2024/25. There is no commitment to any other elements of the IWMF, no evidence has been submitted that these other elements are not commercially viable.

Option 3 - is to "submit an application for consent for alternative waste management and/or energy generation uses". Indaver state that they are in dialogue with ECC regarding the lawfulness of their approach, but ECC have stated they require the IWMF to be built in full. It appears even after many years that there will be more changes.

Indaver have mentioned the possibility that they may wish to increase the power output to greater than 50MWe, which would require a development consent order from the Secretary of State. The incinerator has grown in size from 300,000 tonnes of waste per year to 595,000 tonnes per year in stages. It now appears that a further increase is under consideration with more, not less, uncertainty as to what the developers are really intending to build.

The application fails to offer any plan of restoration and only vague suggestions of what the alternative to the IWMF could be. It appears the IWMF has consented is not viable as consented and therefore WPA should bring an end to the ongoing “planning creep” and require a fresh and full planning application of what Indaver actually wants to build. This is important because in 2019 the WPA refused an application for a higher stack, with one of the reasons given being that the IWMF was not required for Essex waste needs. A new and full planning application for the actual plant Indaver wants to build would allow consideration of whether that plant is needed for Essex and a judgement could then be made as to whether that plant would be acceptable set against current planning policies and climate change legislation.

LOCAL MEMBER- BRAINTREE - Witham Northern: Objection.
By removing Condition 66 this no longer becomes an “integrated” waste management facility, with many of the components from the original planning application stripped out by the developer. If the IWMF is not built out with all the components, then this must be considered a breach of the original planning consent which was for all elements and demonstrates more than a “non-material” change to that application.

Furthermore, the parts that have been removed, such as the Pulping Paper Recycling Facility, brought environmental benefits of recycling and recovery of reusable materials – offsetting some of the harms from incineration. These are now gone, and this goes against the expressed wishes of the inspector’s original decision.

The ‘plan of action’ that has been submitted by the developers is incomplete and, along with the continued changes to the application, demonstrates a complete disregard towards the planning process, the Planning Authority and most importantly to local residents.

LOCAL MEMBER- BRAINTREE - Braintree Eastern: Objection.
In 2010 the Inspector permitted an Integrated Waste Management Facility (IWMF) and the then Labour Secretary of State (SoS) supported this. An IWMF is, by

definition, made up of different elements and the inclusion of these “greener” elements was the only reason the dirty, environmentally damaging incinerator secured planning permission.

At no point did the Inspector or SoS allow for individual components to be omitted.

The IWMF has permission for an Anaerobic Digestion Plant (AD) treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility (MRF) for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment (MBT) Facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam.

Condition 66 sets out that in the event that the IWMF is not brought into beneficial use within five years of commencement of the development (as notified under Condition 1) the operator shall within six months of the end of the five-year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within six months of approval by the Waste Planning Authority.

At the Indaver/ECC Rivenhall Waste Liaison Committee on June 17, 2021, Indaver stated that the Paper Pulping Recycling Facility was not commercially viable and would no longer be going ahead.

There has been some disagreement over what John Ahern of Indaver said at the meeting on June 17, 2021, about the hangars for the non-incinerator elements of the IWMF. The meeting was not recorded and there was no stenographer taking verbatim notes. I thought Mr Ahern made a pledge that at some point in the future Indaver would build an “empty hangar” at the cost of “£30million” to house the other elements of the IWMF after the incinerator was built and operational at the end 2025. As chair of committee, I tried to get this minuted but in an exchange of emails Mr Ahern said that was not what he said. Mr Ahern says he said Indaver would not build an empty hangar that it had no use for and costing £30million as that would be a waste of resources. He added: “However we are keen to build the hangars provided we have developed a beneficial use for them.”

So it can be deduced, Indaver currently hasn’t developed a beneficial use for and has no plans to build the infrastructure - empty hangars or otherwise - for the non incinerator elements of the IWMF.

This implies an arbitrary approach to the authorised planning permission.

Indaver has clearly indicated its intention to build the incinerator element of the plant first and vaguely suggests it is seeking partners to develop the AD, MRF and MBT. Seeking partners. Who, when, where, why, what? There are more questions than answers.

A separate company, Wren Renewables had previously stated it would bring

forward the development of the direct use of the heat and steam element of the IWMF.

But now Wren has stated that the market to reprocess high quality paper, the material which was aimed to be treated in the paper pulp plant, has changed, such that at the current time Wren no longer consider there is a market demand for the facility.

Wren has stated it is working with Indaver to find alternative proposals for the direct use of heat and steam from the incinerator. Where, when, with whom?

Thomas Fairhead, a director of Gent Fairhead, the company that secured permission for the IWMF in 2010, is also a director of Wren Renewables. Has another company involved in paper pulping been approached in regards to the viability of the Paper Pulping Recycling Facility at Rivenhall? It would be preferable to have an objective answer from a company not previously involved.

It is quite clear Indaver is only committed to building the incinerator - the dirty, climate-harming element - and not the greener elements of the IWMF as permitted. This is a significant change and one that needs to go back to the committee if not the SoS as a new application.

To date, apart from removing Condition 66, no application has been made to change the development as currently permitted.

Indaver has only made vague pledges to seek partners with respect to the AD, MRF and MBT, and the £30million hangar pledge if there's a "beneficial use" appears to be a cynical attempt to hoodwink ECC to get the incinerator-only element of IMWF through the final stages of planning.

If Indaver does eventually build a hangar at a cost of £30 million for the other elements, that sum is chicken feed when it comes to the profits the incinerator would make in its 30-year life span and could easily be written off as planning expenses. Based on the Croydon incinerator's profit figures, £80-£120 is charged per tonne of waste incinerated - that's £60 million a year income for the 600,000 tonnes per year Rivenhall incinerator or £1.8 billion over 30 years.

The Environment Agency has confirmed the transfer of their permit from Gent Fairhead to Indaver and has been transfer on the "as is" design & extant planning basis.

Dropping the Paper Pulping element of the permission will impact the calculations concerning emissions and heat outputs within the original EA permit, and as such, should be reviewed as well.

The five-year time limit (Condition 66) where the IWMF must be making a beneficial contribution has expired since they had a legal start on the 2nd March 2016.

The condition states that they have six months to provide a new plan of works and if none is received six months to restore the site.

Condition 66 requires that if there was no beneficial use of the IWMF within five years of commencement (i.e. 2nd March 2021), then the applicant is required within six months (i.e. 2nd September 2021) to "…submit a plan of action for an alternative use or a scheme of rehabilitation for the site…".

Indaver's plan of action is to remove Condition 66. That's not a plan of action - that's simply sidestepping the condition.

All this plan of action does is abuse the use of conditions, question their validity and inject a huge level of unacceptable risk and uncertainty; it is simply not clear what will be delivered.

The world has changed in the decade since the IWMF was permitted in 2010. If paper pulping is no longer commercially viable due to the impact of Covid19, then burning waste cannot be considered environmentally sustainable with all the scientific evidence that has been gathered on climate change since 2010 - and empirical evidence we see on our TV screens every day.

In the 11 years of delay and change we have a much deeper understanding of how air quality impacts human health and the environment; waste incineration may have been acceptable in the 20th century but it has simply become unacceptable in the 2020s. The USA stopped building new waste incinerators in the 1990s.

We now understand the impact of poor air quality and the damage that the emissions from the incinerator will do to both our environment and our health in terms of climate change, small particles, and with CO2 emissions taking centre stage and driving an unprecedented and current 1.5C increase in global warming.

Global emissions must peak by 2025 to keep global warming at 1.5C. The Rivenhall incinerator is set to start operating at the end of 2025.

On this basis, ECC must now stop development on the site, understand what is being built and require a new application based on the latest scientific knowledge, not ones that prevailed 5-10 years ago before making a much more informed decision.

Addressing Condition 66 provides the opportunity to reassess environmental impact and climate change impact in light of current data, thinking and evidence. I strongly object to the removal and discharge of Condition 66 and ask ECC's Development & Regulation committee to consider rejecting the application.

6. REPRESENTATIONS

In accordance with the adopted Statement of Community Involvement, as this was not a planning application, but an application to discharge details required by condition no properties were directly notified of the application. Nonetheless, 100 representees have sent in comments, including one from Priti Patel MP, which is attached at Appendix F. The issues raised are summarised as follows:

Observation	Comment
The Inspector's report and SoS decision envisaged the IWMF to be built in its entirety not just the incinerator, all elements should be delivered, CHP, MRF, MBT, AD and paper plant	See appraisal
Plan of action states will build to permission authorised, but focuses on CHP with no commitment to other processes, thus non-compliant with the permission which is for all elements as set out in the description of development.	See appraisal
The applicant has failed to comply with the essential terms of the condition and therefore the application should be rejected.	See appraisal
The "plan of action" constitutes little more than a very brief summary or menu of potential options for further consideration and decision.	See appraisal
There is no detail in the C66 letter about "an alternative use" and nothing at all about a "scheme of rehabilitation" that would constitute a 'plan' and clearly the IWMF has not been "brought into beneficial use within 5 years of commencement of the development".	See appraisal
It is not a "plan of action" but a plan to delay and stall. It makes no firm commitments on the approach being taken and it appears it is being used as a tool to keep open the prospect of more damaging development taking place on this site and because, by their own admission, the currently approved scheme is not commercially viable. Moreover, the reason given for the condition states that the plan of action is proposed so: *that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete*	See appraisal

implementation

The submission from Indaver is neither a substantial plan ‘for an alternative use’ nor is it a plan to rehabilitate the site.

The submission from Indaver and the three options it suggests provides no such certainty over the future and no clarity about what they will develop. It merely concedes that the development cannot take place as currently consented. A clear alternative is not given and no timetable to deliver such an alternative is provided either.	See appraisal
The submission from Indaver is neither a substantial plan ‘for an alternative use’ nor is it a plan to rehabilitate the site. It is therefore questioned why the application was validated.	See appraisal
Condition 66 is designed to provide people with certainty about the future of the site if the consented scheme is not developed as approved within the designated five year timescale. Condition 66 was put in place to give a reasonable time for the site to be fully completed as proposed, which it has not been. The document from Indaver and the three options it suggests provides no such certainty over the future and no clarity about what they will develop. It merely concedes that the development cannot take place as currently consented. A clear alternative is not given and no timetable to deliver such an alternative is provided either.	See appraisal
Consequently, any decision to discharge condition 66 based on the document and evidence provided by Indaver would not provide further certainty and clarity and would have the opposite effect. The application does not constitute a clear ‘plan of action’ and as such it must be refused by the Council.	
One of the three options includes the prospect of new build incinerator of a	See appraisal

larger and more environmentally damaging scale than the one that falls within the existing consented scheme (Option 3). Although such a proposal would need to go through the Development Consent Order process, the Council should consider in relation to the discharge of condition 66 whether this proposal is viable and credible. A development on this scale would not be viable or credible and given how damaging it would be for the environment the Council should not accept this as being a credible 'plan of action' for the site for the purposes of discharging condition 66.	
Options 1 and 2 are not credible as 'plans of action' for the site as they give no details of timescales and both options would represent a significant net increase in the environmental harm caused by the site by focusing on developing and putting into the use the incinerator first or the incinerator only. As such, all three options listed are not credible and as they do not represent a 'plan of action' and do not provide certainty over the future of the site they should be rejected.	See appraisal
Nothing will be brought into 'beneficial use' for several years to come - Indaver say not before 2024/5.	See appraisal
The application states "To build out the permission as authorised by the Planning Permission." It is stated Indaver will be working with Gent Fairhead (WREN), but it has been verbally stated at liaison meetings that the pulping plant is not commercially viable. It has also been stated alternatives to take the heat are being explored on and off site, this is outside the scope of the current consent.	See appraisal
Given the recent liaison meetings, attended by the ECC officers, and the submitted plan of action in response to condition 66 clearly stating they are only	See appraisal

'bringing forward the Incinerator', constructing the remaining elements' only if they are commercial and technically viable'. When do you consider you have been 'officially informed' of the changes?	
The operator Indaver stated at all liaison meetings and in writing to the planning authority that the only element they are committed to constructing is the waste incinerator.	See appraisal
How will you mitigate the risk that the applicant only builds the Incinerator under option one contravening the authorised planning permissions?	
Given the EA response, when do you consider the integrated nature of the authorised planning is breached?	See appraisal
Given the original application was controversial and only allowed after ministerial call in and with the application expressly including all elements, and it was the clear wish of the then Secretary of State that all would be delivered together, why is ECC not requiring a plan for all elements to be built, as per condition 66?	See appraisal
Please can you identify what beneficial use has been cited and that will allow the discharge of condition 66?	See appraisal
Given the 'uncertainty risk' now associated with this development, why is ECC not stopping this development?	See appraisal
Since the only way residents, stakeholders, and statutory bodies can adequately engage and given the significant level of risk and uncertainty, will the Council and its Development and Regulation Committee stop the currently unauthorised development and require a new application?	See appraisal
The link between the EfW and the paper	See appraisal

plant was given weight in the original consent recommended by the Inspector in 2009 and confirmed by SoS in 2010.	
The application makes no commitment to the consented MRF, MBT, AD or paper pulping plant.	See appraisal
Indaver state there has been dialogue with ECC in regard to lawfulness of their approach, but WPA has stated it considers the IWMF should be built in accordance with the permission.	See appraisal
Indaver state they are exploring increasing the power output to 50MW, which would require a Development Consent Order from the SoS. In other words Indaver are looking to increase the capacity of the waste incinerator yet again, from 595,000tpa to in excess of 800,000tpa	Indaver has stated it does not intend to increase the input to the CHP above 595,000tpa. Any increase in electricity generation capacity would arise from the efficiency of the incinerator. An increase above 50MW would require a Development Consent Order which would be considered by the SoS.
The IWMF has been delayed and changed over a number of years, it is clear the IWMF is not viable and ECC should require a fresh full planning application, when Indaver knows what it wants to build. ECC stated in 2019 that the IWMF was not longer needed for Essex.	See appraisal
A new application could be judged against current policy, including sustainable development goals and climate change legislation.	See appraisal
The current submission provides no details of a restoration plan and only raises more uncertainty as to the alternatives to the current consent.	See appraisal
The plan of action is not complete it does not provide details of when other consented waste management and energy components will be commenced and completed.	See appraisal
The plan of action does not provide sufficient detail to discharge the condition.	See appraisal

The applicant has stated not all elements are viable and therefore the development should be stopped.	See appraisal
Without all elements goes against the decision of the SoS.	See appraisal
Proposal do not comply with waste hierarchy as stated in 2019 refusal.	Applications ESS/36/17/BTE & ESS/37/17/BTE were for an increase in stack height and the applications were determined on their individual merits at that time.
Proposal requires a new application as described differently, removes elements of the permitted development, would give rise to different objections.	See appraisal
Contravenes WLP policies W8A and now W10B and W10C	These policies while referred to in the decision for ESS/34/15/BTE, have now been superseded by policies of the Waste Local Plan 2017.
Proposals do not adhere to the planning permission; development should be stopped and rehabilitation plan should be submitted.	See appraisal
Does not comply with stack height refusal	Applications ESS/36/17/BTE & ESS/37/17/BTE were for an increase in stack height and the applications were determined on their individual merits at that time.
Non-compliant and contradicts 2016 planning permission	See appraisal
Goes against the Inspector's original decision	See appraisal
The applicant has stated that they will not adhere to the authorised permission and therefore the plan of action must be considered unviable.	See appraisal
The document significantly changes the original proposal and cannot be seen to represent 'non-material change'	The applicant has made the submission to address a condition, it is not an application for a non-material amendment. Also see appraisal.

To proceed in the way described requires a new application	See appraisal
Urge ECC to enforce condition 66, ordering development to be stopped and a scheme of reconstitution to be submitted	See appraisal
Neighbours should have been directly notified of this application.	The application was consulted on in accordance with Statement of Community Involvement. Also see appraisal.
The incinerator was granted consent in 2016 and given 5 years for a reason. Political, economic, social, technological, legal and environmental frameworks change quickly and in a given timescale planning law allows for consents but ensures a backstop for significant changes that may occur over the period. Section 91 of the Town and Country Planning Act states that the time period in the conditions has regard to the "provisions of the development plan and other *material considerations*". The period between 2016 and 2021 is possibly one of the most important and significant upheavals in recent history for changes that can be classed as '*material considerations'*. a. Political – Brexit, geopolitical changes and local government changes have seen a huge shift in the global, national and local political sphere that changes the way the UK and the local area perceive relationships and policies since 2016. This affects relationships in Europe, supply chains, resource efficiency and environmental expectations. In that period the local area has moved towards green political parties who have seen significant gains in local elections due to the concerns over the incinerator, global warming and	See appraisal

the extension of the gravel pit.

b. Economic – the economics of incineration v landfill v recycling v reuse have significantly altered over the last 5 years. Landfill has increased by about 20% in this time. There is little energy from waste in the incinerator to justify the incineration route. It saves money to recycle materials and use in new materials. The demand for recycled content in roads, flooring, concrete, steel, gypsum, insulation, furniture, fabrics, other building materials has increased enormously over the last 5 years and will increase exponentially over the next few years. Burning waste will not allow this demand to be met. It is essential that resources remain on the planet to meet the recycled content demands rather than mining or extracting virgin materials.

c. Social – there is less contamination in recycling waste due to an additional 5 years of domestic and industrial habits and processes to ensure better segregation. This makes recycling more viable. COVID and lockdowns have changed the way people view the environment and what they expect from local authorities in order to meet carbon targets and recycling which is intrinsic to environmental performance.

d. Technological – technology is changing rapidly and there are significant advances over the last 5 years in recycling major waste products including concrete, steel, gypsum, plastics, household waste to meet circular economy principles. New recycling processes, 3 D printing, enhanced AI and data use will mean resources can be extracted from materials more easily and

manufacturers are changing to a more flexible and adaptable model for products to allow this.

e. Legal – since 2016 and the Paris Agreement there is no doubt in anyone's mind that climate change is occurring. Up until that point there were still climate sceptics in government and other industries. The greenhouse gas emissions from the incinerator do not meet the UK 2020 carbon budget or net zero target. In addition the UN IPCC Report August 2021 states unequivocally that the next 10 years are key to reducing emissions to prevent catastrophic change. The incineration strategy does not comply with the 2020 carbon budget submitted by the Committee on Climate Change to the Government in line with the Climate Change Act, which states that to meet targets the UK needs to waste fewer resources. Incineration results in resources being lost forever when part of these could be recycled. The incineration model relies on a constant supply of waste to be incinerated to keep the plant running and profitable. This encourages incineration of resources rather than looking at other routes and a circular economy.

f. Environmental – all industries recognise that the circular economy is key to achieving net zero as it encourages reuse, material efficiency, standardisation, recycled content in materials, low embodied carbon for materials and designing out waste. Incineration as a means to dispose of waste in 2021 does not fit into this model.

All the built environment key bodies such as RICS, RIBA, BRE, CIOB, UKGBC, LETI Climate Emergency Design Guide and Embodied Carbon Primer and

CIBSE as well as architects, contractors and the supply chains now recognise that a circular building project is key to meeting net zero targets.	
For the above reasons an extension of time is not acceptable for an incineration plant that not only is much higher in burnt volumes than originally granted but also does not include the recycling required to meet UK and global targets. The landscape has changed in the last 5 years and to extend the time scales on a scheme that was devised in 2016 when so much has changed does not meet planning or environmental legislation.	The application is not for an extension of time to implement the planning permission. There is an extant planning permission. The application seeks to discharge condition 66. See also appraisal.
No need for facility, will generate green house gases, give rise to air pollution, reduce air quality increasing particulates in the air from the lorries and the removal of elements that were aimed at recycling materials should be investigated.	See appraisal
The Inspector's report in 2010 in making a positive recommendation relied upon the fact, which is referred to several times within the report that the planning permission was granted on the basis of the benefits of the facility because it was integrated. Removal of this integration would not deliver the sustainable development that was envisaged and granted by the Inspector.	See appraisal
If only the incinerator alone is developed, there is potential the applicant would seek to increase the capacity of the incinerator to utilise all the permitted HGV movements.	An application would be required to increase the capacity of the incinerator.
The potential alternative developments suggested, may not be practical or viable and give rise to different impacts than those previously considered.	The information submitted with the application and presented at the liaison meeting, gave only an indication of possible alternatives that might be proposed at the site. If and when an application is made for alternatives, the impacts would be considered at that time.
The developer in making the	The EA permitting regime is separate to

Environmental Permit application made reference to only building the incinerator element of the IWMF	the planning process. The EA have stated that an EP variation may be required if only the incinerator element is brought forward.
Request a copy of the legal advice obtained in relation to this application	Legal advice subject to legal privilege. See also section J

7. APPRAISAL

The key issues for consideration are:

A. NATURE OF THE APPLICATION
B. INTERPRETATION OF CONDITION 66 AND WHAT IS REQUIRED
C. WHETHER THERE IS CURRENTLY A BREACH OF PLANNING CONTROL
D. APPRAISAL OF THE INFORMATION SUBMITTED TO DISCHARGE THE CONDITION
E. APPRAISAL OF OPTION 1
F. APPRAISAL OF OPTION 2
G. APPRAISAL OF OPTION 3
H. IMPLICATIONS IF NONE OF THE OPTIONS WERE APPROVED TO DISCHARGE CONDITION 66
I. ENVIRONMENTAL PERMIT
J. LEGAL ADVICE
K. CONCLUSION

A NATURE OF THE APPLICATION

It is important to clarify the nature of the application. This is not a planning application; it is an application to discharge details reserved by a planning condition. There has also been some confusion that the applicant is seeking to delete the condition, which could only be achieved through S73 of the Town & Country Planning Act (often known as a variation application). This is not the case. The application seeks to submit details required by the condition, so that they can be approved or refused, not to delete the condition. An approval granted under a condition attached to a planning permission may itself be granted subject to conditions (this is clear from the terms of section 78(1)(b) of the Town and Country Planning Act 1990 ("the 1990 Act") and the decision in *Pressland v Hammersmith and Fulham LBC* [2016] EWHC 1763, as approved by the Court of Appeal in the Court of Appeal in *Fulford Parish Council, R (On the Application Of) v City of York Council* [2019] EWCA Civ 1359 (30 July 2019). Conditions attached to an approval should not ordinarily go to the principle of the development authorised by the permission. In the present case, however, the approval under condition 66 is referring to a procedure (a plan of action) separate from that which is permitted under the planning permission. The plan of action would supersede the development authorised under the permission and may entail the modification of what is authorised by the permission with appropriate and new conditions controlling the use or development. If the plan of action is the continuation of the development under the existing planning permission, additional conditions to those attached to the permission may be imposed to control how the authorised use may

be carried out. Such conditions must, however, be lawful and imposed in accordance with policy; this is dealt with further below.

As an application to discharge a condition, the application would normally only be subject to consultation with relevant technical consultees to the subject matter of the condition. In this case because of the nature of the condition and the high public interest in the site it was felt appropriate to consult wider, including local councils. Some local residents have raised concerns that neighbours were not directly notified, but the application was consulted on in accordance with the Council's Statement of Community Involvement.

While the application is not a planning application, the application is able to be considered against current planning policy and any other material considerations.

The effect of condition 66 is that a plan of action to bring forward either an alternative use or remediation rehabilitation is required and that any development of the Site under the permission for the permitted development (as amended) will be required to be replaced by the proposals contained in the plan of action or remediation rehabilitation scheme. An application to discharge the condition should include both a scheme of rehabilitation and a plan of action as alternatives. This makes sense of the condition since it achieves a resolution of the future of the permission, in accordance with the purpose of the condition.

It should be noted that the application site for the IWMF site was included within the planning application areas for the mineral extraction of both sites A3 and A4 (ESS/24/14/BTE and subsequent variations) and later site A5 (ESS/03/18/BTE and subsequent variations). Under these planning applications, restoration schemes were included as to how the IWMF site would be restored should the IWMF not progress.

A proposed "alternative use" under the plan of action that is not that already permitted under the existing planning permission (Ref ESS/34/15/TE) would need to be judged against the current policy position and context; this is because the effect of condition 66 is to approve a use or development which will supersede the current authorised use. However, while the "Plan of action" may set out a way forward to achieve an alternative use for the site, anything that is not that already permitted would need to be subject of a new planning application supported by all the necessary supporting information, and potentially require Environmental Impact Assessment, to enable proper consideration of the individual merits of the alternative use. It is not possible under condition 66 to give express planning permission for the "Alternative Use" (unless the same as that already granted planning permission), only a "Plan of action" of how that "Alternative use" might be achieved. The applicant does have the right of appeal should the details be refused or against any condition(s) imposed on any approval.

The timeline for submission under condition 66 was specified and has now expired. It is not therefore possible for a further submission under condition 66 to be made.

B INTERPRETATION OF CONDITION 66 AND WHAT IS REQUIRED

As explained previously condition 66 was added to the conditions of the IWMF

permission as part of the determination by the WPA of planning application ESS/34/15/BTE.

At the time ESS/34/15/BTE was determined no EP from the EA had been obtained for the IWMF. The purpose of the condition was to seek to ensure that, if the IWMF were implemented but did not ultimately gain an EP or failed to be constructed, there was a mechanism by which the site would be put to alternative beneficial use or the site rehabilitated. The IWMF has subsequently obtained an EP and thus the IWMF has both an implemented extant planning permission and an EP to operate.

Condition 66 requires that if the site was not in beneficial use within 5 years from commencement i.e. by 2 March 2021, then within 6 months (2 September 2021) an application for a scheme of rehabilitation or a plan of action for an alternative use should be made for approval by the WPA.

When originally imposed, the condition did not anticipate the current scenario whereby the implementation of the planning permission was positively progressing but that the site had not been brought into beneficial use. At the time the condition was imposed it was anticipated that within the 5 years an EP would either have been gained and the IWMF completed or that potentially an EP might not have been gained and that the WPA needed a mechanism to minimise the environmental impacts of a partially implemented site, but stalled development.

Representations have also been made that the wording of the condition should allow the WPA to prevent development of the IWMF, as 5 years have elapsed and there is no beneficial use of the site. Notification of commencement i.e. implementation of the planning permission, was given to the WPA in accordance with Condition 1 and it was confirmed by the WPA that the permission had been lawfully implemented on 2 March 2016. Thus, at this stage, there remains an extant permission.

However, the effect of condition 66 is that its mechanism overtakes the originally permitted use and provides for the replacement with either a “Plan of Action” to seek to achieve an alternative use or for rehabilitation of the site, whichever is approved by the WPA. Because the purpose of the condition is to achieve a position by which the adverse environmental impacts of incomplete implementation will be minimised (see the reason for the condition), the application under the condition must include both options: a plan of action for an alternative use and a scheme of rehabilitation as an alternative.

Consistent with its purpose, the condition envisages that, if the “Plan of action for the alternative use” is refused, there will be rehabilitation of the site and that, therefore, an application would allow the WPA to refuse the plan of action for an alternative use but allow rehabilitation. If only a plan of action for an alternative use was capable of being applied for, without the alternative rehabilitation option, and the application was refused (and dismissed on appeal), then the site would remain in its partially developed state, contrary to the purpose of the condition. Consequently, both options should have been applied for, but the application is only for a plan of action for an alternative use. The consequences of this are dealt with below.

It is the WPA view, having taken legal advice, that the condition does not allow for the use permitted under the planning permission and the "alternative use" to come forward simultaneously. Where a plan of action for alternative use proposes any development that requires express planning permission, whilst the plan of action to achieve that "alternative use" might be considered acceptable (such as the timescale for submission of an application), the actual principle and detail of the alternative use could only be properly considered through a separate planning application, with the appropriate supporting information (such as for the provision of the incinerator element of the CHP in isolation).

As there is no definition of "alternative use" in condition 66 the alternative use could be something which is the same as the use permitted under the current planning permission (ESS/34/15/BTE).

Consideration of the 3 Options put forward within the plan of action by the applicant is set out in sections E to G below.

It should be noted that the Department of Levelling Up, Communities & Local Government has requested that before a decision is issued with respect to the application, the SoS is given an opportunity to considered whether he wishes to intervene.

Some letters of representation have raised concern that the submission does not include "plans". The dictionary definition of a "plan of action" is *"an organised programme of measures to be taken in order to achieve a goal".* Comments have been made that it was envisaged that the "plan of action" should include drawings as to what is proposed, but the word "plan" in this context (or in its natural meaning) was not intended to mean a drawing and thus drawings are not required.

C WHETHER THERE IS CURRENTLY A BREACH OF PLANNING CONTROL

There has been much concern raised by local councils and representees that there is a breach of planning control due to the fact that Indaver has openly indicated that it is not clear whether all elements of the IWMF would be built and, at the current time, are only focussing on building the incinerator element of the CHP. It is agreed that the correct interpretation of the planning permission is that all of the approved development (as set out on Plans 1-9A and 10A as conditioned by condition 2) must be carried out for the development to lawfully operate.

The conditions imposed do not prevent the building of the incinerator element of the CHP first. The extant planning permission is not restrictive in what order the individual components of the IWMF should be constructed.

The WPA has taken legal advice on the interpretation of the planning permission and the advice received is that constructing the incinerator element first is not in breach of the planning permission, as long as the construction is in accordance with the planning permission. Statements by the applicant that other elements of the IWMF may not be viable only at this stage gives an indication that other elements may not be built; not that they will not be built. In general terms, unlawful development must take place before any action can be taken by planning

authorities to remedy any breach of planning control, such action satisfying the test of being is expedient to do so. At this time, it is considered there is no breach of planning control.

The applicant and its agents have expressed the view that to build the incinerator, without building all the other elements, would not be in breach of the planning permission. Such a contention is wrong. If the incinerator is constructed or commences operation and the other parts of the IWMF are not built and are unable to be integrated with the incinerator, it is the WPA's view that there would be a breach of planning control. The reasoning as to why the WPA take this view is set out below. Alternatively, if there is a clear statement that not all of the uses will be carried out, this will be sufficient to establish that the planning permission is not being completed in accordance with its terms. At the current time the applicant has not categorically stated in writing that it will not build other elements of the IWMF, as permitted. Indeed, option 1 of the condition 66 approval application is based upon all elements being carried out.

Considering the natural meaning of the words used in the description of the development in the planning permission, the description is of an "Integrated Waste Management Facility" which "comprises" certain elements. Naturally read it is considered that "comprises" means "amounts to" or "is"; that is, supported by the use of the word "integrated" – i.e. including the identified elements. Consistent with that description, the nature of that facility is identified in the plans identified in condition 2. Plans 1-9A and 10A identify each of the elements specified in the description of development and show how the facility would operate in an "integrated" manner. It is therefore considered plain that the "Integrated Waste Management Facility" is a development which includes all of the identified elements; the conditions require that to be carried out.

The interpretation of the planning permission is that it is for an integrated facility and was considered and granted on this basis.

The Inspector (in making his recommendation following the call-in inquiry in 2009/10) and the WPA (in considering subsequent applications) took into account all elements of the IWMF and how they would provide an integrated facility, maximising recycling and maximising the use of heat and steam, through a combination of power generation and direct use of the heat and steam to reprocess waste paper, in order to deliver a sustainable development.

It is evident within the Inspector's report and the subsequent WPA officer reports (ESS/34/15/BTE), that the consideration as to the acceptability of the IWMF in planning terms was on the basis that all elements of the IWMF would be delivered to result in sustainable development.

Extracts are set out below from the Inspector's Report of March 2010, with numbers indicating the paragraph from which the extract has been taken. (A copy of the Inspector Report is at Appendix A.) These extracts evidence that the 2008 application was considered by the Inspector on the basis of an integrated facility.

It should be noted that at the time of public inquiry the IWMF was referred to by the applicant as the eRCF (evolution of the Recycling Composting Facility).

Extract from Inspector's report section on *"Prevailing Planning Policy":*

> *13.4 "…it seems to me that the MDIP* [Market De-ink Paper Pulp] *is an integrated part of the eRCF designed to recover high quality pulp from waste."*

Extracts from Inspector's report on "The quality of the design and sustainability implications":

> *13.16 "It seems to me that each of the waste management processes within the eRCF would benefit from the proposed integration with others. However, there is sufficient capacity in each of the processes to allow for variation thereby providing flexibility of use. "*

> *13.17 "The integrated nature of the development would enable the power supply required to run the entire plant to be self generated at a lower carbon emission rate than electricity drawn from the National Grid."*

> *13.19 "The use of SRF in the proposed CHP plant and the export of electricity to the National Grid would contribute to meeting the Government's Renewable Energy target of producing 15% of UK energy from renewables by 2020. The contribution would be increased by the proposed co-location of the MDIP and its consumption of heat from the CHP plant."*

> *13.22 "…I conclude that the design of the eRCF is of high quality and that it would be a sustainable form of development which would enable the management of waste to be undertaken in a sustainable manner."*

Extracts from Inspector's report on "*Consistency with PPS10*" [PPS10 – Planning for Sustainable Waste Management]:

> *13.32 "The eRCF would provide various means of dealing with waste, all of which would help to reduce the need for landfill. The various elements of the integrated plant would recycle waste, produce compost, and create energy from waste."*

> *13.35 "The proposed facility would help to deliver these objectives by moving waste up the hierarchy. It would recover recyclables, produce compost and reduce the need for disposal of residual material to landfill by using such material as a fuel for combustion in the CHP plant. It would also use imported SRF from other permitted waste management facilities in Essex, which might otherwise go to landfill. The scheme would generate electricity and provide a specialized facility for the recovery of recycled paper. Although the combustion of waste is only one step above landfilling in the waste hierarchy, the CHP is only one of the facilities that would be available at the eRCF. In my judgment, this integrated plant would allow the anticipated waste arisings to be managed as far up the waste hierarchy as reasonably and practically possible. Moreover, it would significantly reduce the amount of residual waste that would need to be sent to landfill. In these respects the proposal is in accord with the objectives of PPS10."*

13.38 "The eRCF would allow Essex to increase its provision of sustainable waste management, secure increases in recycling and recovery, and reduce carbon emissions."

13.40 "Overall, I am satisfied that the proposal is consistent with the key planning objectives set out in PPS10. It would help to deliver sustainable development by driving waste management up the waste hierarchy and contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community. With regard to self sufficiency, the facility would meet a need in the region to deal with MSW and/or C&I waste."

Extracts from Inspector's report on *"The need for the proposed facility":*

13.45 "The CHP would reduce the need for landfilling of residuals from the MBT, and by using residues from the paper pulp recovery process as a fuel, it would remove a need for offsite disposal of such material and the potential for it to be sent to landfill."

13.48 The eRCF has the potential to increase still further the amount of recycling, treatment and recovery of waste in the County, and it seems to me that such facilities will be necessary to help ECC to meet its waste targets."

13.49 "I appreciate the concern that recyclable material should not be incinerated. Such an approach encourages the treatment of waste at a lower level in the waste hierarchy than need be the case. However, the application proposal would provide facilities to maximise the recovery of recyclable material and there is no reason to believe that materials which could reasonably be recycled would be used as fuel in the CHP."

13.50 "The proposed MDIP at Rivenhall would be capable of meeting the needs of Essex and the East of England in terms of the recycling and recovery of high quality paper, thus meeting WSE 2007 key objectives. The facility is likely to stimulate greater recovery of high quality paper waste. I agree with the applicants that it would help to divert a significant quantity of paper and card from landfill."

13.51 "The individual elements of the integrated plant would also help to satisfy various needs, including the need to move the treatment of waste further up the waste hierarchy and minimise the amount of waste that would otherwise be sent to landfill."

Extracts from Inspector's report on *"The viability of the proposal":*

13.57 "A plant which is capable of dealing with large quantities of MSW and/or C&I waste (and in this case is combined with a specialised waste paper facility), provides considerable flexibility in terms of the type of waste that could be treated and the customers that could be served. It seems to me that such flexibility helps to maximise the economic viability of the

project."

13.64 "It is arguable that the integrated nature of the proposed eRCF; its exceptionally large scale; and the very significant amount of investment that would obviously be needed for its development would, in combination, result in a degree of inflexibility. On the other hand, the modular nature of the design, the flexibility of capacity of each process, and ability to make alterations to various modules would allow the eRCF to be adapted to varying compositions of waste. Moreover, the multiple autonomous process lines would allow a particular process to be upgraded in stages if necessary. For example, a CHP process line could be upgraded or replaced without shutting down the entire CHP process. In this respect, the large scale of the development provides opportunity for changes to be made to the process without endangering the overall viability of the operation."

13.65 "On balance, I consider that the design of the proposal and its multiple autonomous process lines would provide a reasonable and sufficient degree of flexibility to enable future changes in the composition of waste and the ways in which waste is managed to be accommodated. In this respect, the scheme would not be detrimental to the achievement of increased rates of recycling."

Extracts from Inspector's report on *"Conditions and obligations":*

13.161 "I consider that the provisions of the S106 agreement are necessary to ensure that the necessary highway and access works are completed at the appropriate time in the interests of road safety; …;to ensure the MDIP is operated as an integral part of the IWMF…"

Within the conclusion of the officer's report in 2016 is also evidence that when considering the extant planning permission (ESS/34/15/BTE), it was considered on the basis of an integrated facility as per the extracts below:

"The Inspector in considering the original application stated

The eRCF is consistent with the key planning objectives set out in PPS10 [now superseded and embodied within the NPPW]. It would help to deliver sustainable development by driving waste management up the waste hierarchy and addressing waste as a resource. It would reduce the need for disposal by landfill and would recycle waste into marketable products. Moreover, it would have benefits in terms of climate change. It would also contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community and assist in the implementation of ECC's strategy to provide a framework within which the community takes more responsibility for its own waste. The eRCF would contribute to the implementation of the national waste strategy.

It is not considered that the proposed changes would undermine these original conclusions. The proposal is sustainable development, in that it meets the needs of Essex & Southend; contributes to the sustainable management of waste; provides recycling capacity for C & I waste; provides

reprocessing capacity for recovered paper efficiently using on site heat and power; provides a source of energy offsetting fossil fuels and reducing greenhouse gases from alternative forms of energy, better waste management, in particular by providing capacity to divert C & I waste from landfill; and is in accordance with the principles of the waste hierarchy set out in the National Planning Policy for Waste.

The development is therefore considered to represent sustainable development for the purposes of the NPPF and is considered to comply with the relevant policies of the development plan taken as a whole.”

Note: C & I is commercial and industrial waste.

The WPA do not accept that the development of the incinerator element of the CHP could be operated alone under the existing planning permission.

The WPA considers that to operate the incinerator without all elements of the IWMF developed and integrated with it would be in breach of the planning permission (ESS/34/15/BTE).

If the developer should not construct the IWMF in accordance with the planning permission (which includes the permitted drawings), then the WPA would need to consider how to address any breach of planning control in the usual way, including whether enforcement action was appropriate to remedy any harm caused.

D APPRAISAL OF THE INFORMATION SUBMITED TO DISCHARGE THE CONDITION

The applicant has indicated 3 potential options in their “plan of action”, as described in section 3.

As has been indicated above, there is an issue in that the current application does not propose any rehabilitation as an alternative option and, to that extent, it is defective. However, there are restoration proposals approved under subsequent minerals permissions providing for restoration of the site should the IWMF not have progressed. Whilst it could be argued that the application is invalid, the WPA must have regard to the ultimate expediency of enforcement action if it refuses to consider the application. In that regard, since a plan of action has been proposed, should this be regarded as acceptable, enforcement action could not be considered expedient because the applicant would only need to put in a planning application for the proposals and this (on the assumption that it is granted planning permission) would override any enforcement action undertaken at this stage. In these circumstances, the WPA considers it appropriate to consider the merits of the plan of action, in spite of the deficiencies of the application. The WPA also considers that, given that 3 separate options are proposed, each of which are proposed by the applicant to be acceptable, it may approve only one or more than one of the options.

Option 1 – is to seek to build out the IWMF as permitted

Should the other elements of the IWMF (namely MBT, AD, MRF and MDIP) not be

brought forward due to technical and/or commercial reasons then the applicant has indicated 2 potential alternative ways forward.

Option 2 - To build out those that are commercially and technically viable, which could involve building only the incinerator

or

Option 3 -To submit an application/applications/development consent order for planning permission for alternative waste management and/or energy generation uses.

The WPA is of the view that it should consider each of these options against the Development Plan and other material considerations. Appraisal of the three Options is set out in the subsequent 3 sections of this report – E, F and G.

E APPRAISAL OF OPTION 1

Option 1 – is to seek to build out the IWMF, as permitted

Condition 66 when drafted, as previously mentioned, did not anticipate the scenario that within 5 years of implementation of the planning permission i.e. 2 March 2021 the IWMF would not be in beneficial use but was positively progressing to achieve its operation. The condition sought to ensure that the site was either rehabilitated or there was a “Plan of action” in place to achieve an alternative beneficial use.

The applicant under Option 1 has proposed to continue implementation of the extant planning permission, with beneficial use planned by early 2026. As mentioned previously, at the current time the works being carried out are considered to be in accordance with the planning permission. The works to construct the site infrastructure (including the extraction of the overburden to create the void in which the facility would sit and works to take forward the refurbishment of the Woodhouse Farm Listing Building complex) are all in accordance with existing planning permission.

The applicant has indicated that it is likely to take 3 to 4 years (i.e. until 2025/26) to construct the IWMF, which is longer than originally proposed (24 months construction). No condition was imposed in the planning permission that restricted the period within which the development was required to be constructed, save for Condition 66. The applicant has provided an anticipated construction timeline that shows why it is predicted that construction period will be longer than originally envisaged.

This longer period of construction would also result in a longer period of the impacts arising from construction, such as construction traffic, noise, dust, light pollution, visual and landscape impacts and a longer period of extended construction hours permitted by condition 35 (7am to 7pm Monday to Sunday, but not public holidays). However, mitigation was included in the application for the IWMF (ESS/37/08/BTE) and conditions imposed in the extant permission to minimise the environmental impacts.

While there have been amendments to National planning policy and updated Development Plan documents since the consideration of the IWMF planning permission in 2016, these changes have not given rise to any significant changes in the objectives and aims of the planning policy since consideration of the IWMF proposals in 2016.

The Waste Local Plan adopted in 2017 confirmed the site of the IWMF as a Strategic Site Allocation (IWMF2) under policy 3 (for residual non hazardous waste management and biological waste management. The IWMF would provide a treatment facility for biological treatment of waste, via the AD facility and in part from the MBT facility. The MRF, CHP and MRF elements of the IWMF would provide waste treatment for residual non hazardous waste. The MRF would provide an opportunity for waste imported to the site to be processed to remove any remaining recyclates prior to incineration. The MDIP would provide a facility to reprocess waste paper utilising the heat and steam directly from the CHP.

Policy 3 of the WLP also requires "Waste Management …will be permitted where proposals take into account the requirements identified in the relevant development principles:...".

The development principles for site IWMF2 are set out below in italics with appraisal of conformity below each principle.

The following specific issues and opportunities are to be addressed:
• Any development of the site would need to ensure mineral traffic associated with the quarry (MLP sites A3, A4, A5, A6 and A7) is still able to utilise the existing access road to the A120.

The access road to the IWMF as permitted would not hinder utilisation of the access road to the A120 for mineral traffic to Bradwell Quarry.

• Widening of private haul road to two way working and improvement of minor road crossings (as identified in S106 attached to extant planning consent for IWMF)

Widening of the access road and improvement of the crossings is secured through existing conditions and the existing S106.

• Waste traffic would use the existing access, which would be required to made to a standard suitable for road traffic from the existing mineral processing area to the waste site. HGV movements would be restricted in line with current permitted movements to avoid adverse impacts to the A120. Provision of screening on south-west, south-east and northern boundaries would be important. Views from the Essex Way should be screened. The access road to the facility should be at low level with planting on both sides of the access road.

The access road details have been submitted and approved and require a standard suitable for road traffic. Conditions limit HGV movements to 404 movements per day. Tree planting details have been approved providing planting on the south-west, south-east and northern boundaries. The Essex Way is screened by existing vegetation. The access road is permitted at low level and planting provided at natural ground levels screening views of HGV traffic on the extended access road.

• *Future built development to be at low level, with the bulk of any structure to be below ground level. Tree Preservation Order (TPO) to be protected as much as possible and management of surrounding TPO woodland suggested to maximise screening and biodiversity value.*

The main IWMF buildings are located below natural ground levels and the maximum amount of TPO area has been retained, supplement by additional planting and biodiversity enhancements.

• *The impacts from the proposal need to be addressed on the designated buildings located in the vicinity - especially on the setting of the Woodhouse Farm Listed Building.*

The height of the chimney is restricted by condition to minimise its impact upon the setting of Woodhouse Farm Listed Building complex.

• *Right of Ways – Kelvedon footpath 8 runs close to the site and its route should be protected.*

Footpath 8 which passes through the Woodhouse Farm Complex has been retained on its original route.

• *Dust mitigation measures, limits on duration (hours of operation) and noise standards (from noise sensitive properties) will be established in the interests of protecting local amenity.*

Conditions have been imposed to control dust, restrict hours of working both during construction and operation and maximum noise limits set at sensitive properties, noise monitoring is required to show compliance, including a requirement for an updated noise assessment upon installation of plant and process equipment.

• *If the proposed site layout cannot accommodate the statutory easements (relevant to existing infrastructure on the site) the diversion of the existing assets may need to be considered. Any activity that requires excavation should only proceed with caution, and the existing underground infrastructure must be supported and protected and not be put at risk from disturbance.*

The WPA is not aware of the need to divert any existing infrastructure.

Concern has been expressed within representations received to this submission that, since the applications (ESS/36/17/BTE and ESS/37/17/BTE) to increase the height of the stack were refused partly on the grounds that it had not been demonstrated there was a need for the facility, there must be a case that the IWMF is no longer needed. It was necessary to consider need (especially the CHP's capacity) at that time because it had not been demonstrated that the increased stack height would not give rise to adverse impact on landscape, visual amenity and heritage impact and therefore it was necessary to assess whether there was a need within Essex and Southend for the capacity of the IWMF that outweighed the identified harm caused by the increased stack height.

With respect to need, it should be noted that, at the time of the consideration of the stack height increase, the MBT at Tovi Eco Park in Basildon was operational and treating the majority of Essex's residual Municipal Solid Waste (MSW). This MBT ceased to receive residual waste in June 2020 and the majority of Essex's MSW, is now going to landfill, which is considered the lowest option on the Waste Hierarchy – i.e. "Disposal without recovery". The assessment of waste arising and treatment capacity in 2018 for the stack height increase applications showed that approximately 250,000 of commercial and industrial waste was going to landfill, could be potentially diverted to Rivenhall and that the Tovi Eco Park was generating approximately 200,000tpa of refuse derived fuel from 400,000tpa of residual Municipal Solid Waste (MSW). Thus, there was a total potential 450,000tpa of material that could be diverted to Rivenhall CHP, considerably less than the 595,000tpa capacity of the CHP. However, with the loss of Tovi Eco MBT, the potential quantity of suitable material that could potentially be diverted to Rivenhall rises to 650,000tpa (C & I 250,000tpa and MSW 400,000tpa). While it is likely there will be some changes to the assessments made in 2018, within Essex the WPA has not dealt with any applications for facilities with substantial treatment capacity that would substantially change the treatment capacity assessed in 2018. It is therefore considered that at the current time there is a need for the Rivenhall CHP. However, it should be emphasised that just because there may be a need for the treatment capacity provided by Rivenhall CHP, it does not mean that waste arising in Essex would be treated at Rivenhall, as this this would depend on Indaver gaining contracts to do so.

Considerable concern has been raised during the various planning applications associated with the IWMF, including with respect to this submission, as to the potential for adverse impacts from emissions, particularly on the health of residents in the area. Pollution control is matter for control through the EP administered by the EA. When considering previous planning applications, an EP had not been obtained. However, an Environmental Permit has been issued for the IWMF as permitted by planning permission ESS/34/15/BTE, such that it has been adequately demonstrated to the EA, that the IWMF could operate within the required pollution control standards.

The role of the WPA and the EA is set out in paragraph 188 of the NPPF :

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

Concern has been expressed by objectors that the IWMF will not contribute to mitigating climate change due the CO2 that would be emitted to the local area from the facility.

The NPPF (para 152) seeks to "shape places in ways that contribute to radical reductions in greenhouse gas emissions". The NPPW (Section 1) recognises the role that driving waste up the Waste Hierarchy has on mitigating and adapting to climate change.

Strategic Objectives (SO4 and SO6) of the WLP are to provide for net self-

sufficiency i.e. ensuring there is adequate capacity within Essex and Southend to deal with the waste arisings within Essex and Southend, such that waste should not be required to transported unnecessary distances.

Landfill contributes to greenhouse emissions, thus diversion from landfilling contributes to reducing greenhouse gases.

The IWMF would contribute to the shortfalls identified in Policy 1 of the WLP of both “biological treatment for non-hazardous organic waste” and “further management of non-hazardous residual waste” and as such would contribute to net self-sufficiency.

Policy 11 of the WLP seeks to minimise the potential contribution waste management would make to climate change “*by reducing greenhouse gas emissions, incorporating energy and water efficient design measures and being adaptable to future climate conditions”*.

Policy 11 sets out a number of factors that will be considered in the determination of applications.

These include inter alia:

- *through transportation related to the development to limit greenhouse gas emissions.* The co-location of the MRF and MBT with CHP as permitted reduces the need for transport movements between such facilities.

- *through sustainable drainage systems.* The IWMF as permitted would capture all site surface water for use in the IWMF, however this might need to be supplemented with river water. Waste water generated by the MDIP would be treated on site within the waste water treatment facility. This waste treatment facility would use, heat, steam and energy generated by the CHP to help treat the waste water.

- *where proposals are capable of directly producing energy to demonstrate that excess heat can be directed to a commercial or industrial user of heat.* The IWMF as permitted would use the heat and steam from the CHP directly in the MDIP and waste water treatment plant and energy generated by the facility would offset energy required to power the IWMF itself.

- *where proposals include AD the gas is either direct to a gas pipeline of stored for use as a fuel.* In the case of the permitted IWMF the gas from the AD facility is being used directly within the CHP to generate electricity.

The Resource and Waste Strategy 2018 supports these principles but goes further as set out below:

England has around 40 EfW plants. Eight operate in Combined Heat and Power (CHP) mode, delivering greater efficiency than solely generating electricity. We want to help the companies that run EfW plants to use the heat produced to improve their efficiency, and to help industry make the right decisions over infrastructure investment.

Work is underway across Government to make the remaining plants more efficient, by assessing and removing barriers to making use of heat produced when incinerating waste. The Department for Business, Energy and Industrial Strategy (BEIS) has a Heat Networks Investment Project, with a £320m capital fund, and we are working to ensure that this project helps to utilise EfW plants as a source of heat for district heat networks where possible. As part of the review of the Waste Management Plan for England in 2019, Defra will work with the Ministry of Housing, Communities and Local Government (MHCLG) to ensure that the Waste Management Plan for England and the National Planning Policy for Waste and its supporting planning practice guidance reflects the policies set out in this Strategy. This will consider how to ensure, where appropriate, future plants are situated near potential heat customers.

In addition, we will work closely with industry to secure a substantial increase in the number of EfW plants that are formally recognised as achieving recovery status, and will ensure that all future EfW plants achieve recovery status.

This has been further reiterated in The Environment Plan 2018 and Waste Management Plan for England 2021.

The EA (in considering the granted EP) commented as follow in the decision document with respect to energy recovery: "*The Operator has not presented an R1 calculation with this application, nor have we received a separate application for a determination of whether the installation is a recovery or disposal facility. The Operator has obtained accreditation under the Defra Good Quality CHP Scheme. This process does not form part of the matters relevant to our determination, but forms part of financial aspects of the project drawing down funding through Renewable Obligations Credits (ROCs). Gaining accreditation under the scheme is however an indication of achieving a high level of energy recovery*".

Thus, it would appear the IWMF as permitted is relatively efficient in terms of its energy recovery.

It is acknowledged that incineration of waste is now not considered a renewable energy (unless the waste source is biogenic only). However, the use of waste as an energy source does reduce the need to use of fossil fuels and, unlike renewable sources such as wind and solar, are not weather/time of day dependent, thus helping to provide energy security from a non fossil fuel source.

In considering this proposed "alternative use", i.e. the continuation of the implementation of the extant planning permission it is within the remit of the WPA to apply appropriate additional conditions. Because the proposed "alternative use" under the plan of action will replace the development permitted under the planning permission, the WPA is able to consider imposing conditions on the approval which meet the policy tests in the NPPF and the legal requirements of a condition, namely, that it is relevant to planning, fairly and reasonably related to the development being permitted and reasonable.

In view of the national policy emphasis on ensuring that EfW facilities operate in heat and power mode rather than just power mode, it is felt appropriate to clarify

that the IWMF should be operated as permitted i.e. with all elements operational, to ensure it delivers sustainable development and as such it is appropriate an additional condition should be imposed to ensure all elements of the IWMF are delivered and operated in an integrated manner. This condition meets the tests identified above.

In conclusion with respect to Option 1 the continuation of the development of the IWMF in accordance with the planning permission, constructing and operating all elements of the IWMF would deliver the sustainable development previously considered and compliant with the Development Plan. However, it is considered appropriate to impose an additional condition to the planning permission to clarify all elements of the IWMF must be constructed, operated and integrated to ensure delivery of the sustainable development.

F <u>APPRAISAL OF OPTION 2</u>

Under Option 2 the applicant has indicated there is the possibility of the incinerator alone to be completed as a standalone EfW Facility, not as a CHP, but power generation only, with potentially no other permitted elements of the IWMF to be constructed and/or operated, particularly with no direct use for the heat and steam generated. Indaver and their agents have indicated that they do not believe this would be in breach of the current planning permission i.e. that the EfW facility could operate as power generator only. As explained previously, this is not the view of the WPA having taken its own legal advice.

The operation of an EfW in isolation with no direct use of the heat and steam would require different justification and consideration than that where the heat and steam is used directly on site. Without the DIMP facility on site there would be no direct use of the heat and steam, which was a significant factor taken into account by the Inspector when considering whether the IWMF amounted to sustainable development.

The WLP policy 11 seeks to encourage direct use of heat from waste facilities:

"3. Proposals which are capable of directly producing energy or a fuel from waste should, where reasonably practicable, demonstrate that: a. excess heat can be supplied locally to a district heat network or directed to commercial or industrial users of heat;"

The NPPW 2014 (section 4) requires WPAs to seek to co-locate heat users with low carbon energy recovery facilities:

"…*looking for opportunities to co-locate waste management facilities together and with complementary activities. Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers;"*

It is acknowledged that incineration of residual waste is not a fully low carbon energy recovery facility, as the waste will likely contain non-renewable resources

such as plastics. However, the principle of co-locating a heat user with an EfW is encouraged.

Since the determination of the application in 2016 for the IWMF the Resources and Waste Strategy 2018, The Environment Plan 2018 and the Waste Management Plan For England 2021 have been published. All emphasise and highlight the need for EfW facilities to operate in both power and heat mode rather than just power mode.

One of the actions of The Resources and Waste Strategy is

Actions we will take include: 3.2.1 Driving greater efficiency of Energy from Waste (EfW) plants by encouraging use of the heat the plants produce.

One of The Environment Plan's stated actions is "*Looking at ways to increase the use of heat produced at waste facilities through better connections to heat networks. The facilities will become more efficient and emit less carbon dioxide."*

This emphasis is reiterated in the Waste Management Plan for England (January 2021) :

"*We have committed in the Resources and Waste Strategy to drive greater efficiency of energy from waste plants by encouraging use of the heat the plants produce. We also want to work closely with industry to secure a substantial increase in the number of energy from waste plants that are formally recognised as achieving recovery (R1) status, and to ensure all future energy from waste plants achieve recovery status. To deliver net zero virtually all heat will need to be decarbonised and heat networks will form a vital component of this. Energy from waste has a role to play in supplying this heat, but currently only around a quarter of energy from waste plants operate in combined heat and power mode, despite most being enabled to do so. We want to see this number increase"*

Option 2, of operating the EfW in power only mode, would not be supported by these recent Government policy statements. It is not doubted that surplus heat and steam could be used to generate more electricity. This is in fact demonstrated by the applicant in Option 3 (put forward as part of this application) that the energy generation might exceed 50MW requiring a DCO from SoS, but this is not as efficient as using the heat and steam directly in a facility on site, which is the situation with the IWMF as permitted.

It can be foreseen that an EfW facility generating only power could be located within the existing physical envelope of the IWMF, such that factors such as heritage impact, landscape and visual impact, ecological impact, light impact, highway impacts, could be unaffected by the change. However, other factors, such as impacts on air quality, noise impact, impacts on the water environment may be different, depending on the nature and operation of a standalone EfW only generating power, such factors would require reassessment. This reassessment would most appropriately be via a new planning application, supported by an updated Environmental Impact Assessment. Also, as indicated by the EA, it may require a new EP.

The applicant is of the view that Option 2 can be progressed without the need for express planning permission. This is not the view of the WPA and, as the plan of action for Option 2 does not propose the submission of a planning application with necessary supporting information/Environmental Statement to test the acceptability of such an Alternative use, the "Plan of action for a standalone EfW" should be refused.

G APPRAISAL OF OPTION 3

The applicant has indicated that, throughout the construction period for the EfW element of the IWMF they would assess the commercial and technical viability of other elements of the IWMF and, if unviable (commercially or technically) would look for potential alternatives.

The applicant has acknowledged that such alternatives would require planning permission and such applications would need to be considered on their individual merits at that time. This might include an application/applications to the WPA or an application to the SoS for a Development Consent Order.

Potential alternative waste management facilities have been suggested by the applicant that could be co-located with the EfW. One suggestion is a facility to process the incinerator bottom ash (IBA) to produce a secondary aggregate. Alternatively, this IBA would otherwise have to be exported from the site unprocessed for reprocessing elsewhere or for disposal. Another alternative suggested by the applicant is for a facility for dealing with bulky household waste.

The applicant has also indicated that they may wish to apply to allow power generation beyond 50MW, which would require a Development Consent Order from the SoS. Concern has been raised that the input capacity of the EfW would be increased to achieve this increased electricity generation. The applicant has advised that at the current time it is not their intention to increase the input capacity of the incinerator beyond that previously stated of 595,000tpa. It has been explained the increase in generation capacity would arise from a combination of a more efficient EfW plant and the possibility that the heat and steam, rather being as part of a CHP, would be used to generate electricity as an alternative. It would be for the SoS to consider such an application and the application would be determined against national and local planning policy and other material considerations.

Much concern has been raised as to the environmental impacts of an EfW and the sustainability of the proposals, particularly in light of the major concern with respect to CO2 and the negative contribution to climate change. Such factors would be taken into consideration in accordance with local and national planning guidance if and when further planning applications are considered by the SoS or the WPA.

Option 3 rightly acknowledges that any potential alternative uses of the site would require planning permission and potentially a Development Consent Order from the SoS.

It is only appropriate to approve one "Plan of Action" and, as the applicant has proposed under Option 1 for the continuation of the extant planning permission,

which is actively ongoing, Option 3 is not proposed to be approved. However, this does not of course prevent the applicant coming forward with other planning and/or DCO applications supported by the necessary information and Environmental Statements at some stage. The WPA is aware that initial discussions have commenced with the Planning Inspectorate with respect to a potential DCO application.

H IMPLICATIONS IF NONE OF THE OPTIONS WERE APPROVED TO DISCHARGE CONDITION 66

If all Options were refused the condition would remain undischarged. The applicant has the right of appeal.

It should be emphasised that refusing all three options would not prevent the applicant from continuing to develop the IWMF, as long as it was in accordance with the planning permission and until resolution of the condition 66 process, potentially through an appeal. If the appeal were dismissed then the WPA would need to consider whether it was expedient to take enforcement action to achieve rehabilitation of the site in accordance with the approach which is required to be taken under condition 66 (as properly interpreted) – i.e., given no acceptable alternative use under a plan of action, rehabilitation should take place.

If refused, the applicant could alternatively seek to delete the condition through a section 73 (deletion or variation of a condition), so as not to be in breach of the condition.

If no successful appeal or submission was made and the applicant continued to develop the site in accordance with the extant planning permission, the WPA would need to consider whether enforcement action was expedient.

As stated before, if the developer were found to not be developing the site in accordance with the planning permission, then the WPA would need to consider enforcement action at that time.

I ENVIRONMENTAL PERMIT

Comments have been made by the public that the suggested changes were not considered as part of the determination of the current EP issued by the EA.

The EA have commented that the suggested options by the applicant do have implications to the EP, either requiring changes or a new EP, depending on the nature of the changes. The incinerator could not operate until any necessary changes to the EP have been obtained from the EA.

J LEGAL ADVICE

It will have been noted within the report that legal advice has been sought in relation to the consideration of this application and the planning status of the current planning permission. The full details of this legal advice have not been included, only referenced where necessary to facilitate determination of the application. The legal advice is subject to legal privilege i.e. the right to resist

disclosure of confidential and potentially sensitive material in the context of litigation and investigations, including in relation to potential enforcement. Therefore requests from interested parties to see this legal advice are expected to be resisted.

K CONCLUSION

The consideration of the application to discharge condition 66 has to be on the basis of the details submitted with respect to “a plan of action for an alternative use”, referred to by the applicant as a “plan of action”.

The applicant has put forward three potential Options and each of these options has been considered against the Development Plan and other material considerations.

It is concluded that only Option 1 should be approved. This would be the continuation of the IWMF as permitted, subject to an additional condition to provide clarification. In particular, the additional condition clarifies that all elements of the IWMF are required to be brought into operation in tandem with the CHP facility. The condition is to ensure the IWMF delivers the sustainable development as originally proposed, namely that the heat and steam is used directly on site in the MDIP. It is permissible to impose such a condition for the reasons explained in Sections A and E. In particular, it is considered that the condition is necessary to ensure the appropriate implementation of Option 1. There are no reasons to suggest that if the IWMF is implemented as permitted it would no longer comply with the Development Plan, the site remains an allocated site within the extant Waste Local Plan and the permitted development accords with the allocation, as explained in Section E.

Whether the IWFM is built out in full, as permitted, remains to be seen, as explained more fully in section C. However, should the non-EfW elements of the IWMF not be built out and operated as part of the approved scheme, then consideration afresh would need to be made whether the development complies with waste planning policy and any other material considerations, such as national waste guidance and policy. Such considerations would need to be taken into account before any recommendation could be made whether or not it would, for example, be considered expedient to take enforcement action

Option 2, where potentially only an EfW generating electricity is delivered. This option is considered by the applicant to be permissible under the current planning permission. This is not the view of the WPA; such development would give rise to different issues that would need to be considered afresh, through a planning application. Insufficient information has been provided to allow an assessment both in terms of any additional environmental impacts and whether an EfW that only generates electricity is in conformity with current national policy seeking to ensure EfW operates in both power and heat mode to maximise the efficiency and sustainability of the development. Insufficient information has been provided to justify option 2. It is therefore considered that this option does not warrant support and should be refused.

Option 3 suggests potential new waste management developments at the site,

which the applicant acknowledges would require further planning applications. Such applications can come forward at any stage regardless of condition 66 and therefore it not considered necessary or appropriate to approve Option 3 and it should be refused.

8. RECOMMENDED

Subject to there being no intervention by the SoS, with respect to the 3 Options put forward to discharge condition 66:

Plan of action Option 1 be approved subject to the development of the IWMF being implemented in accordance with:

a) all the conditions of planning permission ESS/34/15/BTE and for the avoidance of doubt a condition to be imposed on the approval to clarify such as set out below:

Condition 69

Plan of action Option 1 as detailed in letter from RPA dated 1 September 2021 shall be implemented in accordance with
a) the conditions of planning permission ESS/34/15/BTE dated 26 February 2016;
b) any details approved under those conditions or to be approved under those conditions;
c) Non Material Amendments References ESS/34/15/BTE/NMA1 and ESS/4/15/BTE/NMA2 or any subsequently approved Non Material Amendments; and
d) the obligations set out in the Section 106 Legal agreement dated 20 October 2009 as amended by deeds of variations dated 1 December 2014, 26 March 2015 and 26 February 2016.

Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application drawings, details (except as varied by other conditions), to ensure that the development is Sustainable Development and is carried out with the minimum harm to the local environment and in accordance with the NPPF, NPPW, Essex Minerals Local Plan 2014 (MLP) policies P1, S1, S10, S11, S12, DM1, DM2 and DM3, Essex and Southend Waste Local Plan 2017 (WLP) policies 1, 3, 10, 11 and 12, Braintree District Local Plan 2013-2033 Section 1 (BLP S1) policy SP 7, Braintree District Core Strategy adopted 2011 (BCS) policies CS5, and CS8 and Braintree District Local Plan Review 2005 (BDLPR) policies RLP 36, RLP 49, RLP 54, RLP 62, RLP 63, RLP 64, RLP 65, RLP 71, RLP 72, RLP 80, RLP 81, RLP 84, RLP 87, RLP 90, RLP 100, RLP 105 and RLP 106;

b) A further additional condition to ensure all elements of the IWMF are constructed, operated and integrated as set out below

Condition 70

There shall be no beneficial operation of the Combined Heat and Power (CHP) plant without all other elements of the IWMF i.e. Market De Ink Paper Pulp Plant

(MDIP) Materials Recycling Facility (MRF), Mechanical Biological Treatment (MBT) plant, Anaerobic Digestion (AD) plant, Waste Water Treatment Plant and all other permitted associated infrastructure having been constructed and available for beneficial operation. For the avoidance of doubt the CHP shall not operate without the MDIP utilising the heat and steam directly from the CHP.

Reason: To ensure the development delivers Sustainable Development in accordance with the Development Plan. To ensure the development operates in an integrated manner, in particular that the CHP operates in conjunction with the de ink paper pulp plant, such that the facility operates as a combined heat and power facility delivering greater efficiency rather than solely generating electricity in accordance with WLP policy 11, Resources and Waste Strategy 2018 and The Environment Plan for England 2021;

c) subject to the obligations set out in the Section 106 Legal agreement dated 20 October 2009 as amended by deeds of variations dated 1 December 2014, 26 March 2015 and 26 February 2016.

Plan of action Option 2 be refused for the following reason:

It has not been demonstrated that the part development of the IWMF would amount to sustainable development contrary to the NPPF and does not accord with the Waste and Resource Strategy, The Environment Plan and The Waste Management Plan for England and WLP policy 11 in that the EfW would only generate electricity rather than utilising the heat directly. Insufficient information has been submitted to determine whether there would be additional adverse environmental effects contrary to the WLP policy 10. Furthermore, because in order to assess whether an EfW only generating electricity amounts to Sustainable Development would require a separate planning application with relevant supporting information/Environmental Impact Assessment to be submitted for such.

Plan of action Option 3 be refused for the following reason:

The acceptability of the proposed alternative waste management facilities could only be considered by way of a planning application with associated details and where necessary Environmental Impact Assessment.

BACKGROUND PAPERS

Consultation replies
Representations

LIST OF APPENDICES

Appendix A The Inspector's Report dated March 2010
Appendix B SoS Decision March 2010
Appendix C The planning permission February 2016
Appendix D The applicant's letter to address the requirements of condition 66

Appendix E Coggeshall Parish Council consultation response
Appendix F Priti Patel MP

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 application, the Waste 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 – Braintree Eastern
BRAINTREE – Witham Northern

Report to the Secretary of State for Communities and Local Government

by M P Hill BSc MSc CEng MICE FGS

an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ GTN 1371 8000

Date: 22 December 2009

TOWN AND COUNTRY PLANNING ACT 1990

ESSEX COUNTY COUNCIL

APPLICATION

By

GENT FAIRHEAD & CO. LIMITED

Inquiry held on 29 September 2009

Rivenhall Airfield, Essex C5 9DF.

File Ref(s): APP/Z1585/V/09/2104804

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ACRONYMS AND ABBREVIATIONS USED IN THE TEXT

AD	Anaerobic Digestion
BAT	Best Available Technique
BDC	Braintree District Council
BDLPR	Braintree District Local Plan Review
BPEO	Best Practical Environmental Option
CABE	The Commission on Architecture and the Built Environment
CD	Inquiry Core Documents
CG	Community Group
CHP	Combined Heat and Power
C&I	Commercial and Industrial
CNEEFOE	Colchester and North East Essex Friends of the Earth
CPRE	Campaign to Protect Rural Council
Defra	Department of Environment, Food and Rural Affairs.
DMRB	Dept. of Transport's Design Manual for Roads and Bridges
DP	Development Plan
EA	Environment Agency
EAL	Environmental Assessment Level
ECC	Essex County Council
EEP	East of England Plan (2008) - the Regional Spatial Strategy
EERA	East of England Regional Assembly
EfW	Energy from Waste
EP	Environmental Permit
eRCF	The evolution of the Recycling and Composting Facility – the proposal which is the subject of the present application
ESRSP	Essex & Southend-on-sea Replacement Structure Plan
ES	Environmental Statement
FOE	Friends of the Earth
IPPC	Integrated Pollution Prevention and Control
IWMF	Integrated waste management facility
JMWMS	Joint Municipal Waste Management Strategy
LBCA	Planning (Listed Buildings and Conservation Areas) Act 1990
LCG	Local Councils Group
LVIA	Landscape and Visual Impact Assessment
MBT	Mechanical Biological Treatment
MDIP	Market de-inked paper pulp
MDR	Mixed Dry Recyclables
MOW	Mixed Organic Waste
MRF	Materials Recycling Facility
MSW	Municipal Solid Waste
mtpa	million tonnes per annum
NE	Natural England
OBC	Essex County Council Outline Business Case
P&W	Printing and Writing Paper
PASS	Planning Application Supporting Statement
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RCF	The Recycling and Composting Facility for which planning permission has been granted.
RSS	Regional Spatial Strategy
SoS	Secretary of State for Communities and Local Government
SOCG	Statement of Common Ground

SLA	Special Landscape Area
SPG	Supplementary Planning Guidance
SRF	Solid recovered fuel
SWFOE	Saffron Walden Friends of the Earth
TCPA	Town and Country Planning Act 1990
tpa	Tonnes per annum
WDA	Waste Disposal Authority
WFD	Waste Framework Directive
WID	Waste Incineration Directive
WLP	Essex & Southend-on-sea Waste Local Plan (2001)
WPA	Waste Planning Authority
WRAP	Waste and Resources Action Programme
WSE	Waste Strategy for England
WTS	Waste Transfer Station

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Rivenhall Airfield, Essex CO5 9DF.

- The application was called in for decision by the Secretary of State for Communities and Local Government by a direction, made under section 77 of the Town and Country Planning Act 1990, on 12 May 2009.
- The application was made by Gent Fairhead & Co. Limited to Essex County Council.
- The application Ref: ESS/37/08/BTE is dated 26 August 2008.
- The development proposed is an Integrated Waste Management Facility comprising: Anaerobic digestion plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and pulping paper recycling facility to reclaim paper; Combined Heat and Power Plant utilising solid recovered fuel to produce electricity, heat and steam; Extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; Visitor / Education Centre; Extension to existing access road; Provision of offices and vehicle parking; and associated engineering works and storage tanks.
- The reason given for making the direction was that the proposal may conflict with national policies on important matters.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  (i) The extent to which the proposed development is in accordance with the development plan for the area, having particular regard to the policies of the Essex & Southend Waste Local Plan 2001, the Braintree District Local Plan Review 2005 and the East of England Plan 2008.
  (ii) The extent to which the proposal would secure a high quality of design, and its effect on the character of the area, having regard to the advice in paragraphs 33 to 39 of Planning Policy Statement 1: Delivering Sustainable Development.
  (iii) The extent to which the proposal is consistent with advice in Planning Policy Statement 7: Sustainable Development in Rural Areas which seeks to ensure that the quality and character of the countryside is protected and, where possible, enhanced and to ensure that development proposals are in line with sustainable development principles and, consistent with these principles and taking account of the nature and scale of the development, that development is located in sustainable (accessible) locations.
  (iv) The extent to which the proposal is consistent with advice in Planning Policy Statement 10: Waste, to provide adequate waste management facilities for the re-use, recovery and disposal of waste and to ensure that decisions take account of the waste hierarchy, the proximity principle and regional self-sufficiency.
  (v) Whether any planning permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE Circular 11/95, and in particular the tests in paragraph 14 of the Annex;
  (vi) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable;
  (vii) Any other matters that the Inspector considers relevant.

Summary of Recommendation: Planning permission should be granted subject to conditions.

SECTION 1 - INTRODUCTION AND PREAMBLE

1.1 The application, supported by an Environmental Statement (ES) (Documents CD/2/4 to 2/8), was submitted to Essex County Council (ECC) on 26 August 2008.

ECC confirms that the application was advertised and subject to consultation in accordance with statutory procedures and the Essex Statement of Community Involvement. In response to a request for further information made under regulation 19 of the Environmental Impact Assessment Regulations 1999, the applicants submitted additional information in December 2008 (Document CD/2/10). This information was also advertised and subject to consultation. The application was reported to ECC's Development and Regulation Committee on 24 April 2009, at which it was resolved to grant planning permission, subject to conditions and a legal agreement, and subject to the Secretary of State (SoS) not calling in the application for her own determination. The committee report and subsequent minutes can be found at Documents CD 2/12a, 2/12B and 2/13.

1.2 The application was subsequently called in for determination by the SoS in a letter dated 12 May 2009. The reason given for the direction is that the application may conflict with national policies on important matters.

1.3 No pre-inquiry meeting was held. However, on 19 August 2009, my colleague Andrew Freeman issued a pre-inquiry note to provide guidance on the procedures to be adopted in relation to the inquiry.

1.4 In September 2009 the applicants submitted an Addendum Environmental Statement (Addendum ES) which was intended to provide additional information at the inquiry. The Addendum ES (Document GF/12) provides additional information and amendments on air quality, human health risk assessment, carbon balance and ecology. It includes an air quality impact assessment based on a redesign of the scheme whereby the proposed gas engine stack would be deleted and all emissions re-routed through the CHP stack. The Addendum ES is accompanied by a Revised Non Technical Summary (Document GF/11). These documents were also advertised and subject to consultation, with a requirement that responses be submitted by 14 October 2009.

1.5 At the inquiry, the applicants confirmed that they wished the proposal to be considered on the revised design whereby all emissions would be routed through a single combined heat and power facility (CHP) stack. The revised scheme is set out in the revised set of application drawings at Document GF/13-R1. Bearing in mind the publicity given to this amendment and the opportunity for all parties and individuals to take part in the inquiry, I was satisfied that no-one would be unreasonably disadvantaged or prevented from presenting their views to the inquiry. I therefore accepted that it would be reasonable to consider the proposal on the basis of the revised design, namely with a single chimney stack.

1.6 The applicants submit that the Environmental Information for the proposal comprises the ES dated August 2008, the subsequent Regulation 19 submissions, the Addendum ES and the revised Non Technical Summary dated September 2009. These have been produced in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. I have taken account of the documents comprising the Environmental Information, together with the consultation responses and representations duly made within the advertised timescales in arriving at my recommendation. All other environmental information submitted in connection with the application, including that arising from questioning at the inquiry has also been taken into account.

1.7 The inquiry sat for 10 days between 29 September 2009 and 14 October 2009. I undertook accompanied visits to the appeal site and its surroundings, to local

villages and the local road network on 29 September and 15 October 2009. A number of unaccompanied visits to the area, including the walking of footpaths and inspections of the local road network were made before, during and after the inquiry. On 16 October 2009, I made an accompanied visit to the Frog Island Waste Management Facility operated by Shanks at Rainham in Essex. This facility includes a materials recovery facility (MRF) and a three line mechanical biological treatment (MBT) plant dealing with approximately 200,000 tonnes of waste annually. In order to minimise the impact of odour, the MBT operates under a negative air pressure and utilises bio-filters sited on its roof. The visit was arranged primarily to inspect the operation of the air treatment arrangements. A note on the facility is included at Appendix A of this report.

1.8 A Statement of Common Ground (SOCG) has been prepared between the applicants and ECC. The final version of this SOCG can be found at Document CD/13/4. The document includes draft comments from the Local Councils Group (LCG).

1.9 At the opening of the inquiry, the applicants were advised that any planning obligations under S106 of the Town and Country Planning Act 1990 should be submitted in their final form before the inquiry closed. An unsigned copy of an agreement between the applicants and ECC was submitted in its final form on 14 October 2009. The applicants indicated that a signed executed copy of the agreement would be submitted before the end of October 2009. This was received by the Planning Inspectorate within the timescale and conformed and certified copies of the completed S106 agreement can be found at Document CD/14/5.

1.10 On the final day of the inquiry proceedings (14 October 2009), a submission was received from the Environment Agency (EA) in response to the consultation exercise on the Addendum ES. The main parties and the Rule 6 parties asked for time to consider the contents of this document. Moreover, as the final date for responses to the Addendum ES was 14 October, there was a possibility that further representations could be received later that day. It was therefore agreed that any comments on the EA response and on any other representations on the Addendum ES received by 14 October, should be submitted to the Planning Inspectorate by 1600 hours on 22 October 2009. These responses can be found at Document CD/16. Moreover, any response to such comments was to be submitted within a further 7 days, namely by 1600 hours on 29 October 2009. Those responses can be found at Document CD/17. I indicated that no other representations outside these limits would be considered in my report and that the inquiry would be formally closed in writing on the first working day in November. A letter closing the inquiry was sent to the parties on 2 November 2009.

1.11 In addition to the matters on which the SoS particularly wished to be informed (set out in the summary box above), I indicated at the opening of the inquiry that I considered that the following issues should also be addressed:

i. the need for a facility of the proposed size;
ii. the viability of the proposed scheme including the de-inking and paper pulping facility;
iii. the weight to be given to the fall back position of the Recycling and Composting Facility (RCF) for which planning permission was granted in 2007;

iv. whether there is a need for the scheme to provide flexibility to accommodate future changes in waste arisings; changes in the way waste is dealt with; and changes that may occur in the pulp paper industry. If so, whether the scheme takes account of such need;
v. the effect of the scheme on the living conditions of local residents with particular regard to noise and disturbance, air quality, odour, dust, litter, and light pollution;
vi. the extent of any risk to human health;
vii. the effect on highway safety and the free flow of traffic on the highway network;
viii. the impact on the local right of way network;
ix. the impact on ground and surface waters;
x. the implications of the associated loss of Grade 3a agricultural land;
xi. the effect of the proposal on habitats, wildlife and protected species;
xii. the impact on the setting and features of special architectural or historic interest of listed buildings in the locality; and,
xiii. the effect on the historic value of the airfield.

1.12 This report includes a brief description of the appeal site and its surroundings and contains the gist of the representations made at the inquiry, my conclusions and recommendation. Lists of appearances and documents are attached.

1.13 A number of terms have been used to describe the development. Throughout the report, I shall refer to the overall development proposal as the evolution of the recycling and composting facility (eRCF), and the proposed buildings, structures and equipment forming the facility as the proposed integrated waste management facility (IWMF)

SECTION 2 - DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The appeal site and its surroundings are described in various documents, including the statement of common ground (SOCG)(Doc. CD/13/4), the ECC Committee Report (Doc. CD/2/12A), and the proofs of evidence of various witnesses. The site is situated in an area of primarily open and generally flat countryside. Beyond the area surrounding the site the landscape is gently undulating countryside and is characterised by large open fields, small blocks of woodland and discrete, attractive villages.

2.2 The site is 25.3 hectares in area and at its northern end comprises a narrow strip of land leading southwards from the A120 Coggeshall Road. This narrow strip would accommodate the proposed access route to the IWMF. The route would utilise the existing junction off the A120 and the majority of the length of private road which currently provides access to the existing quarry workings on land to the north of the intended site of the IWMF. The private access road leads down from the A120 into the attractive wooded valley of the River Blackwater. This part of the application site lies within the Upper Blackwater Special Landscape Area (SLA), as defined in the Braintree District Local Plan Review (LP). The access road then climbs gently before reaching its junction with Church Road, a lightly trafficked rural road linking the settlement of Bradwell with various farms and dwellings to the east. Church Road provides a link to Cuthedge Lane which leads to Coggeshall Hamlet. The existing length of access road between the A120 and the Church Road is two lane, although it narrows to a single lane at the junction.

2.3 After crossing Church Lane, the access road continues southward, through agricultural land, as a single lane route with passing bays until it reaches Ash Lane. Ash Lane is a quiet rural lane edged with trees in the vicinity of the junction. At both the Church Road and Ash Lane crossing points, the access road is single lane with signs indicating that vehicles using the access road must stop at the junction before crossing onto the next section of access road. Steel bollards are sited at the corners of the Ash Lane and Church Road junctions in order to discourage vehicles from attempting to turn onto the public highway from the access road.

2.4 The access road continues southward into sand and gravel workings known as Bradwell Quarry. The proposed access to the IWMF would continue in cutting alongside a length of restored sand and gravel workings to the west of the existing quarry. To the south of the quarry, the application site widens into an irregular shaped plot of land.

2.5 This part of the application site, would accommodate the IWMF. It is situated at the southern end of the former Rivenhall Airfield. At present, it accommodates a former aircraft hanger (known as hangar No 2), and includes concrete hardstandings and runway, agricultural land and semi-mature woodland containing 6 groups of trees and 11 individually preserved trees which are the subject of Tree Preservation Orders (TPOs). Hangar No 2 is presently used for the storage of grain.

2.6 The northwestern corner of this irregular shaped plot accommodates the Grade II listed Woodhouse Farm buildings. This group of buildings are in a run-down and semi derelict condition. The farmhouse has been unoccupied for many years. The tiled roof has deteriorated to such an extent that it has had to be covered in metal cladding for protection, and several of the windows are broken and open to the elements. A structure, made of steel scaffolding, has been erected around the adjacent bakehouse in an attempt to preserve that building. However, it appears that the roof and top portions of the walls of the bakehouse have collapsed. The site is heavily overgrown and vegetation prevents ready access to this structure and an adjacent water pump, which is also listed. The former garden of Woodhouse Farm is overgrown and unkempt. Detailed descriptions of the listed buildings in this group can be found in Appendix 3 of the SOCG (Document CD/13/4).

2.7 To the east of the application site there are agricultural fields identified as being within the control of the applicants. Approximately 400m to the east of the application site boundary and Woodhouse Farm, lies a group of buildings, including the Grade II listed Allshot's Farm. However, views of this group of buildings from the west are dominated by the presence of a scrap vehicle business which operates near Allshot's Farm. Vehicles are piled on top of one another and screen views of Allshot's Farm from the vicinity of Woodhouse Farm.

2.8 Approximately 500m to the south east of the application site, 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 leading from Parkgate Road. Parkgate Road runs in an easterly direction from its junction with Western Road. It is about 1km from the application site and is separated from the site by a number of large open fields and two blocks of woodland, one being an area of mature woodland known as Storey's Wood.

2.9 To the south west of the application site, just over 1 km away, lies the village of Silver End. The village has a substantial Conservation Area and contains a large number of listed buildings, primarily related to the garden village developed in association with the Crittall company. One of the listed buildings is Wolverton which lies at the northeastern edge of the village and overlooks the open fields separating the village from the application site.

2.10 Sheepcotes Lane runs from the northeastern corner of Silver End in a northerly direction. At a bend in the lane, approximately 500m from the settlement, lies Sheepcotes Farm, another Grade II listed building. This farmhouse lies on the eastern side of Sheepcotes Lane and is about 500m west of the application site and 600m from the proposed IWFM. However, the farmhouse lies adjacent to a cluster of structures. On the eastern side of this cluster lies another large hangar associated with the former airfield, known as Hangar No 1. Although apparently not in use at present, this hangar has been used in the past for industrial/commercial purposes. There is also a tall tower of lattice construction, previously associated with the airfield but now used for telecommunications purposes.

2.11 Further along Sheepcotes Lane to the northwest of the main element of the application site lies a group of dwellings which includes a listed building known as Goslings's Farm. This dwelling is about 1km from the site of the proposed IWMF. The group of dwellings is separated from the application site by an area of land which has been previously worked for the extraction of minerals. Much of the land has been restored to agricultural use and includes a bund which is to be landscaped and planted.

2.12 To the north of the application site lies the listed building of Bradwell Hall. This building is sited only about 200 metres from the eastern edge of the existing haul road. However, it is some 1.5 km from the main element of the application site and is well screened from the site by the topography of the ground and existing trees and vegetation.

2.13 Nearer the main element of the application site there are a number of dwellings served by Cuthedge Lane, which runs in an east-west direction approximately 700 metres from the site. Herons Farm and Deeks Cottage lie to the south of Cuthedge Lane and are separated from the application site by open fields and land which is being worked for mineral extraction. At present a bund forming a noise barrier for the mineral workings helps to screen the application site from these dwellings. However, the bund is a temporary structure. Further to the east, on the northern side of Cuthedge Lane lies a farmhouse known as Haywards. This dwelling is about 700 metres from the edge of the application site and has views of the site across the flat open fields and site of the former airfield.

2.14 Long distance views of the application site can be gained from a few locations on high ground to the north of the A120. The existing telecommunications tower near Sheepcotes Farm can be seen from some viewpoints on the A120; from viewpoints on high ground to the north of the A120; from a few locations on the B1024 road linking Coggeshall and Kelvedon which is about 3km to the east of the site; and in views about 1km to the south from Parkgate Road/Western Road, as it leads towards Silver End.

2.15 A number of footpaths cross the site. Three footpaths (Nos FP19, FP57 and FP58), including the Essex Way, are crossed by the existing quarry access road. The proposed extended access road would cross FP35. In addition, FP8 which runs approximately north/south in the vicinity of the site passes alongside the complex of buildings at Woodhouse Farm. Hangar No 2 on the application site is visible from various locations along these footpaths.

SECTION 3 - PLANNING POLICY

3.1 Relevant planning policy is set out in the SOCG.

The Statutory Development Plan

3.2 The statutory development plan comprises the following documents:

- East of England Plan, The Revision to the Regional Spatial Strategy for the East of England, (May 2008) (EEP - Document CD/5/1);
- 'Saved' policies from the Adopted Essex and Southend-on-Sea Replacement Structure Plan 1996-2011 (2001) (ESRSP - Document CD/5/3);
- 'Saved' policies from the Essex and Southend Waste Local Plan (Adopted September 2001) (WLP - Document CD/5/4);
- 'Saved' policies from the Braintree District Local Plan Review (Adopted July 2005) (BDLPR - Document CD/5/5); and
- 'Saved' policies from the Essex Minerals Local Plan First Review 1996 (MLP - Document CD/5/6).

3.3 EEP Policy MW1 indicates that waste management policies should seek to ensure timely and adequate provision of facilities required for the recovery and disposal of the region's waste, whilst amongst other things, minimising the environmental impact of waste management. Policy WM2 sets targets for the recovery of municipal and C&I waste and Policy WM3 indicates that the East of England should plan for a progressive reduction in imported waste, indicating that allowance should only be made for new non-landfill waste facilities dealing primarily with waste from outside the region where there is a clear benefit.

3.4 The application site includes a 6 ha area of land identified as a "preferred location for waste management" (WM1) in Schedule 1 of the WLP. Policy W8A indicates that waste management facilities will be permitted at the locations shown in Schedule 1, subject to various criteria including requirements that there is a need for the facility and it represents the Best Practical Environmental Option (BPEO). The policy indicates that integrated schemes for recycling, composting, materials recovery and energy recovery from waste will be supported, where this is shown to provide benefits in the management of waste which would not otherwise be obtained. Policy W3C indicates that, in the case of facilities with an annual capacity over 50,000 tonnes, measures will be taken to restrict the source of waste to that arising in the plan area, except where it can be shown, amongst other things, that the proposal would achieve benefits that outweigh any harm caused.

3.5 Policy RLP27 of the BDLPR indicates that development for employment uses will be concentrated in towns and villages. RLP78 indicates that the countryside will be protected for its own sake by, amongst other things, restricting new uses to those appropriate to a rural area and the strict control of new building outside existing settlements.

3.6 With the exception of the access road, part of which lies within the designated Upper Blackwater Special Landscape Area, the application site is not the subject of any allocations in the BDLPR. Furthermore, it is not referred to in Braintree District Council Draft Local Development Framework Core Strategy (2008).

3.7 I note that on 20 May 2009, the High Court upheld in part a challenge to the East of England Plan and that Policies H1, LA1, LA2, LA3 and SS7 were remitted to the SoS to the extent identified in the Schedule to the Court Order and directed that those parts of the RSS so remitted be treated as not having been approved or adopted.

National Planning Policy

3.8 The following national planning policy documents are relevant:

- The Planning System: General Principles (Document CD/6/15);
- Planning Policy Statement (PPS) 1 – Delivering Sustainable Development (Document CD/6/1);
- Planning Policy Statement: Planning and Climate Change – Supplement to Planning Policy Statement (PPS) 1 (Document CD/6/2);
- Planning Policy Statement (PPS) 7 – Sustainable Development in Rural Areas (Document CD/6/4);
- Planning Policy Statement (PPS) 9 – Biodiversity and Geological Conservation (Document CD/6/5);
- Planning Policy Statement (PPS) 10 – Planning for Sustainable Waste Management (Document CD/6/6);
- Planning Policy Guidance (PPG) 13 – Transport (Document CD/6/7);
- Planning Policy Guidance (PPG) 15 – Planning and the Historic Environment (Document CD/6/8);
- Planning Policy Guidance (PPG) 16 – Archaeology and Planning (Document CD/6/9);
- Planning Policy Statement (PPS) 22 – Renewable Energy (Document CD/6/10);
- Planning Policy Statement (PPS) 23 – Planning and Pollution Control (Document CD/6/11);
- Planning Policy Guidance (PPG) 24 – Planning and Noise (Document CD/6/12);
- Planning Policy Statement (PPS) 25 – Development and Flood Risk (Document CD/6/13);
- Minerals Policy Statement (MPS) 2 – Controlling and Mitigating the Environmental Effects of Minerals Extraction in England (Document CD/6/14); and
- Consultation on the new Planning Policy Statement (PPS) 15 – Planning for the Historic Environment (Document CD/6/17).

Other Relevant Law and Policy

3.9 The SOCG identifies the following law and policy:

- Consolidated EC Framework Directive on Waste 2006/12/EC (previously the Waste Framework Directive 75/442/EEC (as amended) (Document CD/4/1);
- New EC Framework Directive on Waste 2008/98/EC (Document CD/4/2);
- EC Waste Incineration Directive 2000/76/EC (Document CD/4/3);
- Waste Strategy for England 2007 (May 2007) (Document CD/8/1); and
- Joint Municipal Waste Management Strategy (JMWMS) for Essex (2007 to 2032) (Document CD/8/2).

SECTION 4 - PLANNING HISTORY

4.1 The planning history of the application site and the adjacent Bradwell Quarry site is set out in the Final SOCG between the applicants and ECC (Document 13/4).

4.2 Planning permission for a recycling and composting waste management facility on the site was granted in February 2009 (Ref. ESS/38/06/BTE). That scheme is known as the RCF, although the permission has not yet been implemented. The consent relates to the development of a facility for the recovery of recyclable materials such as paper, card, plastic, metals, and fine sand and gravels from residual municipal waste. It includes a waste treatment centre utilising Anaerobic Digestion (AD) technology and Enclosed Composting for the treatment of residual municipal waste. It is intended to have an approximate eventual input of up to 510,000 tonnes per annum (tpa).

4.3 The consent includes for the redevelopment of Woodhouse Farm, which would be used as an Education Centre with associated car and coach parking for the public. It also includes the prior removal of overburden and other material at the site to lower the plant at least 11 m below existing ground level. This is intended to provide maximum visual impact mitigation and to safeguard the protection of national mineral reserves. The planning application and associated documents can be found at Documents CD/3/1 to CD/3/9

4.4 Planning permission reference ESS/07/08/BTE was granted for the extraction of sand and gravel at Bradwell Quarry, together with processing plant, and access via an improved existing junction on the A120. The permission has been implemented with a completion date of 2021. Application reference ESS/15/08/BTE is for a variation of ESS/07/98/BTE to allow amended restoration levels and the 'New Field Lagoon'. The Council has resolved to grant permission subject to completion of a legal agreement which has not yet been signed. In addition, there are a number of other planning permissions with respect to the processing plant at Bradwell Quarry.

SECTION 5 - THE PROPOSED DEVELOPMENT

5.1 The application site is identical to that of the permitted 510,000 tpa RCF. The latest proposals have evolved from the RCF and are therefore known as the evolution of the Recycling and Compost Facility (eRCF). The site is owned by the applicants.

5.2 The site area of 25.3 ha would be utilised as follows:

- 6 ha (approximately) for the proposed integrated waste management facility (IWMF) including buildings and structures;
- 2.6 ha for the redevelopment of Woodhouse Farm;
- 10.6 ha including the fresh water lagoon and proposed areas of landscaping;
- 5.1 ha for the construction of the extended haul road; and
- 1 ha which is the existing haul road to the quarry to be utilised by the proposals.

5.3 The eRCF would provide an integrated recycling, recovery and waste treatment facility. The proposals include:

1. an AD plant treating Mixed Organic Waste (MOW), which would produce biogas that would be converted to electricity by biogas engine generators;
2. a Materials Recovery Facility (MRF) for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals;
3. a Mechanical Biological Treatment facility (MBT) for the treatment of residual Municipal Solid Wastes (MSW) and/or Commercial and Industrial (C&I) waste to produce a Solid Recovered Fuel (SRF);
4. a De-inking and pulping paper recycling facility to reclaim paper pulp (this is described as Market de-inked paper pulp (MDIP);
5. a Combined Heat and Power (CHP) plant utilising SRF to produce electricity, heat and steam;
6. the extraction of minerals to enable the proposed buildings to be partially sunken below ground level within the resulting void;
7. a Visitor/Education Centre;
8. an extension to the existing access road serving Bradwell Quarry;
9. the provision of offices and vehicle parking;
10. associated engineering works and storage tanks; and
11. landscaping.

5.4 The proposed IWMF would provide treatment for 522,500 tpa of waste of a similar composition to that which would be treated by the RCF. It is intended to treat 250,000 tpa of MSW and/or C&I waste; 100,000 tpa of mixed dry recyclables (MDR) or similar C&I waste; 85,000 tpa of mixed organic waste (MOW) or similar C&I waste; and 87,500 tpa of SRF. In addition it would provide a facility for the recovery and recycling of 331,000 tpa of imported waste paper. The IWMF has therefore been designed to import and recycle or dispose of a total of up to 853,500 tonnes of waste annually.

5.5 A comparison of the permitted RCF scheme and the eRCF application is presented on Table 1 and Figures PI-1 and PI-2 of the SOCG. These tables correct a number of typographical errors that were made in the original ES dated August 2008. The SOCG also provides a description of the various elements of the eRCF scheme.

5.6 The AD plant would treat MOW from kerbside collected kitchen and green waste or similar C&I waste. It would have a treatment capacity of 85,000 tpa. As indicated above the AD process would produce biogas which would be converted to electricity. The residues from the AD process would be a compost-like output. Dependant on the quality of the waste feedstock, the resultant compost could be suitable for agricultural or horticultural uses.

5.7 The MRF would process up to 100,000 tpa of imported MDR and recover paper and residues from the MBT and AD processes. Materials recovered by the MRF would be baled and bulked up for export from the site and further reprocessing or recycling. The MRF would have a total integrated throughput of 287,500 tpa linked to other eRCF processes.

5.8 The MBT facility would treat 250,000 tpa of MSW and/or C&I waste. It would comprise five 'biodrying Halls', each with a capacity of 50,000 tpa. Before entering the MBT, the waste would be shredded to produce a consistent feedstock for the 'biodrying' process. At the end of this aerobic drying process, the weight of the waste in the MBT would be reduced by 25%. The resulting material, known as SRF, would be stabilised, sanitised and would be without noticeable odour. During the biodrying process, air would be extracted from the MBT and routed through the buildings to the CHP unit where it would provide combustion air that would be scrubbed and cleaned before discharge to the atmosphere via the CHP stack.

5.9 The Pulp Paper Facility would be used to treat up to 360,000 tpa of selected waste paper and card. This would comprise 331,000 tpa of imported materials, as well as 29,000 tpa of recovered paper and card from the MRF and MBT. The facility would produce up to 199,500 tpa of recycled pulp which would be transported off-site and used to manufacture materials such as graphics, photocopier or writing paper.

5.10 The CHP plant would treat up to 360,000 tpa of material. Its feedstock would comprise up to: 109,500 tpa of SRF produced by the MBT; 10,000 tpa of residues from the MRF; up to 165,000 tpa of process sludge from the Paper Pulping Facility; and 87,500 tpa of SRF manufactured and imported from elsewhere. The energy produced by the CHP would be converted into electricity, heat and steam. Part of the electricity would be exported from site to the National Grid, whilst the remainder would be used as a source of power for the eRCF processes. The extracted air from all the processes on-site would be used as combustion air for the CHP, so that the CHP stack would be the only stack.

5.11 The eRCF would produce between 36 MW and 43 MW per annum of electricity. This would be generated on the site from the AD process (3 MW per annum) and between 33 MW to 40 MW per annum from the CHP plant. Approximately half the energy would be utilised on the site, enabling approximately 18 MW per annum (14.73 MW from the CHP and 3 MW from the AD) to be exported to the National Grid.

5.12 In order to enable the IWMF's buildings to be partially sunk below ground level, 760,000 m^3 of boulder clay, 415,000 m^3 of sand and gravel and 314,000 m^3 of London clay would be excavated prior to its construction. Where possible, the excavated materials would be utilised in the construction of the IWMF, otherwise it would be exported from the site. Sand and gravel could be processed at the adjacent Bradwell Quarry, subject to a further planning permission related to that site.

5.13 Listed building consent would be applied for to enable the Grade II Listed Woodhouse Farm house and associated buildings to be redeveloped and refurbished for use as a Visitor and Education Centre. This would provide an education facility connected to the operation of the IWMF. It would also provide an area for a local heritage and airfield history displays.

5.14 The existing access road to Bradwell Quarry would be extended approximately 1 km south through the quarry workings to the IWMF. All traffic entering or leaving the IWMF would use the A120 and the existing junction which presently serves Bradwell Quarry. The extension to the existing access road through Bradwell Quarry would be an 8 m wide metalled road located in an existing and extended cutting. The existing crossing points with Church Road and Ash Lane would be improved with additional speed ramps, signalling and signage, but would remain single lane.

5.15 Offices would be provided within the IWMF. A staff and visitors car park would be developed west of Woodhouse Farm. The staff and visitor car park would not be used by HGV traffic.

5.16 The IWMF would comprise 63,583 m^2 of partially sunken buildings and treatment plant. The MRF, MBT and Paper Pulping Facility would be housed in two arch-roofed buildings adjacent to each other, each measuring 109 m wide x 254 m long and 20.75 m in height to their ridges. Both buildings would have “green” roof coverings capable of sustaining vegetation growth, reducing their visual impact and providing a new area of habitat to enhance bio-diversity. To the south of the main buildings there would be a water treatment building and a CHP Plant with a chimney stack 7 m in diameter extending 35 m above the site’s existing ground level. In addition there would be a turbine hall; an electrical distribution hall; a Flue Gas and Exhaust Air Clean Up Complex; three AD tanks and an AD gasometer.

5.17 The IWMF would be sited below natural ground level. In order to maximise the void space, the sides of the void would be constructed with a retaining wall. The base of the void would be approximately 11 m below ground level, such that the ridge of the arched buildings would be approximately 11 m above natural ground levels, and the tops of the AD and gasometer tanks about 12 m above ground level. Cladding materials to the buildings would be dark in colour. Where the CHP stack extended above the surrounding woodland, (about 20 m above the existing woodland) it would be clad in stainless steel or a similar reflective material. This would help to minimise its visual impact by reflecting and mirroring the surrounding environment.

5.18 The main structures of the IWMF, except the CHP stack, would be no higher above the surrounding ground level than the existing hangar currently on the Site, which is about 12.5 m maximum height. The approximate footprint of the IWMF’s buildings and structures is 6 ha and thereby substantially larger than the existing hangar which is only about 0.3 ha. The IWMF would project north of the existing woodland towards the adjacent quarry.

5.19 Approximately 1.7 ha of woodland would be removed, together with two Native English Oak trees and two smaller groups of trees. All these trees are covered by Tree Preservation Orders. A strip of woodland, about 20m to 25m in depth, would remain adjacent to the void created by the extraction of the minerals and overburden. The remaining woodland around the IWMF would be managed to improve both its ability to screen the development and enhance biodiversity. In addition, 19.1 ha of open habitats would be lost, including areas of grassland, arable land and bare ground.

5.20 Mitigation proposals include the planting of approximately 1.2 ha of new species rich grassland. A further 1 ha of managed species rich grassland would also be provided to the east of Woodhouse Farm outside the Planning Application area. In addition, a further 0.6 ha of new species rich grassland would be provided next to Woodhouse Farm. The green roof on the main buildings of the proposed eRCF would be about 5ha in area and allowed to establish into open habitat.

5.21 Planting would be undertaken on shallow mounds which are proposed on the southwest side of the building. The mounds would have a maximum height of 4m and a width of 20 to 25m. A total of about 2km of new hedgerow planting would be established on the northern site boundary and to either side of the extended haul road. Enhanced planting is proposed between the car park and Woodhouse Farm buildings, and a block of woodland planting would be sited on a triangular plot at the northeast side of the site. These areas of new planting (totalling about 2.2 ha), together with management of existing woodland, would enhance screening of the site and its ecological value. In addition to this planting, a 45 m wide belt of trees (approximately 1.2 ha in area) would be established outside the application area.

5.22 External lighting levels would have an average luminance of 5 lux. No external lighting, other than that used on an infrequent and intermittent basis for safety and security purposes, would operate during the night.

5.23 The IWMF would generate up to 404 daily Heavy Goods Vehicle (HGV) movements comprising 202 into and 202 out of the site a day. There may also be approximately 90 Light Goods Vehicle or car movements associated with staff, deliveries and visitors. During the construction phase, the IWMF would generate about 195 HGV movements in and 195 HGV movements out.

5.24 Waste would be delivered in enclosed vehicles or containers. All waste treatment and recycling operations would take place indoors under negative air pressure and within controlled air movement regimes, minimising the potential for nuisance such as odour, dust and litter which could otherwise attract insects, vermin and birds. Regular monitoring for emissions, dust, vermin, litter or other nuisances would be carried out by the operator to meet the requirements of the Environmental Permit that would need to be issued by the Environment Agency (EA) for operation of the IWMF.

5.25 The proposed hours of operation for the receipt of incoming waste and departure of outgoing recycled, composted materials and treated waste would be 07:00 to 18:30 Monday to Friday and 07:00 to 13:00 on Saturday with no normal deliveries on Sundays, Bank and Public Holidays. The only exception would be, if required by any contract with the Waste Disposal Authority, that the Site accept and receive clearances from local Household Waste Recycling Centres on Sundays, Bank and Public Holidays. Due to the continuous operational nature of the waste treatment processes, the IWMF would operate on a 24 hour basis but would not involve significant external activity outside the normal operating hours for the receipt of waste.

5.26 During construction of the IWMF, a period of 18 to 24 months, it is proposed that the working hours would be 07:00 to 19:00 seven days a week.

5.27 The IWMF includes a Waste Water Treatment facility. All surface water outside the buildings would be kept separate from drainage systems within the buildings. External surface water from roofs and hardstandings, and groundwater pumped during construction, would be collected and stored within the Upper Lagoon proposed to the north of the buildings, which would be below natural ground levels. All drainage and water collected within the buildings and used in the Pulp Facility would be treated and cleaned within the Waste Water Treatment facility. It is anticipated that the IWMF would be largely self sufficient in water, by utilising rain/surface water, and would only require limited importation of water. This could be sourced either from New Field Lagoon, which is part of the existing drainage system for the restored mineral working to the north, licensed abstraction points, or obtained from the utility mains.

5.28 The internal waste reception bunkers would provide buffer storage for about 2 days of imported waste to the MBT and approximately 5 days for the AD, Pulp Facility and CHP, to ensure that waste processing and treatment operations could run continuously and that there would be spare capacity in the event of any planned or unforeseen temporary shutdown of the IWMF.

5.29 The IWMF would provide employment for about 50 people.

SECTION 6 - THE CASE FOR THE APPLICANTS

The Environmental Statement and its review by ERM

6.1 The audit of the ES by Environmental Resources Management (ERM) for Braintree DC (Document CD/2/11) found that the ES was generally of good quality with very few omissions or points of clarification required. Moreover, it indicated that there was good provision of information with only minor weaknesses which were not critical to the making of any decision. The ES audit did not simply focus on process and structure. ERM indicated that it had applied its technical expertise to make informed judgements on the robustness of the submitted assessments. Although ERM considered there was an overestimation of the likely ‘demand’, it indicated that as a technical assessment of particular topics based on the stated application, the Environmental Impact Assessment (EIA) was generally competent and could be considered to comply with the EIA Regulations.

6.2 Braintree DC was advised by ERM that on the majority of the issues (generally other than need and highways) the ES was a competent technical assessment and supported the assessment of the effects as being “not significant”. The audit supports the assessment of the great majority of the likely impacts of the proposals. Moreover, since that audit was undertaken further work has been done in producing the Regulation 19 information and the Addendum to the ES.

6.3 The EIA procedures have been complied with. As regards any concern that the Addendum or other additional information has not been properly made available for public consultation and comment, it is noteworthy that the time allowed for comments on the Addendum was the same as for the main ES, which was itself in accordance with the period set out in the Regulations for the ES. Moreover, it is lawful for additional material to be taken into account at the inquiry, since Regulation 19 (2) of the EIA Regulations 1999 allows such material to be consulted upon at

inquiry. (See Sullivan J. in *R. (on the application of Davies) v. Secretary of State* [2008] EWCA 2223 (Admin) at paragraphs. 41-47).

Common ground

6.4 The following matters can be regarded as common ground:

(i) The matters set out in the SOCG at least as between ECC and the Applicant.

(ii) The proposals would generate benefits in that they would allow for sustainable waste management and permit a move further up the waste hierarchy. This appears to be accepted whether or not the paper recovery process is termed "industrial".

(iii) It is now agreed with the Local Councils Group (LCG) that there is an undisputed need for the MBT facility in terms of MSW and C&I and that the capacity gap is at least 326,800 tpa (set against a capacity of the MBT of 250,000 tpa). The capacity gap for C&I facilities therefore well exceeds the capacity of the plant proposed on the Site.

(iv) The grant of permission for the RCF is a material consideration.

(v) Documents GF/17 and GF/27 represent agreement between the applicants and LCG regarding the considerable carbon savings which the eRCF represents, both in comparison with the RCF and the base case in Essex without either the eRCF or RCF, but assuming current trends in recycling etc. Such savings take into account an average distance travelled per kg of waste of 100 km. The submission by Saffron Walden Friends of the Earth(SWFOE) that biogenic CO_2 has not been taken into account is correct to a limited extent, but only because IPPC guidance does not require biogenic CO_2 to be included. The SWFOE argument is with current guidance.

(vi) When considering the implications of the proposals for what might be termed, generically, "countryside issues" under the Development Plan and PPS7, it is appropriate to take into account the following factors -

(a) The remaining infrastructure of the former airfield;

(b) The sand and gravel workings and its associated infrastructure;

(c) The former radar mast now used for telecommunications;

(d) The extent to which the proposals may strengthen or enhance tree cover, ecological interest and/or biodiversity; and

(e) The extant RCF permission and fallback position.

(vii) It also now appears to be accepted that there will not be a plume from the stack and it does not appear to be disputed that the modelled emissions show that there should not be material concerns regarding the proposals in air quality and health terms.

(viii) The appropriateness and acceptability of the ES given the ERM audit (Document CD/2/11).

(ix) The professional planning witness for the LCG did not consider the proposals objectionable because of the inclusion of incineration of waste through the CHP plant with recovery of energy, and did not consider that

there was any issue arising with regard to compliance with WLP Policy W7G. Nevertheless, this policy is out of date and out of step with modern waste policy given its heavy reliance on BPEO, which is no longer national policy as set out in PPS10. SWFOE acknowledged the error in their initial evidence regarding the strict application of R1 and, as the note on R1[1] (Document GF37) makes clear, if the Waste Directive 2008 applies to the eRCF, the use of the CHP would be regarded as recovery not disposal. Regardless of the strict characterisation of the CHP plant, the fact that it would meet the thermal efficiency requirements of the new Directive demonstrates that it is nonetheless a sustainable proposal.

6.5 SWFOE characterise the CHP as disposal rather than recovery of waste as a matter of EU law, reference being made to paragraphs 2.153-2.158 of the Defra Stage One: Consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/EC) (July 2009). The relevant extract is attached to Document OP/2. The point, if it is a good one, applies to all if not most CHP plant as the Defra Consultation points out. This does not alter the following important points:

(i) CHP is currently supported by WSE 2007 and other national/regional policy because of its ability to recover energy whether or not it is technically recovery or disposal in EU terms; and

(ii) The Waste Directive 2008 seeks to address the categorisation issue as the Defra Consultation explains at paragraphs 2.159-2.181. It is to be noted that Defra's view is that the burning of non-MSW waste streams in a plant designed to burn MSW (as here) would also be recovery under the new provisions (See paragraphs 2.176, 2.177 of the Defra Consultation).

Comparison between the eRCF and the RCF and the fallback position

6.6 The RCF should figure prominently in the determination of the eRCF application for two reasons:

(i) the grant of planning permission for the RCF (on 26 February 2009) establishes the principle of development of a major waste management facility on the site against the background of current policies. SOCG Table 1 & Figs P1-1 & P1-2 set out a detailed explanation of the revisions and additions to the RCF's waste treatment capacity that have resulted in the eRCF and a detailed comparison of the developments. The waste management capacities of imported waste of similar composition (510,000 tpa & 522,500 tpa) are similar, and therefore the 'need' for this treatment capacity has already been established. The design, layout, scale, dimensions and external finishes of the eRCF, on the same site, are similar to the RCF. The main differences are the addition of the Pulp Facility and CHP plant and stack.

(ii) The RCF provides a fallback position for the decision on the eRCF because

[1] See the Waste Directive 2008 Annex II "Recovery Operations" which includes as recovery (rather than disposal) "*R1 use principally as a fuel or other means to generate energy*". Although the formula has been applied, in fact it applies to facilities dedicated to MSW only not to C&I or mixed facilities as the footnote reference in Annex II makes clear. However, compliance with the formula makes it clear that to the extent that the CHP were considered to be "*dedicated to the processing of municipal solid waste only*" it would comply.

the applicants will implement the planning permission for the RCF (Document CD3/1) if planning permission is not granted for the eRCF. The RCF would have impacts which would occur in any event should permission for the eRCF be refused. Since the site benefits from the RCF permission, it is appropriate to consider the proposals for the eRCF not only on their own merits but against that extant permission. As a permission for which there is at least a reasonable prospect of implementation should permission for the eRCF be refused, it is a material consideration and provides a baseline against which the eRCF should be considered. It is therefore unnecessary to re-consider those matters in respect of which no significant change arises.

6.7 The reason for the delay in the issue of the RCF permission was the lengthy delay in the production of the draft S106 and since it was only issued in Feb 2009, it is not surprising given the call-in that it has not been implemented. The suggestion by the LCG that the RCF scheme was indicative and a stalking horse for something else is refuted. Discussions have taken place over several years between the applicants and ECC since the allocation of the site in the WLP. During that process, indicative ideas were put forward.

6.8 The RCF represents appropriate technology as confirmed by ECC and as set out in the JMWMS. The LCG confuses the provision of appropriate technology with the development of different and even better facilities which are represented by the eRCF.

6.9 The RCF permission would not need to be amended before implementation. In contrast, the Basildon permission would have to be amended to meet the requirements of the OBC2009. The applicants have unashamedly been waiting for the ECC contract. In due course they would enter a joint venture with a major waste company. However, it would not be in the commercial interests of the applicants for details of current negotiations to be made available. In addition there are large quantities of C&I waste to be treated and every prospect of implementation of the scheme for C&I waste only.

The eRCF represents a highly sustainable evolution from the RCF, allowing for the disposal of residual waste to move higher up the waste hierarchy and the efficient use of CHP together with the MDIP. This is an important factor supporting the grant of planning permission for the current application. The consultation response from the Commission on Architecture and the Built Environment (CABE) to the RCF application on 25.10.06 (Document GF/2/B/Appx 1) anticipated the evolution of the proposals now found in the eRCF. The CABE response stated “We would encourage the applicant and the local waste authority to bear in mind the likelihood of changing techniques and requirement for dealing with waste in the years ahead, and to envisage how the facility might need to be adapted and/or extended to meet future needs.” By integrating the various recovery, recycling and treatment processes, it would be possible to re-use outputs from individual waste treatment processes that would otherwise be wasted and/or require transportation off site. It is consistent with the hierarchical requirements of waste management. The proposal would be environmentally and financially sustainable.

6.10 The additional benefits of the eRCF are considerable:

(i) The eRCF would accommodate the only proposed CHP facility capable of treating the SRF to be produced by MBT through the MSW contract. It

would produce its own SRF from C&I waste and its own MBT, if it did not obtain the ECC contract. A CHP facility capable of utilising the SRF produced from the county's MSW is excluded from the reference project and proposed procurement for the competition reasons set out in OBC 2009 paragraphs 4.3.11-4.3.14 (Document CD/8/6).

(ii) The MDIP would provide a unique facility in the UK after 2011 for the treatment and recovery of paper waste to produce high quality paper pulp. It would take forward Defra's policy in WSE 2007 to prioritise the increased recycling and recovery of paper and to take advantage of the carbon benefits it would provide.

(iii) Given the agreed CO_2 savings set out in Document GF/27, the proposals would meet the strategies in both WSE 2007 and the UK Low Carbon Transition Plan (July 2009) pages 162-3 (Document CD/8/8) in relation to the section dealing with reducing emissions from waste. If the UK is seeking to reduce emissions from waste of around 1 mpta, this site alone would contribute about 7% of that objective.

Need for the eRCF proposals

6.11 There is a demonstrable need in Essex for new facilities to manage both MSW and C&I wastes. Both the RCF and the eRCF would be well-equipped to deal in a modern sustainable manner with MSW and/or C&I whether or not the applicants (with an operator partner) win the MSW contract. Further, there will be no MDIP facility in the UK after 2011 to produce high quality paper pulp. The eRCF MDIP would be capable of not only meeting the Essex and the East of England's needs in terms of recycling/recovery of high quality paper (thus meeting WSE 2007 key objectives) but providing a facility for a wider area in accordance with EEP Policy WM3.

6.12 The EEP sets challenging targets for the recycling, composting and recovery of both MSW and C&I waste in accordance with the WSE 2007. By 2015, 70% of MSW and 75% of C&I waste must be recovered. Essex is expected to manage 3.3mtpa MSW and C&I waste during the period 2010/11 to 2015/16 rising to 3.7mtpa during the period 2015/16 to 2020/21. However, the need case has been assessed on a more conservative basis (2.4mtpa by 2020/21) put forward by the East of England Regional Assembly (EERA) in a report entitled 'Waste Policies for the review of the East of England Plan' dated 29 June 2009 (Document CD/5/2). As indicated in Document GF/33, consultation has commenced on this matter as part of the process of review (Document CD/5/8). There is a small change in the figures contained in the consultation document compared to those set out in June 2009 in terms of predicted MSW arisings. However, C&I predictions remain the same and the changes do not have a material impact on the analysis undertaken by the applicants.

6.13 The potential treatment capacity of the currently permitted facilities in Essex is 1.375 mtpa. There do not appear to be any current plans to bring capacity forward on the WLP preferred sites that are not already the subject of a resolution to grant planning permission. ECC indicate that it is not possible to predict whether other proposals will come forward that would be acceptable. Whatever proposals may be in contemplation by others, they are inherently uncertain. Their delivery and acceptability is uncertain, as is the extent to which they would be able to compete in the forthcoming PFI procurement.

6.14 Even with the application proposals in place, there would be a need for additional facilities, as demonstrated by the shortage of treatment capacity that exists to deal with the arisings that are specified in the regional apportionment set out in the EEP. If the reduced figures in the EERA Report of June 2009 are used, there would still be a shortage of treatment capacity and a need for additional facilities. Notwithstanding this, the figures set out in EEP Policy WM4 are the determinative figures for the purposes of this application.

6.15 The analysis undertaken in Document GF/4/A confirms that either the RCF or eRCF is critical in terms of meeting the county's targets. Even on the conservative basis referred to at paragraph 6.12 above, a serious treatment capacity gap would remain ranging from around 410,000 to 540,000 tpa. This indicates that at least one additional facility would be required regardless of whether the RCF or the eRCF were contracted to treat MSW.

6.16 The 'Updated Capacity and Need Assessment – Final Report' (Document CD/10/4) prepared by ERM for ECC in July 2009 is inaccurate. For example page D11 in Annex D identifies sites which should not be included in the list as they do not contribute to the current capacity to treat C&I waste. Contrary to the claim in paragraph 6.1 of Document LC/1/E that the overall capacities in the 2009 ERM report are as accurate as they can be, it is clear that the document contains errors. Moreover, that report will not form part of the evidence base for the Waste Development Document as stated in paragraph 3.1 of Document LC/1/E. ECC will arrange for a new report to be prepared.

6.17 Without thermal conversion of residual waste, Essex would need to permit at least 1 or 2 new large and high input capacity landfills. Such capacity is unlikely to come forward because of the difficulty of securing planning permission for disposal capacity where insufficient treatment capacity exists further up the waste hierarchy, and because of the effect of landfill tax on the economics of disposal against treatment. Thermal treatment of residual waste, incorporating CHP, as strongly supported by the WSE 2007 and the OBC 2008, increases the level of recovery and considerably reduces long term pressure on landfill needs. The policy-supported need case is further supported by the fact that most currently permitted and operational landfill capacity in the county (excepting the recently permitted Stanway Hall 'Landfill' at Colchester, which is tied to the proposed MBT facility, and the Bellhouse site at Stanway) will be closed by 2015 as indicated in Document GF/24. Additional landfill capacity will therefore be required to meet landfill needs even with all treatment capacity in place.

6.18 It appears that the ERM reports had considered "all void space without restriction". Sites such as Pitsea may well be of limited contribution. The applicants approach is therefore a more realistic analysis of landfill capacity than that adopted in the ERM reports.

6.19 The landfill policy and legal regime (including the forthcoming landfill tax increases) provide a disincentive to the continuing rates of use of landfill. In contrast, there are positive incentives for increased recycling and recovery, including the greater commercial attractiveness of recycling and recovery. This is important, since it makes proposals such as the eRCF critical to achieving and reinforcing the objectives of current policy. It is also relevant to claims about inadequacies of paper feedstock which are dismissive of the ability to divert from landfill a significant

quantity of paper and card which is currently landfilled in the East of England at a rate of about 713,000 tpa (Document CD/10/1 pages iii and 78 – Detailed Assessment of East of England Waste Arisings - Urban Mines Report, March 2009).

Relevance of the Essex Waste Management Partnership PFI OBC July 2009

6.20 The need for the eRCF is unaffected by the fact that it is not the reference project in ECC's OBC 2009. The reference project was amended to a single site not because ECC considered the application site to be unsuitable but because ECC did not have control over it, whereas it did control the Basildon site which now forms the sole reference project site. The reference project does not preclude tendering for the ECC MSW contract based on the Basildon Site and/or an additional site, such as the application site. (Paragraph 4.3.19 Document CD/8/6). ECC confirms that both the RCF and eRCF would provide suitable technologies for the proposed ECC waste contract which is explained in the JMWMS at section 4.6 (Document CD/8/2). The applicants will be taking part in the forthcoming public procurement exercise by ECC, involving the application site, whether with the RCF or the eRCF.

6.21 The application site is acknowledged as part of the "competitive landscape" for PFI procurement and is referred to under that heading in the OBC 2009 at paragraph 4.3.4. The OBC does not include provision for C&I waste which lies outside the WDA's duties, although ECC as WPA is required to take account of the need to provide for facilities for such wastes. The OBC 2009 therefore only makes provision for one part of Essex's waste needs and comprises less than 1/3 of the planned budget for ECC's waste, as indicated in Document GF/24.

6.22 Although objectors to the application proposal have made frequent reference to existing and potential increases in recycling, kerbside collections, composting, the provision of local facilities and the like, it is important to recognise that waste does not treat itself and facilities such as the eRCF are required in order to allow ECC to meet its waste targets and to increase still further recycling, treatment and recovery of waste. The proposals will assist in, and not obstruct, a continued increase in recycling and recovery of waste. The PPS10 advice for communities to take greater responsibility for their waste does not obviate the need to make provision for facilities such as the eRCF for the county generally or to meet ECC's share of London's waste.

Waste arisings

6.23 Whether or not the RCF or eRCF were originally proposed for MSW and/or C&I waste is irrelevant, as the applicants have made clear that both facilities could deal with MSW or C&I or both. The document submitted in support of the RCF application considered C&I waste at some length and made it clear before planning permission was granted that at least some of the waste to be dealt with would be C&I. (RCF Supplementary Report at Document CD/3/6, Section 5).

6.24 The treatment capacity gap for C&I waste is such that even if the applicants do not win the ECC MSW contract, there is a sufficient need for the site to deal solely with C&I waste. The first two tables at Document GF/24 show an overall treatment capacity gap (i.e. need) of between 412,762 and 537,762 tpa even on the basis that there is development of both the Basildon Site and the RCF/eRCF. This need is agreed by EEC. Even on the basis of the ERM Reports (Documents CD/10/3 and

10/4) the deduction of the treatment sites agreed with the LCG witness would give rise to a need/capacity gap of at least 326,800 tpa.

6.25 The relevant figure for determining the appeal is, in fact, the 3.7 mtpa in 2020/21 apportioned to Essex by the EEP Policy WM4. The draft figures in the EERA Report of July 2009 (Document CD/5/2), which forms the basis of the consultation currently under way, and those in the ERM Reports, have not yet been subject to the results of consultation and examination and are at a very early stage of consideration. They therefore carry little if any weight and do not provide a justification for departing from the RSS figures having regard to the clear guidance of the Secretary of State in PPS10 at paragraphs 13 to 15.

6.26 The capacity gap which would remain on the basis that both the Basildon and RCF/eRCF facilities are provided would have to be met by other sites. Only 3 of the WLP allocated sites have come forward despite the Plan being adopted in 2001. The allocations are of more than 10 years' standing if the draft plan is considered. The 3 sites which comprise the application site, the Basildon site and the permitted Stanway site, will not meet all of Essex's waste management needs.

6.27 The proposal put forward by Glendale Power for a 30,000 tpa AD power station and associated CHP system at Halstead (Document CD/15/5/B) is considered at Document GF/40. There has been no planning application for such a proposal and it is at an embryonic stage. It does not affect the conclusions of the overall analysis of the need for waste treatment facilities in Essex.

Alternative approach - the ERM Reports (Documents CD/10/3 and 10/4)

6.28 The EEP EiP Report (Document CD/5/7 Chapter 10) does not discuss the methodology or the details of the ERM assessment and cannot be regarded as an endorsement of any specific methodology. In any event, the RSS being at a higher strategic level is likely to have been based on higher level data and not subject to the sort of detailed local information and scrutiny which will be the case with the Essex and Southend waste plan. Notwithstanding this, the key is in the detail and reliability of the data. The EiP's judgment on the reliability of the data for the RSS says nothing about the reliability of the data in the reports of ERM produced for ECC.

6.29 Those who are familiar with the sites referred to in the ERM Reports, are critical of the lack of practicality or realism in the assessment of existing capacity. It is clear from the examples identified at the inquiry that reasonable care has not been used in drafting the "final" ERM 2009 report. The pet crematoria in the 2007 list of sites (Table 3.2, ERM 2007) were plainly unsuitable for inclusion. The Schedule at page C2 of the 2009 ERM report included permitted sites, whereas it was intended to show sites with a committee resolution to permit subject to legal agreement. Table 3.3 on page 16 of that report did not have figures which properly corresponded to the schedules at pages C1 and C2. The 888,000 tpa figure in that table may be accounted for by Rivenhall plus part of Basildon, but it is unsatisfactory to have to make such assumptions. It should also be noted that the arisings figures used are estimates based on figures derived from Urban Mines which in turn are derived not from East of England figures but a report from the North West.

6.30 In contrast, the applicants' assessment, which gave rise to the waste flow models at Document GF/4/B/4, considered sites in terms of what they are reasonably

capable of doing. For example transfer sites were assessed by their ability to sort materials and send such material direct to market. Moreover, EA data on actual throughputs was utilised.

6.31 Having regard to the guidance at paragraphs 13-15 of PPS10 in relation to plan reviews, the draft figures from EERA and ERM reports carry little or no weight. Moreover, as the standard of the 2009 report is not one which would normally be expected to be provided to a client, it should be given no weight in the consideration of the need case.

Conclusions on general need

6.32 The application site is plainly needed to meet the significant shortfall in Essex's current and future capacity to deal with waste. The proposal is on an allocated site in a preferred location, albeit with a larger footprint, which already has the benefit of an implementable permission for a similar scale and type of development.

The Paper Pulp Facility

6.33 The Pulp Facility (MDIP) is a further waste management facility. It would produce a product that directly replaces virgin fibre pulp in mills producing printing and writing paper (P&W). The applicants envisage concentrating on producing pulp for P&W rather than tissue. The MDIP would utilise the waste heat and steam from the CHP plant, reduce the use of virgin trees, avoid reliance on landfill, and associated methane production, and result in energy and CO_2 savings by virtue of the use of waste rather than virgin paper.

6.34 Around 13.15mtpa of waste paper, card and packaging is available for recovery in the UK. In 2008, 8.8m tonnes was collected or sorted for recycling, of which 4.18m tonnes (45%) was used in UK paper or board mills. The remainder was exported, principally to China (Document GF/24). Very little recovered medium and high grade papers are recycled for P&W because most goes to tissue mills, or is exported, and UK P&W production capacity utilising recovered paper is very low. More could become available if a ready supply of pulp were to be made available. In the UK, there are no pulp facilities comparable to that proposed and only two in Europe as a whole. There are a number of factors (e.g. procurement initiatives and social responsibility programmes) which would drive the market for P&W production utilising recovered paper.

6.35 The proposal would help to avoid sending paper waste overseas, and reduce reliance on virgin wood pulp from abroad.

6.36 With regard to the availability of feedstock, there is an ample supply within a wider area than the East of England. Moreover, there is no rational planning or sustainability/carbon reduction basis for confining 80% of the feedstock to the Region since there are as many locations within London, the South East and East Midland Regions which are as accessible to the application site as many parts of the East of England. Modelling of the carbon benefits of the eRCF was predicated on an average travel distance of 100km per kg of waste. Distance from source is a more logical basis for a planning condition than the boundaries of the Region. Notwithstanding this, no adverse consequences have been identified if the MDIP was not run at capacity.

6.37 There is a considerable resource of potentially available P&W feedstock in the East of England Region which could be targeted given national policy in WSE 2007 and commercial incentives. It is not expected that the facility would deal with waste primarily from outside the region. The following factors are noteworthy when considering feedstock:

i. At present 180,000 tpa of feedstock is provided to the former M-Real plant in Sittingbourne which will cease to operate for high quality grade paper from P&W waste by 2011. That plant is proposed to go over to the production of packaging quality paper as indicated in Document GF/30.

ii. The 2009 Urban Mines Report identified about 713,000 tpa of paper and card currently going into landfill in the East of England (Document CD/10/1 Page 78). Urban Mines noted that, along with other materials, this represents a potential resource for recycling, composting or energy recovery, should the requisite separation and treatment regimes and facilities be in place. Bearing in mind that about 36% of paper and card consumed in the UK is P&W (Document GF/24) it can be assumed that about 257,000 tpa P&W goes to landfill in the East of England. There is therefore potential for further recycling and recovery.

iii. 1,879,174 tpa of paper and card is exported through the East of England out of Felixstowe and Tilbury (Document GF/4/B/20) of which 304,186 tpa is sorted. There seems no good reason why waste which is currently passing through the East of England should not be processed at the application site if competitive terms could be offered.

6.38 The eRCF would be able to receive and process P&W recovered in the East of England Region as its presence would provide collectors with a more financially attractive destination than alternatives further afield. Processing high grade paper in the UK is plainly preferable to shipping it abroad (where the majority is used for newsprint or packaging), or sending it to landfill in the UK. Seeking to recover the waste more sustainably is in accordance with the key initiative to increase paper recycling in WSE 2007 at pages 51 and 55.

6.39 Based on discussions with paper producers and suppliers, and the advice of specialists such as Metso and Pricewaterhouse Coopers (Document GF/4/D/1), it would be possible to produce pulp to an appropriate quality at a competitive price. Document GF/31 indicates that the applicants' potential partners are keen to set up a closed loop recycling process and thereby encourage the return of used paper to their customers. There should be little need to seek feedstock that is currently being delivered to tissue mills.

6.40 There is an overwhelming need for both the proposed MSW and/or C&I waste treatment capacity including the Pulp Facility. The assertion that the proposals are not commercially attractive is unfounded given the strong interest of the commercial market in both the RCF and the eRCF, and the need for the Pulp Facility, which is supported by the World Wildlife Fund (Document GF/4/D/5).

Viability issues and the paper pulp facility

6.41 Objectors submit that they have seen no evidence that the MDIP proposal is financially viable. However, the relevant figures are commercially confidential as the

applicants are currently in negotiations regarding the proposal. In general the planning regime does not require a developer to prove viability. Nevertheless, the information provided at Section 2 of Document GF/4/C and the documents referenced therein should enable the SoS to be satisfied that there is no issue with regard to the viability of the MDIP. The capital cost of the MDIP would be less than a stand alone facility because it would be part of a much larger scheme. Moreover, relatively cheap power would be available from the CHP, thereby enabling the MDIP to operate competitively. There is genuine commercial interest in the eRCF proposals from potential operator partners and key players in the waste industry, as evidenced by the letters produced at Document GF/4/D and GF/26.

6.42 The issue of viability has arisen primarily because of EEP Policy WM3. This acknowledges that specialist waste facilities such as the MDIP, may have a wider than regional input of waste. It indicates that 'Allowance should only be made for new non-landfill waste facilities dealing primarily with waste from outside the region where there is a clear benefit, such as the provision of specialist processing or treatment facilities which would not be viable without a wider catchment and which would enable recovery of more locally arising wastes.' Viability is only an issue if the facility is one "*dealing primarily with waste from outside the region*" it being accepted that there is a clear benefit from the specialist facilities which the MDIP would provide.

6.43 The site would not be dealing *primarily* with waste from outside the catchment (which must mean more than 50%), only a proportion. The restriction in Policy WM3 therefore does not apply, although the recognition of the role of the specialist facility remains relevant.

The relationship between planning and environmental permitting

6.44 The relationship between planning and permitting is clearly set out in PPS23 paragraph 10. Amongst other things this indicates that 'The planning system should focus on whether the development itself is an acceptable use of the land, and the impacts of those uses, rather than the control of processes or emissions themselves. Planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. They should act to complement but not seek to duplicate it.'

6.45 The acceptability in principle of the proposal must be shown in land use planning terms. It is therefore appropriate to demonstrate that the impacts on the environment, human health and other related matters can be adequately controlled, managed and monitored by the EA, dealing with the technical issues of the process, and that any necessary mitigation and control of pollution can be undertaken through the EP process.

6.46 As noted already, the EA does not consider there to be an issue in principle with the acceptability of the proposed eRCF. The EA's e-mail of 5 October 2009 (Document GF/28) explains why an application for an EP is not practicable at the moment. There is no legal or even policy requirement for the EP to be submitted contemporaneously with the planning application and in a case such as the present where the process is protracted due to call-in and the need to enter into a contract with an operator, it is not surprising that the EP application has not been run in parallel with the planning application.

6.47 However, a significant amount of work has been carried out to assess the likely impacts of the proposals on matters such as air quality and the control of emissions, as can be seen from the component parts of the ES. The EA has been involved in discussions with the applicants throughout the design, modelling and application process. The recent EA letter (Document CD/15/7), to the extent that the EA has properly understood the changes and the Addendum, shows that some additional work would be needed for the EP, though it does not show any objection in principle to the proposals. The EA letter refers to the stack heights of 2 energy from waste (EfW) plants elsewhere. However, the buildings associated with those plants are substantially taller than the proposed eRCF building, and cannot be directly compared with the application proposal. The lower height of the eRCF building would result in a lower stack than would otherwise be necessary.

6.48 Notwithstanding this, the EA has sent a subsequent letter dated 22 October 2009 (CD/16/1), whereby it confirms that it does not object to the proposed eRCF. As a requirement of the Environmental Permit (EP), the applicants would be required to demonstrate that the eRCF would not have a significant impact on local air quality. This could be achieved by means other than increasing the stack height. In fact, dilute and disperse using a taller stack is one of the least preferred methods for controlling the impact of industrial emissions, with preference given to abatement and the reduction of emissions at source. The applicants would need to demonstrate that the predicted impact from the eRCF would not result in a significant increase in pollutant concentrations. Where necessary, additional controls could be used to reduce emissions. This is recognised in the latest letter from the EA which indicates that '*there may be other options available to the applicant to ensure that the best level of protection is afforded to the local environment, such as more stringent emission limits…'.*

6.49 The H1 document referred to by the EA in its letter of 13 October 2009 is a consultation document and the Environmental Assessment Levels (EALs) proposed in that document have not been formally accepted. Nevertheless, should these be formally adopted, the applicants would need to demonstrate to the EA that there would be no significant worsening of air quality with respect to these EALs. With regard to the EALs for some of the trace metals, it has already been demonstrated that assumed trace metal emissions from the CHP plant have been substantially overestimated. The CHP plant could operate at substantially more stringent emission limits, thereby providing an alternative option for reducing the impact of the plant on local air quality.

6.50 The detailed environmental assessment already undertaken has demonstrated that the impact on air quality would be acceptable. The assessment is based on the most reasonable worst case and demonstrates the appropriateness of a 35 m stack height (above existing ground levels) in terms of air quality, human health and landscape and visual impacts. After discussions with the EA (following their letter of 13 October 2009), the applicants remain confident that even if more stringent emissions limits were imposed through the permitting process, a 35 m stack height would be achievable by means of the Best Available Technique (BAT) at that time. Nevertheless, in the unlikely event that the height of the stack is required to increase by 5m (i.e. up to a height of 40 m above existing ground level), visual material has been presented to determine whether such an increase in stack height would be acceptable in landscape and visual impact terms. If planning permission were

granted, the Inspector, the SoS and the general public can be confident that the EA would ensure that any environmental risk would be adequately managed.

6.51 There is no reason to believe that the proposed technical mitigation measures could not be dealt with satisfactorily at the EP stage and thereafter monitored, enforced and reviewed where necessary by the body with the appropriate technical expertise to deal with such issues.

Issue 1: The Development Plan

6.52 Whilst the application falls to be determined in accordance with the Development Plan (DP), unless material considerations indicate otherwise, a breach of one or even several policies does not mean that the proposal considered as a whole is not in accordance with the DP. Moreover, the materiality of the fallback position may render any such breaches of little consequence since they are likely to occur in any event.

6.53 The statutory development plan includes the EEP, WLP and BDLPR. Only the EEP is up-to-date. Key portions of the WLP are not consistent with PPS10. For example, policies in the WLP rely on BPEO, whereas the Companion Guide to PPS10 (document CD/6/6/A) makes it clear at paragraph 8.26 that there is no policy expectation for the application of BPEO, and that requirements should not be placed on applicants that are inconsistent with PPS10. Furthermore, it is not the role of a development control planning inquiry to revisit the figures in the RSS for waste and regional waste apportionments, other than in accordance with the advice at paragraphs 13 to 15 of PPS10. To do otherwise would destroy the certainty which PPS10 requires, and undermine the statutory role of the RSS.

6.54 The need for the proposal has been demonstrated above. In the light of that need, the eRCF would enable delivery of the waste management objectives in EEP Policy WM1 and achievement of the recovery targets in EEP Policy WM2. It would make a major contribution to the meeting of the Landfill Allowance Trading Scheme (LATS) targets and would deliver a solution consistent with the JMWMS. It would minimise the environmental impact of waste management; manage waste as a resource; and help to secure community support and participation in promoting responsible waste behaviour. It would secure the wider environmental and economic benefits of sustainable waste management and assist almost immediately in the meeting of the Government's targets for reducing greenhouse gas emissions.

6.55 The MDIP proposal is consistent with EEP Policy WM3. It would enable the recovery of locally arising wastes together with higher grade waste paper attracted from outside the region because of the absence of similar facilities in the UK.

6.56 The eRCF would assist ECC in managing its apportionment, set out in EEP Policy WM4, in a manner which would be in accord with EEP Policy WM5. The eRCF proposal accords with the objectives of EEP Policy WM5 insofar as it would be developed at the preferred location WM1 identified in Schedule 1 of the WLP. The needs tests in WLP Policies W3C and W8A would also be met.

6.57 Objectors to the eRCF contend that the site does not comply with the DP for two principal reasons. Firstly, the application site extends considerably beyond Preferred Location WM1 and, secondly, the proposal would introduce an industrial

process onto a site part designated for waste management facilities contrary to BDLPR Policies 27 & 78. Other potential conflicts relate to assessments of the impact of the proposals and the mitigation measures, which are dealt with under specific subject headings, below.

WLP Allocation WM1 and the size of the site

6.58 The WLP and the BDLPR, unlike the EEP, are not in all respects up-to-date and do not reflect PPS10. There is reliance on BPEO which was removed from national policy and replaced by the requirements of PPS10. The RCF permission is an indicator that the eRCF should be accepted in planning terms and forms a robust fallback position. The WLP is 9 years old and based on data which is even older. The site allocations were formulated no doubt in the light of a different policy landscape for waste and different figures regarding arisings which had to be dealt with within the plan area.

6.59 The views of the EERA Regional Secretariat on the RCF are set out in a report to the regional planning panel sub committee dated 19 January 2007 (Document CD/3/2). This comments on the difference in scale between the RCF and the allocation in WM1, and states that the difference in the size of the site compared with the allocation is acceptable in strategic terms. Given the scale of the existing need and the benefits of providing the integrated eRCF, the difference in the size of the site required for the eRCF compared with the allocation is equally justified.

Whether the MDIP is a Waste Treatment or Industrial Facility

6.60 The question of whether the MDIP should be classed as an “industrial” facility is a red herring. The focus of BDLPR Policy RLP 27 is on the strategic location of employment generators and traffic, and not whether a use is characterised as “business”, “commercial” or “industrial”. The BDLPR does not regulate waste development and, in the light of WLP WM1, waste development on the application site would not be a breach of the DP. The eRCF is a waste facility and therefore is not in breach of RLP27. Moreover, the RCF is as much an employment generator and generator of traffic and there is little difference between it and the eRCF.

6.61 The MDIP would be a waste management facility integrated with other such facilities. Its presence would make no difference to the size of the application site, and its claimed non-compliance with Policies RLP27 & RLP78 is, on that basis, irrelevant. Co-location of waste management facilities and other industrial processes accords with PPS10 and EEP Policy WM1 and secures major benefits, including savings in energy consumption and reduction in CO_2 emissions.

6.62 In terms of the WSE 2007 (Document CD/8/1) the recycling of paper waste is as much a priority as other forms of waste management which recycle and recover waste in accordance with national and EU policy. WSE 2007 is more than simply guidance. As it notes on page 6, the waste strategy and its Annexes, together with PPS10, is part of the implementation for England of the requirements within the Framework Directive on Waste, and associated Directives, to produce waste management plans. These are the national level documents of a tiered system of waste planning in England, which together satisfy the requirements of the various Directives.

6.63 Page 13 of the WSE 2007 indicates that key waste materials have been identified where diversion from landfill could realise significant further environmental benefits. It indicates that the Government is taking action on various materials including paper, and that it is establishing with the paper industry an agreement with challenging targets to reduce paper waste and increase paper recycling. At pages 52-53, paper and card are identified as being among the priority waste materials which offer the greatest potential for reduction in greenhouse gases from increased recycling and recovery.

6.64 A district local plan does not deal with waste management facilities. Notwithstanding this, the concerns of the LCG with regard to the MDIP in relation to BDLPR Policies 27 and 78 should apply equally to the treatment of other waste materials at the eRCF, including the production of SRF through the MBT and composting through the AD. All of these processes treat waste materials and end with a recovered product. Under EU waste legislation and policy, waste remains waste until it is recovered (i.e. converted by the recovery process into some beneficial product). Accordingly, while the pulp resulting from the process would be a saleable product, until it has gone through the treatment process and been recovered, it remains waste and the processing through the MDIP is a waste management process.

6.65 The character and use of the proposals as a whole, including paper treatment, is that of a waste management facility. This is wholly consistent with the RSS Policy WM5 and WSE 2007. Permission is not sought for any general industrial facility. A similar sized waste facility, albeit without the MDIP, has been permitted in the form of the RCF. Policy RLP27 is concerned with employment and traffic, and this will arise in any event through the RCF. ECC accepts it is questionable whether the proposals represent a departure from the DP in relation to Policy RLP27, and it was only treated as such by ECC on a precautionary basis.

6.66 With regard to the claimed breaches of policy relating to agricultural land, countryside policies and the like it is relevant to note that PPS7 and PPS10 have to be read together in the light of sustainable waste management strategy. Moreover, the BDLPR does not consider waste management issues and, notwithstanding this, the RCF has very similar impacts. National policies, such as those in PPS7, also require regard to be paid to weighty issues such as sustainable waste development and the need to address climate change. These matters are addressed by the application.

Highways and transportation

6.67 It is reasonable to anticipate that the eRCF would generate no more than 404 daily HGV movements, particularly as there is potential for lorries that deliver material to the site to be used for carrying material from the site (i.e there is potential for back hauling). The operator would have control over deliveries and the despatch of material to and from the proposed plant, and there is no reason to believe it, or the hauliers themselves, would wish to operate on the basis of sub-optimal loads. Data from the inputs for the EA's 'WRATE' Life Cycle Assessment Model are an unsatisfactory substitute for the knowledge of experienced waste hauliers, which was used by the applicants.

6.68 Notwithstanding this, there has been no suggestion that any specified number of HGV movements greater than 404 would have materially different or more serious implications in highways and transportation terms. The dispute about HGV numbers primarily relates to concerns about the capacity of the proposed MDIP.

6.69 Braintree District Council resolved, despite the Highways Agency's position and without the benefit of advice from a highway engineer that it would object to the eRCF on the sole basis, in this context, of the impact of resulting HGV flows on the capacity and safe operation of the A120. However, transport planning policy indicates that facilities such as the eRCF should have good access to roads high up the roads hierarchy, and Trunk Roads should therefore be expected to accept increased traffic flows associated with it. The Highways Agency's decision not to object to the eRCF was founded on current guidance (see Document GF/10/F).

6.70 The application site is the only one of the preferred waste sites listed in the WLP to have the benefit of direct access onto the Trunk Road network. It is accepted that the A120 Trunk Road is busy and some sections operate in excess of their economic design capacity and have reached their practical capacity. However, this occurs at peak times and the road should not be regarded as unable to accommodate additional traffic. Traffic to the eRCF would avoid peak hours where practicable. Most of the traffic attracted to the eRCF would not coincide with the peak hour periods on the A120. Notwithstanding this, the catchment area for the waste arisings suggests that an alternative elsewhere would attract increased traffic flows on the A120 in any event.

6.71 The junction of the extended Bradwell Quarry site access road, which would be used to access the site, and the A120 would operate satisfactorily in the relevant design year (2018). Subject to the imposition of the proposed restriction to 404 HGV movements daily, there would be no material difference between the RCF and eRCF in terms of impacts on the capacity and safe operation of the A120.

6.72 The junctions of the access road with Church Road and Ash Lane will be improved. Both crossings have a good safety record, and the proposed improvements have the potential to further improve their performance.

6.73 Visibility on the Church Road south approach has been identified as the most critical sight line. It is agreed that the standards set out in Manual for Streets is applicable as this is a lightly-trafficked rural road. This document requires a minimum 60m 'y distance', which is achievable. No substantial issue remains in respect of these minor road crossings.

6.74 Objectors have also expressed concern about the possibility of HGVs diverting onto local roads and travelling through local villages. However, as indicated above, HGV deliveries and despatches to and from the site would be under the control of the plant operator and the proposed HGV routing agreement, which would be effective from the opening of the plant, would ensure that rat-running would not occur under normal circumstances.

6.75 In conclusion, it has been shown that the proposal accords with relevant development plan policy in the EEP (Policy T6), the WLP (Policies W4C, W10E & W10G) and the BDLPR (Policies RLP 49, 50, 52, 53, 55 & 75), bearing in mind, so far as the BDLPR is concerned, that the proposed development has specific

characteristics and locational requirements which should be taken into account when assessing compliance with these policies. There is no material difference between the RCF and eRCF in highways and transportation terms.

Landscape and Visual impact

6.76 The landscape character of the application site and its surroundings is derived from its use as a World War II airfield and an existing large quarry. The heritage significance of the airfield is assessed at Document GF/32. Although it is of some local historical significance, much of the airfield and its military buildings have disappeared and consequently it is not considered to be a particularly good surviving example of a World War II military airfield. The quality of the landscape is ordinary; its character as Essex plateau farmland has been degraded, and its sensitivity to change reduced. As the site lies on a high open plateau the perceived visual envelope of the development would extend over a considerable distance. However, there are relatively few residential properties within this envelope. The site does not lie in a designated or nationally protected landscape area, though the existing site access road passes through the Upper Blackwater Special Landscape Area which is subject to the protection afforded by BDLPR Policy RLP79. Isolated woodland blocks assist the application site's visual containment and all trees on site are protected.

6.77 The proposed facility would have few sensitive visual receptors. There are no residential properties in close proximity to the proposal and of the footpaths within the development's visual envelope, only FP8 passes in close proximity to the proposed eRCF building. The principal means of minimising the visual impact of the proposed buildings and integrating them into the landscape would be as follows:

(i) their construction would be largely below existing ground level;
(ii) the facility would be no higher than the existing hangar with the building design reminiscent of it;
(iii) cladding materials would be dark and recessive;
(iv) the substrate of the green roof would be colonised with mosses and stone crops;
(v) the retained woodland would be managed to improve its diversity and screening quality, and new woodlands would be created; and,
(vi) new hedging would be planted along the northern site boundary and sections of the proposed access road.

6.78 Only one property (Deeks Cottage) would experience moderate adverse visual impacts as a result of the proposed facility during construction and the early years of the facility's operation. Over the same period, only 4 other individual properties (The Lodge at Allshot's Farm, Haywards, Heron's Farm and Sheepcotes Farm) and a limited number of properties on the eastern edge of Silver End would experience minor adverse visual impacts. Users of footpath 35/68 to the north of the site would experience moderate adverse visual impact at Year 1 of operation, with other paths in the area assessed as minor adverse impact. These impacts would generally arise as a result of the new building projecting above the confines of the existing woodland screen. The proposed new hedging and woodland would take time to mature, but within 15 years they would adequately screen the proposed facility (other than the upper section of the stack) from nearby visual receptors.

6.79 Objectors have expressed concern about the possibility of dewatering of the existing woodland that would be retained adjacent to the excavation which would accommodate the eRCF. However, clay is the dominant material in the soils beneath the woodland blocks. The woodland growth is separated from the underlying sand and gravel by over 6m depth of boulder clay. The woodland trees are not dependent upon the groundwater locked in any aquifer below ground, but are reliant upon moisture held within the subsoil and top soil that overlies the boulder clay. Any dewatering related effects that occurred in the sand and gravels would not have an impact upon the woodland trees.

6.80 Notwithstanding this, it cannot be entirely discounted that the proximity of the proposed retaining wall to the trees would not have some impact on the water regime which is critical to the trees, particularly during construction. As a precautionary measure, selective coppicing would be undertaken to reduce the water demand of the trees closest to the wall. This would reduce transpiration and make the coppiced trees better adapted to any potential reduction in water supply. Such management would in any case be complementary to the management likely to be prescribed for increasing biodiversity in the woodland habitat, delivered in accordance with the Ecological Management Plan.

6.81 The development of the CHP capacity necessarily involves the provision of a chimney stack. It is acknowledged that this would be a noticeable addition to the landscape, and would be visible over a wide area given the Site's location on a high, flat plateau. However, it would be seen only as a small element of the overall view, although it is accepted that users of FP8 in particular would be conscious of the presence of the stack and associated plant. The impact of the proposed stack would be mitigated by:

(i) the quality of the landscape in which it would be sited and its reduced sensitivity to change;
(ii) the lowering of the stack into the ground resulting in height of only 35m above ground level;
(iii) the cladding of its upper part in stainless steel with a reflective finish to mirror surrounding light and weather conditions, which would help to minimise the perceived scale of the stack and its visual impact;
(iv) the presence of existing and proposed additional woodland to the south - it would protrude about 20m above the average height of the retained existing trees;
(v) its remoteness from sensitive receptors; and,
(vi) the absence of a visible plume.

6.82 Because the eRCF would be located in a light sensitive area, detailed consideration has been paid to minimising the risk of light pollution. Measures that would be taken include the installation of external lighting below surrounding ground level, the direction of light being downwards, and the avoidance of floodlighting during night time operations. Timers and movement sensitive lights would be fitted to the exterior of buildings to provide a safe working environment when required. The plant would only operate internally at night.

6.83 The proposed extension to the existing access road would be constructed in cutting and would run across the base of the restored quarry, therefore lights from vehicles travelling to and from the eRCF within this section would be screened from

view. An independent review of the lighting proposals (Document GF/2/D/2) puts forward a number of recommendations to further minimise the impact of external lighting and concludes that with the incorporation of these amendments the impact of the eRCF on the night sky would be minimal. The Technical Note on Lighting (Document CD/17/1), prepared in response to the objectors representations at Document CD/16/4 indicates that the final lighting design would conform to the requirements of any planning conditions. However, it is intended that:

- luminaires located around the eRCF buildings would be fixed at a maximum height of 8m above the finished surface level of the site;
- there would be no upward light from use of the proposed flat glass luminaires mounted at 0° tilt;
- the weighbridge would be illuminated;
- the lighting installation would be fully compliant with the requirements of the proposed 18.30 to 07.00 curfew;
- there would be no need to provide illumination of the 'high level access road' as maintenance and repairs in and around this area would be provided during normal daytime working hours; and,
- internal lights would either be switched off or screened by window coverings during night time operations.

6.84 The final design of the lighting scheme would incorporate these amendments, subject to conformity with the requirements of planning conditions.

6.85 In conclusion on the overall subject of the impact on the landscape, it is accepted that visual harm is inescapable in the context of the provision of a major waste management facility. However, the issue is one of degree. The degree of harm that would result in this instance is remarkably limited. The low levels of visual impact arising from such a large-scale proposal confirm that this site is ideally suited to the proposed use. It is concluded that the eRCF proposal accords with relevant policies in EEP (Policies ENV2 & ENV5), WLP (Policies W10B, Q10E & W10G) and BDLPR (Policies RLP 36, 65, 78, 79, 80, 81, 86, 87 & 90).

6.86 A postscript arises in the context of landscape and visual impact. Should it be necessary for the stack to rise 40m above ground level, the additional 5m would be imperceptible and have no impact on the appraisal of landscape and visual impact in the ES. The SoS is invited to confirm that he would not regard the addition of 5m to the stack as itself unacceptable.

Ecology

6.87 The baseline surveys revealed a number of species of nature conservation value and habitats of interest on the site, including semi-improved neutral grass land, semi-natural broadleaved woodland, the River Blackwater, ponds inhabited by great crested newts, and a variety of bird species and bats. Development of the eRCF would result in the removal of some of these habitats and disturbance to associated flora and fauna, but significant areas of habitat would remain. Significant mitigation, compensation and enhancement measures are proposed to address the effects of the eRCF.

6.88 The applicants are committed to a range of ecological enhancements that go beyond compensation. These measures include:

- 3.4ha of proposed new woodland;

- 2km of hedgerow planting linking to semi-natural habitats off-site;
- the creation or enhancement of about 7.8ha of open habitat to be managed for nature conservation (2.8ha species-rich neutral grassland and about 5ha of open habitat incorporated into the green roofs); and,
- ponds managed for great crested newts and buildings refurbished to provide specific roosting opportunities for bats.

6.89 The positive management of existing habitats for nature conservation would provide immediate benefits and, as newly-created habitats become established and available for management, the scope exists to contribute significantly towards biodiversity targets set in the EEP. The Ecology Summary Table at Document GF/8/B/1 shows a positive residual impact for three of the key habitat features at the Site, namely woodland, scrub and hedgerow network; open habitats; and ponds, which would support great crested newts. Disturbance to legally-protected species would be minimised or avoided.

6.90 NO_x concentrations as a result of emissions from the eRCF would be very small and the impact on vegetation would be negligible. Predicted concentrations as shown in Document GF/6/D are less than 2% of the critical level for the protection of vegetation.

6.91 The proposed additional woodland planting would take several years to mature; but it is nonetheless apparent that the introduction of active management would result in immediate biodiversity benefits. Cumulatively, the eRCF would result in a positive residual impact, as reflected in the Ecology Summary Table at Document GF/8/B/1. In terms of development plan policy, the eRCF accords with EEP Policy ENV3 and WLP Policy W10E, and accords or does not conflict with BDLPR Policies RLP 78, 80, 81, 82, 83 & 84. There are additional positive benefits to biodiversity as a result of the eRCF compared with the RCF.

Issue 2: Design

6.92 The approach to the design of the eRCF is described in the Planning Application Supporting Statement (PASS) and the Design and Access Statement. A site appraisal was undertaken at the outset, in accordance with BDLPR Policies RLP 90 & 91. It confirmed that the proposed design should reflect and enhance the local distinctiveness of this location in accordance with PPS1, 7 & 10. The design reflects that of the World War II hangars. Dark coloured cladding materials are proposed because they are recessive in the landscape and the building would be viewed against a dark backdrop of existing woodland. Construction of the roof as a green roof would further reduce the building's visual impact.

6.93 Another key concern driving the design has been the minimisation of the extent of visual intrusion. The sinking of the main building into the ground, retaining and supplementing peripheral trees and planting, and the use of a long, low, continuous profile have been employed as means to this end.

6.94 The design principles, location, layout, scale, dimensions and exterior design of the eRCF are essentially the same as the RCF, with a deliberate intention to minimise the changes between them, other than to enhance the project. CABE commented in a consultation response dated 25 October 2006, albeit in relation to the RCF, that the location was suitable for a waste management facility and that the proposed architectural treatment and sinking of the building and approach road into the ground

raised no concerns (Document GF/2/B/1). CABE was consulted specifically on the eRCF but did not respond, which suggests that CABE has no objection to the latest proposals.

6.95 A comparison of the RCF and the eRCF shows that the only significant change is the addition of the CHP stack. The objectors' focus on this feature supports this conclusion.

6.96 The design aspects of the proposal are appropriate for the location and provide reasonable mitigation for the visual impact which any waste facility of this kind is bound to have. Accordingly the proposals comply with design guidance in PPS1, and the principles set out in 'Designing Waste Facilities' (DWF) (Document CD/8/9), albeit that they inevitably pre date that document. In particular, the eRCF embraces the design attributes of: functionality in use; build quality; efficiency and sustainability; designing in context; and aesthetic quality. Whilst each waste management process within the eRCF would benefit from its integration with others, there is sufficient capacity in each of the key processes to allow for variation thereby providing flexibility of use. Document GF/38 describes the flexibility of capacity which is inherent in each of the processes. The design of the MRF allows for upgrades in the eRCF's process which would meet potential changes in the type and composition of waste imported to the site. The MBT would have five autonomous process lines. In relation to the MDIP, minor modifications could be made to allow tissue paper pulp to be produced and opportunities exist to introduce a secondary treatment of the sludge arising from the de-inking process to recover a valuable secondary aggregate suitable for re-use within the aggregates market.

Design for climate change

6.97 The Climate Change Supplement to PPS1 requires proposals to make a full and appropriate contribution to climate change. Reducing carbon emissions forms part of Defra's waste strategy (CD/8/1) and part of ECC's JMWMS (Document CD/8/2)

6.98 Detailed computer modelling to assess the overall carbon balance, or global warming potential of the proposal, expressed in kg of CO_2 equivalents has been undertaken using the EA's WRATE Life Cycle Assessment Model. In order to compare results, 3 scenarios have been modelled, namely the baseline case (without either the eRCF or the RCF); inclusion of the RCF; and inclusion of the eRCF. The assessment indicates that the eRCF proposals would result in a significant reduction in emissions of CO_2. Following discussions with an expert on WRATE from ERM, the carbon benefits of the proposals are agreed and set out in Document GF/27. This indicates that the total savings of CO_2 by 2020 would be in excess of 70,000 tpa. This compares favourably with the 37,000 tpa savings from the RCF and even more favourably with the baseline scenario. The baseline scenario is identified as saving 4,117 tpa of CO_2 in 2020 partly on the basis of active waste recycling programmes already in place in Essex. However, the baseline savings are only 6% of the savings which the eRCF would produce. The eRCF scenario has a considerably greater environmental performance than the other scenarios modelled.

6.99 It has been suggested that decoupling the CHP, the MDIP and the RCF would have advantages. However, this fails to recognise that the eRCF power supply to run the entire plant is self generated at a lower carbon emission rate than electricity drawn from the National Grid. Decoupling the CHP from the rest of the scheme

would require 25MW of electricity from the National Grid, (with a higher carbon footprint), to power the waste management processes. Moreover the heat output from the CHP would be substantial.

6.100 The UK Renewable Energy Strategy (Document CD/8/4) sets out the Government's target to produce 15% of our energy from renewables by 2020 and identifies the planning system as central to its achievement. PPS22 makes clear that energy from waste is considered a source of renewable energy provided it is not the mass burn incineration of domestic waste. Document GF/37 addresses the concern of FOE that the recovery of energy through the CHP may not meet the formula for R1 recovery operations set out in Annex II of Waste Directive 2008/98/EC (Document CD/4/2), which does not come into force until late 2010. An R1 recovery operation is where the waste is used principally as a fuel or other means to generate energy. The R1 category includes incineration facilities dedicated to the processing of MSW which have an energy efficiency equal to or above a figure of 0.65 for installations permitted after 31 December 2008. The energy efficiency figure is calculated from a formula set out in the Appendix to the Directive. The formula gives a figure of 0.7732 for the CHP to be provided at the eRCF, which easily meets the requirement for classification as recovery.

6.101 The use of SRF in the proposed CHP plant, whether from the Basildon proposals or the application site itself, and the export of electricity to the National Grid would therefore contribute to meeting the Government's target. This contribution is increased significantly by the proposed co-location of the MDIP and its proposed consumption of heat from the CHP plant. Granting planning permission for the eRCF is therefore in accordance with PPS22 and the UK Renewable Energy Strategy, as well as the WSE 2007.

Issue 3: Whether the proposal is consistent with the advice in PPS7

6.102 Amongst other things, the eRCF proposal involves the loss of 1.77ha of woodland and its replacement with 3.4ha of new woodland planting, including 1.2ha outside the application site. The design seeks to minimise visual impact and reinforce local distinctiveness, and to ensure that changes from RCF (in particular, the CHP stack) do not result in material visual harm. The eRCF proposal accords with the requirements of PPS7 to protect or enhance the character of the countryside.

6.103 The objective of siting development at a location where it can be accessed in a sustainable manner, and in particular by alternative modes of transport, should be addressed pragmatically. The proposed eRCF is not, by its nature, a development which would normally be expected in or on the edge of a town or other service centre. Moreover, there is an allocation for waste management development at this location. The key issue concerns HGV movements, rather than trips by employees or members of the public.

6.104 The impact of the proposal on the best and most versatile agricultural land must be balanced against other sustainability considerations. Soils stripped from agricultural areas would be re used sustainably. Whilst the eRCF would result in the loss of almost 12ha of Grade 3a agricultural land, there would be a similar loss if the RCF were constructed. This loss of Grade 3a agricultural land represents 0.3% of the Bradwell Hall Estate holding. The permanent severance resulting from the extended access road would also occur in the RCF scheme. Woodhouse Farm is unoccupied,

and could not form a 'commercial unit of agriculture' under the present agricultural cropping regime.

Issue 4: PPS10

6.105 The eRCF is consistent with the key planning objectives set out in PPS10. It would help to deliver sustainable development by driving waste management up the waste hierarchy and addressing waste as a resource. It would reduce the need for disposal by landfill and would recycle waste into marketable products. Moreover, it would have benefits in terms of climate change. It would also contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community and assist in the implementation of ECC's strategy to provide a framework within which the community takes more responsibility for its own waste. The eRCF would contribute to the implementation of the national waste strategy.

6.106 A number of misconceptions have been presented in the objections to the proposal. These should be rejected. It is suggested that PPS10 can be substituted in the WLP policies for BPEO. This is incorrect. If specific plan policies are out of date, then those policies (e.g. W7G) should be given little weight and the policies in PPS10 should be applied.

6.107 The concept of community engagement and self-sufficiency does not require that facilities should be directed solely to the local community, or even the district. In many cases, waste management needs to be carried out on a county wide basis. The eRCF would allow Essex to increase its provision of sustainable waste management and provide greater means to secure increases in recycling and recovery and reduce carbon emissions. It is true, as the FOE points out, that a continued increase on minimisation, recycling and composting will improve the UK's position in climate change terms and in the reuse of beneficial material, but the eRCF proposals are part of the means by which improvements in sustainable waste management could be realistically achieved. Development control inquiries are not the means to achieve policy change, as the FOE appears to think.

6.108 Moreover, although the community should be engaged by the process, and their concerns taken into account, it does not mean that there must be unanimous community support. As in the present case, concerns of the community have been met so far as possible in terms of mitigation measures. The community's needs for waste management would in part be addressed by the eRCF.

6.109 The S106 provisions would create a process for community liaison with regard to the operation of the eRCF. The applicants have agreed to supply emissions monitoring information through the liaison committee.

Air Quality

6.110 Objectors have incorrectly claimed that air quality impacts would not be assessed until the EP application is made. There has been a considerable degree of technical assessment of the air quality and health impacts of the proposal.

6.111 PPS 10 indicates that modern, appropriately-located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. Insofar as PPS10

advises that planning authorities should draw from Government Advice and research, the Health Protections Agency's recent publication of "*The Impact on Health of Emissions to Air from Municipal Waste Incinerators*" (September 2009) provides further reassurance (Document GF/9/D). That document indicates that "Modern, well managed incinerators make only a small contribution to local concentrations of air pollutants. It is possible that such small additions could have an impact on health but such effects, if they exist, are likely to be small and not detectable." The human health modelling presented in Chapter 3 of the Addendum ES (Document GF/12) confirms that the risks to human health from the proposed eRCF are negligible since the predicted daily exposure for all contaminants of potential concern is less than the relevant toxicological benchmark.

6.112 A comprehensive assessment of emissions to air from the proposed eRCF has been undertaken and described in Documents GF/6, Chapter 11 of the ES and the Regulation 19 Submission. Dispersion modelling has been used to predict airborne ground level concentrations. With a stack height of 35m, the predicted pollutant concentrations would be substantially below the relevant air quality objectives and limit values, except for arsenic. However, the assumed emissions of arsenic were substantially overestimated. In the model analysis, metal emissions were specified in three groups. Group 3 consisted of nine metals, one of which was arsenic. It was assumed for the purposes of the model that each individual metal would be emitted at the emission limit for the group as a whole. This was an extreme worst case assumption, and clearly implausible, as it could result in an emission nine times the emission limit for the Group 3 metals. Using this overestimate, in conjunction with a particularly stringent air quality limit value for arsenic due to be implemented in 2012, resulted in an exceedance of the annual mean limit. However, given the unrealistic overestimate of arsenic emissions, it would be more appropriative to specifically limit the emissions of arsenic, as opposed to increasing the height of the stack which would have limited benefit. Realistic estimates of arsenic emissions based on sampling and analysis of emissions from waste incinerators elsewhere show that arsenic levels would be significantly lower than that assumed in the dispersion modelling assessment.

6.113 Examples of contour plots using a single multi flue stack for various potential pollutants can be found at Document GF/6/B/13 and GF34. The impact of stack emissions from the eRCF would be controlled by the monitoring of stack emissions. This is a requirement of the Waste Incineration Directive (WID). The WID requires continuous monitoring of some emissions such as NO_x, CO, particles, volatile organic compounds, HCl, HF and SO_2. For others which cannot be monitored continuously, periodic monitoring on a twice yearly basis is required. Compared to monitoring at specific receptors, this has the advantage of providing emissions data for a wide area rather than at a few specific locations and ensures that emissions and modelling data relates to the emissions from the plant. It therefore provides a greater degree of certainty about the impact of the plant.

6.114 In the case of the eRCF, the critical stack height for a single stack option is about 25m in terms of the dispersal of emissions. Above 25m, the law of diminishing returns applies. Stack heights depend on a range of many different factors and there is no indicative stack height for facilities in general. The height of a building is often critical in determining the necessary height of an associated stack. A stack height of 35m is adequate to meet air quality standards and should satisfy the EA's requirements.

6.115 No visible plumes are predicted to be emitted from the stack. The plume visibility assessment assumed a moisture content of about 7% for emissions from the gas engine and CHP plant multi flue stack. Information on plume visibility is provided in the ES Addendum at Chapter 2, Appendix2-1 Section 8 (Document GF/12).

6.116 With regard to traffic emissions, the proposed 404 additional HGV movements are the same as that proposed for the RCF. Based on the current Design Manual for Roads and Bridges (DMRB) screening criteria, a detailed air quality assessment is required if there is a change in vehicle movements above a set threshold and there are sensitive receptors within 200m of the road. This is not the case for the eRCF. Nevertheless, in response to concerns about possible changes in the split of traffic on the A120, an assessment of the air quality impacts due to traffic was undertaken using the DMRB methodology (Document GF/34). This demonstrates that there are no air quality concerns with a revised traffic split of 63%/37% in terms of direction travelled. Even with an extreme assumption that all of the development traffic accessed the site from an easterly or westerly direction, predicted traffic related pollutant ground level concentrations would be very small, and it can be concluded that development traffic would not have a significant impact on air quality.

6.117 With regard to the FOE's concerns regarding $PM_{2.5}$ emissions, even if it were assumed that all particles emitted from the eRCF were comprised of the fine fraction ($PM_{2.5}$) the predicted maximum concentration of such material would be 0.14 µgms/m^3 which is significantly less than the target value of 25µgms/m^3. The predicted maximum concentrations of such material anywhere within the model domain are well below the target value and are effectively negligible (Document GF/6/D).

6.118 The deposition of pollutants to ground has been calculated to support the Human Health Risk Assessment (HHRA), which can be found in the Addendum ES (Document GF/12). That assessment indicates that the risks to human health are negligible since the predicted daily exposure for all contaminants of potential concern is less than the toxicological benchmark. SWFOE questioned the exclusion of certain pathways from the HHRA. Document GF/9/E indicates that additional modelling was undertaken to include the ingestion of homegrown pork, beef, and milk from homegrown cows. Again, the analysis demonstrated that the risks to human health would be negligible as the predicted daily exposure for all contaminants would be less than the relevant toxicological benchmark.

Noise, vibration, dust and odour

6.119 All waste recovery, recycling and treatment operations would be conducted within environmentally controlled buildings, sited below surrounding ground level. The buildings would be insulated with acoustic cladding to reduce noise. Vehicles would enter and leave the building through high speed action roller shutter doors. The buildings would be operated under negative pressure. The continuous 24 hour operation of the plant would ensure that the holding and storage times of unprocessed waste would be minimised. Bioaerosols and odours would be controlled contained, and managed, as would noise and dust.

6.120 No technical or other evidence has been provided which undermines the assessment of noise and vibration impacts, and the mitigation measures proposed for construction and operational noise, as set out in the ES at Chapter 12, the Addendum ES at Document GF/12, and the Written Representations in respect of Noise Impact Assessment by Daniel Atkinson at Document GF/2/D/1. The reception of waste would be limited to the operating hours of 07.00 to 18.30 on weekdays, and 07.00 to 13:00 on Saturdays, excluding Sundays and Bank Holidays. Processing would take place on a 24 hour, 7 days per week basis, but would be undertaken inside environmentally controlled buildings, partly constructed below surrounding ground level and 1.1km from the nearest settlement.

6.121 The summary in Document GF/2/D/1 indicates that there would be no significant impact from construction noise at neighbouring residential receptors. The three suggested methods of assessment given in BS 5228:2009 Part1: Noise, have been used to assess the impact of constructional noise. These all show that there would be no significant impact from construction noise at neighbouring residential receptors. The predicted construction noise level falls within the range 44 dB(A) to 52 dB(A), and thereby considerably below the threshold of 65db(A) set out for daytime noise construction in the code of practice with regard to the 5 dB(A) change method. Moreover, the assessment of construction noise has been undertaken on a worst case scenario. As the construction would involve excavations, it is highly likely that the change in landform would result in considerably greater attenuation of noise levels at receptors than those predicted. The concerns regarding vehicle reversing alarms and the sounding of vehicle horns could be adequately addressed by management controls, including for example broadband reversing alarms where the perceived impact of tonal reversing alarms does not arise.

6.122 With regard to operational noise, the summary indicates that noise levels would be very low both day and night. The assessment of the operational noise level at all receptor locations for both day and night time periods shows that noise levels of operations would be below the level of 'marginal significance' according to British Standard 4142. The physical noise levels predicted for daytime operations fall within the range of 22 to 34 dB(A), and for night time periods 22 to 30 dB(A). The subjective perception of noise levels in the range 25 to 35 dB(A) may be described as being the equivalent to a quiet bedroom or a still night in the countryside away from traffic. Such levels of noise would not have a material impact on the amenity of local residents.

6.123 With regard to the tranquillity mapping described by the CPRE, the site of the IWMF appears to be near the middle of the scale, suggesting that it is neither tranquil nor not tranquil (Document GF/35). The noise assessment has demonstrated that the current levels of peace and quiet would be maintained and proposals for lighting the new building would minimise light pollution into the night sky.

6.124 The change in noise levels attributable to increased road traffic flows resulting from the eRCF would be imperceptible, being considerably lower than 1 dB(A).

Issues 5 & 6: Conditions and Planning Obligations

6.125 The main contentious issue is the proposed condition requiring 80% of the feedstock for the MDIP to be sourced from the East of England region. It is disputed that this is either necessary or appropriate in terms of planning, policy or climate

change objectives. The MDIP would be the only one of its kind in the UK once Sittingbourne closes in 2011, and, regardless of the policy position in adjoining regions, it is undisputed that no other such facility will be available in the UK.

6.126 The MDIP could help to reduce the export of high grade waste paper; reduce the use of such waste paper for less sustainable paper products, and help avoid the greater use of virgin paper pulp. There is no sustainability or carbon emissions basis for suggesting that waste exports or pulp imports should be preferred to using the MDIP at the Site. In terms of climate change, it is agreed that the MDIP proposals would provide substantial CO_2 savings, based on an average 100km travel distance for the sourcing of waste paper rather than the sourcing area being restricted to the East of England Region. There are a large number of potential locations from which to source waste paper outside the East of England region which are comparable in distance from the application site as many of the settlements within the region. For example, within the East of England approximate distances are Bedford 103km; Norwich 118 km; Peterborough 138 km; Kings Lynn 150km; Hunstanton 171 km. To locations outside the region, approximate distances are Central London 90 km; Ashford 122km; Aylesbury 134km; Guildford 145km; and Northampton 155 km. This underlines the lack of rationale in selecting the region as the focus for the condition.

6.127 The only justification for sourcing waste from the East of England relates to the self-sufficiency argument. However, this is undermined by EEP Policy WM3, bearing in mind the uniqueness of the proposed plant. There is no justification for the proposed 80/20 split. It is unreasonable, and cannot be made reasonable by introducing a relaxation as suggested by ECC. Notwithstanding this, if an 80/20 split were considered to be necessary it would be preferable, more certain and proportionate to impose either a condition that the 80% portion should come from within a fixed distance (say 150km) or that it should be sourced from within the three neighbouring regions, namely the East, the South East and London. The additional ES information provided under Regulation 19 (Document CD/2/10) did not support an 80/20 criterion but stated (at paragraph 19.2.4) that the application was in conformity with EEP Policy WM3.

Issue 7: Other Matters

Listed buildings & the historic environment

6.128 The SoS is required, in the course of deciding whether to grant planning permission for development which affects a Listed Building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Listed Buildings Act 1990, Section 66(1)).

6.129 The application contemplates the refurbishment and re-use of Woodhouse Farm, the Bake House and the Water Pump, all of which are listed. All are in poor condition. Although specific schemes of work have not been advanced at this stage, ECC and the LCG do not dispute that their refurbishment and re-use would enhance their character. That conclusion is not undermined by criticism of the way the building has been allowed to deteriorate without beneficial use.

6.130 The poor state of the buildings is such that any sensible and meaningful repairs would require Listed Building Consent. The buildings require structural

repair. BDC has an opportunity to require repairs to be undertaken, but no proposals have been put forward by any party which would indicate what is possible or necessary to bring the buildings back into a suitable state of repair.

6.131 In relation to the setting of these Listed Buildings, it is noteworthy that WLP Policy W8A contemplates major waste development within their vicinity. WLP Schedule 1, WM1, requires that screening and landscaping of waste management development should have regard to preserving the setting of the listed buildings at Woodhouse Farm. Such measures are employed in the eRCF proposal. The only listed buildings referred to in the Schedule at WM1 are those at Woodhouse Farm. This is a realistic reflection of the potential impacts on Listed Buildings and their setting arising from development of the preferred site. The evidence has confirmed in particular that the proposed eRCF would have no impact on the setting of other Listed Buildings, including Allshot's and Sheepcotes Farms, because of the distance between them and the impact upon them of existing development. The proposed eRCF does not affect the setting of Listed Buildings farther afield.

6.132 Objectors do not suggest that there is any material difference between RCF and eRCF in terms of impact on the setting of these Listed Buildings, except for the impact of the stack. The car parking proposed need not harm their setting.

6.133 A degree of consensus emerged during the course of the inquiry concerning the quality and accuracy of the photographic evidence available to assist the decision-maker on this issue: a particular example being that at Document GF/5/B/16. The stack, whilst noticeable above the trees from within the vicinity of Woodhouse Farm, would amount to a modest part of the wider view.

6.134 Albeit limited weight attaches to draft PPS15, there was no dispute that the benefits of the proposed eRCF in terms of low carbon energy production and the extent to which the design has sought to contribute to the distinctive character of the area should weigh positively so far as impacts on listed buildings are concerned. The climate change issues found in draft PPS15 however are required to be considered by the PPS on Planning and Climate Change (Supplement to PPS1).

6.135 In summary, the proposed parking and CHP stack would not have a significant adverse impact on the setting of nearby Listed Buildings and the benefits of restoration would far outweigh the resulting impacts.

6.136 Turning to the setting of the Silver End Conservation Area, it is acknowledged that the edge of the Conservation Area, shown on the drawing at Document G/5/D/10, is well-screened by vegetation and trees. The proposed eRCF would preserve the character and appearance of that small part of the Conservation Area that flanks open countryside to the east.

The historic airfield

6.137 No aspect of the airfield use remains. All that remains are a number of items of infrastructure including some of the hard surfaced areas and some hangers. The airfield facilities themselves are not designated or protected in any way. The note at Document GF/32 indicates, the history of the airfield by B A Stait (1984) states that it has "no special claim to fame". There are no significant issues arising with regard to the heritage significance of the former airfield.

Minerals

6.138 The siting of the eRCF below existing ground level is essential to reduce its visual impact and there is an overriding need to extract the sand and gravel on the site in accordance with Essex Mineral Local Plan First Review Policy MLP4. The eRCF accords with Structure Plan Policy MIN4 because the mineral resource would not be sterilised.

Perception of risk to health

6.139 The Community Group simply highlights its concern on this matter. The potential additional pathways identified by FOE did not undermine the conclusions of the HHRA (Document GF/9/E). There was no challenge to the conclusion that the eRCF would pose negligible risk to human health.

Overall Conclusion

6.140 The proposals are needed now to address a significant current waste management capacity need and to achieve climate change reductions in a manner consistent with current policy. The fact that the proposals would not meet all the needs of Essex in terms of waste capacity does not allow the luxury of time to allow the gradual development of policy, as some such as the FOE would prefer to see. The eRCF would make a strategic contribution to sustainable development.

SECTION 7 - THE CASE FOR ESSEX COUNTY COUNCIL

7.1 The committee report to ECC's Development and Regulation Committee of 24 April 2009 (Document CD2/12A), is a reasoned document which explains the basis of the committee resolution to inform the SoS that the Council was minded to grant planning permission subject to a number of matters. ECC recognised that despite non-compliance with some policy, a whole raft of development plan and national policy guidance was supportive of the proposals. Moreover, when the physical impacts of the proposal were examined, it was judged that they had been minimised, and they would have no materially harmful effects. The officer's report acknowledged that it is necessary to facilitate the delivery of waste management sites in order to meet the demands of local and national planning policy, especially the objective of driving the management of waste up the waste hierarchy. This calls for a flexible approach to be adopted. The resolution to grant planning permission should carry significant weight in the planning balance.

7.2 The response of ECC's built environment department as part of the consultation process on the application on which the Local Councils Group (LCG) relies (Document LCG/8/2 Document JA1/4) was a preliminary response by the built environment department. The final response is one of "no objection", for reasons explained in the officer's report. The process shows careful and conscientious consideration of the proposals from the built environment team.

7.3 The statements of Lord Hanningfield, the Leader of the Council, to the effect that there would be no incinerator in Essex without a referendum are understood to

refer to mass burn incineration, which is not proposed here. In any event, this is not a planning matter. The proposal was and is to be assessed in accordance with planning policy.

Issues raised by the call-in and pre-inquiry note

7.4 ECC's case is set out in Document ECC/2 and the officer's report at Documents CD/12A and 12/B.

Issue (i) – the extent to which the proposal is in accord with the development plan

7.5 The proposal is seen as a departure from the development plan, firstly, because it extends beyond the boundaries of the site allocated for waste management in WLP Policy W8A and Schedule WM1, and secondly, because it is in conflict with countryside policies of the BDLPR, namely Policies RLP27 and 78. ECC considers that the MDIP would be an industrial activity in the countryside. However, these are not significant departures from the development plan.

7.6 A large part of the area where the buildings are proposed is allocated for waste management facilities. The proposed buildings would extend beyond the allocated site, albeit to a limited extent. However, the principle of developing a waste management facility at this location accessed off the A120 is supported by the development plan.

7.7 Moreover, the WLP allocation does not incorporate land for access and does not incorporate Woodhouse Farm. The former is a necessary part of any proposal and the proposals for the latter are clearly beneficial. The proposed lagoon is outside the allocated site area but is also present in the RCF proposal for which planning permission has been granted. The RCF permission establishes the principle of waste facilities extending beyond the allocated site. Seen in this context the departure is not a matter of significant weight. It is notable that the RCF facilities were supported at the strategic level by the regional planning body [Document CD3/2].

7.8 When considering the RCF proposal, it was reasoned that the allocation of 6ha was based on the area required for a typical mass burn incinerator facility, considered at that time to be about 2.5ha. At the time of the public inquiry into the WLP, the technologies of MBT and AD were not as fully developed as today, or the site area required to implement them appreciated. The current proposals seek to drive the treatment of waste further up the waste hierarchy than the RCF proposals by incorporating a CHP plant utilizing residues from the MBT to generate electricity for processing and treatment of waste, and to provide electricity to the National Grid. Although the building would be larger than recommended at the time of the WLP by the Inspector, the possibility of sinking a waste facility into the ground had not been envisaged. The guidance in the WLP on the size of buildings at the Rivenhall site is intended to address the visual impact of any such buildings. The substance of the policy has been met by the proposal to sink the buildings into the site, which would substantially reduce the bulk of the visible structures when viewed from outside the site. The principle of an incinerator and a chimney was not discounted by the Inspector at the WLP inquiry. (CD/9/1A page 109, para 37.19)

7.9 So far as the BDLPR countryside policies are concerned, the proposed MDIP would be located within the building envelope, a large part of which is within the

allocated waste site. It would not of itself add any impact to the proposal which would be different to the impacts that would arise from the 'core' waste facilities. Moreover, the distinction between waste development and industrial development is not clear cut. Waste management development could be seen as a subset of industrial activity, and again, this departure is not viewed as a matter of significant weight.

7.10 ECC's officers and committee did not reach a view as to whether the proposals comply with the development plan overall, as the proposal was considered to be a justifiable departure from certain discrete policies of the development plan. However, the officer's report identifies an extensive degree of policy compliance.

7.11 Need is a matter to be addressed under the development plan. WLP policy W8A indicates that waste management facilities will be permitted at the sites allocated in Schedule 1 subject to a number of criteria being met, including there being a need for the facility to manage waste arising in Essex and Southend. The consideration of need also arises in the guidance of PPS10. It is common ground between the main parties that the question of need should be determined in the context of the RSS figures for Essex's apportionment. This approach is required by PPS10, and reinforced by the June 2009 report of the Regional Planning Body (Document CD5/2). Those figures demonstrate a clear need for the facilities so far as they provide for MSW and/or C&I waste. The proposals comply with the RSS (policies WM1 and WM4) so far as the question of need is concerned. It is also agreed that the assessment of need should not be based upon the emerging revised Regional figures.

7.12 There is a need for the facilities even if the analysis is based upon the more conservative figures set out in the report on waste arisings and existing treatment capacity prepared by ERM in 2007 on behalf of the WPA (Document CD 10/3). Since the capacity analysis in the ERM reports are not reliable, and are likely to be an overestimate, the actual level of need would be greater.

7.13 Although no party supports the use of the consultation figures for waste arisings issued by the regional planning body (Document CD 5/8), both the applicants and ECC agree that even on the basis of these figures, a clear need for the facility exists.

7.14 The JMWMS (Document CD 8/2) is not technically a planning policy, but it interacts with planning policy because it represents the agreed strategy of the waste collection authority and the disposal authority on how the waste needs of Essex are to be met. The JMWMS clearly supports the development of MBT and AD facilities, and facilities to create SRF and to burn it to produce energy. It expressly endorses the proximity principle for the purposes of managing residual waste, which would include SRF. Moreover, it aims "to deliver an innovative and resource efficient waste management system for the county". The JMWMS is therefore supportive of the proposals. There is no proposal for a CHP in the county apart from the eRCF.

7.15 The OBCs 2008 and 2009 are not planning policy but an outline business case for the purposes of obtaining central government funding for the disposal of MSW. The RCF only dropped out of the OBC after 2008 because the county did not control the site, and therefore it could not be used as the reference case for the OBC. In addition, inclusion of a CHP plant in the OBC would exclude competition, because the

only site currently being put forward with a proposal for such a facility is the application site at Rivenhall. The significance of the OBC is that it evidences ECC's need and desire for an operator and site to handle its MSW contract. The RCF and the eRCF would be able to bid for that contract and the additional competition they would introduce would be welcomed by the WDA. It demonstrates that the eRCF could meet the county's need to dispose of its MSW, quite apart from its capacity to meet C&I waste arisings. The facilities contained in the OBC would not be adequate to dispose of all of the county's MSW arisings.

7.16 There is therefore a need for the type of facility proposed in order to achieve the national waste objectives set out in PPS10 paragraphs 1 and 3 and Policy MW1 of the RSS, and to achieve the recycling targets for Essex and the East of England, set out in Policy MW2 of the RSS. The proposed facility would help to deliver these objectives by moving waste up the hierarchy. It would recover recyclables, produce compost and reduce the need for disposal of residual material to landfill by using such material as a fuel for combustion in the CHP plant. It would also use imported solid recovered fuel (SRF) from other permitted waste management facilities in Essex, which might otherwise go to landfill. The scheme would generate electricity and provide a specialized facility for the recovery of recycled paper. In recovering paper pulp, the residues arising from the process would also be used as a fuel in the CHP, removing the need for offsite disposal and the potential for such material to be sent to landfill. The need for specialized waste facilities serving more than the local area is recognized in RSS policy MW3.

7.17 With regard to the need for the MDIP facility, the applicants have been open about the difficulties currently faced in sourcing sorted paper and card of the required quality from within the region. However, the provision of the facility is likely to stimulate greater recovery of paper waste from existing waste. It cannot be argued that there is no need for the MDIP given that it would be the only facility of its kind in the country and the material to feed it undoubtedly exists. RSS policy WM3 supports such specialist facilities and acknowledges that some compromise to the proximity principle may be appropriate in such cases. There is a balance to be struck between self-sufficiency and the proximity principle on the one hand, and the operator's need for commercial security on the other. This underlies ECC's structured approach to a condition relating to paper and card waste from outside the region (See paragraph 7.41 below).

7.18 In summary, most of the policies in the development plan are complied with, and to the extent they are not, the non-compliance is justified. In particular, the evidence demonstrates that there is a need for the facilities, and the application site is an appropriate location to accommodate that need.

Issue (ii): the quality of design and effect on the character of the area (including CD 8/9, Designing Waste Facilities (Defra, 2008)).

7.19 The proposal has been designed to reflect the site's history as an airfield. The 2 arched roof main buildings would reflect the design of a hangar, with green roofs to minimise their visual impact and provide potential habitat to replace some that would be lost as a result of the development. The proposal has been designed aesthetically rather than functionally. It reflects a previous use of the site to which the community attaches some significance and which is regarded as an acceptable and

proud part of its history. CABE supported the design of the RCF proposal which has much in common with the eRCF.

7.20 Other aspects of good design include:

(i) The sinking of the plant within the ground to reduce its visual impact. Such an approach would also reduce the visual impact of the access and enable the proposal to employ the minimal use of bunding and screen planting.
(ii) The positioning and reflective finish of the stack so as to mitigate its visual impact.
(iii) Minimal use of lighting on and around the plant.
(iv) Measures to reduce the operational impacts, such as negative pressure within the building.
(v) Extensive landscape mitigation and additional tree planting.
(vi) Co-location of the SRF producing facilities with the CHP and MDIP plant.
(vii)Taking the opportunity to refurbish and re-use the currently run down listed Woodhouse Farm.

7.21 The Defra guidance 'Designing Waste Facilities' (Document CD/8/9) acknowledges that getting waste facilities to "fit in" with the existing fabric is often inappropriate or impossible because of the scale of buildings involved. This should not to be read as advising against buildings that do not fit in with their context. Rather, it is an acknowledgement that it would be inappropriate and unrealistic to judge the success of a design by reference to whether it fits in or not. Design of waste facilities need to be judged flexibly, recognising the inevitable limitations which their function places upon their design. The guidance also supports the use of imaginative solutions to minimise the impact of stacks, and advises that careful consideration be given to whether 'hiding' a new building is really appropriate, pointing out that "new buildings should not automatically be seen as a negative".

7.22 The proposal does 'fit in' with its setting. The main buildings and the stack have been thoughtfully designed to respect their context and minimise their impact. The main point of concern of objectors is the stack. It is impossible to hide the stack, but this need not be seen as a negative feature in the landscape. In any event, if it is accepted that there is a need for the eRCF then the stack is inevitable. In this case its impact has been minimised.

7.23 It is considered that there is an opportunity to enhance the sense of arrival at the facility by requiring details of materials and colours to be controlled by condition and by providing public art on the front of the building. The impact of the proposal could be further controlled by means of a legal obligation to maintain planting and provide additional planting adjacent to the southern boundary of the site as soon as possible after the issue of any planning permission.

7.24 Overall the scheme is of good design and would not have an adverse effect on the character of the area.

Issue (iii): The extent to which the proposal is consistent with PPS7

7.25 The site is not located within an area of particularly sensitive countryside and there are commercial and mineral developments in operation nearby. The site itself has features of previously developed land, being the site of the former airfield. The

principle of a waste management facility in this location served from the A120 is enshrined in the allocation in the WLP. The WLP inspector did not rule out an incinerator on the site, indeed WLP policy W7G expressly contemplates that such development may be acceptable. The RCF permission is a weighty material consideration so far as the acceptability of the size of the development and its impacts on the countryside are concerned, as it represents a fall-back position.

7.26 One of the main concerns so far as countryside impact is concerned is the effect of the stack. Its impact has been minimised through its location and design. The proposed height is understood to be the minimum necessary to comply with relevant emissions standards and the width allows a number of chimneys to be accommodated within the single stack.

7.27 The relationship of the MDIP facility with countryside policy is addressed above at paragraph 7.9. Its co-location with waste facilities maximizes the efficient use of energy. Moreover, the access to the site directly off the A120 is a requirement of the WLP, with respect to preferred site WM1. Moreover, the facility would be located centrally in terms of its ability to serve Essex.

7.28 The development would provide some enhancement of the countryside. Although about 1.6ha of woodland would be lost, some subject to TPOs, the proposal includes planting of approximately 3.4ha of additional woodland and 2kms of new hedgerow. About 19.1ha of open habitats would be lost, although the proposal includes the long term management of both existing and new areas of habitat, including the green roofs of the proposed main buildings. The proposal also includes the management of existing and proposed water bodies to enhance bio-diversity, together with mitigation measures with respect to various species, some of which are protected.

7.29 There would be a loss of some 12ha of best and most versatile agricultural land. Although the loss of such land should be avoided, the emphasis in the last 5 years has moved to soil resource protection. It is noteworthy that Natural England did not object to the proposal. Soils stripped from agricultural areas would be used on screening bunds; on new areas of woodland and grassland; and to enhance the restoration of agricultural areas within the adjacent quarry.

7.30 The refurbishment of the derelict listed buildings at Woodhouse Farm, bringing them back into beneficial afteruse, would be an enhancement of the countryside. Overall, it is concluded that there would be no conflict with the objectives of PPS7.

Issue (iv): The extent to which the proposal is consistent with PPS10

7.31 The proposals comply with the objectives set out in paragraph 3 of PPS10. The development would support sustainable waste management by providing a facility which would enable waste to be treated at a higher level of the waste hierarchy. The AD would create compost suitable for use in agriculture together with biogas for use in electricity generation. Methane generated by landfilling would be reduced. The MRF would ensure the recovery of recyclables. The MBT would shred and dry waste to allow recovery of recyclables in the MRF and produce SRF for the CHP. In turn the CHP would reduce the need for landfilling of residuals from the MBT as well as providing a facility to use other SRF produced in Essex. The CHP would also deal with residues for the MDIP facility.

7.32 With regard to self sufficiency, the facility would meet a need in the region to deal with MSW and/or C&I waste. The facility would meet the third objective by pushing waste up the waste hierarchy and helping to achieve national and regional recycling targets.

7.33 The application was supported by an EIA which included an assessment of the impact on health and the environment. It was subject to consultation with the EA, Natural England and the Primary Care Trust, all of whom raised no objection to the proposal. Subject to appropriate conditions and obligations, the impacts of the development could be adequately controlled or mitigated, and the proposal would pose no significant risk to human health and the environment.

7.34 The application was subject to full consultation with the public and consultees. The proposed technologies are in line with those identified in the JMWMS, such that if planning permission were granted the facility could compete for MSW contracts within Essex. The development would maximize the efficient use of energy generated at the site, by co-locating the MDIP with the CHP plant and thereby providing potential to achieve wide environmental benefits. This has in part given weight to the justification for a departure from development plan policies in terms of the site's location in the countryside.

7.35 The integrated nature of the proposal minimises the need for the export of residuals, including on-site use of SRF and paper pulp residues in the CHP plant. The proposals also include the on-site collection, recirculation and treatment of water, minimising the need for fresh water and for off-site treatment of dirty water. The design and layout supports a sustainable form of waste management.

7.36 The eRCF can meet the need to treat both MSW and C&I waste arisings, consistently with PPS10 paragraph 8. The need case supporting the proposal does not rely on "spurious precision" in relation to estimated waste arisings, as deprecated by paragraph 10 of the PPS. The need case is clear and comfortably met. It is based on the RSS and advice from the regional planning body.

7.37 The WLP identifies much of the application site for waste management facilities, without any restriction being placed on the type of facility in question. To that extent the WLP is consistent with the role of development plans as described in paragraphs 17 to 19 of PPS10.

7.38 The proposals meet the guidance in paragraph 24 of PPS10 relating to development on unallocated sites and there is no evidence that the proposals would prejudice the movement of waste up the waste hierarchy. In this respect the proposal is in accord with paragraph 25 of the guidance.

7.39 Although the MDIP facility may not be justifiable on the basis of need to process sorted paper waste arising entirely within the region, the underlying aims of sustainable development are met by this unique facility.

7.40 The CHP in particular would assist in reducing the amount of residual waste that needs to be consigned to landfill, and would generate useful energy from waste, consistently with the aim of using resources prudently and using waste as a source of

energy. For all the above reasons, the proposal is consistent with the objectives of PPS10.

Issue (v): Conditions

7.41 The suggested conditions that should be applied in the event of planning permission being granted are set out at Document ECC/7. The only condition which is contentious between ECC and the applicants is the condition relating to the proportion of imports to feed the MDIP facility. This condition is necessary to ensure that the applicants have an incentive to seek feed stock from within the region, and that an initial inability to do so does not result in a total abandonment of the proximity and self sufficiency principles for the future.

Issue (vi): Section 106 Obligations

7.42 Planning permission should be subject to a 106 agreement in the form submitted. Attention is drawn to the proposal for a community liaison group.

Issue (vii): Listed Buildings (Woodhouse Farm)

7.43 Woodhouse Farm is listed as a building at risk. It is in urgent need of care yet there is no proposal or prospect of any care being given to it apart from the eRCF or RCF proposals. Witnesses for the Local Councils Group and the Community Group accept that in principle the proposed refurbishment and re-use of the Farmhouse is a benefit. The form, specification and merits of any listed building application would be assessed by Braintree DC as the local planning authority. The quality of the restoration is therefore in that objector's hands.

7.44 The main issue of concern to objectors appears to be the effect of the chimney on the setting of the listed buildings. However, the chimney would only be seen in certain views and would be some distance away from the building. Overall the setting of the listed building would not be adversely affected. Notwithstanding this, the much needed refurbishment of the fabric of the listed building that would be brought about by the proposals would outweigh any harm to its setting.

7.45 The choice is between further decay of the listed building, or restoring it and bringing it back into active and beneficial use, when it would be seen and enjoyed by members of the public visiting the site. The effect on the listed building is therefore positive overall.

7.46 Objectors also refer to the impact on the Silver End Conservation Area, but this is so far away from the site that it would not be harmed by the scheme.

Issue (viii): The fall-back position

7.47 The RCF is relevant in two main ways. Firstly, as a fall-back and, secondly, as a recent planning permission for similar development on an identical site. The fall-back position was not taken into account in ECC's consideration of the scheme. No assumptions were made as to whether the RCF would proceed if the eRCF were refused permission. However, the second of the two factors was taken into account by comparing the merits of the eRCF to those of the RCF.

7.48 The RCF would not be an unacceptably harmful development. It is supported by current planning policy and justified on its merits. Moreover, it is consistent with and would further the aims of the JMWMS. There is no reason to doubt the applicants' evidence that it would implement the RCF if the eRCF were refused permission, particularly given the position on need. The RCF therefore represents a fall-back position for the site against which the eRCF falls to be considered.

7.49 It is also relevant as a recent planning decision for similar, though not identical, development having similar environmental impacts, covering a similar site, and which had been assessed in the same policy framework as the eRCF. The RCF sets a benchmark against which the differences between the RCF and eRCF should be assessed. The RCF permission demonstrates the acceptance of the principle of built waste management facilities on a site extending beyond the boundaries of the WM1 allocation, which was supported at the regional level (Document CD 3/2). It also demonstrates an acceptance of the visual and other environmental impacts, including traffic impacts that would be introduced by the RCF. The real difference between the two proposals is the chimney stack.

7.50 Objectors have concerns about reliability of the applicants' 404 HGV movement cap, and have sought to cast doubt upon the relevance of the RCF as a fall-back so far as traffic movements are concerned. The applicants indicate that they could control HGVs entering the site by contractual means. The proposed condition limiting the site to 404 HGV movements is clear, precise and enforceable. It also provides an incentive to the applicants to ensure that vehicle movements are used efficiently. It supports sustainable transport objectives. In contrast, the RCF permission contains no condition expressly setting a movement cap. The 404 HGV movements cap would therefore be a benefit.

Issue (ix):Flexibility

7.51 Draft condition 19 would allow some control over the detailed configuration and layout of the plant.

SECTION 8 - THE CASE FOR THE LOCAL COUNCILS GROUP

The need for the facility

8.1 For policy reasons the applicants must demonstrate need. However, even if need is demonstrated, it has to be weighed against harm that may arise, for example, the harm that would be caused to the countryside. The application proposes an IWMF that is too large to be accommodated on the preferred site in the WLP, and its capacity would be far greater than the perceived need.

8.2 There are two/three aspects of need to examine, namely that relating to MSW/C&I waste and to the paper pulp facility. The position in respect of MSW is by and large clear. ECC as WDA are satisfied as is evidenced by their OBC 2009 (CD/8/6) that a single MBT plant at Basildon will give them sufficient capacity to deal with likely MSW arisings. There is therefore no "primary" need for this facility to deal with MSW. The only advantage of the application proposal is that it would create more competition and provide a "home" for SRF arising from Basildon. These aspects might perhaps be considered as secondary or ancillary need.

8.3 However, very little weight should be given to these two points. ECC can and will ensure competition by allowing all potential operators to have access to the Basildon site on equal terms. Furthermore ECC are comfortable in not determining at this point in time the destiny of the SRF arisings. Although, at present, there is no other facility in Essex for securing energy from the SRF, ECC's strategy is to deal with that in due course. The JMWMS (CD/8/2) indicates that ECC will deal with it as far as it would be consistent with the proximity principle. Rivenhall may not be the most suitable location having regard to such principle. Moreover, SRF is a valuable fuel and there can be no doubt that there is a developing market for it. Other sites such as Sandon may come forward.

8.4 As regards C&I waste, it is acknowledged that the needs argument of the applicants are more persuasive. However, even on the 2007 analysis, the case for an MBT dealing with C&I waste is marginal, under the "best case" scenario put forward in the 'Waste Arisings, Capacity and Future Requirements Study: Final Report (February 2007)' as described in Document LC/1/A. The best case scenario assumes 0% growth in waste production, C&I waste generation remaining at 2002/3 levels. In contrast the worst case scenario does not reflect the current downturn, nor does it consider the overall thrust of current waste management policy. It represents a maximum level of C&I waste growth, assuming the economy continues to grow and no waste reduction measures are implemented.

8.5 One MBT facility may be justified, but this could be met by the ECC resolution to grant permission for development at Stanway. The 2009 analysis, adjusted, shows the same result, namely that there is "headroom" or overcapacity taking both MSW and C&I waste into account.

8.6 The current adopted RSS policies are based on anticipated levels of waste arisings which are simply not occurring at present. The actual arisings are significantly lower than estimated and the emerging regional studies suggest quite strongly that general C&I waste arisings are unlikely to increase significantly above present volumes in future. This has prompted a review of policy which is continuing with discussions with the individual WPAs. ECC acknowledges the need to take account of the EERA findings, in progressing work on the Waste Core Strategy. Caution should therefore be applied when giving weight to any need based on clearly outdated estimates.

8.7 With regard to the proposed MDIP, it has been estimated by Urban Mines that 437,000 tonnes of paper and card are currently recovered in the East of England for recycling (P72-CD/10/1). This figure is not disputed. Moreover, at best, only about 36% of this recovered paper would be of a suitable quality for the MDIP proposed i.e. 157,000 tpa. This is significantly (203,000 tpa) less than the required input and the recovered paper is already being used in other processing facilities. Even this figure is too high and only around 18-20% of recovered paper is within the essential uncoated wood free grades. The applicants therefore have to rely on their view that additional resources can be obtained by improving the rate of recovery of paper consumed in the East of England, by obtaining paper passing through the region for export and from the supply to an existing MDIP at Sittingbourne which is to close, but which sources most of its material from outside the East of England. The applicants are being over optimistic in this regard.

8.8 It is not disputed that potentially higher volumes of paper consumed in the East of England could be recovered for recycling, although there is no certainty as to the additional percentage which could be recovered. This is recognised in the report entitled 'Market De-inked Pulp Facility - Pre Feasibility Study' (CD/10/2) published by The Waste and Resources Action Programme (WRAP) in January 2005. This notes that previous research has shown that in the office sector there is an irretrievable loss of around 15% of all office paper. Moreover, it would be uneconomic to collect a proportion of fibre, particularly from small businesses employing up to 10 people, and some fibre is already used by mills with integrated facilities. It must also be borne in mind that planned and incremental increases in the paper industry will result in competition for recovered paper feedstock.

8.9 Potential feedstock of waste paper can be "lost" because it may be too contaminated and because of difficulties in collection and sorting. These factors must be viewed against a background where only a small proportion (36%) of recovered paper is likely to be suitable for the proposed MDIP facility. The applicants' approach appears to be over ambitious.

8.10 Similarly, there is uncertainty as to the paper which can be "diverted" from export. In policy terms, it is questionable whether waste paper arisings which have occurred in other parts of the country should be attracted to Rivenhall having regard to the proximity principle and communities taking responsibility for their own waste.

8.11 With regard to the existing MDIP facility at Sittingbourne, it is recognised that this is scheduled to close in 2011. However, there is no firm evidence to show that its current input would be available to Rivenhall. Furthermore, there is likely to be a three year gap between Sittingbourne closing and Rivenhall becoming operational. The current supply would almost certainly be attracted to other markets. The demands of the tissue making market could well intervene. Feedstock would have to be obtained from the market and the applicants rely heavily upon their ability to offer competitive prices. Their assertion to be able to do so is largely unproven. A full viability appraisal has not been produced.

8.12 In conclusion, there is significant doubt as to whether there is a realistic or adequate supply available within the East of England and if this scheme were permitted it is likely that a significant proportion of the paper would be attracted from outside of the region which would not of itself be desirable. This is demonstrated in the applicants' wish to amend or remove the original terms of suggested Condition 27 (now renumbered as Condition 30).

8.13 There are no free standing MDIP facilities in the UK and for efficiency and market reasons, it is much more likely, as indicated in the WRAP study (Page 143 Document CD/10/2), that these would be built as part of integrated paper mills. Historically, MDIP mills have been difficult to justify on economic grounds. It is cheaper for a paper mill to utilise de-inked pulp that has been produced on site in an integrated process. This avoids additional processing costs, such as drying prior to transportation.

8.14 The overall need for the IWMF has not been fully demonstrated, and insofar that any need has been demonstrated, the weight to be applied is not significant.

Landscape/visual impact

8.15 The site lies within open countryside in an area that is regarded as tranquil. Even the applicants' landscape witness accepts a description of "relatively tranquil". Generally the site forms part of a high open plateau from where and across which there are distant views. It is not accepted that the remnants of the World War II airfield, existing industrial uses, and the existence of gravel workings has "despoiled" the area to the extent suggested by the applicants. Although there are a number of businesses in the locality, such as those using former agricultural buildings at Allshot's Farm, these businesses are well established and are generally contained within defensible curtilages and do not impose themselves on the countryside to an extent that they detract from its open and rural character .

8.16 The Landscape Character Assessment undertaken by Chris Blandford Associates (Doc GF/5/B/4) describes the area away from the main roads and the sand and gravel pit as tranquil. It also indicates that the character of the area has a moderate to high sensitivity to change. Clearly there is some doubt as to whether the site could accommodate the proposed development without significant consequence.

8.17 The proposed building and other structures would have a footprint of more than 6 ha, and the development would result in the remodelling of an even greater area together with the loss of 1.7 hectares of semi-mature woodland and other associated engineering works. It is a major development.

8.18 There is a well used network of footpaths in the vicinity of the application site and the development would have a significant impact in particular on users of footpaths 8 and 35. For example, walkers on footpath 8, apart from seeing the stack would also, when approaching the site from the south, be likely to see the rear of the AD tanks, particularly in winter. Moreover as walkers passed the listed buildings at Woodhouse Farm, the backdrop would be dominated by the stack. Although a hedge would partially screen views, walkers on footpath 35 would on occasions be able to see the front of the building, which would be some 200m wide and 20m in height.

8.19 The proposed development would have a detrimental impact on the setting of the listed buildings at Woodhouse Farm. The proposed stack would tower over Woodhouse Farm, and its impact would be even greater if the EA require an even taller stack. The development would be visible over the tops of existing trees. The development would also be visible from Silver End and detrimental to the setting of the village.

8.20 Away from the site, views of the building, much less the stack, would be possible, as demonstrated in the montages at locations 2 and 5, namely Sheepcotes Lane and Cuthedge Lane, in Document GF/5/B/11. It is clear from these montages that the building would be visible at both locations even at year 15. Moreover, these montages should be interpreted with caution, many, for example, do not show the correct proportions of the proposed stack. The stack is considerably wider than shown on many of the montages. Moreover, the rate of growth of new vegetation is unlikely to be as rapid as anticipated in the montages. For example, the applicants accept that to effectively replace some of the lost woodland would take around 40 years.

8.21 The montages at location 6, (Drwgs 8.7.11 and 12 in Doc GF/5/B/11), taken from Holfield Grange to the north of the A120, more than 3 kilometres from the site, show that the stack and the front of the building would be visible for significant distances. Drawing number GF/5/D/9 shows the stack potentially having an impact over a very large area.

8.22 Document CD/16/3 sets out the LCG's view that the applicants have not adopted a realistic approach to optimising the stack height. It is likely that a stack significantly taller than 35m in height would be required with consequential increased visual impact. The applicants should have engaged in a dialogue with the EA prior to the inquiry in order to establish the likely range of the required stack height. Planning permission should not be granted with such significant uncertainty remaining over the stack height. A further application to ECC for an increase stack height would not meet the requirements for certainty and good planning as set out in national guidance.

8.23 The Defra Guidance entitled 'Designing Waste Facilities – a guide to modern design in waste' (Document CD/8/9) recognises at page 70 that the siting of a large building in the countryside is generally contrary to the principles of planning set out in PPS1 and other national guidance. It also warns about seeking to hide buildings with unnatural earth bunds. More importantly it indicates that the scale of buildings can present considerable challenges which make "fitting in" with the existing fabric often inappropriate or impossible. This is one of those cases. The proposal is not compliant with PPS 7 or policy 78 of the BDLPR.

8.24 It has long been a major element of national policy that the countryside should be protected for its own sake. Moreover, generally speaking significant developments in the countryside fly in the face of policies on sustainability. Substantial weight should be given to the adverse impact this proposal would have on the countryside together, obviously, with the associated breaches of current countryside policy.

8.25 It is acknowledged that part of the application site is allocated for a waste management facility. However, in accepting this as a preferred site in a countryside location, the Inspector who held the Inquiry into the WLP, recommended that the site be reduced in size from that originally put forward and made a specific recommendation as to the size of any building associated with a waste management facility. Moreover, the eRCF differs from the RCF. The excavated hollow would be greater; the extent and height of the buildings would be greater (the building footprint would be 17% larger); the space for the buildings would be cut more squarely into the landscape and involve the loss of more woodland; and a substantial stack would be built. There is no specific support from EERA for either the stack or the paper pulp facility, nor any view given by CABE on this scheme.

8.26 The eRCF involves the loss of a greater depth of woodland than the RCF. Moreover, the stress caused to existing vegetation, by coppicing and the dewatering of soils that would occur, could result in further loss of vegetation.

8.27 In summary, the proposal would have a detrimental visual effect and be harmful to the landscape of the area.

Traffic Generation/Highways

8.28 The applicants maintain that HGV movement would be restricted to 404 per day, requiring an average payload of 23 tonnes per load. They acknowledge that this can only occur if virtually all of the waste comes via a waste transfer station (WTS) and has undergone some form of compaction. Such an approach does not stand up to scrutiny.

8.29 The applicants concede that the necessary network of WTSs does not presently exist. Moreover, the letters submitted from hauliers (GF/2/B Tab 15) do not convincingly demonstrate that average payloads of 23 tonnes can be achieved. Not all vehicles making deliveries to the site would be under the direct control of either the applicants or the waste operator. As the facility would operate in the open market, it would be unrealistic for the operator to insist that only full loads (23 tonnes) be delivered to the site. In addition there is no convincing evidence that a backload system could operate.

8.30 If the RCF was expected to generate 404 HGV movements in carrying 906,000 tpa, it is illogical to expect the eRCF to generate the same number of HGV movements when dealing with 40% more, namely 1,272,075 tpa. Either the traffic generated by the RCF was over estimated or that of the eRCF was under estimated. There can be no doubt that the eRCF would generate more traffic than the RCF. Using RCF payloads, the eRCF would be likely to generate about 548 HGV movements (Doc LC/3/A). If the EA's conversion factors for analysing waste and calculating volumes were used, the payloads of vehicles would be significantly lower than those used in the assessments by the applicants (Document LC/1/A). Traffic generation should be assessed on a realistic but worse case scenario. It is likely to be about 37% higher than that suggested by the applicants.

8.31 The Highways Agency only accepted that the eRCF would not have an adverse impact on the trunk road network on the basis that there would be no additional trips generated by the eRCF when compared with the RCF (Documents GF/10/B/6 and7). It is not known what approach the Highways Agency would have taken if it had been advised that the likely HGV movements generated would be greater than predicted.

8.32 The sole access for the proposal is onto the existing A120. This is a road which is currently operating well beyond its economic, design and practical capacity. This results in flow breakdown, reduced average speeds and extensive queuing, and there is no prospect of the A120 being improved in the near future. As a general guide, Annex D of TA46/97 indicates that the Congestion Reference Flow for a single 7.3m trunk road is 22,000 vehicles per day. The Annual Average Daily Traffic Flow for the A120 Coggeshall Road in 2008 was 24,144, demonstrating that the road has no spare capacity, resulting in congestion during the peak periods (Document LC/3/A).

8.33 An additional 404 HGV movements a day would result in a 30% increase of such traffic on the A120. If the likely traffic generation is greater, then the percentage increase would be even higher. This additional traffic would further reduce road safety. The applicants argue that the road would accommodate the additional traffic as the increase would be relatively small. Although the A120 may be able to accommodate the additional traffic it would be at the expense of further congestion. It cannot be right to simply allow more and more traffic onto this road.

8.34 When dealing with other development proposals in the area, ECC has sought to ensure that additional traffic is not generated on this road. Moreover there is no doubt that local residents are inconvenienced by existing traffic levels on the A120 (Document LC/4/A). There must be a point where potential traffic generation dictates that development should not be permitted. Policy T6 of the East of England Plan refers to the economic importance of the strategic road network to the region. The policy seeks to improve journey reliability by tackling congestion; to improve the safety and efficiency of the network; and to mitigate the environmental impacts of traffic. If permitted, the eRCF proposal would exacerbate the current difficulties.

8.35 The access road to the site crosses two country roads, Church Road and Ash Lane. Many HGVs merely slow at these junctions rather than stop. There have been accidents at these junctions in the past. The proposed trebling of HGV traffic on the access road would increase the risk of accidents at these junctions. The additional traffic passing through the Upper Blackwater Special Landscape Area would be detrimental to the rural character and peaceful nature of the countryside.

8.36 In relation to other highway matters, it must be recognised that the application site is remote. The proposal would not be readily accessed by public transport, walking and cycling. It would not reduce the need to travel by car. In this respect it is not PPG13 compliant. This, and the fact that the proposal does not comply with PPS7 should be given significant weight and militate against the scheme. The proposal is not a use which must occur in a countryside location. An urban area or fringe location with good access to the main road network would be more suitable and appropriate.

8.37 There is also concern that HGVs associated with the development would use local roads to the detriment of highway safety and the free flow of traffic on such routes. The waste operator would not have full control over all vehicles visiting the premises. They would not be contracted directly to the operator. This is evident from the Section 106 Agreement. Moreover this is a facility that would “welcome” substantial amounts of waste for recycling and treatment. Paper collectors, for example, may wish to visit at the conclusion of their rounds. The operator would have relatively little control of many vehicles visiting the site and would be able to do little more than politely request third parties to use the appropriate roads to access the site. Whilst the Section 106 Agreement provides for third party drivers to be disciplined, it would be difficult to enforce the routeing requirements particularly when the policing would have to be undertaken by the public who would not necessarily be aware that a particular vehicle should not be on a particular road.

Other Matters

Ecology

8.38 When considering the ecological impact of the proposal, the applicants’ evidence at Document GF/8/B/1 indicates that in five respects a negative impact would be certain. This leads to a requirement to judge the likely success of the mitigation measures. Paragraphs 5.4 and 5.5 of the ‘Guidelines for Ecological Impact Assessment in the United Kingdom’ (Document GF/8/B/2) refer to the potential uncertainty of mitigation measures and arguably give a warning that there can be no guarantee in respect of such matters. The applicants have given no categorical

assurances that the proposed mitigation/compensation measures would be totally effective. Local residents are concerned about the potential impact of the proposal as a result of factors such as light and noise pollution, and traffic generation, and the difficulty of ensuring that mitigation/compensation measures would be successful. There will always be some risks associated with such a large scale development. Moreover, the applicants accept that it would take many years to replace the lost woodland.

Noise

8.39 Noise levels in the locality are at present very low. The principle sources of noise appear to be agricultural vehicles, the quarry and distant traffic noise as indicated for example in paragraph 12.3.3 of the ES (Document CD2/7/12). It is especially quiet at night, when noise is almost undetectable. Any quarry noise is of a temporary nature and is necessitated by the fact that the development has to occur where the gravel exists. By contrast a countryside location for this development is not essential.

8.40 At certain times the overall noise climate is likely to increase. For example, Table 12-3 of Document CD2/7/12 indicates that a background noise survey gave readings of 29-43 dBL_{A90} during the day at Herons Farm. In contrast, paragraph 40 of Document GF/2/D/1 indicates that worst case noise levels at receptor locations during construction could be between 44dB(A) and 52db(A). There are also concerns about noise being contained within the building, given the size of the door openings and the number of vehicles visiting each day. The noise limits set out in the suggested planning conditions are indicative of the increase in noise levels that would be likely to occur.

Air quality

8.41 Whilst air quality may remain within legal limits it would nevertheless deteriorate. This is unwelcome. Moreover, in response to the formal consultation on the application the EA advised that the proposal in respect of the stack did not appear to represent Best Available Technology. Design changes have been undertaken since that time, but there is no observation from EA on this amended proposal. The EA points out that it is not enough to demonstrate that the EALs would not be breached. There is a statutory requirement to ensure that air quality is not significantly worsened. This raises concerns about the approach adopted by the applicants who have concentrated on compliance with EALs whilst not addressing the issue of actual air quality. EC Directive 2008/50/EC (due to be implemented in 2010) states that 'air quality status should be maintained where it is already good, or improved'. The eRCF would result in a deterioration in local air quality. The EA points out that NO_2 and CO_2 would increase, resulting in a significant worsening of air quality.

8.42 In Document CD/15/7, the EA indicates that the long term annual mean ($\mu g/m^3$) for arsenic set out in the latest version of H1, which is presently out for consultation, will be 0.003. This is half the figure used by the applicants, and if the revised figure were used the level of arsenic would be equalled or exceeded at no less than 23 locations. The peak concentration at Footpath 35 of 0.0068 would be 127% above the proposed new figure.

8.43 It is recognised that an EP application could not be made until there was a known identifiable operator. However, given the concerns of the local residents it is unfortunate that greater dialogue with the EA has not taken place in order to allay the fears of the local community. These fears cannot be totally dismissed. They are genuinely held and reasonably so. The extract from the Encyclopaedia of Planning Law at Document GF/3/B/3 indicates, in these circumstances, that some weight should be given to the fears and concerns of the local community. In this regard, it is unfortunate that the applicants have declined to monitor air quality at the boundaries of the site.

Lighting

8.44 The proposal is at a location where at present there is little or no artificial light at night. The scheme would change this situation. The extent of change is unknown as full details of the proposal and its lighting are unknown. However, the facility would operate 24 hours per day, 7 days a week. Staff would be present at all times. The applicants accept that in the morning, between 07:00 hours and daylight, and again in the early evening, between dusk and 18:30 hours, lighting would be essential. The facility would be open for business during these hours receiving waste etc. Outside of these hours, it is suggested that external lighting would only be used when necessary and that such lighting could be controlled by movement sensors. It is doubtful whether such an approach is realistic.

8.45 Light pollution is another factor whereby the development would have a detrimental impact on the area, the extent of which is unknown. As indicated at CD/16/4, the precise form of lighting that would be installed at the site is uncertain; the lighting schedule put forward by the applicants is subject to change. Notwithstanding this, it is essential that the proposal to provide full cut-off lighting at zero tilt, with an average lighting level of no more than 5 lux is adhered to. The site is known locally for its ‘dark skies’, affording views of the starry night sky. Such locations are becoming increasingly rare in Essex.

8.46 The proposed lighting schedule for Woodhouse Farm car park gives two options. The option with 8m lighting columns is the ‘least worse’ solution. It would provide more uniformity of light, and lower peak measurements than the option using lighting bollards which would give rise to substantial levels of sideways light emission. The whole site, including the Woodhouse Farm car park, should be designated as being an area classed as E1 under the Institute of Lighting Engineers Guidance Notes, namely the most sensitive, with the most control needed. The whole of the site is currently in a dark unlit location.

8.47 Proposed Design 2 for the lighting of the main plant area is preferable. This requires fewer lights and would result in a lower average and peak level of lighting. Notwithstanding this, there would be some reflection of light contributing to light pollution, and during misty conditions light would scatter within droplets of water in the air.

Overall conclusion on other matters

8.48 Although the effects on ecology, the consequences of noise, the reduction in air quality and the likely effect of lighting are all matters which may not individually justify refusing this application, they would cause harm to the area. When combined

with the landscape and visual impacts of the development, they would have a significant adverse impact on the character of the area and the living conditions of local residents.

The Fallback position

8.49 It is acknowledged that the existing planning permission for the RCF is a material consideration. However, little weight should be given to it, because there is no convincing evidence that it would be implemented. ECC resolved to approve the application in 2007 but it was not until 2009 that the requisite Section 106 Agreement was completed. Following the resolution to approve the scheme, the applicants wrote to ECC describing the RCF as an "indicative" scheme (Document LC/8/B/7).

8.50 At paragraph 4.4 of the Planning Application Support Statement for the present proposal (Document CD2/4), the applicants rightly advise that the RCF no longer represents the most suitable technology having regard to the JMWMS. The applicants accept that an amendment to the RCF planning permission would be likely before its implementation and point out that they have been waiting, along with others in the industry, for ECC to award a long term contract for MSW. Moreover, there is no evidence of detailed marketing or negotiations with a waste operator – the letters produced by the applicants show no more than a general intention. In addition there is no evidence demonstrating the viability of the RCF for C&I waste only.

8.51 To date, no real steps have been taken to implement the RCF permission. The applicants would not operate the RCF but would look for a partner waste organisation. It is not evident that a partner has yet been identified, let alone terms agreed with one.

Policy Implications

The Development Plan

8.52 The three most relevant components of the Development Plan (DP) are the Southend & Essex Waste Local Plan (WLP), the East of England Plan (EEP) and the Braintree and District local Plan Review (BDLPR). All contain relevant policies.

8.53 The WLP whilst adopted in 2001 is still broadly consistent with the subsequent PPS10. It adopts, for example, the waste hierarchy (see Policy W3A) and identifies certain sites for waste management facilities. The WLP proposes a site specific approach which is promoted in PPS10. The WLP should be given significant weight. The application site was specifically considered in the preparation of the WLP and whilst identified as a preferred site, limitations on both the size of the site and the extent of building coverage were imposed. This proposal is not restricted to the allocated site and the building footprint greatly exceeds that approved. Moreover, a paper pulp facility was not envisaged by the WLP at all. The proposal does not therefore accord with the WLP.

8.54 Notwithstanding this, the WLP was developed at time when WPAs were less confident about the community's ability to achieve and sustain high levels of recycling and composting. There have been considerable improvements in recycling and composting performance since then. The WLP was cautious in its approach,

seeking to ensure that it delivered a sufficient number of sites that could accommodate the larger waste management facilities that were expected. The eRCF proposals involve a building whose footprint alone exceeds the size of the allocated site.

8.55 There are also clear breaches of the BDLPR with regard to policies 27, 78 and 88. These relate to the location of employment, protection of the countryside, and loss of best and most versatile agricultural land. The application site includes over 11ha of Grade 3a agricultural land which would be lost as a consequence of the proposal. These breaches all militate against this proposal.

8.56 The EEP provides an overall vision and objectives largely in line with PPS10. Whilst it seeks to ensure timely provision of facilities required for recovery and disposal etc of waste, it requires, like PPS10, a balancing exercise to be undertaken in order to minimise for example the environmental impact of such facilities. On balance the application proposal does not comply with policy WM1.

8.57 Overall, the proposal is not in accordance with the development plan.

PPSs 7, 10 and PPG 13

8.58 For the reasons explained above, the proposal is not PPS7 or PPG13 compliant. With regard to PPS10, it is acknowledged that it provides some support for additional waste treatment facilities. However, this should not be at any cost. The proposal is not fully compliant with PPS10 because:-

(i) there is either no, or certainly not a full need for a facility of this scale;
(ii) it would not contribute positively to the character and quality of the area;
(iii) it would result in significant visual intrusion;
(iv) the traffic generated would be unacceptable especially on the A120;
(v) the scheme does not reflect the concerns or the interests of the local community;
(vi) it conflicts with other land use policies (e.g. policies that seek to protect agricultural land and policies aimed at the protection of the countryside).

PPS1 Design Paragraphs 33-39

8.59 The Defra Guidance on the design of waste facilities referred to above (Document CD/8/9) indicates that in most cases even medium sized waste facilities will not be effectively screened by landscaping and bunds. Because of its size, this proposal is not accepted or welcomed by the community. PPS1 emphasises the need for development to take the opportunities available for improving the character of the area and the way in which it functions. This proposal does not comply with PPS1.

8.60 The introduction of such a substantial building for industrial purposes; the additional HGV movements that would be generated; and the associated noise, light and general activity that would arise, would combine to create an unacceptable impact on the character of the area.

SECTION 9 - THE CASE FOR THE COMMUNITY GROUP

9.1 The Community Group (CG) has sought to compliment the evidence of the Local Councils Group. It is beyond the resources of local volunteers to challenge the complex and wide ranging evidence regarding the need for, or the viability of, a large scale waste management installation. The evidence of the CG therefore concentrated on the matters of concern to local people where it was considered feasible to bring forward additional material.

The impact on the character of the landscape and heritage features

9.2 The surroundings of the site are predominantly rural. The aerial photographs (such as that at Document CG/1/B Appendix C) and the range of ground level photographs (in particular those at Documents CG/2/B appendix 1 and CG/1/B appendix E) demonstrate its rural character. It is accepted that it is not "pristine" countryside. The remnants of the airfield, the commercial and industrial uses in the vicinity, the sand and gravel workings and the towers are evident. However, when examined at a sensible scale, and not focusing on the area restricted to the site of the 6ha building and its immediate vicinity, these proposals clearly relate to a site in open countryside, dominated by large arable fields with woodland. The existing commercial and industrial uses occupy a very small proportion of the surrounding area. They are contained within defensible curtilages and do not detract from the open and rural character of the area. The applicants' description of the site as being "despoiled" is incorrect.

9.3 The nearby mineral workings are temporary; they have 12 years to run and the restoration is on-going as the reserves are dug. The relatively transient impact of the workings ought not to be given great weight. Because of the topography – the site is on a boulder clay plateau – there are many opportunities for long distance views in the area. For example, the existing hanger on the application site can be seen from a kilometre away to the west, namely from the edge of Silver End. The surrounding area and Woodhouse Farm are accessed by local people via the public right of way network, which is well used.

9.4 The evidence of the CG and of third parties shows that this is valued countryside. It forms the rural setting of Kelvedon, Coggeshall, Silver End and Bradwell and is enjoyed by local residents. Some have houses looking over the site. Many more experience it using the local roads and footpaths. It has ecology of local interest. Its biodiversity is rich. The ecological survey shows four bat species, great crested newts and brown hares, resident on and around the site. Notwithstanding the mineral working and the industrial/commercial activity, the area is identified by the CPRE as relatively tranquil, including having dark night time skies (see Document CG/1/B Appendix D). A national tranquillity map has been published which identifies the relative level of tranquillity in each 500 metre square in England. A place where tranquillity is most likely to be felt is represented in green on the map. The application site lies within an area shown as green on the map. In a report published by CPRE and the former Countryside Agency in 1995, tranquil areas were defined as 'places which are sufficiently far away from the visual or noise intrusion of development or traffic to be considered unspoilt by urban influences'.

9.5 The most detailed published landscape assessment in the applicants' evidence is the extract from 'Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments' prepared by Chris Blandford Associates and published in 2006 (Document GF/5/B (4)). Under the heading "Silver End Farmland Plateau" it indicates that "away from the main roads, that lie adjacent to the character area, and the sand and gravel pit, most of the area is tranquil." It is recorded that: "Overall, this character area has moderate to high sensitivity to change." The CG has sought to illustrate the detail of the existing landscape in its evidence. The photographs in CG/2/B appendix 1 are particularly useful because they were taken in January with bare deciduous trees. The winter visibility of the existing hanger can be compared with the autumn position. The CG was concerned at the time of preparing its evidence (before the ECC Committee Meeting of 24th April 2009) that the applicants' original illustrations of existing trees in the application drawings were inaccurate and that accordingly assessments of visual impact were understated.

9.6 A description of the listed buildings in the vicinity of the site and of the conservation area of Silver End is given in Document CG/4/1. Silver End was a model village created by the Crittall Company. As an important collection of Modern Movement buildings the village was designated as a conservation area in 1983 with a later Article 4 Direction to safeguard the character and appearance of the area, and the individual houses. The village contains a number of listed buildings, notably three managers' houses, one of which is known as Wolverton. It is visible across open countryside to the north east, and the application site is visible from it. Whilst much of the rest of the perimeter of the village is wooded, the flat plateau landscape results in a strong visual connection between the village and the application site.

9.7 Woodhouse Farm was listed Grade II in 1988. The farmhouse is of early 17th century origin with later additions. It has an oak frame and queen post roof, with hand made clay tiles. The building is in a poor state of repair and has been on the Buildings at Risk register, with its condition described as 'very bad', since 1987. There can be difficulties associated with the issuing of a repair notice and it is not necessarily the best course of action to achieve the preservation of a building. However, the neglect of Woodhouse Farm has continued for too long, and urgent repairs are necessary. It should be feasible for some repair work to be undertaken without awaiting the commencement of full refurbishment of this group of buildings. There is no schedule of immediate remedial works to secure the survival of the group of buildings. A nearby pump is also listed and an ancillary building to the rear, described as a bake house, brewhouse and stable is also listed Grade II. Lack of maintenance has led to the total collapse of the roof. The setting of the historic farmsteads on and around the application site relies on their relationship to the landscape, which can be affected by the introduction of alien elements such as chimneys or flues.

9.8 The setting of the listed buildings and the conservation area should not be narrowly defined. Paragraph 4.14 of PPG15 states that 'Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. This should also, in the SoS's view, be a material consideration in the planning authority's handling of development proposals which are outside the conservation area, but would affect its setting, or views into or out of the area.'

9.9 The applicants propose that the Woodhouse Farm complex be converted to an education centre. However, no listed building application has been submitted, and so it is not clear whether such proposals would secure the retention and restoration of the historic features of the buildings. Floor loading and fire regulation requirements could make this an inappropriate use of the buildings. Car parking, access and landscaping works could damage the immediate setting of the historic buildings. Woodhouse Farm is close to the proposed waste management facility. At present the westerly view from the farmhouse is of trees and the end of the existing hangar. This would be replaced by the roofs of the proposed IWMF and the chimney towering above. From this distance there would be noise, disturbance and possibly odour. Overall the setting of the historic farmstead would be completely transformed.

9.10 The setting of Woodhouse Farm is of most concern, but given the open landscape and the length of views this permits, other settings would be affected. The Silver End Conservation Area and the listed building known as Wolverton have already been referred to. In addition, Allshot's Farm is about 400m from the application site and would therefore be close to the IWMF. The damage already caused to the setting of the listed building at Allshot's Farm by the existing scrapyard would be exacerbated by the close view of the proposed chimney.

9.11 Herons Farm is some 900 metres from the site of the proposed chimney. Although not a listed building, Herons Farm is one of the historic farmsteads on the plateau. Existing views of blocks of woodland from this farm would have the addition of the proposed chimney stack and the roofs of the IWMF. The impact at Haywards Farm, another historic farmstead, would be similar.

9.12 Porters Farm and Rooks Hall are listed buildings situated about 1.4km and 1.8km respectively to the southeast of the application site. Parkgate Farm lies about 1.1 km to the south of the application site. Although not a listed building, it is one of the historic farmstead groups in the area. The proposed chimney at the IWMF would be visible from all three locations.

9.13 Sheepcotes Farm is a listed building sited about 600m west of the proposed IWMF. At present there is tall conifer planting at the rear of the plot which screens the farm buildings from the airfield. However, if this were removed, the proposed chimney and roofs of the IWMF would be visible at a close distance. Goslings Farm is a listed building sited about 1km to the northwest of the proposed IWMF, with no intervening woodland.

9.14 PPG15 makes it clear that the whole historic environment, not just the immediate settings of historic buildings and conservation areas, needs appreciation and protection. The proposed stack and roofs of the IWMF would be visible from many historic buildings, sometimes in an overpowering way. This would compromise the relationship between the historic buildings and their landscape setting. The historic environment would be further eroded by the increased number of HGV movements that would take place on the A120.

Traffic

9.15 Mr. Nee's evidence, at Document CG /3/A, emphasises the concerns of local people with regard to the existing congested state of the highway network, in particular the A120 and A12 Trunk Roads. The A120, from which access is to be

taken, is operating above its design capacity and there are frequent queues. Examples of congestion incidents are given in the document. The section of this road between Braintree and Colchester is single carriageway and the Highways Agency announced in July 2009 that plans to re-route this section of the highway have been dropped. It is likely to be many years before this length of the A120 is significantly improved.

9.16 The junction of the A12 and A120 at Marks Tey is listed as having high levels of NO_x at present. It is one of 18 air quality hot spots in the county. The additional HGV movements associated with the IWMF would exacerbate this situation.

9.17 There is particular concern about the likelihood of HGV traffic using local roads to gain access to the site when the primary routes are heavily congested or blocked. HGV traffic would divert through local villages such as Kelvedon and Feering under such circumstances. The onus would be on local villagers to police the HGV movements. It is inevitable that some HGV drivers would attempt to access the site via local roads through villages. For example the natural route from Witham would be the roads towards Braintree via Cressing (B1018) or through Rivenhall and Silver End.

9.18 A number of road accidents have taken place in the vicinity of the proposed access as indicated in Document CG/3/A. One serious accident took place at the junction of the site access road and Church Lane; several others have taken place on a 650m length the A120, in the vicinity of the access road junction. The proposed development would result in a significant increase in the number of HGVs using the access road and the nearby sections of the A120.

9.19 The EEP encourages modes of transport other than by road for the transport of waste. The only type of access envisaged for the application proposal is by means of road transport.

The eRCF , the permitted RCF and the allocation for waste management, WM1, in The Waste Local Plan

9.20 The proposal is for a very large scale waste management facility in the countryside, involving the loss of 1.6 ha of woodland and the sinking of its 6ha built form, to its eaves, into the ground. It is accepted that the principle of a waste management facility, on a relatively modest 6 ha site, incorporating the existing hanger, was established in the WLP. It is also acknowledged that permission was granted by ECC for the RCF in February 2009. It is therefore important to consider the differences between the RCF and the eRCF.

9.21 The eRCF would have a larger footprint and there would be differences in the details of construction and amount of excavation necessary. However, the critical difference between the two schemes is the incorporation of the CHP plant in conjunction with the waste paper processing. This would necessitate a chimney stack of a diameter of 7m and at least 35m in height above existing ground level, with the possibility that the EA may require a larger chimney, as a result of the EP process, than is envisaged by the applicants.

9.22 On this point, the response of the EA to the consultation on the Addendum Environmental Statement is of concern. The EA appears to cast doubt on the

acceptability of a 35m stack in meeting the requirements to protect the local environment. The Agency refers to recent permits for plants with "significantly smaller" waste throughputs yet having stacks of 75m and 65m i.e. around double the height of the stack proposed by the applicants at Rivenhall Airfield. As indicated in Document CD/16/2, this raises a number of issues:

i. Why did the applicants not engage at an earlier stage with the EA, at least to establish the likely range of stack heights required?

ii. The reliability of the applicants' evidence in respect of emissions modelling and stack height. The EA letter casts doubt on whether a 35m stack would be Best Available Technology in respect of a number of issues. The ground level emissions take up too much headroom between ambient and total pollution levels. It is not enough to demonstrate that levels do not exceed legal maxima; air quality should be protected, especially where it is already good. Moreover, the EA questions the high exit flue temperature of 150 deg C and consider that this raises issues about the efficiency of the proposed re-use of heat within the plant. This could have an impact on the required stack height, as a more efficient use of heat would reduce exit temperature, and thereby reduce the buoyancy of the plume with a resulting need for a higher stack.

iii. How a recommendation to the SoS could encompass such a wide disparity between the applicants' position on stack height and that of the statutory regulatory body, the EA.

iv. The greater intrusion on the rural landscape that would be caused by a stack height of the order suggested by the EA, together with the likely increased visibility from conservation areas, listed buildings and footpaths.

v. The possibility that a grant of planning permission for the eRCF could not be implemented without a further application to ECC for a much higher chimney, when the issue of the chimney height had been a key planning issue at the Inquiry

The visual impact of the chimney on the landscape

9.23 The applicants accept that the chimney stack would be a noticeable addition to the landscape and that it would be visible from an extensive area, although they argue that the change to landscape character would be localized. However, there is a clear distinction between the solid chimney proposed and the lattice structure of the existing tower. Moreover, the chimney would draw the eye to the long, low building of the proposed IWMF, as can be seen in the montage at Document GF/5/D/2 – the view east from Sheepcotes Lane near Wolverton.

9.24 The applicants also accept that the perceived visual envelope of the development would extend over a considerable distance. However, the CG does not agree with the applicants' submission that "the chimney would be visible but only as a small element of the overall view and would not give rise to unacceptable levels of visual impact". The applicants' landscape witness focused on the impacts on a limited number of residential properties. The concerns of the CG are wider, going to the impact on all of those travelling across and enjoying the surrounding countryside.

9.25 The impact of the stack is illustrated in the visualisations at CG/2/B (appendix 1) and the related comments. Some of the applicants' montages, particularly the appearance of the proposed stack and the screening effect of trees, are not accurate representations of the proposal. The stack would be more prominent than shown, and many of the existing trees are shown unrealistically high. The differences between the applicants and the CG as to the extent of the visibility of the site have narrowed as evidence has been prepared. The CG's visualisations are similar to the applicants' montages at Document GF/5/D /6 (from Footpath 8 near Polish Camp) and Document GF /5/B/16 (from Woodhouse Farm Garden).

9.26 The chimney would be visually harmful because it would convey an emphatic large scale industrial image, which would be something alien to this rural location. However carefully the chimney was finished, whether mirrored or otherwise, it would be perceived in this way. It is very doubtful that the light cloud reflective effect in the applicants' montages would be seen for long periods. The applicants acknowledge that it would subject to both aspect and weather conditions. The damaging impact on the setting of the listed buildings and the Silver End Conservation Area follows from the above. The settings are part of the overall rural landscape and would be compromised by this very visible element of industrial character.

Other impacts

9.27 There is concern about the loss of woodland that would occur and the ecological impact of the development. The estimated period for the maturing of new habitats is very considerable. The applicants' ecological evidence indicates a 40 year medium term, and 80 years long term, requirement for woodland growth. In addition there is doubt as to the protection which could be given to the retained woodland on the edge of the excavation, given the depth and sheer sides of the proposed excavation.

9.28 The traffic/highway impact is put forward as being the same for the eRCF as the RCF, namely 202 HGVs in and 202 out, all via A120 existing access. A condition is proposed to ensure this. Both this safeguard and the HGV routeing scheme in the S106 agreement are essential.

9.29 The effect of artificial light at night is also of concern. Light pollution must be minimized, given the existing character of this area. There is a doubt as to how shift changes and other movement during the hours of darkness could take place without light escape.

9.30 The local community is worried about the impact of emissions and the potential risk to health. It is accepted that given the policy position in PPS 10 these matters would have to be further addressed by the EA in the consideration of the EP.

Matters raised by the Secretary of State and the Inspector

9.31 The above factors give rise to the following conclusions:

- The eRCF proposal is not in accord with the WLP 2001, because of its scale and the fact that it is much greater in extent than the Policy WM1 allocation. There is also conflict with the provisions of the EEP 2008, Section 8, and Policy ENV2 because

of the harm which would be caused by the visual intrusion of the chimney stack in the landscape. As a result of its height, this essential element of the eRCF would have an impact which could not be successfully mitigated.

- The incorporation of the chimney and its adverse impact on the landscape is in conflict with the aim of PPS 1, para.34 – it would be inappropriate in its context and harmful to the character and quality of the area.

- Similarly, the proposal is in conflict with Key Principles (iv) and (vi) of PPS 7 because of the harm that would be caused to the character of the countryside by the scale of the chimney.

- Visual intrusion is one of the locational factors in Annex E of PPS 10 – considerations include the setting of the proposed location.

- The setting of listed buildings in the vicinity of the site would be harmed by the visual intrusion of the chimney. The same harm would be caused to the setting of the Silver End Conservation Area on its eastern side. PPS 10, Annex E(e), PPG 15, and the LB&CA Act 1990 s.66 require that these factors are taken into account.

- The intrusive effect of the chimney would be readily perceived by users of the local footpath network. The degree of access to the countryside in this area afforded by the public rights of way is a significant factor in weighing the impact.

SECTION 10 - THE CASES FOR OTHER PARTIES AND INDIVIDUALS

1. Saffron Walden Friends of the Earth (SWFOE)

10.1 The case for SWFOE can be found at Documents OP/1 and OP/2.

10.2 The RCF proposal did not meet all the requirements of Defra's Waste Strategy for England (WSE) 2007, but the proposal was flexible and could have been modified. It was proportionate to the needs of Essex and provided an opportunity to deal with some C&I waste. WSE 2007 stipulates the need for flexibility. Waste disposal technology has changed and will change in the future. The achievement of recycling targets will change the amount and constitution of residual waste.

10.3 In contrast to the RCF, the proposed eRCF is excessive. It would provide facilities for the treatment of 850,000 tpa of waste, which is over 300,000 tonnes more than the total household waste arisings in Essex in 2007/8 (JMWMS Document CD/8/2). The proposal includes an incinerator.

10.4 Incinerators have to work within a tight schedule of feedstuff loads for safety and efficiency reasons. Changes in the MBT processes at Basildon or Rivenhall could result in lower tonnages of SRF than anticipated. There could also be pressure to retain plastic in the SRF to maintain bulk and calorific value. This would increase the fossil derived fuel carbon dioxide, with implications for carbon emission balances. The pressures for a regular supply of feedstock for the incinerator would have an impact on decisions taken with regard to the MBT processes. It is likely to encourage the production of more SRF at the eRCF, which could only be achieved by reducing

the amount of recycling and composting that would otherwise be achieved. As incinerators normally have a 25 year life span and require a constant supply of fuel, the whole system would be very inflexible. This is contrary to the flexibility required by WSE 2007.

10.5 The fundamental difference between the two schemes is the introduction of the paper pulping plant (MDIP) for the treatment of 360,000tpa of paper. Such plants are high users of electricity and heat. The MDIP operation would be an industrial process and could not be regarded as a recycling operation. As such it would be in contravention of the Braintree District Local Plan Review. Such a proposal should be subject to a separate application and EIA, which would consider the appropriateness of the choice of site for such a development, especially in relation to transport. It is likely that the waste paper would be sourced from many areas in the UK. Moreover, the A120 is already congested at Marks Tey. The manipulation of lorry loads to produce the same number of HGV movements for the eRCF as predicted for the RCF could prejudice the success of the MDIP. The complications of lorry journeys could make it more difficult for the facility to compete in the market.

10.6 The production requirements of the MDIP dictate the nature and size of the waste disposal facilities rather than the aims of the Essex Waste Strategy. Policy WM3 of the RSS requires local authorities to reduce the amount of imported waste. Imported waste should only be allowed if new specialist waste facilities requiring a wide catchment area would bring a clear benefit to the Region. As only 10% of paper waste is likely to be high grade, the provision of a specialist recycling facility is unlikely to provide a significant benefit to either Essex or the Region. Out of an intended intake of 360,000tpa high grade paper, only 29,000tpa would be from local waste supplies.

10.7 The MDIP would require water over and above that obtained from recycling and rainwater collection. Water abstraction could have an impact on the River Blackwater. A water study should have been undertaken to assess the impact of water requirements.

10.8 An incinerator or a CHP produces more CO_2 per tonne of waste than an AD. Notwithstanding this, the situation is complicated by the recommendation of the International Committee on Climate Change that biogenic CO_2 should not be taken into account as it has already been sequestered in the growing plant and the overall balance is neutral. This convention has been utilised in the WRATE assessment process. However, this is incorrect as biogenic CO_2 should be included in carbon emission calculations for a number of reasons; the most obvious being that it is still CO_2 contributing to climate change whereas sequestered carbon remains truly neutral. The WRATE model therefore dramatically underestimates greenhouse gas production. In the context of the waste hierarchy, the production of biogenic CO_2 is regarded as recovery and the energy created is part of the recycled energy target, which also qualifies as saving of the CO_2 created by the average national power station in producing the same amount of electricity. The CO_2 savings from surplus energy supplied to the national grid would depend upon the content of the SRF to be burnt. Predictions can only be approximate and the savings would probably be near to neutral, whereas with AD all electricity /heat generated would be recovery.

10.9 Under the 2006 Waste Framework Directive (WFD), which is currently applicable, and relevant case law, incineration is correctly classified as disposal rather than recovery, unless it can satisfy a number of tests. The combustion of the waste must fulfil a useful function as a means of generating energy and such combustion must replace a source of primary energy, which would otherwise have been used to fulfil that function. This is not the case in the eRCF proposal. Energy production would be a by-product of waste disposal.

10.10 The 2008 WFD will reclassify certain forms of incineration as recovery, rather than disposal, subject to the organic content of the waste and the efficiency of the incinerator (Extract from Consultation Document is included in Inquiry Document OP/2). The R1 test relates only to incineration facilities dedicated to the processing of MSW. It is doubtful whether the eRCF would meet these standards and the scheme would therefore be at the bottom of the waste hierarchy. Even if the incineration element of the eRCF could be classified as recovery, it would reduce the level of recycling and therefore run counter to the objectives of the waste hierarchy. Research by the FOE shows that, in general, incineration and recycling are competitive rather than complementary – they compete for the same waste streams. The incineration element would therefore reduce pressure for recycling, yet in Essex there is a huge disparity between the best and worst performing districts in terms of recycling.

10.11 Defra's WSE 2007 encourages energy from waste (EfW) as part of its energy balance, and advocates anaerobic digestion (AD) for this purpose. Nowhere is incineration specifically encouraged in WSE 2007. The eRCF would reduce the level of AD that would otherwise be undertaken, by introducing incineration.

10.12 The proposal runs directly counter to the County's JMWMS. Incineration is not envisaged in the JMWMS, whereas AD is repeatedly advocated as ECC's preferred option. Incineration could be harmful to public health. The recent Health Protection Agency report on 'The Impact on Health of Emissions to Air from Municipal Waste Incinerators' admits that 'although no absolute assurance of a zero effect on public health can be provided the additional burden on the health of the local population is likely to be very small'. The most difficult problem to assess is that of deposition of long lasting dioxins and furans into soil and onto crops and grass and thence into the food chain. In the early 1990s inadequately monitored mass burn incinerators created a serious problem by contaminating fish, milk, chicken and eggs, leading to a situation in some areas where babies were absorbing more than the safe level from mothers' milk. These incinerators have now been closed. Future levels depend entirely on operators maintaining good practices and carrying out regular monitoring, together with regular testing of background levels in the food chain by the public agencies responsible.

10.13 Dioxins cannot easily be continuously monitored. Escapes could occur between monitoring sessions. In relation to air quality, some continuous background modelling would provide a baseline. NO_X assessments should have been included in the air quality assessment as it can have effects on vegetation and could therefore be an issue with County Wildlife Sites and agricultural land being at risk. No predictions have been provided for $PM_{2.5}$. A limit value of 25µgms/m^3 for $PM_{2.5}$ is likely to be introduced into the EU Air Quality Directive before 2015. Traffic emissions should also have been added to the predictions. Air standards legislation should have been the definitive requirement, rather than DMRB guidance.

10.14 The predicted levels of arsenic cannot be ignored and the matter cannot be left to a planning condition limiting emission levels to below the EAL. The modelling undertaken by the applicants may have been conservative, but arsenic is a carcinogen and so could be regarded as having no safe threshold limit.

10.15 When other satisfactory and safe methods of disposal are available, such as AD, then it is wrong to choose any alternative methods that pose serious health risks unless rigorously controlled. It is also noteworthy that SRFs can contain plastics and incineration of such material cannot be considered a recovery.

2. Colchester and North East Essex Friends of the Earth (CNEEFOE)

10.16 The case for CNEEFOE can be found at Documents OP/6.

10.17 There is a long history of opposition to incineration in Essex. There is no need for such major facilities at Rivenhall. An incinerator for SRF would destroy valuable materials, increase pollution, and emit gases that would contribute to climate change. High recycling rates together with local composting would be less costly than a strategy of large centralised facilities involving incineration and long term contracts. Moreover, there is ample landfill capacity in the County.

10.18 Recycling is better than incineration and landfilling from a climate change point of view. Burning SRF is particularly polluting. A number of incinerator projects have proved to be costly disasters.

10.19 The site and access routes are not suitable to accommodate such a large industrial plant with the associated hundreds of additional HGV movements that it would generate. The proposed eRCF on the site would be harmful to wildlife, the rural landscape and the historic heritage of the area.

10.20 The paper pulping plant would be better sited adjacent to a plant making recycled paper, or at least near the coast or adjacent to a rail line where alternative means of transport could be employed.

10.21 AD plants should be sited near sources of food and agricultural waste. They should be local facilities rather than centralised plants. It would be far more efficient to use the biogas from an AD plant to heat homes, rather than to produce electricity.

10.22 Recyclables should be collected separately and sorted at the kerbside for local baling, rather than waste being mixed and having to be sent to an MRF. Materials become contaminated and degraded when mixed, and a centralised MRF would use far more energy than a system where separated waste is collected at the kerbside. Clean separately collected recyclables command higher prices than materials recovered by means of an MRF.

10.23 The proposal would inhibit the rapidly increasing recycling and composting rates that are taking place in Essex. Colchester has the highest usage of home compost bins in the UK. The amount of municipal waste collected by Councils in England has been decreasing over the last few years.

10.24 There is a need for flexibility in dealing with waste over the next decade. No long term contracts should be entered into. As indicated in Document OP/6 Appendix 7, such contracts would limit the ability to increase recycling and prevent new technologies being adopted.

10.25 The appeal proposal would shred and burn a valuable resource, thereby causing environmental damage and restricting opportunities to reduce the production of gases which contribute to climate change.

3. Mr Stewart Davis – Kelvedon Resident

10.26 Mr Davis' submission can be found at Document OP/3. He points out that the A120/A12 route is already congested, and even if HGVs visiting the site were scheduled to avoid peak times, the periods of congestion during the day would be expanded.

10.27 Congestion would motivate drivers to seek other routes, which are unsuitable for HGV traffic. It would be impractical to enforce a contracted route, as this would require monitoring all vehicle trips.

10.28 The high quality pulp produced at the MDIP would have to be delivered in an uncontaminated state to paper mills. This would require the use of clean vehicles. Waste delivery vehicles may not be suitable, thereby resulting in more journeys than currently predicted by the applicants.

10.29 The need for the MDIP is questionable. A number of paper mills in the UK have closed recently because of over capacity in the market. Paper consumption is going down. The de-inking and remaking of paper uses more energy than making paper from new pulp obtained from sustainable forests.

10.30 The applicants have referred to obtaining waste from outside Essex. Where would it stop? Waste could be imported from anywhere with the result that roads would become more and more congested.

4. Mrs Eleanor Davis – Kelvedon Resident

10.31 Mrs Davis' submission can be found at Document OP/4. She considers that the road network is inadequate to serve the development. Roads in the area are busy and frequently congested. Either the road network should be improved, or preferably waste should be delivered to such a site by rail.

10.32 There is no overriding need for an incinerator. Any need would decline over the next few years as efforts to reduce our carbon footprint result in reduced waste arisings and increased recycling.

10.33 The eRCF would be a blot on the landscape and would create undesirable emissions. The incinerator would attract waste from a wide area.

5. Mr Robert Gordon – Silver End Resident

10.34 Mr Gordon lives in Silver End, 1km from the site of the proposed eRCF. He is concerned that noise and odour generated by the development would have a harmful

effect on the local population and on wildlife. The site is unique. It is a plateau inhabited by hares, skylarks and many other species. All would be at risk. A screening hedge would be of little use.

10.35 The impact of 400 HGV movements per day would be severe. Local roads would be affected, as the routing proposals would be subject to abuse.

10.36 The owner of the land has not recognised the significance of the site as an airfield used by the USAF and RAF.

6. Mrs Kate Ashton – Rivenhall Resident

10.37 Mrs Ashton's evidence, and appendices, can be found at Document OP/5.

10.38 The roads between Kelvedon, Rivenhall and Silver End are not suitable to accommodate an increase in HGV traffic. They are winding and narrow. In places they are not wide enough to allow HGVs to pass one another. HGVs using the local road network would harm the character of the countryside and be extremely detrimental to highway safety. There can be no guarantee that all HGVs associated with the proposed development would follow the defined access route.

10.39 In addition, there is potential for further mineral development in the area. If this and the eRCF development were to take place, an industrial landscape would be created and the character of the countryside would be destroyed. Such a combination of development would result in more than 1000 additional HGV movements on the A120. This would cause such serious congestion that lorries would be forced to use the local road network.

10.40 It was originally proposed that a waste treatment plant at Rivenhall Airfield would deal with local waste. However, the proposal has grown to an extent that it would be a major industrial development that would deal with waste from as far afield as the East Midlands. The complex would so large that it would ruin the rural character of the area. The proposed chimney stack would be seen for miles.

10.41 There can be no guarantee that emissions would not cause harm to human health or wildlife. The development has the potential to produce odours and bio-aerosols. Mrs Ashton's husband and son both suffer from asthma, and this would undoubtedly be exacerbated by any emissions.

10.42 Waste recycling figures in Braintree District Council are well ahead of targets. Waste management in the future should be undertaken within each district, and not on a vast centralised basis which increases the need for transport and environmental impacts.

6. Mr Brian Saville

10.43 Mr Saville lives at Herons Farm, which overlooks the application site. His family have lived there for generations. He regularly uses Church Road and is concerned about road safety at the access road junctions with Church Road and Ash Lane. On three occasions last year, vehicles came out of the Quarry access road immediately in front of his car, whilst he was travelling along Church Road. The access road is used as a 'rat run' when congestion occurs on the A120. There have

been two major accidents in the past, one at the Church Road junction and the other at the Ash Lane junction.

10.44 At present the access road carries about 200 to 300 vehicles per day. Adding a further 400 HGV movements would result in extremely dangerous conditions for road users. Many HGVs slow down, but do not stop at the junction. The proposal to trim existing hedges and replace signs would have little impact on road safety.

7. Ms Felicity Mawson - Witham Resident

10.45 Ms Mawson's statement can be found at Document OP/7. She is concerned that the future generation would have to suffer the 'blot on the landscape' that would be created by the development of the eRCF. The countryside would be despoiled.

10.46 HGVs would be likely to use the local road network, as the A12 road is already busy and congested. This would cause additional noise, vibration and reduced air quality from exhaust fumes. Local people's health and quality of life would be compromised.

10.47 Ms Mawson is also concerned about the consequences of potential accidents and the release of pollutants at the plant. Such a large plant would concentrate the various risks in one place.

SECTION 11 - WRITTEN REPRESENTATIONS

11.1 The application has been subject to three consultation periods; the first following the submission of the original application and ES, the second following the submission of the Regulation 19 additional information, and the third following the submission of the addendum to the ES. The responses to the first two consultation periods are summarised in the report to the ECC Development and Regulation Committee (Section 6 of Document CD/2/12A). Amongst other things these indicate that the East of England Development Agency broadly supports the application; the Highways Agency was satisfied that the proposal would not have an adverse effect on the A120 Trunk road, and the Environment Agency (EA) indicated that it had no objection subject to a number of comments. The EA pointed out that various mitigation measures should be undertaken and that an Environmental Permit would have to be obtained which would require the applicants to demonstrate that a high level of protection of the environment would be achieved. The Primary Care trust also had no objection, subject to certain mitigation measures being implemented in relation to air quality and road safety.

11.2 The Highway Authority did not object to the proposals subject to a number of highway improvements being secured by means of condition or legal agreement. Natural England (NE) also had no objection, provided proposed mitigation measures are undertaken. NE considered that the proposed ecological management plan would have a long term positive impact on ecological assets. However, Essex Wildlife Trust objected to the proposals on a number of grounds, including the proposed loss of 50m of species rich hedgerow, the loss of 1.6ha of woodland and resulting disturbance to the remaining area, and the loss of 19.1ha of open habitats. The Ramblers' Association also objected to the scheme pointing out that the airfield is on an elevated site which provides commanding views in all directions. The Association considers that the site has many of the characteristics of a greenfield site. It argues

that noise, dust, and traffic would be a nuisance for nearby residents and users of the local rights of way network. Written objections were also made by Braintree DC, a number of Parish Councils and the CPRE Essex. The objections from these bodies were expanded upon and explained by witnesses at the inquiry and are set out in preceding sections of this report.

11.3 In addition to the consultation responses, ECC received representations from 820 individuals and organisations, the vast majority objecting to the proposals. These can be found at Document 3. A summary of the representations is set out in Appendix F of Document CD/2/12/A. Amongst other things, objectors submit that there is no overriding need for the development and that such development is contrary to prevailing planning policy, in terms of national guidance and the development plan. Moreover, it is argued that the site and proposed development are far larger than that set out in the WLP and are excessive in terms of the needs of North Essex. The proposal is in breach of the proximity principle and would result in inappropriate industrial development in the countryside. There is concern that waste would be imported from outside Essex. Objectors argue that such development should be located near the coast, away from human habitation, and close to infrastructure that would provide appropriate access.

11.4 It is also argued that development would blight the countryside. The scheme would be readily visible in the landscape and the proposed chimney stack would be very prominent and visible for miles. The proposed height of the stack is uncertain. The photomontages presented by the applicants are inaccurate. Moreover, they show trees in leaf and therefore suggest greater screening than would be available in winter. The long term viability of the remaining trees is in doubt because of the reduction in water that would be available. New planting would not be effective as a screen for 10 to 15 years. There would be a loss of good quality agricultural land.

11.5 There is also concern that the development would result in a loss of habitats, grassland and woodland. It would be detrimental to protected species. The proposal would be harmful to the Upper Blackwater Special Landscape Area (SLA) as the access road passes through the SLA.

11.6 Objectors submit that the development would discourage recycling. It is argued that waste management should be undertaken at a District level and that facilities such as the CHP cannot run economically without a guaranteed supply of combustible material.

11.7 In relation to traffic generation, it is submitted that the number of vehicles anticipated by the applicants is not realistic and the road network would not be able to cope with the increased traffic. The A12 and A120 are already congested at peak periods and when accidents occur. At such times, HGVs associated with the site would use the local road network. There has been no attempt to make use of other forms of transport. Moreover, the additional traffic would contravene Government guidelines on CO_2 emissions and carbon footprints.

11.8 Objectors consider that the proposals would cause problems of light pollution, litter, odour, dust, noise and disturbance, and would encourage vermin. This would be harmful to the living conditions of local residents.

11.9 There is also concern about the impact of emissions from the eRCF on human health, wildlife and the growing of crops. The proposal could result in contamination of ground and surface water. Moreover, there is a risk of accidents which could pose a hazard.

11.10 There would be a detrimental impact on listed buildings in the area. The setting of Woodhouse Farm would be affected by the proposed nearby chimney and the car park.

11.11 In addition to the representations submitted to ECC, consultation responses were sent the Planning Inspectorate on the Addendum to the ES. Moreover, more than 80 further written representations were submitted which can be found at Documents CD/15/1 to 7. Again, the vast majority of these representations are objections to the proposal. The representations reflect many of the arguments set out in the representations sent to ECC and point out that only one letter of support for the proposal was submitted. It is argued that the proposals are in conflict with national, regional and local planning policies and do not represent the Best Practical Environmental Option. The proposal is for a large scale industrial development in the countryside. It would be poorly located and harmful to the quiet rural character of the area and to wildlife and protected species. It would be inadequately screened and readily visible in the landscape.

11.12 The chimney stack would be a prominent and intrusive feature, which could not be disguised or blended into the colour of the sky. Moreover, there is no certainty that a 35m high chimney would be adequate. The planning application and Environmental Permit application should have been progressed together. Government guidance encourages certainty in the planning system and suggests that applicants should work with pollution control authorities. If it were eventually decided by the EA that a 40m or even 45m high stack was necessary, a further planning application would be required.

11.13 Objectors submit that the eRCF would cause light pollution in an area that is light sensitive. Furthermore it would create noise and disturbance, dust and odour, and attract vermin and seagulls. It would be harmful to the living conditions of local residents. It would result in the loss of Grade 3a agricultural land. Moreover, the development conflicts with the proximity principle and is entirely reliant on road transport. The anticipated HGV traffic figures are unreliable. The additional HGV traffic would exacerbate congestion and create safety problems, particularly on local roads and at the junctions of the access road with Church Road and Ash Lane. Congestion on the A120 is already a problem. On many days traffic travelling in an easterly direction is almost stationary from Marks Tey to past Coggeshall, and in a westerly direction from the Quarry access road to Braintree roundabout.

11.14 Again, it is argued that the proposal would create a risk to human health and the environment, and that the potential for the development to emit harmful gases and contaminate ground water has not been adequately assessed. The emissions of arsenic and lead would be close to legal limits. Lead levels could rise to more than 5 times the background levels. Furthermore, there has been a failure to predict or monitor NO_X changes, which can have a significant impact on vegetation. In addition, there is uncertainty over the wind direction data used by the applicants. The need for the development has not been justified and the development would discourage recycling. There is a need for flexibility in waste management in future

years. The eRCF proposal does not permit such flexibility. Moreover, it would result in waste being imported into Essex.

11.15 It is also submitted that the development would harm the setting of many listed buildings and the conservation area at Silver End. There is concern that the proposal would be detrimental to the historic value of the airfield.

11.16 Brooks Newmark MP, the local Member of Parliament, indicates that he is opposed to the construction of an incinerator at Rivenhall. He shares many of the concerns of local residents and considers that such development is neither in keeping with the needs of the local community nor the countryside.

11.17 Natural England (NE) confirms that it raised no objection to the application when initially consulted. It accepts the view expressed in the Addendum ES that the site comprises a range of habitats and that these suggest that the UK Biodiversity Action Plan Priority Habitat, Open Habitat Mosaics on Previously Developed Land is applicable. However, it appears to lack many of the key physical features commonly regarded as increasing biodiversity, and any areas of marginal or pioneer habitat are small and widely dispersed. NE agrees that ECC were justified in assigning only a limited level of significance to the site's Habitats Action Plan status under its PPS9 duties.

11.18 Jeremy Elden, Director of Glendale Power Ltd, indicates that the company has recently announced plans for a 30,000 tpa Anaerobic Digestion (AD) power station and associated CHP system in Halstead, some 8 miles (13 kms) from the application site (Document CD/15/5/B). The plant is intended to process segregated organic waste. An AD plant smaller than that proposed at Rivenhall has been chosen for a number of reasons. Firstly, it would meet a local need rather than a larger or regional need. Secondly, it would be linked to a district heating scheme. This is only economical for small generators, as the quantity of heat involved in larger generators would be too much to meet the requirements of users within a radius of about 500 metres, which is a feasible distance to carry heat by means of hot water. Thirdly, larger plants inevitably involve greater transport distances for materials which offsets any economies of scale.

11.19 Mr Elden points out that in Essex there two main sources of organic waste suitable for feedstock for an AD plant of the type contemplated by Glendale Power, namely municipal and C&I waste. The Essex Waste Partnership of local authorities together with Colchester BC anticipates a total of 88,000tpa of municipal demand. C&I quantities are harder to assess. One estimate based on population and total UK volumes, suggests a C&I feedstock availability in Essex of around 105,000 tpa. An alternative estimate based on the 2008 Regional Biowastes Study produced by Eunomia for the East of England Regional Assembly gives an estimate of 84,000 tpa C&I feedstocks within the county. Total feedstocks in the County are therefore around 170,000tpa of which about 30-40,000tpa are currently treated. Based on a transport cost versus plant size analysis, Glendale Power considers that the most economic size of AD plant has a capacity in the range of 30-45,000 tpa. In view of Glendale Power's proposal, the applicants are incorrect to suggest few, if any alternative waste processing facilities are likely to be developed in Essex apart from one or more major facilities at Basildon, Rivenhall or Stanway.

11.20 In a letter dated 13 October 2009 (CD/15/7), the Environment Agency (EA) comments on the Addendum to the ES, pointing out that it is concerned that "the proposed stack height of 35m may not provide the best level of protection for the local environment, in particular for short term means of SO_2 and NO_2 and long term means for several of the trace elements which have very low Environmental Assessment Levels (EALs)". The EA draws attention to a number of EfW plants for which it has recently granted permits and which have stack heights considerably higher than that proposed for the application site, together with significantly smaller annual throughputs. The Agency provides further comments on the Addendum, notably pointing out that it is not acceptable for the applicants to simply state that EALs are predicted not to be breached. Best Available Technique (BAT) requires minimisation of any impact.

11.21 However, in a subsequent letter (Document CD/16/1) the EA seeks to highlight that it is not objecting to the eRCF, but wishes to make clear that a future environmental permit may contradict the requirements of a planning permission. If the stack height was restricted to 35 metres by a planning permission, there may be options other than an increased height of stack available to the applicants to ensure that the best level of protection is afforded to the local environment, such as more stringent emission limits, should this prove necessary. However, until a detailed assessment is conducted during the determination of a permit application, there can be no guarantee that the stack height proposed would represent the Best Available Techniques (BAT) to minimise the impact of the installation on the environment. The EA points out that the detailed comments made in the appendix of the letter dated 13 October 2009 were intended to identify specific areas where further work would be required to adequately demonstrate that BAT was being used to minimise the environmental impact.

11.22 Although reference was made in the letter dated 13 October to two other EfW plants with taller stacks, the EA points out that each case must be taken on its own merits and the necessary stack height would depend on site and installation specific characteristics. It cannot be inferred that a shorter stack would not be acceptable. However, limiting the stack height would reduce the options available to the applicants to ensure that air quality is satisfactorily protected.

11.23 Feering Parish Council (PC) is concerned about the impact of emissions from the plant and subsequent air pollution. It is also concerned about the detrimental impact of additional traffic that would be generated on the local road network, particularly when the A12 or A120 were closed. The PC submits that there should be a rail link provided to the site. It is also suggested that if planning permission were granted, a S106 agreement should be drawn up to provide a flood lagoon at Bradwell to relieve flooding problems in Coggeshall, Kelvedon and Feering.

SECTION 12 - CONDITIONS AND OBLIGATIONS

12.1 Document ECC/8 sets out the final version of the conditions suggested by ECC. The first column gives the original set of conditions which ECC intended to impose following its resolution to grant planning permission for the eRCF on 24 April 2009. The central column sets out the latest set of suggested conditions after discussions

with the applicants, together with the reasons for those conditions. The third column sets out, where applicable, comments by the applicants and ECC.

12.2 Turning to the list of conditions, ECC and the applicants submit that the nature of the development justifies a 5 year period for commencement of the development, with 30 days notification of commencement. These are considered to be realistic limits by the main parties.

12.3 The maximum number of HGV movements permitted in relation to the eRCF would be the same as that allowed by the extant permission for the RCF. No assessment has been made of the impact of a larger number of additional movements. The LCG considers that the condition would be difficult to enforce other than after the event of a breach. The applicants are satisfied that the number of HGV movements permitted by Condition 3 would be sufficient to allow the IWMF to operate efficiently. The number of HGV movements permitted on Sunday and Bank Holidays is not identified but would be limited to operations permitted by conditions 34 and 36. These conditions relate to temporary changes approved in writing by the WPA and the clearance of waste from Household Recycling Centres which again would be largely under the control of the WPA.

12.4 Condition 5 requires a daily record of HGV movements in and out of the site. In order to provide information that would assist in the monitoring of the traffic routeing provisions set out in the S106 agreement (see paragraphs 12.21-22 below), it is suggested that Condition 5 should include a requirement to log the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded. The applicants query the necessity to record such movements as the condition is intended to help control vehicle movements.

12.5 The LCG would like to see a condition requiring the buildings at Woodhouse Farm to be brought into a good state of repair. The applicants could eventually claim that they have failed to achieve further planning consent and Listed Building Consent (LBC) for the Woodhouse Farm complex and no refurbishment would be undertaken. It is argued that to bring the building into a good state of repair would not necessarily require further planning permission and LBC. However, the applicants point out that the covenants of the S106 agreement require the developer to make application for beneficial re-use of the building and to use reasonable endeavours to reinstate and refurbish the farm complex. ECC points out that the works required to bring the buildings into a good state of repair are substantial and may well require LBC in any case.

12.6 Condition 16 requires provision of an artistic feature on or near the north elevation of the proposed IWMF. BDLPR Policy RLP94 indicates that the District Council will seek the promotion of public art or local crafts in the public realm and that major development will make provision for the commissioning of suitable and durable features. It is pointed out that the site could be seen from the public footpath network.

12.7 Condition 17 requires a management plan to be submitted to ensure that there is no visible plume from the stack. The applicants argue that this requirement overlaps with the environmental permitting regime. ECC submits that it is a planning

matter which the EA may not address. The LCG are concerned that the condition does not categorically state that there will be no plume.

12.8 In relation to Condition 21, the LCG points out that no parking areas have been shown on the plans for the parking of HGVs. In response, the applicants submit that there is no intention to provide any substantial parking for HGVs in the open air on the site.

12.9 The LCG considers that a condition should be imposed requiring electricity produced at the plant to go to the National Grid. However, the applicants point out that it is not entirely within their control that the electricity produced at the plant would be supplied to the National Grid.

12.10 In relation to Condition 28, ECC submits that SRF should only be sourced from elsewhere in the East of England for a period of one year from the date of agreement with the WPA. In contrast the applicants argue that the sourcing of such material should be permitted for a period of 5 years, as a period of only one year would lead to problems of uncertainty.

12.11 Turning to condition 30, ECC submits that the proposed condition allowing some paper waste from outside the region is reasonable because it takes account of the fact that the applicants may not initially be able to source 80% of the paper feed from within the region - it provides a mechanism for agreeing a larger proportion. The applicants argue that the MDIP would be a unique facility in the UK and that the condition is unreasonable. It would not be possible to immediately source 80% of the feedstock from within the region and the relaxation allowed under the condition would therefore be necessary at the outset. Moreover, Policy WM3 of the East of England Plan (Document CD/5/1) indicates allowance can be made for specialist processing or treatment facilities to deal with waste primarily from outside the region where there is a clear benefit. The principle of self sufficiency therefore does not apply in this respect. The applicants argue that a restriction limiting feedstock to within a radius by road of 150km, or to the 3 regions bounding the East of England would be more reasonable and practical. This would help to control the distance feedstocks were transported and thereby limit emissions resulting from the transport of waste. The modelling of the carbon benefits of the eRCF was predicated on an average travel distance of 100km per kg of waste.

12.12 However, ECC submits that even in the circumstances where an immediate relaxation is necessary, the suggested condition is reasonable, because the terms of the condition require ECC to authorise a greater proportion of imports. There are no circumstances where the condition would be unreasonable. At the same time, the condition ensures that the applicants have an incentive to seek feedstock from within the region, and that an initial inability to do so would not result in a total abandonment of the proximity and self sufficiency principle in the future. The figure of 20% is derived from the application. The regulation 19 information provided by the applicants stated that the Region could provide a significant proportion if not all of the paper feed stock for the MDIP [CD 2/10, p19-16]. This forms the basis of ECC's 20%/80% split.

12.13 The LCG are opposed to Condition 35 insofar as it would allow construction to take place for 12 hours on Sundays. ECC points out that a similar condition was applied to the RCF permission and the applicants argue that the PFI programme

expectations suggest that the plant would need to be constructed within 2 years which may well necessitate Sunday working.

12.14 There is some concern that Condition 38 does not specify where the noise measurements should be made. It is suggested that the wording in the last sentence of Condition 39 should be added to Condition 38.

12.15 Cllr Abbott for the LCG is concerned that Conditions 39 and 40 allow much higher noise levels than predicted by the applicants. The proposed (LAeq 1hour) limit is 42dB between 1900 and 2300 hours, and 40 dB between 2300 and 0700, whereas the application predicts levels of 30dB and as low as 22dB. Moreover, it is considered that Condition 42 is unreasonable in allowing an increase in noise up to 70dB (LAeq 1 hour) for up to 8 weeks per year. Condition 41 is considered to be inadequate.

12.16 The LCG considers that Condition 44 should specifically require lighting with zero tilt and that lights should not be sited above existing ground levels. In response ECC submits that the condition provides adequate control. It considers that specific controls imposed at this stage, before the lighting scheme is finally designed, could be counter-productive.

12.17 The applicants submit that Condition 52 should be deleted as it is a matter that would be dealt with when application is made for an Environmental Permit (EP). However, EEC points out that the EP would not control the excavation and construction of the plant and the condition is not unduly restrictive.

12.18 The LCG would like to see a complete prohibition of the works set out in Condition 55 during the bird nesting season. The applicants point out that this would be unreasonable if no bird nesting were taking place at the location in question.

12.19 Amongst other things, Condition 56 controls the height of the proposed stack. The applicants consider that it is unlikely that the EA would require a stack taller than 85m AOD (35 m above existing ground level) as part of the EP process. Nevertheless, the visual impact of a stack up to 90m AOD in height has been assessed and shown in at least one montage submitted by the applicants. The applicants seek the SoS's view on this matter. A Section 73 application would have to be made if a taller stack were to be required, but the views of the SoS would obviously be helpful if they were known in advance.

12.20 Condition 60 relates to the management and watering of trees adjacent to the proposed retaining wall for the period of excavation and construction of the IWMF. The LCG submits that these measures should continue during the operational phase. However, ECC argues that the trees rely on surface water rather than ground water in the substrata and therefore there would be no need to continue watering after construction is complete.

12.21 A conformed and a certified copy of the completed S106 agreement can be found at Document CD/14/5. The S106 agreement includes a covenant whereby the developer would not implement the planning permission until the highway works set out in Schedule 1 were completed. The works include improvements to the access road crossings at Church Road and Ash Lane and at locations where public rights of way cross the access road. These works are necessary in the interests of the safety

of users of the local highway and rights of way network. Some parts of the proposed highway works would be dedicated where they would form part of the public highway network. A section of the existing access road would also be widened.

12.22 The document also makes provision for a traffic routeing management scheme in a form to be agreed with the County Council. Plan No 2 of the document shows the routes intended for HGVs and Schedule 6 sets out details of the scheme.

12.23 The third schedule relates to the setting up of a Site Liaison Committee. This would provide a forum between the operator, the local authorities and the local population to discuss the ongoing operations of the development and to assess compliance with various aspects of the control of the development. It would provide an opportunity for the results of air quality monitoring required by the EA, and ground water monitoring results to be presented to representatives of the local community. The LCG would like to see ambient air quality monitoring being undertaken at specified receptor locations. However, the applicants point out that this would be subject to so many variables that the data would be of limited value and it would be preferable and more meaningful to monitor emissions from the stack as is likely to be required by the EA.

12.24 The document also makes provision for the refurbishment of the Woodhouse Farm complex, providing amongst other things an education centre for the public, and an area to be set aside for local heritage, and an airfield museum.

12.25 The fourth schedule relates to a management plan to ensure that all retained and proposed vegetation is managed in a manner that would mitigate the visual impact of the development and improve and enhance the ecological value of the area. The management plan would cover a period of 20 years from the commencement of beneficial use of the facility. The document also provides for the planting of trees and shrubs for woodland and hedgerow areas, and seeding for areas of open habitat.

12.26 Clause 3.15 of the document seeks to ensure that the development is implemented and that the permission is not used merely to extract minerals from the site.

12.27 The document also makes provision for a level two and, where appropriate, a level three survey, in accordance with the 2006 English Heritage guidance entitled ‘Understanding Historic Buildings: A guide to good recording practice’, for all buildings and structures within a defined area set out in the document. It also provides for funding a presentation of the findings.

12.28 Provision is made for a groundwater monitoring scheme to be undertaken and if necessary for mitigation measures to be taken. The monitoring would continue until such time as it could be demonstrated that the development would not cause material adverse effects on ground water levels.

12.29 The agreement also links the Paper Recycling Facility (MDIP) to the CHP plant, except for periods of maintenance, thereby ensuring that the MDIP is an integral part of the overall plant.

12.30 The eighth schedule makes provision for the setting up of a Community Trust Fund to fund local community projects, and requires the developer to pay to the Trust Fund 5 pence per tonne of waste imported to the site.

SECTION 13 - INSPECTOR'S CONCLUSIONS

Note: Source references to earlier paragraphs of this report are shown in brackets thus [ ].

13.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the application should be determined in accordance with the development plan unless material considerations indicate otherwise. Bearing in mind the matters on which the Secretary of State (SoS) wishes to be informed, the evidence submitted at the inquiry, the written submissions and my inspections of the site and its surroundings, I consider that the main considerations in this case are as follows:

i. the relationship of the proposed development to prevailing planning policy;

ii. whether the design of the proposal is of high quality and would result in a sustainable form of development;

iii. the visual impact of the proposal and its effect on the character of the surrounding area and the wider countryside, bearing in mind the guidance in Planning Policy Statement (PPS) 7;

iv. the extent to which the proposal is consistent with advice in PPS10 to provide adequate waste management facilities for the re-use, recovery and disposal of waste and to ensure that decisions take account of the waste hierarchy, the proximity principle and regional self-sufficiency;

v. whether there is a need for a facility of the proposed size;

vi. whether the overall scheme, including the de-inking and paper pulping facility, represents a viable proposal;

vii. the weight to be given to the fallback position of the RCF permission granted in 2007;

viii. whether there is a need for the scheme to provide flexibility to accommodate future changes in waste arisings and the way in which waste is dealt with, and if so, whether the scheme takes account of such need;

ix. the effect of the scheme on the living conditions of local residents with particular regard to noise and disturbance, air quality, odour, dust, litter, outlook, and light pollution;

x. whether the development would create a material risk to human health;

xi. the effect of the proposal on highway safety and the free flow of traffic on the highway network;

xii. the effect of the proposal on the local right of way network;

xiii. the implications for the local ground and surface water regimes;

xiv. the implications of the associated loss of Grade 3a agricultural land;

xv. the effect of the proposal on habitats, wildlife and protected species;

xvi. the impacts on the setting of listed buildings in the locality and the setting of the Silver End Conservation Area, and the desirability of preserving the listed

buildings or their settings or any features of special architectural or historic interest which they possess; and,

xvii. the effect on the historic value of the airfield.

i. Prevailing Planning Policy

13.2 When considering the extent to which the scheme is in accord with the development plan, the applicants submit that only the Regional Spatial Strategy (RSS) (which I shall refer to as the East of England Plan (EEP)) is up to date. I agree that it is the most up to date of the documents which make up the development plan, but the saved policies of the Essex and Southend-on-Sea Replacement Structure Plan 1996-2011(ESRSP), the Essex and Southend Waste Local Plan (WLP) and the Braintree District Local Plan Review (BDLPR) are also of relevance in this case. Some policies in the WLP require consideration of the Best Practical Environmental Option (BPEO), whereas the Companion Guide to PPS10 indicates that there is no policy expectation for the application of BPEO, and that requirements that are inconsistent with PPS10 should not be placed on applicants. Nevertheless, it seems to me that the WLP is still broadly consistent with the subsequent PPS10. [3.4, 6.54, 8.53]

13.3 Many objectors argue that the proposal does not accord with the development plan. ECC, however, points out that although the proposal does not comply with some policy, a whole raft of development plan and national policy guidance is supportive of the eRCF scheme. ECC considers the proposal is a departure from the development plan primarily for two reasons, although they argue that these are not significant departures. Firstly, the site extends beyond the boundaries of the site allocated for waste management in WLP Policy W8A and Schedule WM1. Nevertheless, the principle of developing a waste management facility at this location accessed off the A120 is supported by the development plan. Moreover, the allocation does not incorporate land for access and does not include Woodhouse Farm. The former is a necessary part of any proposal and the latter is an element of the scheme which is clearly beneficial in this case. It must also be borne in mind that the RCF permission establishes the principle of waste management facilities extending beyond the allocated site. For these reasons, I agree with ECC that the weight to be given to this departure is limited. [3.4, 7.1, 7.5-7.7, 8.53, 11.3]

13.4 The second reason is that the Market De-inked Paper Pulp facility (MDIP) is considered to be an industrial activity. Siting such development in the countryside would be contrary to BDLPR Policies RLP27 & RLP78. Policy RLP27 seeks to ensure that development for employment is concentrated on suitable sites in towns and villages. However, it seems to me that the MDIP is an integrated part of the eRCF designed to recover high quality pulp from waste. EU waste legislation and policy indicates that waste remains waste until it is recovered. The processing of waste paper through the MDIP would be a waste management process. I have no hesitation in concluding that the MDIP would be a waste management facility. The BDLPR does not regulate waste development. Notwithstanding this, the focus of Policy RLP27 is on the strategic location of employment and traffic generators. The RCF which has already been permitted is also a generator of employment and traffic and there is little difference between it and the eRCF in this respect. [3.5, 6.64, 7.9, 8.55]

13.5 Policy RLP78 seeks to restrict new development in the countryside. However, a large part of the area where the integrated waste management facility

(IWMF) buildings are proposed is allocated for waste management facilities and again the permitted development of the RCF establishes the principle of large scale waste management development at this site. For these reasons, I give only limited weight to the claimed conflict with BDLPR Policies RLP27 & RLP78 on these matters.

13.6 Need is a matter to be addressed under the development plan. Amongst other things WLP Policy W8A seeks to ensure that there is a need for the facility to manage waste arising in Essex and Southend. The consideration of need also arises in the guidance of PPS10. I assess the need for the eRCF below and conclude that there is a need for waste treatment facilities having a capacity at least that of the proposed eRCF in order to achieve the national waste objectives set out in PPS10 and Policy MW1 of the EEP, and to achieve the recycling targets for Essex and the East of England, set out in Policy MW2 of the EEP. [6.55, 7.11, 7.12]

13.7 The LCG submits that the proposal does not comply with EEP Policy WM1, pointing out that the policy requires the environmental impact of waste management to be minimised, including impacts arising from the movement of waste. I have considered these issues under a number of headings below, and although the development would have a number of detrimental impacts, including an impact on the character and appearance of the area; increased HGV movements on the A120; a detrimental impact on the living conditions of local residents; and loss of Grade 3a agricultural land; I am not convinced that the impacts are so great that they make the proposal unacceptable. In my opinion, the scheme has been designed to minimise the impact of waste management and does not therefore conflict with EEP Policy WM1. [8.56]

13.8 I am satisfied that the proposed MDIP is consistent with EEP Policy WM3. It would enable the recovery of locally arising wastes together with higher grade waste paper attracted from outside the region because of the absence of similar facilities in the UK. [6.56]

13.9 Objectors point to the congestion which presently occurs on the A120 and submit that, by adding further HGV traffic to the A120, the proposal would conflict with EEP Policy T6 which, amongst other things, seeks to improve journey reliability on the regional road network as a result of tackling congestion. However, paragraph 7.18 of the EEP makes it clear that the regional road network should be the lowest level road network carrying significant volumes of HGVs. Policy T6 relates to the improvement, management and maintenance of the strategic and regional road networks, and thereby aims to ensure that they are fit for purpose. Traffic generated by the proposal would access the site directly via the A120 Trunk road and would therefore be directed immediately to the appropriate road network level. In this respect the proposal does not conflict with EEP Policy T6. [6.75, 8.34]

13.10 For all the above reasons, I consider that the proposal is broadly consistent with the policies of the development plan, although it does not comply with all policies. For example, the loss of Grade 3a agricultural land would be in conflict with BDLPR Policy RLP 88, and the visual impact of the chimney would have some detrimental impact on the landscape character and thereby conflict with the objectives of RLP 78 and EEP Policy ENV2. However, in relation to the requirements of EEP Policy ENV2, it is arguable that appropriate mitigation measures would be provided to meet the unavoidable damage to the landscape character that would be caused by the proposed chimney stack. [6.85, 8.55, 9.31]

13.11 I have considered the proposal in the light of national guidance. Whilst there is some conflict with the guidance, again for example, the loss of agricultural land and the impact of the proposed stack on the landscape character, I am nevertheless satisfied, for the reasons given in the following sections, that the proposal is generally in accord with national guidance, including that contained in PPS1, PPS7, PPS10, PPG15, PPS22 and PPS23.

ii. The quality of the design and sustainability implications

13.12 The design, layout, scale, dimensions and external finishes of the eRCF are similar to those of the RCF, albeit that the eRCF would have a footprint about 17% larger than the permitted scheme. The main difference between the schemes is the addition of the MDIP facility, the CHP plant, and the stack. Bearing in mind the nature and size of the proposed development, I consider that it would be remarkably discreet within the landscape. The IWMF would be sited below existing ground level which would result in a large proportion of the structure being hidden from view and the rooftop level of the main buildings would be no higher than the existing hangar on the site. Moreover, the large arched roofs of the main buildings would resemble those of an aircraft hangar and thereby reflect the past use of the site as an airfield. [6.6, 6.94, 7.19, 8.25]

13.13 The cladding materials would be dark and recessive and the green roof of the main buildings would be colonised with mosses. The application site lies in an unlit area which is sensitive to light pollution. However, it seems to me that lighting at the site would be as unobtrusive as possible. Most, if not all, lighting units would be sited below existing ground level and designed to avoid light spillage. In addition, the extension to the access road would be built in cutting or on the existing quarry floor so that traffic generated by the site would be screened from many viewpoints, although the access road would be crossed by a number of footpaths. [6.6, 6.84, 6.93, 7.20, 11.3]

13.14 I consider that the combination of the above features, together with the proposed additional woodland and hedgerow planting, would help to alleviate the impact that such a large development would have upon its surroundings. In relation to the RCF proposal, CABE commented that the location was suitable for a waste management facility and that the proposed architectural treatment and sinking of the building and approach road into the ground raised no concerns. CABE made no consultation response in relation to the eRCF. [6.95, 7.19, 7.28]

13.15 The proposed stack would be an intrusive feature in the landscape. Again, however, the design of the scheme has sought to minimize this impact. The scheme has been amended so that only one stack would be built, albeit that it would be some 7m wide. Nevertheless, it is predicted that there would be no visible plume rising from the stack and the structure would be clad in a reflective finish. This and its siting, where a significant proportion would be screened from view, would help to mitigate its impact. [6.4, 6.82, 6.116, 7.20, 9.23-26, 11.4, 11.12, 12.7]

13.16 It seems to me that each of the waste management processes within the eRCF would benefit from the proposed integration with others. However, there is sufficient capacity in each of the processes to allow for variation thereby providing flexibility of use. [6.97]

13.17 The Climate Change Supplement to PPS1 requires that proposals make an appropriate contribution to climate change. Analysis using the EA's 'WRATE' Life Cycle Assessment Model indicates that the eRCF would result in a significant reduction in CO_2 emissions. The total savings of CO_2 by 2020 would be in excess of 70,000 tpa which compares favourably with the 37,000 tpa savings from the RCF. The integrated nature of the development would enable the power supply required to run the entire plant to be self generated at a lower carbon emission rate than electricity drawn from the National Grid. Decoupling the CHP from the rest of the scheme would require 25MW of electricity from the National Grid to power the waste management processes. [6.99, 6.100]

13.18 I am mindful that the WRATE analysis does not take account of the production of biogenic CO_2 in the carbon balance. This approach is justified on the basis that CO_2 has already been sequestered in the growing plant and the overall balance is therefore neutral. Saffron Walden Friends of the Earth (SWFOE), on the other hand submits that biogenic CO_2 should be included in carbon emission calculations, not least because the production of biogenic CO_2 contributes to climate change, whereas sequestered carbon remains truly neutral. There is some merit in this argument, although, as the applicants point out, FOE's concern on this matter primarily relates to its disagreement with current guidance. IPPC guidance does not require biogenic CO_2 to be included. It may well be that other methods of dealing with organic waste, such as composting, would result in carbon being sequestered for a considerably longer period than in the case of incineration where much of the carbon would normally be released immediately. However, there is no dispute that the applicants have adhered to current guidance in assessing the carbon balance. [6.4, 10.8]

13.19 PPS22 indicates that energy from waste is considered to be a source of renewable energy provided it is not the mass burn incineration of domestic waste. SWFOE submits that the CHP should be characterised as disposal rather than recovery of waste as a matter of EU law. It also argues that recovery of energy through the CHP does not meet the formula for R1 recovery operations set out in Annex II of Waste Directive 2008/98/EC, which comes into force in late 2010. However, the energy efficiency figure formula set out in the Appendix to the Directive indicates that the CHP would meet the requirement for classification as recovery. Moreover, as the applicants point out, CHP is currently supported by WSE 2007 and other national and regional policy because of its ability to recover energy whether or not it is technically recovery or disposal in EU terms. The Waste Directive 2008 seeks to address the categorisation issue. The use of SRF in the proposed CHP plant and the export of electricity to the National Grid would contribute to meeting the Government's Renewable Energy target of producing 15% of UK energy from renewables by 2020. The contribution would be increased by the proposed co-location of the MDIP and its consumption of heat from the CHP plant. For these reasons, I agree with the applicants that the eRCF proposal is in accord with the objectives of PPS22, the UK Renewable Energy Strategy, and WSE 2007 in this respect. [6.5, 6.101, 6.102, 7.27, 10.9-10]

13.20 Objectors submit that it is inappropriate to site such large scale development within the countryside. I am mindful that the application site can only be accessed by means of road transport and that for the workforce and visitors it would not be readily accessible by means other than the private car. However,

such a development would not necessarily be readily sited at the edge of a town or service centre. Moreover, permission has already been granted for a major waste management facility at this location. [8.23, 11.3, 11.16]

13.21 The operational impacts of the development would be minimised by the use of negative air pressure within the buildings and a design which would allow, and require, all loading and unloading of material to take place within the buildings.

13.22 For all the above reasons, I conclude that the design of the eRCF is of high quality and that it would be a sustainable form of development which would enable the management of waste to be undertaken in a sustainable manner.

iii. The impact on the charcter and appearance of the area.

13.23 My conclusions on this issue are interlinked with my comments on the impact of the development on the living conditions of local residents. My conclusions, at paragraphs 13.66 to 13.85 below, should therefore be read in conjunction with the following comments.

13.24 The site is situated in an area of primarily open, flat countryside, which allows long distance views from some locations. The character of the site and its immediate surroundings is heavily influenced by the remains of runways and buildings from the former Rivenhall Airfield; the nearby excavations at Bradwell Quarry; and blocks of woodland immediately to the south and east of the proposed location of the IWMF. The wider landscape beyond this area comprises gently undulating countryside, characterised by large open fields, small blocks of woodland and discrete, attractive villages. The existing access to the quarry, which would be used to provide access to the IWMF, passes through the Upper Blackwater Special Landscape Area. [2.1, 2.2, 6.77]

13.25 The site of the proposed IWMF and its immediate surroundings is not subject to any special landscape designation and is not, in my judgment, an area of particularly sensitive countryside. Its character as Essex plateau farmland has been degraded by the airfield infrastructure, the nearby quarry and isolated pockets of commercial development in the locality. The principle of a waste management facility at this location served from the A120 is established by the allocation in the WLP. The WLP inspector did not rule out an incinerator on the site, and WLP policy W7G suggests that such development may be acceptable. Moreover, as I conclude at paragraph 13.60 below, the RCF permission establishes the principle of large scale waste management at the application site, and the potential environmental impacts of the RCF are a material consideration in the present case. [2.5, 2.7, 6.77, 7.25, 8.16]

13.26 The eRCF has been designed in a manner that would limit its impact on the landscape. The building would be sited below existing ground level and the proposed extension to the access road would be primarily in cutting; the arched roofs of the main buildings would reflect the design of aircraft hangars; cladding materials would be dark and recessive; the green roof of the building would become colonised with mosses; and new hedging together with existing and proposed woodland would help to screen the development.

13.27 Lighting of the development would have some impact on the character of this presently unlit area. Again the design of the development is such that this

impact would be minimised. Most lights would be sited below existing ground level with flat glass luminaires mounted at zero tilt. Outside the hours of 0700 to 18.30 hours, external lighting would operate only in response to movement sensors. The disturbance caused by the coming and going of vehicles would also be reduced by the fact that much of the access road would be in cutting. [6.82-84]

13.28 I deal with the matter of tranquillity at paragraph 13.71 below and conclude that impact of the development on the tranquillity of the area would not be serious, once the construction operations are complete. [6.124, 8.15, 9.5]

13.29 The eRCF would have a slightly greater footprint than the RCF and it would be constructed further into the existing belt of woodland to the south. However, the main difference between the two schemes, in relation to the impact on the character and appearance of the area, would be the addition of the proposed stack. This would be a noticeable and substantial feature. It would rise 35m above existing ground level and be some 7m in diameter. It would, however, be partially screened by woodland to the south, east, and west and by the IWMF building when viewed from the north. Nevertheless, from many locations the top 20 metres of the stack would be visible. Moreover, the topography of the area would enable long distance views of the top section of the stack from some locations. Although the stack would be a relatively minor element in the landscape as a whole, and there would be no visible plume, I consider that it would appear as an industrial feature which would have some detrimental effect on the present lightly developed, semi-rural character of its surroundings. [6.103, 8.20]

13.30 On the other hand, the mitigation measures associated with the development would result in some enhancement of the countryside. The proposed woodland planting would cover a greater area than the area of woodland that would be lost, and the 2kms of new hedgerow would be of particular benefit. There would be a loss of 19.1 ha of existing open habitat, although much of this is not of high quality, and the proposal would provide for the management of remaining areas of habitat and various areas of new habitat. Moreover, the proposal includes the management of existing and proposed water bodies which would enhance the bio-diversity of the area. I also consider that the proposed refurbishment of the derelict listed buildings at Woodhouse Farm would be of benefit to the character and appearance of the countryside. [7.28, 8.19]

13.31 In conclusion, I consider that the eRCF would have some urbanising and detrimental impact on the semi-rural character and appearance of the area, and in this respect it would conflict with the aims of BDLPR Policy RLP78 and EEP Policy ENV2. However, I am mindful that the rural character of the area has already been degraded. Moreover, when compared to the RCF proposals, the main additional impact of the eRCF on the character and appearance of the area would be as a result of the proposed stack. This would have a materially detrimental effect on the character of the area, although as it would be partly screened it would not, in my judgement, be an overwhelming feature in the landscape. Bearing in mind the benefits that would be provided by additional woodland and hedgerow planting, over and above that which would be provided by the RCF development, I conclude that the overall impact of the eRCF upon the character and appearance of the area would be detrimental but limited. By providing these mitigation measures where a detrimental impact is unavoidable, the proposal arguably meets the requirements of EEP Policy ENV2 and I consider that the overall impact would be acceptable. I agree

with the applicants that the limited visual impact arising from such a large-scale proposal suggests that the site is reasonably well located for the proposed use. On balance, I consider that the proposal respects the objectives of PPS7 and the extent of conflict with the guidance is limited. [7.30]

iv. Consistency with PPS10

13.32 PPS10 seeks a step change in the way waste is handled by moving the management of waste up the waste hierarchy. The guidance indicates that the overall objective of Government policy on waste is to protect human health and the environment by producing less waste and by using it as a resource wherever possible. The eRCF would provide various means of dealing with waste, all of which would help to reduce the need for landfill. The various elements of the integrated plant would recycle waste, produce compost, and create energy from waste.

13.33 Some objectors argue that the development would discourage measures aimed at separating waste at the point of collection, whilst others are concerned that the demand for feedstock for the CHP would discourage recycling and result in certain wastes being managed at a point lower on the waste hierarchy than would otherwise occur. Under certain circumstances, where, for example, overall waste volumes reduced significantly, I agree that the existence of the eRCF could potentially reduce the incentive to separate waste at the point of collection. On the other hand, as markets for recycled waste develop, a reduction in the availability of recycled waste could increase its value and thereby enhance any incentive to separate waste at the point of collection. Similar arguments could be made in relation to feedstock for the CHP. [10.4, 11.16]

13.34 In reality, challenging targets are in place, relating to the recycling and recovery of value from waste, and the elimination of landfilling untreated municipal and commercial waste by 2021. In meeting these targets, I have no doubt that significant waste management facilities with overall capacities greater than that of the eRCF will be required, in addition to the current and future incentives to reduce waste, re-use materials, and separate waste at the point of collection. ECC considers that the type of facility now proposed at the application site will be necessary if it is to meet the national waste objectives set out in PPS10 paragraphs 1 and 3 and the challenging targets set out in EEP Policy MW2. [7.16]

13.35 The proposed facility would help to deliver these objectives by moving waste up the hierarchy. It would recover recyclables, produce compost and reduce the need for disposal of residual material to landfill by using such material as a fuel for combustion in the CHP plant. It would also use imported SRF from other permitted waste management facilities in Essex, which might otherwise go to landfill. The scheme would generate electricity and provide a specialized facility for the recovery of recycled paper. Although the combustion of waste is only one step above landfilling in the waste hierarchy, the CHP is only one of the facilities that would be available at the eRCF. In my judgment, this integrated plant would allow the anticipated waste arisings to be managed as far up the waste hierarchy as reasonably and practically possible. Moreover, it would significantly reduce the amount of residual waste that would need to be sent to landfill. In these respects the proposal is in accord with the objectives of PPS10. [7.16]

13.36 In relation to the aim of protecting human health and the environment, I consider that by reducing the amount of material sent to landfill; recycling material; and using waste as a resource; the eRCF would be beneficial to the environment and thereby to human health. However, the question arises as to whether the emissions from the plant would conflict with the aim of protecting human health and the environment. I deal with these matters at sections x and xv below, and conclude that the plant could be operated without causing any material harm to human health or the environment. The dispersion modelling assessments undertaken to date show that the risks to human health would be negligible and I am satisfied that this matter would be adequately dealt with by the Environmental Permitting regime.

13.37 Objectors argue that the proposal does not comply with PPS10 because (i) there is no need for a facility of this size; (ii) it would not contribute positively to the character of the area;(iii) it would result in visual intrusion; (iv) the traffic generated on the A120 would be unacceptable; (v) the scheme does not reflect the concerns of the local community; and (vi) it conflicts with other land use policies. I consider the need for the facility in the section below and conclude that a need has been demonstrated for waste treatment facilities having a capacity at least that of the proposed eRCF. In relation to the impact of the proposal on the character and appearance of the area, I conclude at paragraph 13.31 above that although the eRCF would have some detrimental impact on the rural character and attractive appearance of the area, the mitigation measures that would be put in place would reduce this impact to an acceptable level. Similarly, I am satisfied that the condition limiting the daily HGV movements generated by the development to no more than 404, and the provisions of the S106 agreement with regard to traffic routeing, would ensure that the impact of generated traffic on the local road network would be acceptable. [8.58]

13.38 Clearly the local community have deeply held concerns regarding the proposal in relation to a range of matters. However, although planning strategies should reflect the concerns and interests of communities, this requirement applies not only to the immediate local community but the wider community to which the strategies apply. I consider that the design of the scheme, and the mitigation measures employed have addressed the concerns of the community so far as possible and to a reasonable extent. Obviously this has involved a balance in seeking to minimise the impacts of the development whilst making use of the benefits that the development could provide. The eRCF would allow Essex to increase its provision of sustainable waste management, secure increases in recycling and recovery, and reduce carbon emissions. The community's needs for waste management would in part be addressed by the eRCF. [6.108, 6.109]

13.39 I am mindful that the proposal conflicts with some objectives of planning policy. For example, it would result in the loss of some of the best and most versatile agricultural land, and it is not fully in accord with WLP Policy W8A in that the application site is larger than the allocated site and the proposed building is substantially larger than envisaged. However, these matters must be balanced against the benefits of the proposal and other sustainability issues. Moreover, account must be taken of the wide range of mitigation measures which would minimise the impacts of the development.

13.40 Overall, I am satisfied that the proposal is consistent with the key planning objectives set out in PPS10. It would help to deliver sustainable

development by driving waste management up the waste hierarchy and contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community. With regard to self sufficiency, the facility would meet a need in the region to deal with MSW and/or C&I waste. The development would help to reduce carbon emissions and would have benefits in terms of climate change. It would also contribute to the implementation of the national waste strategy. The impacts of the development could be adequately controlled or mitigated, and the proposal would pose no significant risk to human health and the environment. In my opinion, the design of the development and the associated mitigation measures would help to support the objectives of sustainable waste management. [6.99, 6.106, 7.31-33]

v. The need for the proposed facility

13.41 PPS10 indicates that where proposals are consistent with an up-to-date development plan, applicants should not be required to demonstrate a quantitative or market need for their proposal. Although the WLP allocates a site for waste management facilities at Rivenhall Airfield, in accordance with Policy W8A and Schedule 1, the allocated site is far smaller than the application site. Moreover, the size of the proposed IWMF is clearly much larger in area than that envisaged in Schedule 1. Furthermore, Policy W8A requires a number of criteria to be satisfied if waste management facilities are to be permitted. One of these is that there is a need for the facility to manage waste arisings in Essex and Southend. I appreciate that the WLP pre-dates PPS10 and is arguably out of date in that it requires, for example, waste management proposals to represent the BPEO. Notwithstanding this, it cannot be argued that the proposal is fully in accord with an up-to-date development plan. Given the difference in size between the proposed development and the development anticipated on the allocated site, I consider that the need for a facility of the proposed size should be demonstrated. [7.11]

13.42 The EEP sets challenging targets for the recycling, composting and recovery of both MSW and C&I waste in accordance with the WSE 2007. By 2015, 70% of MSW and 75% of C&I waste must be recovered. The Plan anticipates provisional median waste arisings for MSW and C&I waste for Essex and Southend, including the required apportionment of London Waste, for the period 2015/16 to 2020/21 to be 3.67mtpa. However, the applicants' need case has been assessed on a more conservative basis, using the 2.4mtpa for 2020/21, which is put forward by the East of England Regional Assembly (EERA) in its report entitled 'Waste Policies for the Review of the East of England Plan' dated 29 June 2009. Nevertheless, as this document is at the consultation stage, the larger EEP figure should be used. Indeed, as the applicants point out, the consultation process on the EERA Report of July 2009 has not yet been completed and subject to examination and therefore the document carries little weight. Accordingly, the 3.67mtpa figure in EEP Policy WM4 is the figure which should be used at present. [6.25]

13.43 In contrast to these figures, the potential treatment capacity of the currently permitted facilities in Essex is only 1.375 mtpa, and there do not appear to be any current plans to bring capacity forward on the WLP preferred sites that are not already the subject of a resolution to grant planning permission. Therefore, even on the basis of the reduced figures in the consultation document, I am satisfied that there is a need in Essex for new facilities to manage both MSW and C&I wastes. The LCG submits that the EEP policies are based on arisings which are not occurring at

present; the actual arisings being lower than estimated. However, I give little weight to the 'Updated Capacity and Need Assessment – Final Report' prepared by ERM for ECC in July 2009, as it contains a number of inaccuracies and will not form part of the evidence base for ECC's Waste Development Document. [6.13 -6.16, 6.30, 7.11-7.13, 8.6]

13.44 Many objectors, including the LCG consider that the capacity of the proposed eRCF is far greater than the perceived need. However, even on the basis of the lower, but disputed, figures for need based on the ERM reports, there is still a need for the proposed MBT facility in terms of MSW and C&I waste arisings. These figures result in a capacity gap of 326,800 tpa, compared to the proposed MBT capacity of 250,000 tpa. Using the reduced EEP figures, the overall treatment capacity gap in 2021 is likely to be between 412,762 and 537,762 tpa even on the basis that the Basildon site and the eRCF is developed. The capacity gap for C&I facilities exceeds the capacity of the proposed development. Moreover, the waste management capacities of the RCF and eRCF are similar for imported waste of similar composition, and therefore the 'need' for the treatment capacity has arguably already been established. [6.4, 6.6, 6.12, 6.25, 8.1, 10.3, 10.17, 11.3]

13.45 The figures put forward by the applicants suggest that without thermal conversion of residual waste, Essex would need to permit at least 1 or 2 new large landfills. Such capacity is unlikely to come forward because of the difficulty of securing planning permission for disposal capacity where insufficient treatment capacity exists further up the waste hierarchy. Thermal treatment of residual waste, incorporating CHP, is supported by the WSE 2007 and ECC's OBC 2008. It increases the level of recovery and reduces pressure for additional landfill. The CHP would make use of imported solid recovered fuel (SRF) from other permitted waste management facilities in Essex. Although the LCG argues that this would be a marketable fuel, the SRF could go to landfill if an end user is not found. The LCG submits that the use of the SRF merely meets a secondary or ancillary need. However, ensuring that good use would be made of such fuel meets a material need in my judgment. Moreover, the CHP would reduce the need for landfilling of residuals from the MBT, and by using residues from the paper pulp recovery process as a fuel, it would remove a need for offsite disposal of such material and the potential for it to be sent to landfill. [6.18, 7.16, 7.31, 8.2]

13.46 The LCG argues that there is no primary need for the eRCF because ECC would allow all potential operators to have access to the Basildon site on equal terms and thereby meet its need to deal with MSW arisings at that site. However, the eRCF would accommodate the only proposed CHP facility capable of treating the SRF to be produced by MBT through the MSW contract. Moreover, I agree with the applicants that the need for the eRCF is unaffected by the fact that it is not the reference project in ECC's OBC 2009. The reference project was amended to a single site not because ECC considered the application site to be unsuitable, but because ECC did not have control over it. ECC confirms that the eRCF would provide suitable technology for the proposed ECC waste contract. It submits that the significance of the OBC is that it provides evidence of ECC's need for an operator and site to handle its MSW contract. The eRCF would be able to bid for that contract and the additional competition it would introduce would be welcomed by the WDA. The eRCF could meet ECC's need to dispose of its MSW, quite apart from its capacity to meet C&I waste arisings. [6.10, 6.21, 7.15]

13.47 The treatment capacity gap for C&I waste is such that even if the applicants did not win the ECC MSW contract, there is a sufficient need for the site to deal solely with C&I waste. The proposal put forward by Glendale Power for a 30,000 tpa AD power station and associated CHP system at Halstead is at an embryonic stage. Even it were to proceed, there would still be a need for waste treatment facilities in Essex of a greater magnitude than the capacity of the eRCF. [6.25, 6.28, 11.18]

13.48 It is argued by some objectors that there is no need for the development because recycling rates are increasing throughout the country and the application proposal could undermine efforts to increase recycling. There is no doubt that significant improvements in the separation of waste and subsequent recycling are taking place. This could well reduce the quantity of waste that would need to be sent to a facility such as the eRCF. However, the eRCF has the potential to increase still further the amount of recycling, treatment and recovery of waste in the County, and it seems to me that such facilities will be necessary to help ECC to meet its waste targets. There is no reason why the proposal should obstruct a continued increase in the recycling and recovery of waste. [6.23, 10.2, 10.32, 11.14]

13.49 I appreciate the concern that recyclable material should not be incinerated. Such an approach encourages the treatment of waste at a lower level in the waste hierarchy than need be the case. However, the application proposal would provide facilities to maximise the recovery of recyclable material and there is no reason to believe that materials which could reasonably be recycled would be used as fuel in the CHP.

13.50 With regard to the proposed MDIP, the LCG points out that only about 36% of recovered paper is likely to be suitable for use at the facility. It is argued that the applicants are over ambitious in their approach to the amount of feedstock that would be available. However, I am mindful that there will be no MDIP facility in the UK after 2011 to produce high quality paper pulp. The proposed MDIP at Rivenhall would be capable of meeting the needs of Essex and the East of England in terms of the recycling and recovery of high quality paper, thus meeting WSE 2007 key objectives. The facility is likely to stimulate greater recovery of high quality paper waste. I agree with the applicants that it would help to divert a significant quantity of paper and card from landfill. At present some 713,000 tpa of such waste is currently landfilled in the East of England. The MDIP would provide a facility to meet the needs of a wider area in accordance with EEP Policy WM3. [6.12, 6.20, 7.17, 8.7-8.12, 10.29]

13.51 In summary, I consider that the eRCF would help to satisfy a substantial and demonstrable need for MSW and/or C&I waste to be dealt with in Essex and for ECC to meet challenging targets set out in the EEP. The individual elements of the integrated plant would also help to satisfy various needs, including the need to move the treatment of waste further up the waste hierarchy and minimise the amount of waste that would otherwise be sent to landfill. I conclude that a need has been demonstrated for waste treatment facilities having a capacity at least that of the proposed eRCF.

vi. The viability of the proposal

13.52 Objectors question the viability of the scheme as a whole, and in particular that of the proposed MDIP. They point out that a full viability appraisal has not been provided by the applicants. Sufficient feedstock for the MDIP would not be available within the East of England Region and the operators would be reliant on their ability to offer competitive prices for feedstock. Furthermore, it is argued by objectors that it would be cheaper to produce pulp on the same site as a paper mill in an integrated paper production process. This would remove the need to dry the pulp prior to transportation. [8.11-8.13]

13.53 Clearly the proposed MDIP would require a large amount of feedstock. This would increase the demand for high quality paper waste and could well lead to an increase in the price of such waste on the open market. However, this, in turn could encourage increased recovery of high quality paper waste and ensure that better use is made of such waste.

13.54 The applicants submit that there is genuine commercial interest in the eRCF proposals from potential operator partners and key players. They point out that negotiations are presently taking place in relation to various aspects of the proposed MDIP, but these are commercially confidential. This is understandable given the present status of the scheme. Notwithstanding this, it seems to me to be a logical argument that the capital cost of the MDIP would be less than a stand alone facility, as it would be part of a much larger scheme. Moreover, relatively cheap power would be available from the CHP, thereby enabling the MDIP to operate competitively. I accept that the cost savings achieved by using heat and electricity generated by the CHP are likely to outweigh the additional costs of drying the pulp and transporting it to a paper mill. I have no reason to doubt that the MDIP would be capable of competing with a similar facility sited at a paper mill and in this respect it is a viable proposal. [6.42]

13.55 The applicants point out that the planning regime does not normally require a developer to prove viability. It is submitted that the issue of viability has arisen primarily because of EEP Policy WM3, which, although seeking a reduction in the amount of waste imported into the region, acknowledges that specialist waste facilities such as the MDIP, may have a wider than regional input of waste. However, the policy indicates that allowance should only be made for such facilities where there is a clear benefit, such as the provision of specialist treatment facilities which would not be viable without a wider catchment and which would enable recovery of more locally arising wastes. In relation to Policy WM3, viability is only an issue if the facility is one "*dealing primarily with waste from outside the region*". At paragraphs 13.144 – 13.149 below, I consider Condition 30 which seeks to restrict the amount of feedstock for the MDIP from outside the region. I conclude in that section that 50% of the feedstock should be sourced from within the region. On that basis, the issue of viability does not arise in relation to Policy WM3.

vii. The fallback position

13.56 Objectors argue that little weight should be placed on the extant permission for the RCF as there is no evidence that it would be implemented. It is pointed out that ECC resolved to approve the application for the RCF in 2007, yet planning permission was not granted until 2009 after the completion of the relevant

S106 agreement. Moreover, it is claimed that the applicants have described the RCF as an indicative scheme and acknowledge that it no longer represents the most suitable technology having regard to the JMWMS. Objectors point out that there is no evidence of detailed marketing or negotiations between the applicants and a waste operator, and to date no steps have been taken to implement the permission. [8.49-51]

13.57 The applicants have made no secret of the fact that they wish to provide a facility at Rivenhall airfield that would be capable of winning a major contract to deal with MSW arising in Essex. It seems to me that the eRCF is a major amendment to the RCF intended to maximise the chances and capability of winning a contract to deal with MSW arising in Essex. It is understandable that the applicants seek to build a facility that would be capable of dealing with as wide a range of waste as possible. A plant which is capable of dealing with large quantities of MSW and/or C&I waste (and in this case is combined with a specialised waste paper facility), provides considerable flexibility in terms of the type of waste that could be treated and the customers that could be served. It seems to me that such flexibility helps to maximise the economic viability of the project.

13.58 However, there is no overriding evidence that the RCF would not be viable. On the contrary, it seems to me that it would be capable of dealing at least with a substantial element of the County's MSW, and if this work failed to materialise it would be capable of dealing with C&I waste. ECC indicate that the RCF is consistent with, and would further, the aims of the JMWMS. [6.8, 7.15, 7.48]

13.59 Although the RCF proposal was put forward some years ago, the permission is recent and up to date. It is not surprising that details of any negotiations between the applicants and waste operators in relation to the building and operation of the RCF have not been put before the inquiry, partly because of commercial confidentiality and partly because of the present uncertainty regarding the outcome of the planning application for the eRCF. It is conceivable, if not likely, that any such negotiations regarding the RCF are on hold until the fate of the eRCF proposal is determined. [6.9]

13.60 For these reasons, I consider that there is a reasonable prospect of the RCF proposal being implemented in the event that the eRCF proposal is refused. Accordingly, I conclude that the RCF permission establishes the principle of large scale waste management at the application site, and that the potential environmental impacts of the RCF are a material consideration in the present case. [6.6, 7.49]

viii. The flexibility of the development

13.61 It seems to me that if a proposal is to be sustainable and economically viable in the long term, one of its attributes must be a degree of flexibility to accommodate future changes in waste arisings and in waste management techniques and practices. I agree with the SWFOE that the achievement of recycling targets will change the amount and constitution of residual waste. [10.2]

13.62 The SWFOE argues that as incinerators normally have a 25 year life span and require a constant supply of fuel, the whole eRCF system would be very inflexible. Objectors to the eRCF point to a need for flexibility in dealing with waste in future. Moreover, I note that Chapter 5 paragraph 23 of WSE 2007 indicates that

building facilities with an appropriate amount of flexibility is one of the keys to ensure that high rates of recycling and EfW can co-exist. [10.4, 10.24, 11.14]

13.63 I am mindful that the eRCF would have multiple process lines. For example, the MBT would have five autonomous process lines. The applicants argue that each of the facilities would have an inherent flexibility of capacity. The MRF would have the ability to allow rejects from one process line to become the feedstock of another. Moreover, minor modification to the MDIP would allow the facility to produce tissue paper pulp and it would be possible to introduce secondary treatment of the sludge from the MDIP to recover an aggregate. [6.97]

13.64 It is arguable that the integrated nature of the proposed eRCF; its exceptionally large scale; and the very significant amount of investment that would obviously be needed for its development would, in combination, result in a degree of inflexibility. On the other hand, the modular nature of the design, the flexibility of capacity of each process, and ability to make alterations to various modules would allow the eRCF to be adapted to varying compositions of waste. Moreover, the multiple autonomous process lines would allow a particular process to be upgraded in stages if necessary. For example, a CHP process line could be upgraded or replaced without shutting down the entire CHP process. In this respect, the large scale of the development provides opportunity for changes to be made to the process without endangering the overall viability of the operation.

13.65 On balance, I consider that the design of the proposal and its multiple autonomous process lines would provide a reasonable and sufficient degree of flexibility to enable future changes in the composition of waste and the ways in which waste is managed to be accommodated. In this respect, the scheme would not be detrimental to the achievement of increased rates of recycling.

ix. The effect on the living conditions of local residents

13.66 The eRCF proposal has the potential to cause harm to the living conditions of local residents in a number of ways. Some of the impacts are dealt with in other sections of these conclusions. I consider the issues as follows:

Noise and disturbance

13.67 Objectors point out that existing noise levels in the locality are low. It is especially quiet at night. The main potential sources of noise and disturbance from the proposal arise from the construction process, the operating of the IWMF, and from traffic generated by the development. It seems to me that the greatest potential is likely to be during the construction phase. This is the period when maximum noise levels are predicted. The applicants have used the three suggested methods of assessment given in BS 5228:2009 Part1: Noise to consider the impact of construction noise. These all show that there would be no significant impact from construction noise at neighbouring residential receptors. The predicted construction noise level falls within the range 44 dB(A) to 52 dB(A). Moreover, the assessment of construction noise has been undertaken on a worst case scenario, as the work would include excavations, and it is highly likely that the change in landform would result in considerably greater attenuation of noise levels at receptors than predicted. [6.122, 6.123, 8.39, 8.40]

13.68 I agree with the applicants that the potential for noise from vehicle reversing alarms and the sounding of vehicle horns could be adequately controlled by appropriate management of the site.

13.69 Noise and disturbance generated by the operation of the plant would also be mitigated by the low level siting of the development and the partial screening provided by bunding. The waste management operations would be undertaken within environmentally controlled buildings, sited below surrounding ground level. The buildings would be insulated with acoustic cladding to reduce noise, and vehicles would enter and leave the building through high speed action roller shutter doors. The reception of waste would be limited to the operating hours of 07.00 to 18.30 on weekdays, and 07.00 to 13:00 on Saturdays. The assessment of operational noise level at all receptor locations for both day and night time periods shows that noise levels of operations would be below the level of 'marginal significance' according to British Standard 4142. The physical noise levels predicted for daytime operations fall within the range of 22 to 34 dB(A), and 22 to 30 dB(A) for night time periods. I am satisfied that such levels of noise would not have a material impact on the amenity of local residents. [6.123]

13.70 A significant proportion of the proposed extension to the access road would be in cutting, which would help to attenuate the noise of HGVs on this road. Moreover, lorries would be unloaded and loaded within the environmentally controlled buildings. The applicants point out that the change in noise levels attributable to increased road traffic flows resulting from the eRCF would be imperceptible, being considerably lower than 1dB. [6.125]

13.71 With regard to the tranquillity mapping described by the CPRE, the applicants argue that the site of the IWMF appears to be near the middle of the scale, suggesting that it is neither tranquil nor not tranquil. On the other hand, the version of the map supplied by the CPRE suggests that it is nearer the tranquil side of the scale. From my inspections of the site and its surroundings I am inclined to agree with the CPRE on this point, when considering noise. Although I conclude that the development would not have an unacceptable impact on the residential amenity of local residents as a result of the generation of noise, it seems to me that the development would have some detrimental impact on the present tranquillity of the area. However, bearing in mind the reasonably low levels of noise that would be generated, particularly during the operating phase of the facility, I am not convinced that the impact on tranquillity would be serious, once the construction operations are complete. [6.124, 9.4]

Air quality, odour and dust

13.72 Objectors are concerned about the impact of the development on air quality as a result of emissions from the stack; odours from the operations of the IWMF; and from additional traffic generated by the development. With regard to air quality, the SWFOE points out that no predictions have been provided for $PM_{2.5}$. However, as indicated at paragraph 13.91 below, even if all particles emitted from the eRCF were assumed to be $PM_{2.5}$ the predicted maximum concentrations of such material would be 0.14 µgms/m^3 which is significantly less than the target value of 25µgms/m^3. [6.118, 10.13, 10.46]

13.73 Objectors submit that traffic emissions should have been added to the predictions. Air standards legislation should have been the definitive requirement, rather than the guidance in the Design Manual for Roads and Bridges (DMRB). [10.13]

13.74 As a requirement of the Environmental Permit (EP), the applicants would be required to demonstrate that the eRCF would not have a significant impact on local air quality. Notwithstanding this, the applicants point out that the environmental assessment already undertaken has demonstrated that the impact on air quality would be acceptable. Dispersion modelling has been used to predict airborne ground level concentrations of emissions from the stack. Certain emissions would be continually monitored, whilst others, which cannot be monitored continuously, would be monitored on a regular basis. The impact on air quality from stack emissions would be minimised by the use of exhaust gas scrubbing facilities and filters. No visible plumes are predicted to be emitted from the stack. [6.48, 6.51, 6.112, 6.114, 6.116]

13.75 The reception, shredding and sorting of waste, and the MBT processes, would be carried out within buildings which would operate under negative air pressure, thereby allowing odours and dust generated by these processes to be dealt with within the IWMF. The continuous 24 hour operation of the plant would ensure that the holding and storage times of unprocessed waste would be minimised, which would help to reduce the amount of odour generated within the plant. I am satisfied that current pollution control techniques would ensure that odour, dust and bio-aerosol emissions from the operations would not cause harm to human health or local amenity. [5.24]

13.76 As regards vehicle emissions, I am mindful that the total number of HGV movements associated with the operation of the proposed eRCF would not exceed 404 per day. Nevertheless, an assessment of the air quality impacts due to this traffic has been undertaken using the DMRB methodology. This demonstrated that traffic related pollutant ground level concentrations would be very small, even if it were assumed that all of the traffic associated with the IWMF accessed the site from an easterly or westerly direction. Although SWFOE argues that air standards legislation should have been the definitive requirement, I am mindful that the number of HGV movements would not increase from that already permitted for the RCF. Notwithstanding this, the DMRB assessment shows that the impact of vehicle emissions on air quality would not be significant. [6.117, 10.13]

Litter

13.77 A number of objectors are concerned that the proposal would lead to problems of litter and would attract vermin. However, waste would be delivered in enclosed vehicles or containers and all waste treatment and recycling operations would take place indoors under negative air pressure with controlled air movement regimes. I consider that these arrangements would ensure that litter problems would not arise and that the operation would not attract insects, vermin and birds. [5.24, 11.8]

Light Pollution

13.78 Many objectors are concerned that the eRCF would cause light pollution in an area that is light sensitive. However, outside the working hours of 0700 to 1830

there would be no external lighting, other than that used on an infrequent and intermittent basis for safety and security purposes. The LCG is sceptical as to whether such an arrangement would be practical. However, I see no reason why the plant could not be operated in this way. Internal lights would either be switched off or screened by window coverings during night time operations. Moreover, it is intended that external lighting levels would have an average luminance of 5 lux. The applicants indicate that external lighting units would be sited a maximum of 8m above finished ground level and that the use of flat glass luminaries at 0° tilt would produce no upward light. Given the depth of the excavation in which the buildings would be sited, it would appear that most lights would be sited below surrounding ground level. Moreover as the proposed extension to the existing access road would be constructed in cutting, lights from vehicles travelling to and from the eRCF on this section of the road would be screened from view. [6.83, 6.84, 8.44-47, 9.29, 11.13, 12.16]

13.79 Nevertheless, I am mindful that there is little or no artificial light at present in the vicinity of the site and that the area is valued by local residents for its clear skies in terms of light pollution. Even with the measures proposed by the applicants, it seems to me that the development could well create some light pollution and thereby cause some detriment to the amenities of the area in this respect. However, I consider that the proposed lighting arrangements, (which could be adequately controlled by condition as discussed in paragraph 13.153 below) would limit this impact to an acceptable level. In the wintertime there would be some impact during the hours of 0700 to 1830, but this would be kept to a minimum by the proposed methods of external lighting. Outside those hours, light pollution would occur on a relatively infrequent basis for short periods. As I indicate below, I am satisfied that Condition 44 would enable ECC to ensure that the potential for light spillage would be minimised.

Outlook

13.80 I deal with the visual impact of the development on the landscape at paragraphs 13.23 – 13.31 above. The siting of the IWMF below ground level would significantly reduce the visual impact of the proposed building that would otherwise occur. Moreover, the proposed dark colour and green roof of the main structure would make the buildings recessive and help them to blend into the background. The roof of the proposed IWMF and the stack would be visible from properties on the eastern edge of Silver End, from Sheepcotes Lane and Cuthedge Lane. Sheepcotes Farm is probably the closest to the site, being about 600 metres to the west. However, that dwelling is screened from the site by tall conifer hedging and is situated close to Hangar No 1 on the airfield, and the existing telecommunications tower. It seems to me that the development would have little impact on the outlook from this dwelling. [6.78]

13.81 There are a number of dwellings in Silver End from which the site would be visible, including the listed dwelling known as Wolverton. However, these dwellings are at least 1km from the application site. Bearing these distances in mind and the intervening vegetation, I consider that the development would not have a serious impact on the outlook presently enjoyed from these dwellings. In reaching this conclusion, I have had the benefit of visiting the area on a number of occasions and the evidence presented in relation to the various montages.

13.82 Dwellings such as Herons Farm, Deeks Cottage, and Haywards Farm are sited off Cuthedge Lane to the north of the application site. There would be a noticeable deterioration in the existing view from Deeks Cottage. The applicants recognise that Deeks Cottage would experience moderate adverse visual impacts as a result of the proposed facility during construction and the early years of the facility's operation, although they consider it to be the only property that would be affected to such an extent. Herons Farm appears to be partially screened from the application site by a bund presently in place to screen the existing quarrying operations, although this bund is likely to be removed in due course. These dwellings are between about 700m and 1km from the site of the proposed IWMF. Although there would be some detrimental impact on the outlook from these properties, I again consider that it would not be so serious that planning permission should be withheld for this reason. Given the distances between the properties, the flat nature of the intervening ground and the measures taken to reduce the visual impact of the development, it seems to me that the proposal would not be an overbearing or unacceptably intrusive feature in views from these properties. [2.13, 6.79, 8.20, 9.10, 9.11, 9.13]

13.83 Views of the top of the proposed stack would be visible from properties to the south of the application site in the vicinity of Western Road and Parkgate Road. However, these dwellings are well over 1km from the application site and in most cases there are significant blocks of woodland between the dwellings and the site. I consider that the views of the top of the stack that would arise from this direction would have no serious impact on the outlook from these dwellings.

13.84 Long distance views of the development would be possible from some locations on high ground to the north of the A120. Similarly, long distance views of the top of the proposed stack would be possible from some properties between Coggeshall Hamlet and Kelvedon. However, the views of the development would be so distant that it would have no significant impact on the general outlook from these properties. [8.21]

Conclusion on impact on living conditions

13.85 There would be some detrimental impact on the living conditions of occupiers of residential properties in the locality. There would be an increase in the level of noise in the area, although this would primarily be confined to the construction phase and even then would be well within acceptable limits. There would also be some impact on the tranquillity of the area and a small increase in light pollution, although these would be limited and minor. I am satisfied that air quality could be adequately controlled and there would be no noticeable emissions of dust or odour. The outlook from a small number of properties would be detrimentally affected, but again the impact would be relatively minor. Overall, I conclude that the proposal would not have an unacceptable impact on the living conditions of local residents.

x. The risks to human health

13.86 Many local residents have expressed fears that the eRCF would lead to deterioration in air quality and would present a risk to human health. The SWFOE argues that dioxins cannot easily be continuously monitored and escapes could occur between monitoring sessions. However, the applicants point to the advice in PPS 10

that modern, appropriately-located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The human health modelling presented in the Addendum ES indicates that the risks to human health from the proposed eRCF would be negligible. The predicted daily exposure for all contaminants of potential concern is less than the relevant toxicological benchmark. [6.112, 10.13, 10.46, 11.14]

13.87 Dispersion modelling, used to predict airborne ground level concentrations, shows that with a stack height of 35m (above existing ground levels), the predicted pollutant concentrations would be substantially below the relevant air quality objectives and limit values, except for arsenic. However, the assumed emissions of arsenic were substantially overestimated because, for the purposes of the model, the emissions of arsenic were assumed to be at the same level as the whole of the group of nine metals within which it fell in the assessment. This was an extreme worst case assumption, and considered by the applicants to be implausible, as it could result in an emission nine times the emission limit for the group of metals as a whole. The applicants argue that it would be more appropriative to specifically limit the emissions of arsenic, as opposed to increasing the height of the stack. [6.113]

13.88 Although this approach would rely heavily on the monitoring of emissions to ensure that there is no risk from emissions of arsenic, I am mindful that the assessment uses a new and far more stringent air quality limit for arsenic, which is not due to be implemented until 2012. Moreover, realistic estimates of arsenic emissions based on sampling and analysis of emissions from waste incinerators elsewhere show that arsenic levels would be significantly lower than that assumed in the dispersion modelling assessment. I note that the EA and the Primary Care Trust have not raised objections to the proposed eRCF [6.114, 7.33]

13.89 The LCG and CG point out that there is a statutory requirement to ensure that air quality is not significantly worsened, yet the emission of contaminants from the IWMF would result in deterioration of air quality. I am mindful of the advice in PPS23 that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. As I conclude at paragraph 13.158 below, it is unfortunate that further progress has not been made in discussions between the EA and the applicants regarding the height of the stack that would be necessary. Nevertheless, the EA does not appear to have an objection in principle to the IWMF. The applicants point out that as a requirement of the Environmental Permit (EP), they would have to demonstrate that the eRCF would not have a significant impact on local air quality and human health. This could be achieved by means other than increasing the stack height. In fact, a dilute and disperse approach by using a taller stack is one of the least preferred methods for controlling the impact of industrial emissions. Preference is given to abatement and the reduction of emissions at source. The applicants submit that the CHP plant could operate at substantially more stringent emission limits, thereby providing an alternative option for reducing the impact of the plant on local air quality. [6.49, 8.41, 9.22]

13.90 With regard to traffic emissions, the CG points out that there are high levels of NO_x at the junction of the A12 and A120 at Marks Tey. It is one of 18 air quality hot spots in the county and the additional HGV movements associated with the IWMF would exacerbate this situation. However, the proposed 404 additional

HGV movements associated with the eRCF are the same as that proposed for the RCF, for which planning permission has already been granted. Although the DMRB screening criteria does not require a detailed air quality assessment in this case, an assessment was undertaken using the DMRB methodology as a result of concerns about possible changes in the split of traffic on the A120. Even with an extreme assumption that all of the development traffic accessed the site from a single direction, it was shown that development traffic would not have a significant impact on air quality.

13.91 The SWFOE is concerned that no predictions have been provided for $PM_{2.5}$ and a limit value of 25µgms/m^3 for $PM_{2.5}$ is likely to be introduced into the EU Air Quality Directive before 2015. However, even if it were assumed that all particles emitted from the eRCF were comprised of the fine fraction ($PM_{2.5}$) the predicted maximum concentrations of such material would be 0.14 µgms/m^3 which is significantly less than the target value of 25µgms/m^3 and effectively negligible. [6.118, 10.13]

13.92 The Human Health Risk Assessment (HHRA) indicates that the risks to human health are negligible since the predicted daily exposure for all contaminants of potential concern is less than the toxicological benchmark. SWFOE questioned the exclusion of certain pathways from the HHRA, although the applicants had undertaken a survey beforehand to establish which pathways were likely to be realistic. This indicated that meat production does not take place in the immediate locality. Nevertheless, additional modelling was undertaken to include the ingestion of homegrown pork and beef, and milk from homegrown cows. Again, the analysis demonstrated that the risks to human health would be negligible. [6.119]

13.93 Despite the results of the assessments undertaken by the applicants, many local residents remain concerned about the potential health risk of emissions from the eRCF. Local residents' fears about the harmful effects on health of such a facility are capable of being a material consideration, notwithstanding that there may be no objective evidence to support such a fear. By itself, unfounded fear would rarely be a reason to justify withholding planning permission. Nevertheless, it seems to me that the anxiety caused by the potential risk of pollutants, even though the physical health risks may be negligible, could have an impact on the well being and the living conditions of local residents.

13.94 Many residents would like to see regular monitoring of air quality at specified receptor locations as a means of providing assurance regarding the risk of health from emissions at the plant. I can see merit in this approach but I have to accept that such measurements may not provide results which accurately reflect the impact of emissions from the eRCF. I consider the matter at paragraph 13.162 below and conclude that more meaningful and accurate measurement of emissions from the plant would be obtained by regular monitoring of emissions from the stack itself. This would have the advantage of providing emissions data for a wide area, rather than at a few specific locations, and would ensure that the collected data related to emissions from the plant. The S106 agreement would ensure that such information would be available to local residents by means of the proposed Site Liaison Committee. [6.114, 8.43, 12.23]

13.95 In conclusion, I am satisfied that the plant could be operated without causing any material harm to human health, and that this matter would be

adequately dealt with by the Environmental Permitting regime. Despite this, the concern of local residents regarding the risk to health, albeit unfounded, would remain as a detrimental impact of the development. Nevertheless, these fears would be ameliorated to some extent by the proposed arrangements for the results of monitoring of emissions to be provided to the Site Liaison Committee.

xi. Highway Safety and the Free Flow of traffic

13.96 As previously indicated, the impacts of the present proposal must be considered in the light of the extant permission for the RCF, which in my judgment provides a fall back position. In relation to the RCF there would be no control on the daily number of HGV movements by means of a condition. Notwithstanding this, the applicants indicate that the eRCF would generate no more than the 404 daily HGV movements anticipated in relation to the RCF. In this respect it is arguable that the proposal would have no greater impact than the scheme already permitted. [6.68]

13.97 The access road that would serve the development would link directly onto the A120, which is part of the trunk road network. The S106 agreement provides for traffic routeing arrangements to ensure that HGVs travelling to and from the site use a network of main roads and thereby avoid the local road network. Local residents argue that the A120 is frequently congested and the additional traffic generated by the development would exacerbate this situation. Moreover, it is argued that it would not be practical to enforce the traffic routeing arrangements and that HGV drivers would use the local road network to gain access to and from the site where a shorter route was available, or when the main road network was congested. The LCG submits that vehicles would be arriving from a wide range of places and that the eRCF operator would not have control over many of these vehicles. [8.37, 9.15, 10.38, 10.39, 10.44, 10.46]

13.98 I agree that many of the local roads in the area are narrow, winding and unsuitable for use by HGVs. However, the applicants point out that the eRCF would not be open to the public and the operator would have control over deliveries and the despatch of material to and from the proposed plant. Under such circumstances, I am satisfied that it should be possible to ensure that traffic routeing arrangements are enforced. [6.68, 9.17]

13.99 There is no doubt that volumes of traffic on the A120 are such that the road has reached its practical capacity and sections are regularly congested. However, as the applicants point out, for the most part this congestion occurs at peak times and the road should not necessarily be regarded as unable to accommodate additional traffic. During my site visits, I saw queues developing at peak times, particularly near Marks Tey where the A120 meets the A12. However, on most of these occasions, traffic continued to move, albeit slowly, and the levels of congestion were not unduly serious. Nevertheless, these were merely snapshots on particular days and I have no doubt that far more serious congestion occurs on a not infrequent basis. [6.71, 8.32, 9.16]

13.100 Notwithstanding this, it is likely that much of the traffic associated with the eRCF would travel outside peak periods and would not add to congestion problems. It must also be remembered that by restricting daily HGV movements to no more than 404, the proposal would not increase volumes of traffic over and above the figures associated with the RCF which has already been approved.

13.101 Many objectors doubt whether the eRCF could operate at full capacity with only 404 daily HGV movements. I have some sympathy with this argument as it was previously anticipated that the RCF would also generate 404 daily HGV movements, yet the RCF would involve the movement of 906,000tpa of material compared to the 1,272,075tpa associated with the eRCF, an increase of about 40%. The applicants have derived the HGV movements for the eRCF on the assumption that each lorry would be carrying the maximum weight permitted for that vehicle, arguing that there is no reason to believe that the operator or hauliers would wish to operate on the basis of sub-optimal loads. This is a logical argument, although I have some concern as to whether the calculations are somewhat theoretical and idealised, and do not make sufficient allowance for contingencies. [6.68, 8.28, 8.30, 11.7]

13.102 The applicants submit that there is no evidence that any specified number of HGV movements greater than 404 would have materially different or more serious implications in highways and transportation terms. This may be so, although it seems to me that the Highways Agency may well have required further information when consulted on the scheme, if the generation of HGVs was anticipated to be significantly greater than 404 movements per day. Notwithstanding this, the applicants have willingly agreed to the proposed planning conditions limiting the number of daily HGV movements to 404, and are satisfied that the eRCF could be operated economically and viably with such a restriction. They argue that the number of vehicle movements can be minimised by the use of 'back hauling' (i.e. using the same lorries that deliver material to the site to carry material from the site). [6.69, 8.31]

13.103 The site access road has junctions with Ash Lane and Church Road. Although there have been accidents at these junctions, it appears that the number of incidents have been few in number and it does not seem to me that the accident record is of serious concern. I note that the Highway Authority did not object to the application. The proposal would result in improvements at the junctions, and given the low volumes of traffic on the two local roads, I consider there is no reason to justify withholding planning permission for the development on the grounds of road safety at these junctions. [6.73, 6.74, 8.35, 9.18, 11.2]

13.104 For all of the above reasons, I conclude that the proposed restriction on the number of HGV movements is reasonable and appropriate and that the development would not have an unacceptable impact on highway safety and the free flow of traffic on the road network.

xii. The impact on the local right of way network

13.105 The network of footpaths in the area is well used. Three footpaths, including the Essex Way, cross the existing quarry access road. The proposed extension of the access road would cross footpath 35. Footpath 8 passes alongside the complex of buildings at Woodhouse Farm. [2.15, 8.18, 9.4]

13.106 Walkers on footpath 8 would pass close to the IWMF. Apart from seeing the stack, they would also, when approaching the site from the south, be likely to see the rear of the AD tanks, particularly in wintertime when many trees would have lost their leaves. A hedge would partially screen views from footpath 35, although it

is likely that walkers on footpath 35 would, on occasions, have views of part of the front of the building, which would be some 200m wide and 20m in height. The applicants acknowledge that users of footpath 35/68 to the north of the site would experience moderate adverse visual impact at Year 1 of operation, with other paths in the area assessed as minor adverse impact. [6.79, 8.18, 9.25, 9.31]

13.107 As indicated above, I have no doubt that the development would have some harmful effect on the present rural character of the area. This impact would be apparent to users of the footpath network. Moreover, the comings and goings of vehicles serving the site and activities at the site would also have a detrimental impact on the present tranquillity of the area. Nevertheless, these impacts would be ameliorated by the various mitigation measures such as hedge and woodland planting; the proposed dark colour of the building; the proposed green roof; the siting of the extension to the access road and the IWMF building itself within cutting (which would help to control noise and visual impact); and the intention to undertake all operations within environmentally controlled buildings. Overall, I consider that the impact on the right of way network would be detrimental but not to an unacceptable degree. [6.48, 6.89, 6.120]

xiii. Ground and surface water

13.108 The SWFOE submits that the proposed MDIP would require water over and above that obtained from recycling and rainwater collection. It is argued that water abstraction could have an impact on the River Blackwater and that a water study should have been undertaken to assess the impact of water requirements. Other objectors are concerned that the proposed eRCF could result in contamination of ground and surface water. [10.7, 11.9, 11.14, 12.28]

13.109 I am mindful that the proposals include the on-site collection, recirculation and treatment of water, minimising the need for fresh water. All surface water outside the buildings would be kept separate from drainage systems within the buildings. All drainage and water collected within the buildings and used in the Pulp Facility would be treated and cleaned within the Waste Water Treatment facility. It is anticipated that the IWMF would be largely self sufficient in water, by utilising rain/surface water, and would only require limited importation of water. This could be sourced from New Field Lagoon, which is part of the existing drainage system for the restored mineral working to the north, from licensed abstraction points, or obtained from the utility mains. Moreover, ground water monitoring would be undertaken and the results made available to the Site Liaison Committee. Bearing in mind the proposed methods for dealing with water; the monitoring that would be undertaken; the 1.5 km distance between the proposed IWMF and the River Blackwater; and the geology of the area with its significant clay strata, I conclude that the development could be built and operated without causing harm to the River Blackwater or causing contamination to groundwater. [5.27, 7.35,]

13.110 A number of objectors are concerned that the excavations involved in the development would result in the dewatering of soils to the detriment of existing trees and vegetation. However, the geology of the area suggests that existing trees rely on surface water, rather than ground water in the substrata. Clay is the dominant material in the soils beneath the woodland blocks. Woodland growth is separated from the underlying sand and gravel by over 6m depth of boulder clay. The trees are not dependent upon the groundwater locked in any aquifer below ground, but are

reliant upon moisture held within the subsoil and top soil that overlies the boulder clay. Any localized lowering of the water table as a result of excavations would have little impact on vegetation. [6.80, 8.26, 11.4, 12.20]

xiv. Loss of agricultural land

13.111 The development would result in the loss of almost 12ha of Grade 3a agricultural land, and in this respect the proposal is in conflict with local and national planning policies. However, there would be a similar loss if the RCF were constructed. Moreover, the impact of such a loss of best and most versatile agricultural land must be balanced against other sustainability considerations. [6.67, 6.105, 8.55, 8.58, 11.4, 11.13]

13.112 Although a loss of such agricultural land should be avoided where possible, ECC points out that the emphasis in the last 5 years has moved to soil resource protection. Soils stripped from agricultural areas would be re used sustainably. It would be used on screening bunds; on new areas of woodland and grassland; and to enhance the restoration of agricultural areas within the adjacent quarry. The proposed loss of Grade 3a agricultural land represents 0.3% of the Bradwell Hall Estate holding. Moreover, Woodhouse Farm is unoccupied, and could not form a 'commercial unit of agriculture' under the present agricultural cropping regime. It is also noteworthy that Natural England did not object to the proposal. For all these reasons, I conclude that the loss of Grade 3a agricultural land in this case is not an overriding issue. (6.105, 7.29)

xv. Habitats, Wildlife and Protected Species

13.113 About 19.1ha of open habitats would be lost. However, a large proportion of these are of low ecological value being arable land, species poor semi-improved grassland and bare ground. Mitigation measures include the planting of 1.8ha of new species rich grassland together with the provision of a further 1ha of managed species rich grassland to the east of Woodhouse Farm outside the Planning Application area. Moreover, the green roof on the main buildings of the proposed eRCF would be about 5ha in area and allowed to establish into open habitat. Bearing in mind that the new habitats would be the subject of an Ecological Management Plan, I agree with the applicants that the overall residual impact of the development is likely to be positive in terms of the value of open habitat. [5.20, 6.89, 6.90, 7.28, 11.2, 11.5].

13.114 Although between 1.6 and 1.7ha of existing woodland would be lost, the proposal includes planting of approximately 3.4ha of additional woodland and 2kms of new hedgerows. Objectors are concerned that the rate of growth of new vegetation is unlikely to be rapid and point out that the applicants accept that it would take up to 40 years to effectively replace some of the lost woodland. In the short term, I agree with objectors that the loss of woodland is likely to outweigh the positive impacts of the new planting. However, I note that the retained woodland would be managed to improve its diversity and screening quality. Bearing this in mind and the significant amount of new woodland and hedgerow to be planted and managed, it seems to me that the overall effect would be positive within a reasonably short space of time, despite the time necessary for woodland to provide significant screening. Certainly, in terms of habitat value the provision of additional

woodland and hedgerows would outweigh the loss of existing woodland within a short period. [5.19, 6.78, 6.90, 6.92, 7.28, 8.17, 8.20, 9.27]

13.115 With regard to protected and otherwise notable species, surveys have revealed that several species of bat utilise the site. In addition a small population of great nested newts were found and a range of bird species breed in the area. Brown hares can be found on the site. However, surveys for badger revealed only the presence of latrine sites. [6.88, 9.4]

13.116 Without mitigation the development would have a detrimental impact on protected species. However, the development includes a range of mitigation, compensation and enhancement measures. A number of ponds would be managed in the interests of great crested newts; bat boxes and various nesting boxes for birds would be provided; and buildings would be refurbished to provide specific roosting opportunities for bats. In addition habitats would be managed and created to provide foraging opportunities. I am satisfied that these and other measures would ensure that disturbance to protected species would be minimised or avoided. [6.88, 6.89]

13.117 Bearing in mind that the proposal includes the management of existing and proposed water bodies; the creation and management of new habitats; and the planting of woodland and hedgerows, I consider that overall it would enhance the bio-diversity of the area. [7.28]

xvi. The impact on Listed Buildings and the Silver End Conservation Area

13.118 When considering development proposals which affect a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess. There can be no doubt that the proposed development would cause some harm to the setting of the Listed Building complex at Woodhouse Farm. The close proximity of such a large development, with its associated lighting and parking facilities, and the visible presence of the chimney stack would have some detrimental effect upon the rural setting which the building presently enjoys. In addition the movement of such a large number of HGVs in the locality would be likely to create some noise and disturbance and generate a sense of activity in the immediate locality. However, I must bear in mind the fall back position arising from the extant planning permission for the RCF and the fact that the existing rural character of the area is already compromised to some extent by the presence of the remnants of the former airfield; the nearby scrapyard at Allshot's Farm; and the ongoing mineral workings at Bradwell Quarry which are likely to continue until 2021. [2.5, 2.7, 4.4, 8.18, 8.19, 11.10]

13.119 More importantly, I am mindful that the Woodhouse Farm complex is in an extremely poor state of repair and that the site of the complex is overgrown, derelict and untidy. The proposal to refurbish the buildings and bring them into meaningful use would, in my judgment outweigh any harmful impact on the setting of the complex that would be caused by the IWMF development. [2.6, 7.43, 9.7]

13.120 The setting of the Listed Building at Allshot's Farm is already severely compromised, in my judgment, by the presence of the nearby vehicle scrapyard.

Bearing in mind that this building is a further 400 metres beyond the Woodhouse Farm complex, I consider that the presence of the proposed development would have little or no impact on Allshot's Farm and its present setting would be preserved.

13.121 The listed building at Sheepcotes Farm is about 600m from the proposed IWMF. At present there is a tall conifer hedge at the rear of the plot which screens the farm buildings from the airfield. Moreover, the setting of the building is already influenced by the presence of the nearby former airfield hangar; the existing telecommunications tower; and the former runways of the airfield. The construction and operation of the IWMF would have some detrimental impact on the setting of Sheepcotes Farm. However, given the distance to the application site, the present conifer screening and the impact of existing development, I conclude that the effect of the proposed IWMF on the setting of the building would be minimal. [2.10, 9.13]

13.122 The other listed buildings in the locality, and the edge of the Silver End Conservation Area are at least 1km from the site of the proposed IWMF. Given these distances; the siting of the proposed IWMF and access road extension below existing ground levels; and existing intervening vegetation, which in some cases would provide significant screening, I am satisfied that the IWMF and its operations would have only a minor impact on the setting of these buildings and the conservation area. Moreover, because of the proposed hedgerow and woodland planting, and other landscaping works associated with the development, I consider that the scheme as a whole would preserve the settings of these buildings and of the conservation area. [2.9, 2.11, 2.12, 7.46, 9.12, 9.26, 11.15]

13.123 Section 72 of the above Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 4.14 of PPG15 indicates that the desirability of preserving or enhancing the area should also be a material consideration when considering proposals which are outside the conservation area but which would affect its setting , or views in or out of the area. Bearing in mind my conclusion that the scheme as a whole would preserve the setting of the conservation area, I am satisfied, for the same reasons that it would also preserve the character and appearance of the Silver End Conservation Area. [6.137, 9.6, 9.8]

xvii. The historic value of the airfield

13.124 A number of objectors are concerned about the impact the development would have upon the historic value of the airfield. However, much of the airfield and its military buildings have disappeared. The applicants submit that the airfield is not a particularly good surviving example of a World War II military airfield. I have no detailed evidence which contradicts this view. The airfield facilities themselves are not designated or protected in any way. [6.77, 6.138, 10.36, 11.15]

13.125 I note that the provision within the S106 agreement relating to the Woodhouse Farm includes for an area to be set aside within the refurbished complex for a local heritage and airfield museum. In my opinion, this would be a practical method of recognising the contribution made by the airfield to the war effort and would be commensurate with the historic value of the site. I can see no justification for withholding planning permission at this site because of its historic value as an airfield. [5.13, 12.24]

Other matters

13.126 With regard to the suggestion put forward by Feering PC that provision be made for a flood lagoon at Bradwell to relieve flooding problems in Coggeshall, Kelvedon and Feering, I agree with the comments made in the ECC committee report of 24 April 2009 (Document CD/2/12A), that to require a contribution for such development would not be in accord with the criteria for planning obligations set out in Circular 05/2005. The application site is not located in a flood risk area and the scheme would have no impact upon the flows of the River Blackwater. [11.23]

Mitigation measures

13.127 As indicated above, the development would have some harmful impact on the environment. It would result in a loss of existing habitat, both open and woodland. It would generate a degree of activity, noise and disturbance, light pollution, potentially some odour, and would be detrimental to air quality as a result of the emissions from the plant and the HGV traffic that would be generated. It would result in a loss of Grade 3a agricultural land and would have a visual impact on the landscape, not least from the proposed chimney stack. The perceived risk to human health also represents a negative impact, albeit that I am satisfied that any such risk would be negligible and does not justify such fears.

13.128 In my judgment, the proposals include measures that would substantially mitigate these impacts. Moreover, the imposition of suitable conditions, IPPC control and the provisions of the S106 agreement would ensure that such impacts were kept within acceptable limits. In particular, I am mindful that the additional woodland planting, the proposed hedge planting and provision of replacement habitats, including the lagoon, the green roof of the building, and other features would mitigate against the loss of woodland and habitats. These features, in combination with the siting of much of the access road within cutting, the main building within an excavated area, the design of the main building in the form of two vast hangars, the siting and partial screening of the stack, would significantly mitigate the visual impact of the development within the landscape and the impact on the character of the area.

13.129 It seems to me that the impacts should be considered in the light of the extant permission for the RCF which provides a fall back position. On this point, I am mindful that there would no control on the number of HGV movements generated by the RCF in terms of a planning condition.

Overall conclusion

13.130 Although the development would cause harm in a number of ways, I consider that the proposed mitigation measures would ensure that such harm would be minimised to such an extent that there would be no unacceptable harm either to the environment or to the local population. On the other hand, the proposal would provide a range of important benefits, not least a means of undertaking waste management in a sustainable manner which would assist in meeting the challenging waste management targets set out in the EEP. Overall, I consider that the scheme's conflict with a small number of planning policies is far outweighed by the support given by a range of other planning policies and, on balance, it seems to me that the proposal is in accord with the development plan and Government guidance.

Conditions and obligations

13.131 I shall recommend that planning permission be granted for the eRCF subject to conditions. In the event that the SoS agrees and decides to grant planning permission it seems to me that such permission should be subject to the conditions set out in the central column of Appendix B of this report. The appendix is based on the final draft of the suggested list of conditions put forward by ECC (Document ECC/8). I have amended the list of conditions in the central column to reflect my comments below. In general, the conditions are reasonable and necessary and meet the tests set out in paragraph 14 of Circular 11/95. Where I make no comment on a condition set out in ECC/8, I consider that condition to be appropriate and necessary for the reasons set out in Appendix B and Document ECC/8.

13.132 I consider that a 5 year limit for commencement of the development as set out in Condition 1 is appropriate and realistic, bearing in mind the nature of the development and the need for an Environmental Permit to be obtained before work could realistically commence on site. Condition 2 is necessary to clarify the details of the development and to avoid any doubt as to the relevant drawing numbers. I have added this reason to the schedule.

13.133 It is necessary to limit the maximum number of HGV movements as set out in Condition 3, because no assessment has been made of the impact of a larger number of additional HGV movements on the trunk road network and there is no dispute that the network already suffers from congestion from time to time [12.3].

13.134 In the interests of road safety and to avoid congestion on the local road network it is important to take steps to minimise the likelihood of HGVs using local roads to gain access to and from the site. The traffic routeing provisions of the S106 agreement would make an important contribution to this objective. To help make those provisions viable, I consider that it is necessary to log various details relating to each vehicle visiting the site. I therefore consider that it is necessary for Condition 5 to be amended to read that 'A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request. The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded.' [12.4].

13.135 The words 'Figure1-2 annexed hereto' should be deleted from Condition 8 and replaced with 'application drawing Figure 1-2'. The drawing is listed in Condition 2 and there is no need to attach the drawing to the formal grant of planning permission.

13.136 'Plan 1' referred to in Condition 13 can be found in the S106 agreement. The wording in the condition should be amended to reflect this.

13.137 Condition 14 seeks to control the design of the stack. The applicants seek the SoS's views on the acceptability of a 40 m high (above existing ground level) stack (rather than the 35 m high stack applied for) in the event that the EA requires a higher stack as part of the EP procedure. Although Condition 14 relates to

the design of the stack, Condition 56 controls the height of the stack and therefore Condition 14 would be unaffected by any such change in height.

13.138 I do not consider that it is appropriate to impose a condition requiring the buildings at Woodhouse Farm to be brought into a good state of repair. I agree with ECC that such works may require Listed Building Consent and a further grant of planning permission. It would be unreasonable to impose a condition requiring such development, as the applicants would not have control over the decision which permitted such development. I am satisfied that the matter is best covered by the provisions of the S106 agreement. [12.5]

13.139 I have concerns as to whether Condition 16 meets the tests for conditions set out in Circular 11/95, particularly in relation to necessity and its relevance to the development. I appreciate that BDLPR Policy RLP94 indicates that major development will make provision for the commissioning of suitable and durable public works of art, and that the site can be seen from the public footpath. However, the development would not be located in a public place and it cannot be readily described as falling within the public realm. Moreover, I am not convinced that a work of art at this location is either relevant to the development or would make a positive contribution to the environment and the wider community. For all these reasons, I consider that Condition 16 should not be imposed. [12.6]

13.140 I consider that Condition 17 should be imposed. It is important that all possible measures are taken to ensure that there is no visible plume from the stack. Not only would a plume give the area a somewhat industrialised character, but it would unnecessarily increase fears about the possibility of environmental pollution and risks to human health, no matter how unfounded those fears may be. I am not convinced that these are matters that would necessarily form part of the EP regime and would be dealt with by the EA. I am mindful of the LCG's concern that the condition does not categorically state that there will be no plume. However, it seems to me that the Condition in its present form adopts a reasonable and pragmatic approach to the matter. [12.7]

13.141 With regard to Condition 21, the LCG is concerned that the application drawings do not identify any parking areas for HGVs. However, I support the approach that substantial provision should not be made for the parking of HGVs in the open air on the site. To encourage such parking would not be beneficial to the character of the area. Condition 21 should remain unaltered. [12.8]

13.142 As the development has been partly promoted on the argument that the excess electricity produced at the plant would be sold to the National Grid, I have some sympathy with the LCG's submission that a condition should be imposed requiring such electricity to go to the National Grid. However, it is unreasonable to impose a condition requiring the applicants to meet a requirement which is not entirely within their control. It would plainly be in the applicants' interests to sell the excess electricity and I conclude that it would be unreasonable to impose such a condition on this issue. [12.9]

13.143 In relation to Condition 28, I agree with the applicants that restricting the sourcing of SRF from outside Essex and Southend, but within the remainder of the East of England for a period of only one year from the date of agreement with the WPA, could lead to problems of uncertainty. The ability to enter into contracts for

such a limited period could unreasonably handicap the applicants in the operation of the plant. Nevertheless, it is important that all possible efforts are made to ensure that such material is sourced from within the local area in the interests of the proximity principle and the ability of the plant to deal with local waste arisings. Changes in the availability of supply in the locality should therefore be accommodated within a reasonable period. It seems to me that a reasonable and realistic approach would be to adopt a time period of 3 years in this case. I therefore consider that the reference to '[one/five] years' in paragraph (ii) of Condition 28 be amended to 'three years'. [12.10]

13.144 Condition 30 is a source of conflict between the parties. The applicants argue that it would not be possible to source 80% of the feedstock for the MDIP from within the region and the relaxation contained in the condition would therefore have to operate from the outset. In this respect the condition is unreasonable. Moreover, it is pointed out that the MDIP would be a unique facility in the UK. Policy WM3 of the East of England Plan indicates that allowance can be made for specialist processing or treatment facilities to deal with waste primarily from outside the region where there is a clear benefit.

13.145 On the other hand, I am mindful that the figure of 80% is derived from the application. As ECC points out, the regulation 19 information provided by the applicants stated that the Region could provide a significant proportion, if not all of the paper feed stock for the MDIP. Moreover, Policy WM3 places some weight on a progressive reduction of waste imported into the East of England.

13.146 It seems to me that the MDIP would be of benefit in a number of ways. It would provide a means of recycling high quality waste paper in a beneficial way. It would reduce the need to use virgin fibre for making high quality paper and in due course it would probably encourage an increase in the amount of high quality waste paper that is recovered for recycling. In these respects, the facility could be of benefit to an area larger than the East of England region.

13.147 I have some concern that the applicants did not make it clear at the outset that in reality more than 20% of the feedstock would have to be sourced from outside the region. On the other hand, it would have been unduly optimistic to expect that nearly all the relevant potential feedstock in the East of England would become available for the MDIP.

13.148 If planning permission is to be granted, the condition should be realistic and reasonable. Moreover, it seems to me that there are a number of somewhat competing objectives in relation to this condition. Firstly, the distance that waste is transported should be minimised, in accordance with the proximity principle. Secondly, and linked to the first objective, the operators of the facility should be encouraged to source locally produced feedstock wherever possible and thereby contribute to the objective of self sufficiency in dealing with waste. Thirdly, the MDIP must be viable if the benefits which it could provide are to be achieved. The applicants argue that a restriction on feedstock in terms of the distance from source, rather than being based on the regional boundary would be more realistic, practical and capable of meeting the objective of minimising the distance waste is transported. A figure of 150 km is suggested.

13.149 There are clearly merits in this approach. However, in view of the proximity and overwhelming size of London, I am concerned that this approach could result in the vast majority of the waste paper feedstock being transported from London thereby reducing any incentive to encourage the sourcing of feedstock from within the region. I therefore support the general approach adopted by ECC, although I do not agree that a requirement for 80% of the feedstock to be sourced in East of England would be reasonable, even if the terms of the condition required ECC to authorise a greater proportion of imports if the 80% target could not be met. The applicants do not expect the facility to deal with waste primarily from outside the region and therefore it seems that a requirement for 50% of the waste to be sourced from within the region would be reasonable given the flexibility provided by the suggested condition. I conclude that Condition 30 should be imposed, subject to the figure of '20%' in paragraph (i) being replaced by '50%' and the figure of '80%' in paragraph (ii) being replaced by '50%'. I have amended two typing errors in the second paragraph, replacing 'operation' with 'operator' and 'cad' with 'card'. [6.37,6.38, 12.11, 12.12]

13.150 I have concern about the hours of working on a Sunday that would be permitted during construction by Condition 35. However, I am mindful that the development is sited some distance from the nearest residential dwellings and once excavation is completed a large proportion of the work would be undertaken below natural ground levels. Moreover, a similar condition applied to the RCF permission. Bearing these points in mind, the substantial nature of the development and the aim of completing construction within about 2 years to meet the likely demands for the facility, I conclude that Condition 35 should be applied in its present form.

13.151 I agree that Condition 38 should specify where noise measurements are to be made and that the following words should be included in the condition: 'Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects'.

13.152 PPS10 makes it clear that when assessing planning applications for waste management facilities consideration should be given to the likely impact of the proposal on the local environment and on amenity. Although the pollution control regime may well result in the application of noise limits to the processes that would take place at the eRCF, it is reasonable for the planning system to seek to control noise to ensure that residential amenity is not harmed. The LCG is concerned that Conditions 39 and 40 allow higher noise levels than predicted by the applicants. That may be so, but it seems to me that the limits applied by those conditions are reasonable and should ensure that residential amenity is not significantly harmed by noise generated at the site. Condition 42 allows higher levels of noise for temporary periods, but this is intended to allow operations such as the construction of bunds which in themselves would assist in reducing the impact of the development on residential amenity. I consider that the noise levels set out in these conditions are reasonable and that the suggested conditions should be imposed. [12.15]

13.153 With regard to Condition 44, I am mindful that the applicants have indicated that external lighting units would be sited a maximum of 8 m above finished ground level and that the use of flat glass luminaries at 0° tilt would produce no upward light. However, I am satisfied that Condition 44 would enable ECC to ensure that the potential for light spillage would be minimised and I accept ECC's

argument that excessive specification before a final lighting scheme is adopted could be counter-productive. There are a number of factors to be taken into account, including considerations of average and peak levels of lighting and the number and siting of lighting units. For these reasons, I conclude that Condition 44 should remain in its present form. [6.83, 8.39-42, 12.16]

13.154 I agree with ECC that Condition 52 should be imposed. Firstly, the pollution control regime would not necessarily be applicable to the excavation and construction of the plant. Moreover, odour has the potential to cause significant harm to residential amenity and the environment, and it is not unreasonable that the planning system should have some control over this highly controversial issue which can be difficult to control and enforce if measures are not taken to provide control at the outset. Although there could well be some overlap between the planning and pollution control regimes on this matter, it is not unreasonable that the planning authority should be satisfied that appropriate measures have been taken to control fugitive odours before beneficial occupation of the IWMF is permitted. [12.17]

13.155 With regard to Condition 55, I agree with the applicants that it would be unreasonable to prohibit the works set out in the condition from taking place during the bird nesting season, if such work would not affect nesting birds. Condition 55 should remain in its present form.

13.156 Condition 56 indicates that the stack height should not exceed 85 m AOD (35m above existing ground level). The applicants consider it unlikely that a taller stack would be necessary to meet the requirements of the pollution control regime. Nevertheless, if a taller stack were required, a further planning application under Section 73 of the 1990 Act would be necessary. The applicants seek the SoS's view as to whether a taller stack, up to 90m AOD, would be acceptable. Clearly, it is a matter for the SoS whether he wishes to comment on this matter. Generally, he would not be expected to do so, particularly if insufficient information was before him. In this case, the appellants have put forward some evidence on the matter, including at least one montage of a 40m high (90m AOD) stack. Moreover, the LCG has presented some counter evidence, together with a number of montages of such a feature.

13.157 Overall, however, less information has been provided about the impact of a 40m high stack compared to that which has been presented in relation to a 35 m high stack. It would be expected that the detailed assessment of a 40m high stack would be as thorough as that for a 35 m high stack, and this respect I consider that insufficient information has been submitted in relation for example to montages from various locations, an assessment of zone of theoretical visibility, and the opinions of all parties who may be affected by such development. Clearly, a 40m high stack would have a greater visual impact than a 35m high stack and in this respect the balance of harm versus the benefit of the eRCF would be affected.

13.158 I am mindful that the advice in the Defra document entitled 'Designing Waste Facilities' indicates that the required height of emission stacks should not be underestimated (Doc CD/8/9 Page 74). It is unfortunate that further progress on this matter has not been made in discussions between the EA and the applicants. I appreciate that only the proposed operator can apply for an Environmental Permit, as indicated in the e-mail from the EA dated 5 October 2009 (Document GF/28) and that this requirement has prevented the applicants from making a formal application

to the EA. Although detailed discussions have obviously taken place, it seems to me that insufficient progress has been made, for whatever reason, because such an important issue as the required height of the stack has not been resolved. The advice in paragraph 28 of PPS10 that waste planning authorities and pollution control authorities should work closely to ensure integrated and timely decisions under the complementary regimes has not been followed insofar as such an important matter has not been assessed in some detail by the EA. It is not for me to determine why the advice has not been followed, but the result is that important information, which ideally should have been presented to the inquiry, has not been available.

13.159 On the basis of the evidence presented to date, and my inspections of the site and its surroundings, it seems to me that the benefits of the eRCF proposal may well outweigh the harm that the development would cause even if a 40m stack were required. However, until a more thorough assessment is undertaken and the views of all those who may be affected by such a change in the proposal have been thoroughly canvassed, it seems to me that no firm conclusions can be reached. With regard to the existing proposals, Condition 56 is appropriate.

13.160 Turning to Condition 60, the LCG submits that the management and watering of trees adjacent to the proposed retaining wall should continue during the operational phase of the development. However, evidence submitted by the applicants suggests that the trees rely on surface water in the topsoil and subsoil rather than on ground water in the substrata and ECC considers that there is therefore no need to continue watering after construction is complete. It is arguable that the future maintenance of the trees would be adequately covered by the provisions of the management plan for existing and proposed planting set out in the S106 agreement. Nevertheless, given the disturbance to the natural conditions which would be caused by the development, it seems to me that it would be wise to ensure that watering of these trees continued during the first growing season after the completion of construction if this proved necessary. I consider that the condition should be amended by including the words '*and throughout the first growing season after completion of construction where necessary*' after the words '*and construction of the IWMF*'.

13.161 I consider that the provisions of the S106 agreement are necessary to ensure that the necessary highway and access works are completed at the appropriate time in the interests of road safety; traffic routeing arrangements are put in place again in the interests of road safety and to minimise any impact on the local road network; a Site Liaison Committee is set up and operates, to ensure good communications between the operator of the plant and the local community; the refurbishment of the Woodhouse Farm complex takes place in the interests of preserving the listed buildings and providing facilities that would be of benefit to the local community; a management plan is put into operation to mitigate the visual impact of the development and to enhance the ecological value of the area; to ensure that minerals are not extracted and the site then remains undeveloped; to ensure a survey of historic buildings is undertaken and the results are appropriately recorded; to ensure groundwater is monitored and any necessary mitigation measures are undertaken; to ensure the MDIP is operated as an integral part of the IWMF; and to provide for the setting up and operation of a Community Trust Fund for the benefit of the local community.

13.162 I can understand the desire of the community group and the LCG for ambient air quality monitoring to be undertaken at specified receptor locations and for the results to be made available to the local community. I have no doubt that the results of such monitoring could assist in allaying the fears of the local community about the potential of the plant to cause harm to human health and the local environment. However, as the applicants point out, such monitoring would be subject to a wide range of variables and would be of limited value in identifying the impact of the development itself. A more meaningful and accurate measurement of the emissions from the plant would be obtained from the regular monitoring of emissions from the stack. This is a requirement of the Waste Incineration Directive (WID) and would result in continuous monitoring of some emissions and regular periodic monitoring of others. It has the advantage of providing emissions data for a wide area rather than at a few specific locations and would ensure that emissions and modelling data related to the emissions from the plant. The S106 agreement provides for the results of such monitoring and also ground water monitoring to be presented to the Site Liaison Committee. I conclude that this approach would result in more meaningful measurements of emissions from the eRCF. [6.114, 12.23]

SECTION 14 - RECOMMENDATION

14.1 I recommend that planning permission be granted for the proposed Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and pulping paper recycling facility to reclaim paper; Combined Heat and Power Plant utilising solid recovered fuel to produce electricity, heat and steam; Extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; Visitor / Education Centre; Extension to existing access road; Provision of offices and vehicle parking; and associated engineering works and storage tanks. The permission should be subject to the conditions set out in the centre column of Appendix B of this report.

M P Hill

INSPECTOR

APPEARANCES

FOR THE APPLICANTS:

David Elvin QC assisted by Simon Pickles, of Counsel	instructed by Linklaters LLP on behalf of Gent Fairhead & Co Limited.
They called:	
Steven Smith BSc MSc	Associate, Golder Associates (UK) Ltd
Andrew Sierakowski BSc MSc LLM MRTPI MIHBC AMCIWM	Senior Minerals and Waste Planner, Golder Associates (UK) Ltd.
Ralph Keeble BSc MICE MCIWM	Director, Ralph Keeble Consulting Ltd.
Christine Marsh BA(Hons) DipLA MLA	Senior Landscape Architect, Golder Associates (UK) Ltd
Dr Amanda Gair BSc (Hons) PhD MIES MIAQM	Head of Air Quality Team, SLR Consulting.
David Hall BSc MSc CGeol MGS	Principal, Golder Associates (UK) Ltd.
Dr Ian James Fairclough MSc PhD MIEEM	Senior Ecologist, Golder Associates (UK) Ltd.
Jeff Thornton BSc(Hons) MSc	Technical Development Director for Contaminated Land, Golder Associates (UK) Ltd.
Justin Bass MSc MCILT	Associate, Intermodal Transportation Ltd

FOR THE WASTE PLANNING AUTHORITY:

James Pereira of Counsel	instructed by Solicitor to Essex County Council
He called	
Claire Tomalin BSc MA MRTPI	Senior Planner, Essex County Council.

FOR BRAINTREE DISTRICT COUNCIL AND VARIOUS PARISH COUNCILS (The Local Councils Group):

David Whipps, Solicitor LARTPI	Holmes and Hills Solicitors
He called	
Ian Gilder MA DipTP MRTPI FRSA	Head of Planning, Environmental Resources Management.
Teresa Lambert BA(Hons) DipTP MRTPI	Development Control Manager, Braintree District Council.
Melanie A'lee MIHIE	Associate, Waterman Boreham Ltd.
Tony Dunn MA(Oxon) MBA	Clerk to Bradwell Parish Council.
Mrs T Sivyer	Coggeshall Parish Council.
Robert Wright IEng MSOE MBES	Rivenhall Parish Council.
Alan Waine	Silver End Parish Council.
James Abbott BSc (Hons)	Braintree District Councillor and Rivenhall Parish Councillor.

FOR THE COMMUNITY GROUP:

John Dagg of Counsel	instructed by Alan Stones RIBA MRTPI MIHBC
He called	
John Palombi	Chairman of Witham & Countryside Society, Trustee

	Director of CPREssex.
Philip Hughes	District Councillor and Silver End Parish Councillor.
Barry Nee BA MA	Resident of Kelvedon.
Alan Stones AADip DipTP RIBA MRTPI MIHBC	Consultant in urban design and historic buildings conservation.

INTERESTED PERSONS:

Paul Gadd	representing Saffron Walden Friends of the Earth
David Rice	Local resident, Braintree.
Stewart Davis	Local resident, Kelvedon.
Eleanor Davis	Local resident, Kelvedon.
Paula Whitney	representing Colchester and North East Essex Friends of the Earth
Kate Ashton	Local resident, Rivenhall.
Felicity Mawson	Local resident, Witham.
Brian Saville	Local resident, Bradwall
Robert Gordon	Local resident , Silver End

DOCUMENTS

1 Lists of persons present at the inquiry
2 ECC's Letter of Notification of inquiry.
3 Copies of Representations received by ECC

Submitted by Applicants – Gent Fairhead & Co Ltd (GF)

GF/2/A	Proof of Evidence of Steven Smith
GF/2/B	Appendices to Proof of Evidence of Steven Smith
GF/2/C	Rebuttal Proof of Evidence of Steven Smith
GF/2/D	Appendices to Rebuttal Proof of Evidence of Steven Smith
GF/2/E	Presentation of Evidence of Steven Smith
GF/3/A	Proof of Evidence of Andrew Sierakowski
GF/3/B	Appendices to Proof of Evidence of Andrew Sierakowski
GF/4/A	Proof of Evidence of Ralph Keeble
GF/4/B	Appendices to Proof of Evidence of Ralph Keeble
GF/4/C	Rebuttal Proof of Evidence of Ralph Keeble
GF/4/D	Appendices to Rebuttal Proof of Evidence of Ralph Keeble
GF/5/A	Proof of Evidence of Christine Marsh
GF/5/B	Appendices to Proof of Evidence of Christine Marsh
GF/5/C	Rebuttal Proof of Evidence of Christine Marsh
GF/5/D	Appendices to Rebuttal Proof of Evidence of Christine Marsh
GF/6/A	Proof of Evidence of Dr Amanda Gair
GF/6/B	Appendices to Proof of Evidence of Dr Amanda Gair

GF/6/C	Rebuttal Proof of Evidence of Dr Amanda Gair
GF/6/D	Response to Friends of the Earth – Air Quality
GF/7/A	Proof of Evidence of David Hall
GF/7/B	Appendices to Proof of Evidence of David Hall
GF/7/C	Supplemental Proof of Evidence of David Hall
GF/7/D	Appendices to Supplemental Proof of Evidence of David Hall
GF/7/E	Rebuttal Proof of Evidence of David Hall
GF/7/F	Appendices to Rebuttal Proof of Evidence of David Hall
GF/8/A	Proof of Evidence of Dr Ian James Fairclough
GF/8/B	Appendices to Proof of Evidence of Dr Ian James Fairclough
GF/8/C	Rebuttal Proof of Evidence of Dr Ian James Fairclough
GF/8/D	Appendices to Rebuttal Proof of Evidence of Dr Ian James Fairclough
GF/9/A	Proof of evidence of Jeff Thornton
GF/9/B	Appendices to Proof of Evidence of Jeff Thornton
GF/9/C	Supplemental Proof of Evidence of Jeff Thornton
GF/9/D	Appendices to Supplemental Proof of Evidence of Jeff Thornton
GF/9/E	Response to Friends of the Earth – HHRA
GF/10/A	Proof of Evidence of Justin Bass
GF/10/B	Appendices to Proof of Evidence of Justin Bass
GF/10/C	Rebuttal Proof of Evidence of Justin Bass
GF/10/D	Appendices to Rebuttal Proof of Evidence of Justin Bass
GF/10/E	Email from the Highways Agency dated 9 June 2009
GF/10/F	Letter from the Highways Agency dated 8 October 2009
GF/11	Revised Non-Technical Summary
GF/12	Addendum Environmental Statement
GF/13	Application Drawings
GF/13-R1	Revised Application Drawings (to replace GF/13)
GF/14	Erratum to GF/5/B/13 (Appendix 13 to Proof of Evidence of Christine Marsh)
GF/15	Erratum to GF/2/A and GF/2/B (Evidence of Steven Smith)
GF/15/A	Further Erratum to GF/2/A (Evidence of Steve Smith)
GF/16	Erratum to Chapter 2 of GF/12 (the Air Quality Chapter of the ES Addendum)
GF/17	Agreed note on the WRATE Modelling
GF/18	Proposed Site Itinerary
GF/19	Applicant List of Appearances
GF/20/A	List of Inquiry Documents – Day 1 (Tuesday 29 September 2009)

GF/20/B	List of Inquiry Documents – Day 2 (Wednesday 30 September 2009)
GF/20/C	List of Inquiry Documents – Day 5 (Tuesday 6th October 2009)
GF/20/D	List of Inquiry Documents – Day 5 (Tuesday 6th October 2009)
GF/20/E	List of Inquiry Documents – Day 8 (Friday 9th October 2009)
GF/20/F	List of Inquiry Documents – Day 10 (Wednesday 14th October 2009)
GF/21	Opening Submissions on behalf of the Applicant
GF/22	Erratum to GF/6/B/10 (Appendix 10 to the Proof of Evidence of Amanda Gair)
GF/23	Erratum to GF/5/A (Proof of Evidence of Christine Marsh)
GF/24	Summary Data to Support Evidence of Ralph Keeble
GF/25/A	Indicative Inquiry Programme (Day 2)
GF/25/B	Indicative Inquiry Programme (Day 2)
GF/25/C	Indicative Inquiry Programme (Day 3)
GF/25/D	Indicative Inquiry Programme (Day 5)
GF/25/E	Indicative Inquiry Programme (Day 6)
GF/25/F	Indicative Inquiry Programme (Day 6)
GF/25/G	Indicative Inquiry Programme (Day 8)
GF/25/H	Indicative Inquiry Programme (Day 9)
GF/26	Letter from Shanks to Ralph Keeble dated 21 September 2009
GF/27	Note of WRATE Modelling – Agreed Between David Hall and Ian Gilder
GF/28	Email from the Environment Agency in Respect of the Environmental Permit Application
GF/29	Negotiation of the RCF Section 106 Agreement
GF/30	Supplementary Note to Ralph Keeble's Evidence
GF/31	Supplementary Note on Tissue Mill Feedstock – by Ralph Keeble
GF/32	Note on Heritage Significance of Rivenhall Airfield
GF/33	Supplementary Note of EERA Review Consultation – by Ralph Keeble
GF/34	Supplementary Information - prepared by Amanda Gair
GF/35	Note on Tranquillity Mapping
GF/36	Erratum to CD/2/6 (Appendix 1 to the Ecological Impact Assessment Chapter)
GF/37	Note addressing question raised by Friends of the Earth regarding the "R1 Formula" (i.e. whether the eRCF would be categorised as "recovery" or "disposal" pursuant to Directive 2008/98/EC)
GF/38	Flexibility of the eRCF
GF/39	Directions to Frog Island WMF for site visit on Friday 16 October (Meeting there at 10.30am
GF/40	Note addressing letter to the Inquiry from Glendale Power dated 8 October 2009 (CD/15/5/B)
GF/41	eRCF Preliminary Lighting Schedule
GF/42	eRCF Maintenance Note

GF/43	Explanation of changes to application drawings
GF/44	Closing submissions
GF/45	Drawing showing calculation of eRCF building area(in response to CD1/13/2 – Local Council's response to SoCG)

Submitted by Essex County Council (ECC)

ECC/1	Statement of Case
ECC/2	Proof of Evidence of Claire Tomalin
ECC/3	Summary Proof of Evidence of Claire Tomalin
ECC/4	Opening Submissions on behalf of ECC
ECC/5	Email from ERM to Lesley Stenhouse at ECC and Response
ECC/6	Supplementary Note of EERA Review Consultation – prepared by Claire Tomalin
ECC/7	Proposed Conditions (with comments where condition not agreed between ECC and the Applicant)
ECC/8	Revised version of ECC/7 with changes marked to show additional comments following Inquiry session on 13 October 2009
ECC/9	Closing submissions

Submitted by Local Council's Group (LC)

LC/1/A	Proof of Evidence of Ian Gilder
LC/1/B	Appendices to Proof of Evidence of Ian Gilder
LC/1/C	Supplementary Proof of Evidence of Ian Gilder
LC/1/D	Rebuttal Proof of Evidence of Ian Gilder
LC/1/E	Note on ERM 2009 Report (CD/10/4)
LC/2/A	Proof of Evidence of Teresa Mary Lambert
LC/2/B	Appendices to Proof of Evidence of Teresa Mary Lambert
LC/3A	Proof of Evidence of Melanie A'Lee
LC/3/B	Appendices to Proof of Evidence of Melanie A'Lee
LC/4/A	Proof of Evidence of Tony Dunn
LC/4/B	Appendices to Proof of Evidence of Tony Dunn
LC/5/A	Proof of Evidence of Michael Horne
LC/6/A	Proof of Evidence of Robert Wright
LC/7/A	Proof of Evidence of Alan Waine
LC/8/A	Proof of Evidence of James Abbott
LC/8/B	Appendices to Proof of Evidence of James Abbott
LC/9	List of Appearances for the Local Councils
LC/10	Opening Submissions on behalf of the Local Councils
LC/11/A	Plan showing Parish boundaries

LC/11/B	Plan showing certain referenced roundabouts
LC/11/C	Plan showing certain referenced local roads
LC/12	Closing submissions
LC13-14	These have been numbered as CD/16/3-4

Submitted by Community Group (CG)

CG/1/A	Proof of Evidence of John Palombi
CG/1/B	Appendices to Proof of Evidence of John Palombi
CG/2/A	Proof of Evidence of Philip Hughes
CG/2/B	Appendices to Proof of Evidence of Philip Hughes
CG/3/A	Proof of Evidence of Barry Nee
CG/4/A	Proof of Evidence of Alan Stones
CG/4/B	Appendices to Proof of Evidence of Alan Stones
CG/5	List of Appearances and Opening Submissions on behalf of the CG
CG/6	Closing submissions

Submitted by other parties and individuals (OP)

OP/1	Submission on behalf of Saffron Walden Friends of the Earth, together extract of Environmental Report, dated February 2008, to Essex County Council by Eunomia.
OP/2	Oral statement of behalf of Saffron Walden Friends of the Earth including extract from DEFRA Stage One: Consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/EC) (July 2009)
OP/3	Submission from Stewart Davis
OP/4	Submission from Eleanor Davis
OP/5	Submission from Kate Ashton, including appendices.
OP/6	Submission by Paula Whitney, together with 7 appendices, on behalf of Colchester and North East Essex Friends of the Earth
OP/7	Submission by Felicity Mawson

CORE DOCUMENTS (referenced as: CD/[Section No]/[Ref No], e.g. the call in letter is CD/1/1)

Section No	Ref No	Document Title or Description
1		**Call In Letter**
1	1	Government Office for the East of England Call in Letter - 12.05.09
2		**eRCF Planning Application and Associated Documents - ESS/37/08/BTE**
2	1	Letter to ECC - Ref. Screening & Scoping - 22.05.08
2	2	eRCF Formal Scoping Opinion Request - 22.05.08
2	3	Letter to ECC - Ref. Planning Application & EIA - 26.08.08

2	4	Planning Application and Environmental Statement, Proposed Evolution of the Recycling & Composting Facility at Rivenhall Airfield, Volume 1 - 26.08.08
2	5	Planning Application and Environmental Statement, Proposed Evolution of the Recycling & Composting Facility at Rivenhall Airfield, Volume 2, 1 of 4 - 26.08.08
2	6	Planning Application and Environmental Statement, Proposed Evolution of the Recycling & Composting Facility at Rivenhall Airfield, Volume 2, 2 of 4 - 26.08.08
2	7	Planning Application and Environmental Statement, Proposed Evolution of the Recycling & Composting Facility at Rivenhall Airfield, Volume 2, 3 of 4 - 26.08.08
2	8	Planning Application and Environmental Statement, Proposed Evolution of the Recycling & Composting Facility at Rivenhall Airfield, Volume 2, 4 of 4 - 26.08.08
2	9	Letter to ECC - Ref. Regulation 19 - Additional Information - 09.12.08
2	10	Regulation 19 Additional Information - 09.12.08
2	11	ERM, Rivenhall Airfield – Evolution of the Recycling and Composting Facility: Review of Environmental Statement, Final Report, November 2008
2	12A	ECC Report to Committee (DR/19/09) - 24.04.09
2	12B	Addendum to ECC Report to Committee - 24.04.09
2	13	Minutes of the Development & Regulation Committee - 24.04.09
3		**RCF Planning Application and Associated Documents - ESS/38/06/BTE**
3	1	Planning permission dated 26 February 2009 (Ref:KA/DEVC/2848)
3	2	Minutes of the East of England Regional Planning Panel Sub-Committee of 19 January 2007
3	3	Rivenhall Airfield Recycling & Composting Facility, Volume 1 - Planning Application Supporting Statement – July 2006
3	4	Rivenhall Airfield Recycling & Composting Facility, Volume 2 - Environmental Statement, File 1 of 2- July 2006
3	5	Rivenhall Airfield Recycling & Composting Facility, Volume 2 - Environmental Statement, File 2 of 2- July 2006
3	6	Rivenhall Airfield Recycling & Compositing Facility Supplementary Report, Nov 2006
3	7	Section 106 Agreement dated 26 February 2009 between Gent Fairhead & Co Ltd (1), Essex County Council (2), Barclays Bank Plc (3), Gent Fairhead Aggregates Ltd and Cemex Operations Ltd (4) and The Bradwell Estate (5)
3	8	Letter from Go-East dated 26 April 2007 in response to the referral by ECC of ESS/38/06/BTE
3	9	ECC Committee Report - ESS/38/06/BTE - 30 March 2007 (DR/015/07)
4		**European Legislation and Guidance**
4	1	Consolidated EC Framework Directive on Waste 2006/12/EC (previously the Waste Framework Directive 75/442/EEC (as amended))
4	2	New EC Framework Directive on Waste 2008/98/EC
4	3	EC Waste Incineration Directive 2000/76/EC
4	4	EC Landfill Directive 1999/31/EC
4	5	EC Groundwater Directive 2006/118/EC
4	6	EC Reference Document on Best Available Techniques in the Pulp and Paper Industry, 2001
4	7	EC Directive on Air Quality 2008/50/EC
4	8	The IPPC Directive (Directive 2008/01/EC)
5		**Statutory Development Plan and Associated Documents**
5	1	East of England Plan, The Revision to the Regional Spatial Strategy for the East of England, (May 2008)
5	2	Report to the Regional Planning Panel on the 29 June 2009 entitled 'Waste Policies for the review of the East of England Plan'
5	3	Essex and Southend Replacement Structure Plan (Adopted April 2001)

5	4	Essex and Southend Waste Local Plan (Adopted September 2001)
5	5	Braintree District Local Plan Review (Adopted July 2005)
5	6	Essex Minerals Local Plan First Review (January 1997)
5	7	Extract from the Report of the Panel, dated June 2006, Following the Examination in Public of the East of England Plan December 2004
5	8	Technical Paper on Waste for the Review of the East of England Plan – Consultation Document, August 2009
6		**National Planning Policy**
6	1	Planning Policy Statement (PPS) 1 – Delivering Sustainable Development
6	2	Planning and Climate Change – Supplement to PPS 1
6	3	Consultation Paper on PPS4 – Planning for Sustainable Economic Development 2007
6	4	PPS 7 – Sustainable Development in Rural Area
6	5	PPS 9 – Biodiversity and Geological Conservation
6	6	PPS 10 – Planning for Sustainable Waste Management
6	6A	Extract from the Companion Guide to PPS 10
6	7	Planning Policy Guidance (PPG) 13 – Transport
6	8	PPG 15 – Planning and the Historic Environment
6	9	PPG 16 – Archaeology and Planning
6	10	PPS 22 – Renewable Energy 2004
6	11	PPS 23 – Planning and Pollution Control
6	11A	Planning Policy Statement 23: Planning and Pollution Control Annex 1: Pollution Control, Air and Water Quality
6	12	PPG 24 – Planning and Noise
6	13	PPS 25 – Development and Flood Risk
6	14	Minerals Policy Statement (MPS) 2 – Controlling and Mitigating the Environmental Effects of Minerals Extraction in England
6	15	The Planning System: General Principles (ODPM, 24.02.2004)
6	16	PPS Planning for the Historic Environment: Historic Environment Planning Practice Guide (Living Draft – 24 July 2009)
6	17	Consultation paper on a new Planning Policy Statement 15: Planning for the Historic Environment (DCLG July 2009)
7		**Circulars**
7	1	Circular 11/95: Use of conditions in planning permission
7	2	Circular 05/05: Planning obligations
8		**Other Law, Policy and Strategy Documentation**
8	1	DEFRA Waste Strategy for England 2007 (May 2007)
8	2	Joint Municipal Waste Management Strategy for Essex (2007 to 2032)
8	3	DEFRA – Waste Infrastructure Delivery Programme Information Note on Combined Heat & Power (January 2009)
8	4	The UK Renewable Energy Strategy 2009
8	5	Essex Waste Management Partnership PFI, Outline Business Case, April 2008 (Executive Summary)
8	6	Essex Waste Management Partnership PFI, Outline Business Case, July 2009 (main body only, no appendices)
8	7	English Heritage (2006) *Understanding Historic Buildings: A guide to good recording practices*
8	8	The UK Low Carbon Transition Plan – National strategy for climate and energy
8	9	Designing waste facilities – a guide to modern design in waste (DEFRA/CABE 2008)
9		**Previous Inquiry Documents and Other Planning Permissions**
9	1A	Essex and Southend-on-Sea Waste Local Plan, Public Inquiry, 25 October 1999 – 5 January 2000, Report of the Inspector, July 2000

9	1B	Secretary of State's decision in respect of CD/9/1A
9	2	Planning Permission ESS/07/98/BTE: Minerals Local Plan Site R, Bradwell Sand and Gravel Pit and Rivenhall Airfield, Bradwell
9	3	ESS/15/08/BTE, Report from the Head of Environmental Planning at ECC approving variation of ESS/07/98/BTE to allow amended restoration levels.
10		**Industry Reports and Assessments**
10	1	Urban Mines – Detailed Assessment of East of England Waste Arisings for the East of England Regional Assembly (March 2009)
10	2	WRAP Market De-Inked Pulp Feasibility Study, 2005
10	3	Waste Arisings, Capacity and Future Requirements Study Final Report (ERM, February 2007)
10	4	Updated Capacity and Need Assessment Final Report (ERM, July 2009)
11		**The Council Group Documents**
11	1	[NOT USED]
11	2	Braintree District Council, Committee Report – 25 November 2008
11	3	Braintree District Council, Minutes of Planning Committee Meeting – 25 November 2008
11	4	Braintree District Council, Committee Report – 20 January 2009
11	5	Braintree District Council, Minutes of Planning Committee Meeting – 20 January 2009
11	6	[NOT USED]
11	7	[NOT USED]
11	8	Braintree District Council, Cabinet Meeting, Minutes of Meeting – 11 May 2009
12		**The Community Group Documents**
12	1	Kelvedon Village Plan, Kelvedon Parish 2002
12	2	Bradwell Village Action Plan, Bradwell Village Action Group, 2003
12	3	The Countryside Agency, Rivenhall Village Design Statement, July 2005
13		**Statement of Common Ground**
13	1	Draft Statement of Common Ground agreed between Gent Fairhead & Co. Ltd and ECC, dated 26 August 2009
13	2	Draft Appendix to CD/13/1 prepared by the Councils Group
13	3	CD13/1 with slight amendments shown in track changes (incorporating CD/13/2 as Appendix 1)
13	4	Final Statement of Common Ground
14		**Section 106 Agreement**
14	1	Draft Section 106 Agreement agreed between Gent Fairhead & Co. Ltd and ECC, dated 26 August 2009
14	2	Note setting out changes to be made to CD/14/1 prior to engrossment of Section 106 Agreement to incorporate comments of Local Councils
14	3	Further changes to be made to CD/14/1 to incorporate comments of Local Councils
14	4	Engrossment version of S106 (being CD/14/1 incorporating changes set out in CD/14/3)
14	5	Conformed and certified copies of completed S106 agreement
15		**Third Party Correspondence**
15	1	File of third party correspondence received from PINS on 3 August 2009
15	2	Correspondence received from PINS up to and including 25 September 2009
15	3	Letter submitted by Mr B T Hill to Inspector at Inquiry dated 5 October 2009
15	4	Correspondence received from PINS on 8 October 2009 (comprising 3 letters and 3 emails CD/15/4/A to CD/15/4/F)
15	5	Correspondence received from PINS between 9 and 12 October 2009 (CD/15/5/A to CD/15/5/F)
15	6	Correspondence received from PINS on 13 October 2009
15	7	Letter from Environment Agency to PINS dated 13 October 2009
16		**Comments on the EA response to Addendum to ES and on any other representations on the Addendum received by 14 October 2009.**

16	1	Letter from EA dated 22 October 2009 clarifying earlier comments
16	2	Comments on EA letter from Community Group dated 22 October 2009
16	3	Comments on EA letter from Local Council's Group dated 22 October 2009
16	4	Comments on lighting schedules from Local Council's Group dated 22 October 2009
17		**Final responses submitted by 29 October 2009 to evidence submitted at CD/16 above.**
17	1	Technical Note on Exterior Lighting, prepared by Pell Frishmann (dated 26 October 2009) on behalf of the applicants in response to representations from the LCG and CG's dated 22 October 2009.
17	2	Applicants response to representations made by Local Councils Group and Community Group on 22 October 2009 (CD/16 above) - Prepared by Dr Amanda Gair, 29 October 2009

Appendix A – Brief Description of the Frog Island Waste Management Facility at Rainham

1) I undertook an accompanied visit to the Frog Island Waste Management Facility on 16 October 2009.

2) The Frog Island development comprises a materials recycling facility (MRF) and a mechanical biological treatment plant (MBT). The MBT plant processes about 200,000 tpa of municipal solid waste (MSW) and C&I waste on three lines each taking about 70,000 tpa. The plant operates with a negative internal air pressure and each line has a large biological filter on the roof designed to deal with odours. The object of the site visit was to inspect the operation and efficiency of the plant with regard to the generation of dust, and odour.

3) The plant is situated on the edge of the River Thames and is some distance from the nearest residential properties. There were high levels of noise at the end of each line within the plant, at the point where vehicle trailers were being loaded before removing residues from the plant. However, the plant appears to be well insulated for sound because the level of noise outside the building was low and not intrusive.

4) The plant is fitted with fast operating roller shutter doors and these appear to work well. However, the reception area for the delivery of waste is too small. I noted that vehicles were depositing their loads whilst the roller shutter doors were open – they did not appear to have sufficient room to move fully into the building before tipping the waste. Some waste spilled outside the line of the doors as the vehicles moved forward, lowering their trailer bodies and leaving the building. This spill of waste prevented the doors from being closed fully from time to time and there was some odour from waste at the point of delivery. Nevertheless, the negative air pressure system appeared to work well, because there was no other apparent odour emanating from the plant except that at the point of delivery.

5) I have no doubt that this problem is due to the limited size of the delivery area, which prevents some vehicles from unloading entirely within the building. The negative air pressure also clearly assisted with dust control. There was a significant amount of dust inside the plant, particularly at the end of the MBT lines. However, this is kept within the plant and I saw no obvious signs of dust nuisance outside the building.

6) Finally, I inspected the biological filters on the roof. These were filled with wood bark and the only odour emanating from this part of the plant was the smell of wood bark.

Appendix B – List of Proposed Planning Conditions

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
Commencement		
1. Commencement within 5 years, 30 days prior notification of commencement.	**1.** The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Not less than 30 days prior notification of commencement of the development shall be given in writing to the Waste Planning Authority. **Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).**	
Approved Plans and Details		
2. The development hereby permitted shall only be carried out in accordance with the details submitted by way of the application and subsequent submitted information.	**2.** The development hereby permitted shall only be carried out in accordance with drawing numbers:	ECC: Inspector to decide if any additional material to be specifically referenced.
	Title	
	1-1: Land Ownership & Proposed Site Plan	
	1-2: Proposed Planning Application Area	
	1-4: Access Road Details	
	1-5A: Typical Arrangement and Architectural Features of the eRCF	
	1-8: Schematic Arrangement of Woodhouse Farm	
	1-9: eRCF Simplified Process Flow	
	1-10: eRCF Integrated Process Flow	
	3-3: Site Plan Layout	
	3-8C: eRCF General Arrangement	
	3-12C: eRCF Detailed Cross-Sections	
	3-14A: eRCF Upper Lagoon & Wetland Shelf	
	3-16: Services Plan	
	3-19B: eRCF General Arrangement	
	8-6: Landscape Mitigation Measures	
	IT569/SK/06: Proposed Improvements to Site Access Road Junction with Church Road	
	IT569/SK/07: Proposed Improvements to Site Access Road Junction with Ash Lane	
	19-2B: Tree Survey	
	19-3B: The Constraints and Protection Plan	
	19-5: eRCF Base Plan Woodhouse Farm **Reason: For the sake of clarity and the avoidance of doubt**	
Traffic and Access		

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
3. The maximum number of HGV movements a day associate with the associated waste management facility shall be no more than 404 HGV movements a day. Records shall be maintained and submitted upon request.	**3.** The total number of Heavy Goods Vehicle [HGV[1]] movements associated with the excavation of materials (i.e. overburden, sand, gravel, and boulder clay) and import and/or export of materials associated with the operation of the completed IWMF[2] hereby permitted shall not exceed the following limits: 404 movements 202 in and 202 out per day (Monday to Friday) 202 movements 101 in and 101 out per day (Saturdays) and shall not take place on Sundays, Public or Bank Holidays, except for clearances from Household Waste Recycling Centres between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority. No HGV movements shall take place outside the hours of operation authorised in Conditions 34 & 36 of this permission. [1]An HGV shall be defined as having a gross vehicle weight of 7.5 tonnes or more. [2] IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site. **Reason: In the interests of highway safety and safeguarding local amenity and to comply with MLP policy MLP13 and WLP policies WLP W4C & W10E.**	
3. The maximum number of HGV movements a day associate with the associated waste management facility shall be no more than 404 HGV movements a day. Records shall be maintained and submitted upon request.	**4.** The total number of Heavy Goods Vehicles [HGV[1]] vehicle movements associated with the construction of the IWMF (including deliveries of building materials) when combined with the maximum permitted vehicle movements under Condition 3 shall not exceed the following limits: 404 movements 202 in and 202 out per day (Monday to Sunday). No HGV movements shall take place outside the hours of operation authorised in Condition 35 of this permission. [2] IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site. **Reason: In the interests of highway safety and safeguarding local amenity and to comply with WLP Policy W10E.**	
3. The maximum number of HGV movements a day associate with the associated waste management facility shall be no more than 404 HGV movements a day. Records shall be maintained and submitted upon request.	**5.** A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request . The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded. **Reason: To enable the Waste Planning Authority to monitor HGV movements and in the interests of highway safety, safeguarding local amenity and to comply with MLP policy MLP13 and WLP policy W10E.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
4. Details of the extended access road to be submitted including removal of lay-by on single lane section with upgrading of surface to passing bay. 5. No construction works for the development until the access road extension and widening and all footpath crossover points have been provided. 34. No development shall commence until the layout of the cross over points of rights of way with the haul road, both existing and proposed, have been submitted for approval.	**6.** No development shall commence until full details of the extended access road and the layout of the cross over points (both temporary and permanent) where the access road, both existing and proposed, crosses public footpaths, as shown on the Definitive Map and Statement of Public Rights of Way have been submitted to and approved in writing by the Waste Planning Authority. The extended access road and cross over points shall be implemented in accordance with the approved details. **Reason: In the interests of pedestrian safety and safeguarding local environment and amenity and compliance with WLP policy W10E & W10G, and MLP policy MLP13.**	
5. No construction works for the development until the access road extension and widening and all footpath crossover points have been provided.	**7.** No works on the construction of the IWMF shall commence until the access road extension and widening and all footpath crossover points have been constructed. **Reason: In the interests of pedestrian safety and safeguarding local environment and amenity and compliance with WLP policy W10E & W10G, and MLP policy MLP13.**	
6. All vehicles shall only enter and leave the Site using the Coggeshall Road (A120) junction.	**8.** 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. **Reason: In the interests of pedestrian safety and safeguarding local environment and amenity and compliance with WLP policies W4C &W10E and MLP policies MLP3 & MLP13.**	
7. No vehicles shall park within passing bays on the access road between Church Road and Ash Lane.	**9.** No vehicles shall park on the haul road between the A120 and Ash Lane. **Reason: In the interests of safeguarding the local environment and amenity and to comply with MLP Policy MLP13 and WLP Policy W10E.**	
Cultural Heritage		
8. No development until a programme for archaeological investigation.	**10.** No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation and recording has been submitted to and approved in writing by the Waste Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented prior to the commencement of the development hereby permitted or any preliminary groundworks. **Reason: To ensure that any archaeological interest has been adequately investigated and recorded prior to the development taking place and to comply with MLP policy MLP13 and WLP policy W10E.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
9. No demolition of airfield buildings until level 3 survey undertaken.	**11.** No airfield buildings and/or structures shall be demolished until the Level 3 survey in accordance with the 2006 English Heritage Guidance entitled "Understanding Historic Buildings: A Guide to Good Recording Practice" of the airfield buildings and/or structures has been completed. **Reason: To ensure that any historical interest has been adequately investigated and recorded prior to the development taking place and to comply with MLP policy MLP13 and WLP policy W10E.**	
10. No development affecting the moat until details of the proposed improvements and water supply submitted for approval.	**12.** No ecological management works affecting the moat adjacent to Woodhouse Farm shall commence until details of the proposed works and proposed water supply for the moat and a timescale for its implementation have been submitted to and approved in writing by the Waste Planning Authority. The works to the moat and water supply arrangements shall be implemented in accordance with the details approved. **Reason: To ensure protection of any historical and/or ecological interest to comply with MLP policy MLP13 and WLP policy W10E.**	
11. No development until details of signage, telecommunications and lighting within the vicinity of Woodhouse Farm have been submitted.	**13.** No development shall commence until details of signage, telecommunications equipment and lighting within the Woodhouse Farm complex (comprising Woodhouse Farm house, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 (which can be found in the S106 agreement)) have been submitted to and approved in writing by the Waste Planning Authority. The signage, telecommunications equipment and lighting shall be implemented in accordance with the details approved. **Reason: To protect the setting and appearance of the Listed Buildings and to comply with WLP policy W10E and BDLPR policy RLP100.**	
Design and Layout		
12. No development shall commence until details of the design of the chimney including elevations, sections, plan views to appropriate scales and construction details have been submitted. & 14. No development shall commence until information on effect of weathering on the proposed chimney material and how the chimney would be maintained to retain the quality of the surface have been submitted.	**14.** No development shall commence until details of the design of the stack serving the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The details to be submitted shall include: (a) elevations, sections and plan views to appropriate scales and construction details; (b) samples of the finish of the stack to provide a mirrored reflective surface; and (c) information on the effect of weathering on the proposed stack material or how the effect of weathering is to be assessed by, for example the location on the site of examples of proposed materials which will be exposed to the elements and details of how the stack would be maintained to retain the quality of the surface of these materials. The stack shall be constructed and maintained in accordance with the details approved **Reason: To limit the impacts on local amenity and the local environment and to comply with WLP policy W10E and Adopted Braintree Local Plan Review 2005 (BDLPR) policy RLP78.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
13. No development shall commence until design details including external construction, materials, colours and finishes of the external cladding of the buildings and structures have been submitted including the provision of an artistic feature on or near the north elevation.	**15.** No development shall commence until design details and samples of the external construction materials, colours and finishes of the external cladding of the IWMF buildings and structures, and design and operation of the vehicle entry and exit doors, have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the details and samples approved. **Reason: To limit the impacts on local amenity and the local environment and to comply with WLP policy W10E and BDLPR policies RLP78 & RLP90.**	
13. No development shall commence until design details including external construction, materials, colours and finishes of the external cladding of the buildings and structures have been submitted including the provision of an artistic feature on or near the north elevation.	**16.** Not used	
15. No development shall commence until management measures for the CHP plant have been submitted to ensure there is no visible plume from the chimney.	**17.** No development shall commence until a management plan for the CHP plant to ensure there is no visible plume from the stack has been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved plan. **Reason: To limit the impacts on local amenity and the local environment and to comply with WLP policy W10E and BDLPR policy RLP78.**	
16. No development shall commence until details of the green roofs have been submitted.	**18.** No construction of the IWMF shall commence until details of the green roofs proposed for the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The green roofs shall be implemented in accordance with the details approved. **Reason: To limit the impacts on local amenity and the local environment and to ensure enhancement of biodiversity and to comply with WLP policy W10E and BDLPR policies, RLP78 & RLP90.**	
17. No development shall take place until details of the layout of the waste management facility have been submitted.	**19.** No works to install process equipment or plant within the IWMF shall commence until details of the IWMF process layout and configuration have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details. **Reason: To ensure control of the development and in the interests of local amenity with respect to control of noise, dust, odour and light and to comply with WLP policy W10E.**	
18. No beneficial use of the waste management facility until details for parking of cars, HGVs and any other vehicles that may use the waste management facility. & 49. No redundant plant or machinery, containers, skips, trailers or vehicles shall be parked other than within designated areas.	**20.** No development shall commence until details of the construction compounds and parking of all vehicles and plant and equipment associated with the extraction of materials and the construction of the IWMF have been submitted to and approved in writing with the Waste Planning Authority. The details shall include location, means of enclosure and surfacing. The compounds and parking shall be implemented in accordance with the approved details. **Reason: To limit the impacts on local amenity and the local environment and to comply with WLP policy W10E and BDLPR policy RLP78.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
18. No beneficial use of the waste management facility until details for parking of cars, HGVs and any other vehicles that may use the waste management facility.	**21.** No beneficial occupation of the IWMF shall commence until details of the provision to be made for and the marking out of parking spaces for cars, HGVs and any other vehicles that may use the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The parking provision and marking out shall be implemented in accordance with the approved details. The parking areas shall be retained and maintained permanently for manoeuvring and parking. No HGVs shall park in the parking area adjacent to Woodhouse Farm complex except in relation to deliveries for the uses at Woodhouse Farm complex. **Reason: To limit the impacts on local amenity and the local environment and to comply with WLP policy W10E and BDLPR policy RLP78 and RLP100.**	
Water Resources		
19. No development shall take place until a detailed scheme for foul water has been submitted and approved.	**22.** No development shall commence until a detailed scheme for foul water management, including details of the design and operation of the foul water system for the IWMF and Woodhouse Farm complex has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the details approved prior to the commencement of operation of the IWMF. **Reason: To minimise the risk of pollution of water courses, aquifers and minimise the risk of flooding to comply with WLP policy W4B & W10E and BDLP policy RLP 100.**	
20. No development shall take place until a detailed scheme of the surface water drainage and the ground water management system, including details of water flows between Upper lagoon and New Field lagoon.	**23.** No development shall commence until a detailed scheme for surface water drainage and ground water management, including details of water flows between the Upper Lagoon and the New Field Lagoon has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the approved details. **Reason: To minimise the risk of pollution of water courses, aquifers and minimise the risk of flooding to comply with MLP policy MLP13 and WLP policies W4B & W10E.**	
21. No excavation shall take place until a scheme identifying locations for the installation of boreholes to monitor groundwater has been submitted.	**24.** No excavation shall commence until a scheme of ground water monitoring for the site has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall identify the locations for the installation of boreholes to monitor groundwater and the frequency of monitoring. The scheme shall be implemented in accordance with the details approved prior to the commencement of excavations on the site. **Reason: To minimise the risk of pollution of water courses, aquifers and minimise the risk of flooding to comply with MLP policy MLP13 and WLP policies W4B & W10E.**	
22. In the event that contamination is found the developer shall submit details of mitigation and remediation for approval.	**25.** No development shall commence until an investigation to identify whether the site is contaminated has been carried out and details of the findings including any land remediation and mitigation measures necessary should contamination be identified. The development shall be implemented in accordance with the approved details including any remediation and mitigation identified. **Reason: To minimise the risk of pollution of water courses, aquifers and to comply with MLP policy MLP13 and WLP policies W4B &W10E and BDLPR policy RLP64.**	
Waste Management		

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
23. No element of the development may be implemented in isolation of others.	**26.** The market de-inked paper pulp plant shall only source its heat steam and energy from the IWMF with the exception of periods of start-up and maintenance and repair of the IWMF. **Reason: To ensure the development is operated as an integrated waste management facility as proposed, maximising the benefits of the co-location of the different elements and to comply with RSS policies WM1 & WM3 and WLP policies W4C, W8A & W7G.**	
24. No waste shall be brought onto the Site for processing in the MRF, AD, MBT and CHP plant (except waste paper and card) other than that arising from within the administrative area of Essex and Southend-on-Sea. Submission of monitoring data.	**27.** No waste, except pre-sorted waste paper and card and Solid Recovered Fuel, shall be brought on to the site other than that arising from within the administrative area of Essex and Southend-on-Sea. Records indicating the origin of all waste consignments and tonnages brought to the site shall be kept and made available for inspection by the Waste Planning Authority for at least 2 years after receipt of the waste. The records shall be made available to the Waste Planning Authority within 14 days of a written request. **Reason: To ensure the development is operated as an integrated waste management facility as proposed, maximising the benefits of the co-location of the different elements and to comply with RSS policies WM1 & WM3 and WLP policies W4C, W8A & W7G.**	
	28. (i) SRF shall be sourced internally from the IWMF or within the administrative boundaries of Essex and Southend-on-Sea. (ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source SRF from these sources and there remains capacity within the IWMF, then SRF arising from elsewhere within the East of England may be used up to the available capacity for a period up to three years from the date of the agreement of the Waste Planning Authority. (iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved. **Reason: In the interests of the environment by assisting Essex and Southend-on-Sea to become self-sufficient for managing its own waste ensuring that the waste is transported proximate to the site thereby minimising transportation distances, reducing pollution and amenity and to comply with RSS policies WM1, WM3, WM4 & WM5 and WLP policies W3A, W3C, W6A, W7A, W7B, W7C and W10E.**	GFC: Five years appropriate ECC: One year appropriate
25. No wastes other than dry non-hazardous Municipal Solid Waste and Commercial & Industrial wastes shall be brought onto the Site for processing, treatment or disposal.	**29.** No waste other than those waste materials defined in the application shall enter the site for processing or treatment in the IWMF plant. No more than 853,000tpa of Municipal Solid Waste and/or Commercial and Industrial Waste shall be imported to the site. **Reason: Waste material of a greater quantity would raise additional environmental concerns, which would need to be considered afresh and to comply with RSS policies SS1, WM1, WM2, WM3 & WM4 and WLP policies W3A, W3C, W8A,& W10E.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
26. No more than 435,000 tpa of waste (MSW and/or C&I) as MOW, MDR or unsorted waste, shall be imported to the Site, except C&I waste in the form of paper and card. No more than 331,000 tpa of paper and card shall be brought to the Site. No more than 87,500 tpa of SRF shall be imported to the Site. Records shall be kept and provided upon request.	*[NO CONDITION REQUIRED - MERGED WITH PREVIOUS CONDITION]*	
27. No more than 20% of the imported waste paper and card shall be from sources outside the East of England Region. Records shall be kept and provided upon request.	**30.** (i) No more than 50% of the imported waste paper and card (based on a nominal imported tonnage of pre-sorted waste paper and card of 360,000 tpa) shall be sourced from outside the administrative boundaries of the East of England Region. (ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source 50% of the imported pre-sorted waste paper and card from within the East of England region, then the imported pre-sorted waste paper and card may be sourced from outside the East of England Region for a period of up to 5 years from the date of written agreement of the Waste Planning Authority. (iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved. **Reason: In the interests of the environment by assisting the East of England Region to become self-sufficient for managing its own waste ensuring that the waste is transported proximate to the site thereby minimising transportation distances, reducing pollution and minimising the impact upon the local environment and amenity and to comply with RSS policies WM1, WM3 & WM4, WLP policies W3A, W3C, W8A, W10E, the London Plan (February 2008) policies 4A.21 and 4A.22, the South East Plan (may 2009) policies W3, W4, W10 and W17.**	GFC do not agree to proposed condition. Applicant would prefer one of the following, in order of preference: No Condition OR Waste paper and card imported to the site shall be sourced from within a 150km radius of the development site by road. Records of the source of waste imported to the site shall be kept for 2 years and shall be submitted to the Waste Planning Authority within 14 days of a written request. OR Waste paper and card to be imported to the site shall only be sourced from the East of England Region, London and the South East Region. Records of the source of waste imported to the site shall be kept for 2 years and shall be submitted to the Waste Planning Authority within 14 days of a written request. **Reason: To comply with RSS policy WM3.**

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
28. No waste brought onto the Site shall be discharged, deposited, handled, stored, composted or otherwise processed outside the buildings.	**31.** No waste brought onto the site shall be deposited, handled, stored, composted or otherwise processed outside the IWMF buildings and structures. **Reason: To ensure minimum disturbance from operations and to avoid nuisance to local amenity and compliance with WLP policy W10E and BDLPR policy RLP62.**	
29. No waste materials other than those arriving in enclosed containers, and enclosed or sheeted vehicles shall be accepted for processing.	**32.** All waste materials shall be imported and exported from the site in enclosed, containerised or sheeted vehicles. **Reason: To ensure controlled waste operations and the containment of waste materials in compliance with WLP policy W10E and BDLPR policy RLP62.**	
30. No vehicles shall leave the waste management facility site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis.	**33.** No vehicle shall leave the IWMF site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis. **Reason: In the interests of limiting the effects on local amenity and highway safety, to control the impacts of the development and compliance with WLP policy W10E and BDLPR policy RLP62**	
Hours of Working		
31. No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between 07:00-18:30 hours Monday to Friday, and 07:00 - 13:00 hours Saturdays and not on Sundays, Bank and Public Holidays except for occasional maintenance of machinery, unless otherwise approved in writing by the Waste Planning Authority.	**34.** No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between the following hours: 07:00-18:30 hours Monday to Friday, and 07:00 -13:00 hours Saturdays and shall not take place on Sundays, Bank and Public Holidays except for water pumping, environmental monitoring and occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority**.** **Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and compliance with MLP policy MLP13, WLP policies W10E & W10F and BDLPR policy RLP62.**	Consistent with the hours of the adjacent Bradwell Quarry.
32. The construction works (including deliveries of building materials) for the waste management facility, hereby permitted shall only be carried out between 07:00 - 19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery, unless otherwise approved in writing by the Waste Planning Authority.	**35.** The construction works (including deliveries of building materials) for the development hereby permitted shall only be carried out between 07:00-19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority. **Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and compliance with WLP policies W10E & W10F and BDLPR policy RLP62.**	

<table>
<tr><th>Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009</th><th>Proposed conditions</th><th>Comments by parties</th></tr>
<tr><td>33. No waste or processed materials shall be delivered to or removed from any part of the waste management facility other than between 07:00 and 18:30 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays, and not on Sundays, Public or Bank Holidays except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays as required and then only between 10:00 and 16:00 hours.</td><td>36. No waste or processed materials shall be imported or exported from any part of the IWMF other than between the following hours

07:00 and 18:30 hours Monday to Friday and

07:00 and 13:00 hours on Saturdays, and not on Sundays, Public or Bank Holidays

except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and compliance with WLP policies W10E & W10F and BDLPR policy RLP62.</td><td></td></tr>
<tr><td>Footpaths</td><td></td><td></td></tr>
<tr><td>35. No development shall take place until signs have been erected on both sides of the haul/access road where footpaths cross the haul road</td><td>37. No development shall commence until visible, legible and durable British Standard signs have been erected on both sides of the access road at the point where footpaths as shown on the Definitive Map, cross the access road to warn pedestrians and vehicles of the intersection. The signs shall read: ‘CAUTION: PEDESTRIANS CROSSING’ and ‘CAUTION: VEHICLES CROSSING’ and shall be maintained for the duration of the development.

Reason: In the interest of the safety of all users of both the Right of Way and the haul road and to comply with MLP policy MLP13 and WLP policy W10G.</td><td></td></tr>
<tr><td>Noise</td><td></td><td></td></tr>
<tr><td>36. Except for temporary operations, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level ($L_{Aeq\ 1\ hour}$) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the $L_{Aeq\ 1\ hour}$ levels set out in the following table:</td><td>38. Except for temporary operations, as defined in Condition 42, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level (LAeq 1 hour) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the LAeq 1 hour levels set out in the following table:
<table>
<tr><th>Noise Sensitive Properties</th><th>Location Criterion dB L A eq 1 hour</th></tr>
<tr><td>Herring's Farm</td><td>45</td></tr>
<tr><td>Deeks Cottage</td><td>45</td></tr>
<tr><td>Haywards</td><td>45</td></tr>
<tr><td>Allshot's Farm</td><td>47</td></tr>
<tr><td>The Lodge</td><td>49</td></tr>
<tr><td>Sheepcotes Farm</td><td>45</td></tr>
<tr><td>Greenpastures Bungalow</td><td>45</td></tr>
<tr><td>Goslings Cottage</td><td>47</td></tr>
<tr><td>Goslings Farm</td><td>47</td></tr>
<tr><td>Goslings Barn</td><td>47</td></tr>
<tr><td>Bumby Hall</td><td>45</td></tr>
<tr><td>Parkgate Farm Cottages</td><td>45</td></tr>
</table></td><td></td></tr>
</table>

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
	Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects. **Reason: In the interests of residential and local amenity and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP62.**	
37. The free field Equivalent Continuous Noise Level ($L_{Aeq\ 1\ hour}$) shall not exceed 47 dB(A) $L_{Aeq\ 1\ hour}$ between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties adjoining the Site.	**39.** The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 42 dB(A) LAeq 1hour between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties, listed in Condition 38, adjoining the site. Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects. **Reason: In the interests of residential and local amenity and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP62.**	
38. The free field Equivalent Continuous Noise Level ($L_{Aeq\ 1\ hour}$) shall not exceed 40 dB(A) $L_{Aeq\ 1\ hour}$ between the hours of 23:00 and 07:00, as measured and/or predicted at 1 m from the façade of the bedroom at noise sensitive properties adjoining the Site.	**40.** The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 40 dB(A) LAeq 5min between the hours of 23:00 and 07:00, as measured and/or predicted at 1 metre from the façade facing the site at noise sensitive properties, listed in Condition 38, adjoining the site. **Reason: In the interests of residential and local amenity and to comply with WLP policy W10E and BDLPR policy RLP62.**	
39. Noise levels shall be monitored at three monthly intervals at up to five locations as agreed with the Mineral/Waste Planning Authority.	**41.** Noise levels shall be monitored at three monthly intervals at up to five of the locations, listed in Condition 38, as agreed with the Waste Planning Authority. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The survey shall be for four separate 15 minute periods two during the working day 0700 and 1830 and two during the evening/night time, 18:30 to 07:00 hours, the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Waste Planning Authority. **Reason: In the interests of amenity and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP62.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
40. For temporary operations, the free field noise level at sensitive properties shall not exceed 70 dB a $L_{Aeq\ 1\ hour}$ at noise sensitive properties adjoining the Site, due to operations on the Site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property.	**42.** For temporary operations at the site in relation to the excavation of materials, the free field noise level at sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70dB LAeq 1 hour, due to operations on the site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. Not less than 5 days written notice shall be given to the Waste Planning Authority in advance of the commencement of any temporary operation. Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration, and other temporary activity as may be agreed, in advance of works taking place, with the Waste Planning Authority. **In the interests of residential and local amenity and to comply with MLP policy MLP13.**	
Lighting		
41. No external lighting shall be installed on-site except in accordance with details to be submitted to and approved. The lighting shall not exceed 5 lux maintained average luminance.	**43.** No lighting for use during excavation of materials or construction of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details with respect to excavation of materials shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The lighting details with respect to construction of the IWMF shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1900 Monday to Sunday and at no time on, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details. **Reason: In the interests of local amenity and fauna and to comply with WLP policy W10E and BDLPR policies RLP 65 & RLP90.**	
41. No external lighting shall be installed on-site except in accordance with details to be submitted to and approved. The lighting shall not exceed 5 lux maintained average luminance.	**44.** No lighting for use during operation of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors, times and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details. **Reason: In the interests of local amenity and fauna and to comply with WLP policy W10E and BDLPR policies RLP 65 & RLP90.**	
Operations		

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
42. No development shall commence until a detailing phasing scheme for the construction of the haul road, creation of the retaining wall and extraction of the minerals has been submitted for approval.	**45.** No development shall commence until a detailed phasing scheme for the construction of the access road creation of the retaining wall around the site of the IWMF and extraction of the minerals from the site has been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the approved phasing scheme. **Reason: To ensure control of the development and minimise the impact of the development on local amenity and the environment and to comply with MLP policy MLP13 and WLP policy W10E.**	
43. No development shall commence until details of soil handling, soil storage and machine movements and the end use of soils have been submitted for approval.	**46.** No development shall commence until details of soil handling, soil storage and machine movements and the end use of soils have been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the details approved. **Reason: To minimise soil compaction and structural damage of the soil and to protect the soil resource and to comply with MLP policy MLP13 and WLP W10E.**	
43. No development shall commence until details of soil handling, soil storage and machine movements and the end use of soils have been submitted for approval.	**47.** Unless otherwise agreed in writing by the Waste Planning Authority, no topsoil, subsoil and/or soil making material shall be stripped or handled unless it is in a dry and friable condition [3] and no movement of soils shall take place: (a) During the months November to March (inclusive); (b) When the upper 50 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS 1377:1977 – 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or (c) When there are pools of water on the soil surface. [3] The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved. **Reason: To minimise the structural damage and compaction of the soil and to comply with MLP policy MLP13 and WLP policy W10E.**	
44. No processing other than dry screening of excavated sand and gravel shall take place within the Application Site.	**48.** No minerals processing other than dry screening of excavated sand and gravel or in the reformation of levels using Boulder or London Clays shall take place within the site. **Reason: To ensure that there are no adverse impacts on the local amenity from development not already assessed in the application details and to comply with MLP policy MLP10, MLP11, & MLP13.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
45. Any fuel, lubricant or chemical storage above ground and refuelling facilities shall be sited on an impermeable base and surrounded and bunded.	**49.** Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development. **Reason: To minimise the risk of pollution to water courses and aquifers to comply with MLP policy MLP13 and WLP policies W4B & W10E.**	
46. Prior to commencement details of any permanent site perimeter fencing details shall be submitted for approval.	**50.** Prior to the commencement of development details of any temporary or permanent site perimeter fencing shall be submitted to and approved in writing by the Waste Planning Authority. The fencing shall be erected in accordance with the details approved. **Reason: In the interest of the amenity of the local area and to comply with MLP policy MLP13, WLP policy W10E and BDLPR 78.**	
47. No development shall take place until details of external equipment required to control any fugitive dust from the handling/storage/processing of waste have been.	**51.** (a) No development shall take place until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include the suppression of dust caused by the moving, processing and storage of soil, overburden, stone and other materials within the site during excavation of materials and construction of the IWMF (b) No beneficial occupation of the IWMF shall commence until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include: (i) ; The suppression of dust caused by handling, storage and processing of waste; and (ii) Dust suppression on haul roads, including speed limits; In relation each scheme provision for monitoring and review. The development shall be implemented in accordance with the approved schemes and programme for the duration of the development hereby permitted. **Reason: To reduce the impacts of dust disturbance from the site on the local environment and to comply with MLP Policy MLP13 and WLP policy W10E.**	
48. Prior to the importation of waste details of external equipment required to prevent fugitive odour nuisance shall be submitted.	**52. (a)** No development shall commence until details of measures to control any fugitive odour from the excavation of materials and construction of the IWMF have been submitted to and approved in writing by the Waste Planning Authority the measures shall be implemented as approved. **(b)** No beneficial occupation of the IWMF shall commence until details of equipment required to control any fugitive odour from the handling/storage/processing of waste have been submitted to and approved in writing by the Waste Planning Authority. The details shall be implemented as approved. **Reason: In the interest of local amenity and to comply with MLP policy MLP13 and WLP policy W10E.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
Ecology		
52.If the development hereby approved is not commenced within one year of the date of this consent a further wildlife survey of the Site shall be carried out to update the information on the species and the impact of development and the report of survey together with an amended mitigation strategy as appropriate shall be submitted for approval.	**53.** Prior to the commencement of development a further ecological survey of the Site shall be carried out to update the information contained within the Environmental Statement and the impact of the development assessed and if required mitigation measures as set out within the Environmental Statement updated and amended to mitigate any impacts. Prior to the commencement of development the ecological survey assessment of impact and any updated and amended mitigation shall be submitted to and approved in writing by the Waste Planning Authority. Any updated or amended mitigation shall be carried out in accordance with the approved details. **Reason: To make appropriate provision for the management of natural habitat within the approved development in the interests of biodiversity and in accordance with RSS policies ENV1 & ENV 2, MLP policy MLP13, WLP policy W10E and BDLPR policy RLP84.**	
50. No Development shall commence until a ecological management plan has been submitted to include management and mitigation measures with respect to GCNs, Bats, Badgers, protected bird species and other ecologically sensitive habitats and species and for proposed new habitats before and during construction and during operation of the development.	**54.** No development shall commence until a habitat management plan including details of the proposed management and mitigation measures described in the Environmental Statement (amended) has been submitted to and approved in writing by the Waste Planning Authority. The plan shall include: (i) Description and evaluation of the features to be managed; (ii) Ecological trends and constraints on site that may influence management; (iii) Aims and objectives of management; (iv) Appropriate management options for achieving aims and objectives; (v) Prescriptions for management actions; (vi) Preparation of a work schedule (including a 5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually); (vii) Personnel responsible for implementation of the plan; and (viii) Monitoring and remedial / contingencies measures triggered by monitoring. The development shall be implemented in accordance with the approved plan. **Reason: To make appropriate provision for the management of natural habitat within the approved development in the interests of biodiversity and in accordance with RSS policies ENV1 & ENV 2, MLP policy MLP13, WLP policy W10E and BDLPR policy RLP84.**	
53. No construction / demolition / excavation works or removal of hedgerows or trees shall be carried out on-site during the bird nesting season and only after an intensive nest search.	**55.** No demolition, excavation works or removal of hedgerows or trees shall be undertaken on the site during the bird nesting season [1 March to 30 September inclusive] except where a suitably qualified ecological consultant has confirmed that such construction etc should not affect any nesting birds. Details of such written confirmations shall be sent to the Waste Planning Authority 14 days prior to commencement of the works. **Reason: To ensure that breeding birds are not disturbed by the removal of habitat or development and in accordance with MLP policy MLP13 and WLP policy W10E and BDLPR policy RLP84.**	
Screening and Landscaping		

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
54. There shall only be one stack the CHP stack. The CHP stack shall not exceed 81 m AOD.	**56.** Only one stack shall be erected on the site to service all elements of the IWMF. The height of the stack shall not exceed 85 m Above Ordnance Datum. **Reason: In the interest of the amenity of the local area and to comply with WLP policy W10E and BDLPR policy RLP90**	
55. All landscaping and planting shall be undertaken during the first available planting season.	**57.** No development shall commence until details and a timetable for implementation for all bunding and planting have been submitted to and approved in writing by the Waste Planning Authority. The planting details shall include species, sizes, spacing and protection measures. The bunding details shall include shape and angles of slope and depth of soils. The scheme shall be implemented within the first available planting season [October to March inclusive] following commencement of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with Condition 58 of this permission. The bunding and planting details and timetable for implementation shall be implemented in accordance with the approved details. **Reason: To comply with section 197 of the Town and Country Planning Act 1990 [as amended] to improve the appearance of the site in the interest of visual amenity and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP78.**	
56. Any tree or shrub forming part of a planting scheme is damaged, diseased or removed within the period of the operations or 5 years after completion of the operations shall be replaced by the applicants during the next planting season.	**58.** Any tree or shrub forming part of the retained existing vegetation or the planting scheme approved in connection with the development that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of construction of the IWMF shall be replaced during the next available planting season (October-March inclusive) with a tree or shrub to be agreed in advance in writing by the Waste Planning Authority. **Reason: In the interest of the amenity of the local area and to ensure development is adequately screened and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP78.**	
57. No development shall take place until details of tree retention and protection measures have been submitted.	**59.** No development shall commence until details of tree retention and protection measures have been submitted to and approved in writing by the Waste Planning Authority. The details shall include indications of all existing trees, shrubs and hedgerows on the site and on the immediate adjoining land together with measures for their protection and the approved scheme shall be implemented in accordance with the details approved. **Reason: In the interest of visual amenity and to ensure protection for the existing natural environment and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP78.**	
58. No development until details for the protection and watering of trees adjacent to the retaining wall have been submitted and approved.	**60.** No development shall commence until a scheme for the management and watering of trees adjacent to the retaining wall surrounding the IWMF for the period of the excavation of materials and construction of the IWMF, and throughout the first growing season after completion of construction where necessary, has been submitted to and approved in writing by the Waste Planning Authority. The management and watering of trees shall be carried out in accordance with the scheme approved. **Reason: In the interest of visual amenity and to ensure protection for the existing natural environment and to comply with MLP policy MLP13, WLP policy W10E and BDLPR policy RLP78.**	

Conditions subject to which ECC resolved it was minded to grant planning permission on 24 April 2009	Proposed conditions	Comments by parties
Woodhouse **Farm/Visitors/Education Centre**		
59. No beneficial use shall take place of the visitor and education centre and/or waste management facility until the works to Woodhouse Farm (which require further permissions/consents) have been implemented. 60. No development shall commence until details have been submitted of the detailed layout of the parking area adjacent to Woodhouse Farm including hard and soft landscaping details have been submitted for approval. 61. No parking within the Woodhouse Farm complex shall take place until suitable vehicle restrictions have been submitted for approval and implemented to prevent access by HGVs except for specific deliveries to the complex.	**61.** No beneficial use of Woodhouse Farm shall commence until details of the layout of the adjacent parking area including hard and soft landscaping and lighting have been submitted to and approved in writing by the Waste Planning Authority. The parking area shall be provided in accordance with the details approved prior to beneficial use of Woodhouse Farm. **Reason: In the interest of the amenity of the local area and to comply with WLP policy W10E and BDLPR policy RLP90 and RLP100.**	
	62. Prior to commencement of development details of traffic calming measures designed to reduce the speed of traffic using the access road in the vicinity of the River Blackwater so as to protect potential crossing places for otters and voles have been submitted to and approved in writing by the Waste Planning Authority. The traffic calming measures shall be provided in accordance with the details approved. **Reason: To ensure minimum impact on the safe movement of otters and voles and to comply with WLP policy W10E.**	
	63. Prior to commencement of development details of the lining and signing of the crossing points of the access road with Church Road and Ash Lane shall be submitted to and approved in writing with the Waste Planning Authority. The lining and signing shall require users of the access road to “Stop” rather than “Give Way”. The details shall be implemented as approved. **Reason: In the interests of highway safety and safeguarding local amenity and to comply with WLP Policy W10E and BDLPR policy RLP87.**	

Communities and Local Government

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Mr David Watkins
Linklaters LLP
One Silk Street
London
EC2Y 8HQ

Our Ref: APP/Z1585/V/09/2104804

2 March 2010

Dear Mr Watkins,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77.
APPLICATION BY GENT FAIRHEAD & Co LIMITED
RIVENHALL AIRFIELD, ESSEX, C5 9DF. APPLICATION REF: ESS/37/08/BTE.

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, M P Hill BSc MSc CEng MICE FGS, who held a public local inquiry which opened on 29 September into your client's application for an Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks, at Rivenhall Airfield, Essex, C5 9DF, in accordance with application reference ESS/37/08/BTE, dated 28 August 2008.

2. It was directed on 12 May 2009, in pursuance of Section 77 of the Town and Country Planning Act 1990, that the application be referred to the Secretary of State instead of being dealt with by the relevant planning authority, Essex County Council because the proposals may conflict with national policies on important matters.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Michael Taylor
Decision Officer
Planning Central Casework Division,
Department for Communities and Local Government
1/J1 Eland House
Bressenden Place
London, SW1E 5DU

Tel: 030344 41631
Email: PCC@communities.gsi.gov.uk

Procedural matters

4. The Secretary of State notes that the applicants wished the proposal to be considered on the basis of a revised design. Like the Inspector, the Secretary of State does not consider that any prejudice has been caused to any party by accepting these amendments, and has determined the application on this basis (IR1.5).

5. In reaching his decision, the Secretary of State has taken into account the Environmental Information which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and comprises those documents set out by the Inspector at IR1.6. The Secretary of State considers that the environmental information a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. The Secretary of State notes that the Inspector closed the inquiry in writing on 2 November, having taken into account correspondence received after the last sitting day of the inquiry from the main parties in relation to representations from the Environment Agency (IR1.10). These matters have been dealt with by the Inspector in his report, and the Secretary of State has concluded on them later in this letter. Other correspondence unrelated to this matter was also received from 8 other parties after the last sitting day of the inquiry and the Secretary of State has carefully considered this. However, he does not consider that it raises any new issues which would either affect his decision, or require him to refer back to parties prior to reaching his decision. Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

Policy Considerations

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises those documents listed at IR3.2. The Secretary of State agrees with the Inspector that the main development plan policies relevant to this application are those set out in IR3.3-3.5.

8. Other material considerations include the national planning guidance listed at IR3.8 and those other documents listed at IR3.9. Circular 11/95, *Use of Conditions in Planning Permission*, and Circular 05/2005, *Planning Obligations* are also material considerations.

9. The Secretary of State has had special regard to the desirability of preserving nearby listed buildings and their settings, or any features of special architectural or historic interest which they possesses, as required by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In view of the possible impact of the proposal on the Silver End Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of this area, as required by section 72 of the same Act.

10. Since the inquiry closed the Government has published PPS4: *Planning for Sustainable Economic Growth*. The policies in this document replace, amongst other things, certain relevant policies in PPS7: *Sustainable Development in Rural Areas*. However, the Secretary of State does not consider that there has been any material change in those policies to the extent that it would affect his decision or require him to refer back to parties for further representations prior to reaching his decision.

Main Issues

11. The Secretary of State considers the main issues in this case are those set out by the Inspector at IR13.1.

Prevailing planning policy

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on prevailing planning policy as set out in IR13.2-13.11. He agrees that the proposal is broadly consistent with the policies of the development plan, although it does not comply with all policies (IR13.10). He also agrees that the proposal is generally in accord with national guidance, including that contained in PPS1, PPS7, PPS10, PPG15, PPS22 and PPS23, albeit he accepts there is some conflict (IR13.11). These issues are considered further below.

The quality of the design and sustainability implications, and impact on character and appearance of the area

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the quality of design, sustainability, and impact on the character and appearance of the area as set out in IR13.12-13.31. He agrees that the design of the proposal would be of high quality (IR13.22), including, for example, the siting of the buildings below ground level and the green roof of the main buildings which would be colonised with mosses (IR13.13). He also agrees that it would be a sustainable form of development which would enable the management of waste to be undertaken in a sustainable manner (IR13.22), including the use of solid recovered fuel in the proposed CHP plant and the export of electricity to the National Grid, which would contribute to meeting the Government's Renewable Energy targets (IR13.19). He further agrees that the proposal would have some urbanising and detrimental impact on the semi-rural character and appearance of the area, for example as a result of the proposed stack, but that with the mitigation measures proposed the overall impact on the character and appearance of the area would be limited (IR13.31).

Consistency with PPS10

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on consistency with PPS10 as set out in IR13.32-13.40. He agrees that the proposal would help to deliver sustainable development by driving waste management up the waste hierarchy, and contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community. He also agrees that it would help to reduce carbon emissions and would have benefits in terms of climate change (IR13.40).

Need, viability, flexibility and fallback position

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on need, viability, flexibility and the fallback position as set out in IR13.41-13.65. He agrees that the proposal would help to satisfy a substantial and demonstrable need for municipal solid waste and/or commercial and industrial waste to be dealt with in Essex and for Essex County Council to meet challenging targets set out in the East of England Plan (IR13.51). In terms of viability, he agrees that there is no reason to doubt that the MDIP would be capable of competing with a similar facility sited at a paper mill and in this respect it is a viable proposal (IR13.54). On the fallback position, the Secretary of State agrees that there was a reasonable prospect of the recycling and composting facility for which planning permission has already been granted being implemented in the event that he had refused planning permission for the proposal before him (IR13.60). As for the flexibility of the proposal, the Secretary of State agrees that its design and its multiple autonomous process lines would provide a reasonable and sufficient degree of flexibility to enable future changes in the composition of waste and the ways in which waste is managed to be accommodated (IR13.65).

The effect on the living condition of local residents, including the risks to human health

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect on the living condition of local residents, including the risks to human health as set out in IR13.66-13.95. He agrees that air quality could be adequately controlled and there would be no noticeable emissions of dust or odour, but that there would be some minor detrimental impact on living conditions with respect to noise, impact on tranquillity, increase in light, and outlook. However, he is satisfied that the detrimental impacts would be relatively minor and would not be unacceptable (IR13.85). With respect to the risks to human health, the Secretary of State agrees with the Inspector that the plant could be operated without causing any material harm to human health, and that this matter would be adequately dealt with by the Environmental Permitting regime. Like the Inspector, he accepts that the concern of local residents regarding the risk to health would remain as a detrimental impact of the development (IR13.95).

Highway safety and the free flow of traffic

17. For the reasons given in IR13.96-13.104, the Secretary of State agrees with the Inspector's conclusion that the proposed restriction on the number of HGV movements is reasonable and appropriate and that the development would not have an unacceptable impact on highway safety and the free flow of traffic on the road network (IR13.104).

Impact on the local right of way network

18. For the reasons given in IR13.105-13.107, the Secretary of State agrees with the Inspector's conclusion that the impact on the right of way network would be detrimental, (for example, in terms of visual impact) but not to an unacceptable degree (IR13.107).

Ground and surface water; loss of agricultural land; and, habitats, wildlife and protected species

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on ground and surface water; loss of agricultural land; and, habitats, wildlife and protected species, as set out in IR13.108-13.117. With regard to ground and surface water, the Secretary of State agrees that the proposal could be built and operated without causing harm to the River Blackwater or causing contamination to groundwater (IR13.109), and that any localised lowering of the water table as a result of excavations would have little impact on vegetation (IR13.110). On the loss of agricultural land, the Secretary of State agrees that the proposal would result in the loss of Grade 3a agricultural land, which represents a conflict with local and national planning policies (IR13.111). However, he also agrees that its loss in not an overriding issue (IR13.112). With respect to habitats, wildlife and protected species, the Secretary of State agrees with the Inspector that, taking into account the proposed management of existing and proposed water bodies, the creation and management of new habitats, and the planting of woodland and hedgerows, the overall bio-diversity of the area would be enhanced (IR13.117).

The impact on listed buildings and the Silver End Conservation area, and the historic value of the airfield

20. The Secretary of State agrees with the Inspector's reasoning and conclusions on the impact on listed buildings and the Silver End Conservation area, and the historic value of the airfield, as set out in IR13.118-13.125. He agrees that the scheme as a whole would preserve the settings, character and appearance of the listed buildings and of the conservation area (IR13.122 and 13.123). He also agrees that there is no justification for withholding planning permission at the site because of its historic value as an airfield (IR13.125).

Other matters and mitigation measures

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on other matters and mitigation measures, as set out in IR13.126-13.129.

Conditions and obligations

22. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations, as set out in IR13.131-13.162. On the specific matter of the Secretary of State's view on whether a taller stack would be acceptable, he agrees with the Inspector's opinion at IR13.159 that until a more thorough assessment is undertaken and the views of all those who may be affected by such a change in the proposal have been thoroughly canvassed, no firm conclusions can be reached, and that with regard to the existing proposals, condition 56 is appropriate.

23. The Secretary of State is satisfied that the recommended conditions are reasonable and necessary and meet the tests of Circular 11/95. He also considers that the s106 agreement is relevant to the proposal and would meet the tests contained Circular 05/2005.

Overall conclusion

24. As set out above, the Secretary of State has identified some conflict with development plan policies, such as those brought about by the impact on the character and appearance of the area, impact on living conditions, and loss of Grade 3a agricultural land. However, he also considers that mitigation measures proposed would reduce this impact, and that they are not of such a magnitude as to refuse planning permission.

25. Those factors in favour of the proposal include that it would meet a need for the sustainable management of waste in line with PPS10, and would help to reduce carbon emissions. The proposal would also operate without causing any material harm to human health.

26. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development outweigh its shortcomings and overcome the limited conflicts with the development plan which he has identified. Therefore he does not consider that there are any material considerations of sufficient weight which would justify refusing planning permission.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for an Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks, in accordance with application number ESS/37/08/BTE dated 26 August 2008 (as amended) subject to the conditions listed in Annex A.

28. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

30. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

32. A copy of this letter has been sent to Essex County Council and all parties who appeared at the inquiry.

Yours sincerely

Michael Taylor
Authorised by Secretary of State to sign in that behalf

Annex A – Planning Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Not less than 30 days prior notification of commencement of the development shall be given in writing to the Waste Planning Authority.

2. The development hereby permitted shall only be carried out in accordance with drawing numbers:

1-1: Land Ownership & Proposed Site Plan

1-2: Proposed Planning Application Area

1-4: Access Road Details

1-5A: Typical Arrangement and Architectural Features of the eRCF

1-8: Schematic Arrangement of Woodhouse Farm

1-9: eRCF Simplified Process Flow

1-10: eRCF Integrated Process Flow

3-3: Site Plan Layout

3-8C: eRCF General Arrangement

3-12C: eRCF Detailed Cross-Sections

3-14A: eRCF Upper Lagoon & Wetland Shelf

3-16: Services Plan

3-19B: eRCF General Arrangement

8-6: Landscape Mitigation Measures

IT569/SK/06: Proposed Improvements to Site Access Road Junction with Church Road

IT569/SK/07: Proposed Improvements to Site Access Road Junction with Ash Lane

19-2B: Tree Survey

19-3B: The Constraints and Protection Plan

19-5: eRCF Base Plan Woodhouse Farm

3. The total number of Heavy Goods Vehicle (HGV[1]) movements associated with the excavation of materials (i.e. overburden, sand, gravel, and boulder clay) and import and/or export of materials associated with the operation of the completed Integrated Waste Management Facility (IWMF[2]) hereby permitted shall not exceed the following limits:
404 movements 202 in and 202 out per day (Monday to Friday);
202 movements 101 in and 101 out per day (Saturdays);
and shall not take place on Sundays, Public or Bank Holidays, except for clearances from Household Waste Recycling Centres between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority. No HGV movements shall take place outside the hours of operation authorised in Conditions 34 & 36 of this permission.

[1]An HGV shall be defined as having a gross vehicle weight of 7.5 tonnes or more.
[2] IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site.

4. The total number of HGV vehicle movements associated with the construction of the IWMF (including deliveries of building materials) when combined with the maximum permitted vehicle movements under Condition 3 shall not exceed the following limits:

404 movements 202 in and 202 out per day (Monday to Sunday).
No HGV movements shall take place outside the hours of operation authorised in Condition 35 of this permission.

5. A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request . The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded.

6. No development shall commence until full details of the extended access road and the layout of the cross-over points (both temporary and permanent) where the access road, both existing and proposed, crosses public footpaths, as shown on the Definitive Map and Statement of Public Rights of Way have been submitted to and approved in writing by the Waste Planning Authority. The extended access road and cross-over points shall be implemented in accordance with the approved details.

7. No works on the construction of the IWMF shall commence until the access road extension and widening and all footpath cross-over points have been constructed.

8. 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.

9. No vehicles shall park on the haul road between the A120 and Ash Lane.

10. No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation and recording has been submitted to and approved in writing by the Waste Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented prior to the commencement of the development hereby permitted or any preliminary groundworks.

11. No airfield buildings and/or structures shall be demolished until the Level 3 survey in accordance with the 2006 English Heritage Guidance entitled “Understanding Historic Buildings: A Guide to Good Recording Practice” of the airfield buildings and/or structures has been completed.

12. No ecological management works affecting the moat adjacent to Woodhouse Farm shall commence until details of the proposed works and proposed water supply for the moat and a timescale for its implementation have been submitted to and approved in writing by the Waste Planning Authority. The works to the moat and water supply arrangements shall be implemented in accordance with the details approved.

13. No development shall commence until details of signage, telecommunications equipment and lighting within the Woodhouse Farm complex (comprising Woodhouse Farmhouse, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 (which can be found in the S106 agreement)) have been submitted to and approved in writing by the Waste Planning Authority. The signage, telecommunications equipment and lighting shall be implemented in accordance with the details approved.

14. No development shall commence until details of the design of the stack serving the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The details to be submitted shall include:
(a) elevations, sections and plan views to appropriate scales and construction details;
(b) samples of the finish of the stack to provide a mirrored reflective surface; and

(c) information on the effect of weathering on the proposed stack material or how the effect of weathering is to be assessed by, for example the location on the site of examples of proposed materials which will be exposed to the elements and details of how the stack would be maintained to retain the quality of the surface of these materials.

The stack shall be constructed and maintained in accordance with the details approved

15. No development shall commence until design details and samples of the external construction materials, colours and finishes of the external cladding of the IWMF buildings and structures, and design and operation of the vehicle entry and exit doors, have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the details and samples approved.

16. Not used

17. No development shall commence until a management plan for the CHP plant to ensure there is no visible plume from the stack has been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved plan.

18. No construction of the IWMF shall commence until details of the green roofs proposed for the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The green roofs shall be implemented in accordance with the details approved.

19. No works to install process equipment or plant within the IWMF shall commence until details of the IWMF process layout and configuration have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.

20. No development shall commence until details of the construction compounds and parking of all vehicles and plant and equipment associated with the extraction of materials and the construction of the IWMF have been submitted to and approved in writing with the Waste Planning Authority. The details shall include location, means of enclosure and surfacing. The compounds and parking shall be implemented in accordance with the approved details.

21. No beneficial occupation of the IWMF shall commence until details of the provision to be made for and the marking out of parking spaces for cars, HGVs and any other vehicles that may use the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The parking provision and marking out shall be implemented in accordance with the approved details. The parking areas shall be retained and maintained permanently for manoeuvring and parking. No HGVs shall park in the parking area adjacent to Woodhouse Farm complex except in relation to deliveries for the uses at Woodhouse Farm complex.

22. No development shall commence until a detailed scheme for foul water management, including details of the design and operation of the foul water system for the IWMF and Woodhouse Farm complex has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the details approved prior to the commencement of operation of the IWMF.

23. No development shall commence until a detailed scheme for surface water drainage and ground water management, including details of water flows between the Upper Lagoon and the New Field Lagoon has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the approved details.

24. No excavation shall commence until a scheme of ground water monitoring for the site has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall identify the locations for the installation of boreholes to monitor groundwater and the frequency of monitoring. The scheme shall be implemented in accordance with the details approved prior to the commencement of excavations on the site.

25. No development shall commence until an investigation to identify whether the site is contaminated has been carried out and details of the findings including any land remediation and mitigation measures necessary should contamination be identified. The development shall be implemented in accordance with the approved details including any remediation and mitigation identified.

26. The market de-inked paper pulp plant shall only source its heat steam and energy from the IWMF with the exception of periods of start-up and maintenance and repair of the IWMF.

27. No waste, except pre-sorted waste paper and card and Solid Recovered Fuel, shall be brought on to the site other than that arising from within the administrative area of Essex and Southend-on-Sea. Records indicating the origin of all waste consignments and tonnages brought to the site shall be kept and made available for inspection by the Waste Planning Authority for at least 2 years after receipt of the waste. The records shall be made available to the Waste Planning Authority within 14 days of a written request.

28. (i) SRF shall be sourced internally from the IWMF or within the administrative boundaries of Essex and Southend-on-Sea.

(ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source SRF from these sources and there remains capacity within the IWMF, then SRF arising from elsewhere within the East of England may be used up to the available capacity for a period up to three years from the date of the agreement of the Waste Planning Authority.

(iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved.

29. No waste other than those waste materials defined in the application shall enter the site for processing or treatment in the IWMF plant. No more than 853,000tpa of Municipal Solid Waste and/or Commercial and Industrial Waste shall be imported to the site.

30. (i) No more than 50% of the imported waste paper and card (based on a nominal imported tonnage of pre-sorted waste paper and card of 360,000 tpa) shall be sourced from outside the administrative boundaries of the East of England Region.

(ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source 50% of the imported pre-sorted waste paper and card from within the East of England region, then the imported pre-sorted waste paper and card may be sourced from outside the East of England Region for a period of up to 5 years from the date of written agreement of the Waste Planning Authority.

(iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved.

31. No waste brought onto the site shall be deposited, handled, stored, composted or otherwise processed outside the IWMF buildings and structures.

32. All waste materials shall be imported and exported from the site in enclosed, containerised or sheeted vehicles.

33. No vehicle shall leave the IWMF site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis.

34. No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between the following hours:
07:00-18:30 hours Monday to Friday; and,
07:00 -13:00 hours Saturdays;
and shall not take place on Sundays, Bank and Public Holidays

except for water pumping, environmental monitoring and occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

35. The construction works (including deliveries of building materials) for the development hereby permitted shall only be carried out between 07:00-19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

36. No waste or processed materials shall be imported or exported from any part of the IWMF other than between the following hours:
07:00 and 18:30 hours Monday to Friday; and,
07:00 and 13:00 hours on Saturdays, and not on Sundays, Public or Bank Holidays

except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority.

37. No development shall commence until visible, legible and durable British Standard signs have been erected on both sides of the access road at the point where footpaths as shown on the Definitive Map, cross the access road to warn pedestrians and vehicles of the intersection. The signs shall read: 'CAUTION: PEDESTRIANS CROSSING' and 'CAUTION: VEHICLES CROSSING' and shall be maintained for the duration of the development.

38. Except for temporary operations, as defined in Condition 42, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level (LAeq 1 hour) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the LAeq 1 hour levels set out in the following table:

Noise Sensitive Properties Location Criterion dB L A eq 1 hour	
Herring's Farm	45
Deeks Cottage	45
Haywards	45
Allshot's Farm	47
The Lodge	49
Sheepcotes Farm	45
Greenpastures Bungalow	45
Goslings Cottage	47
Goslings Farm	47

Goslings Barn	47
Bumby Hall	45
Parkgate Farm Cottages	45

Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

39. The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 42 dB(A) LAeq 1hour between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties, listed in Condition 38, adjoining the site. Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

40. The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 40 dB(A) LAeq 5min between the hours of 23:00 and 07:00, as measured and/or predicted at 1 metre from the façade facing the site at noise sensitive properties, listed in Condition 38, adjoining the site.

41. Noise levels shall be monitored at three monthly intervals at up to five of the locations, listed in Condition 38, as agreed with the Waste Planning Authority. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The survey shall be for four separate 15 minute periods, two during the working day 0700 and 1830, and two during the evening/night time 18:30 to 07:00 hours, the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Waste Planning Authority.

42. For temporary operations at the site in relation to the excavation of materials, the free field noise level at sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70dB LAeq 1 hour, due to operations on the site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. Not less than 5 days written notice shall be given to the Waste Planning Authority in advance of the commencement of any temporary operation. Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration, and other temporary activity as may be agreed, in advance of works taking place, with the Waste Planning Authority.

43. No lighting for use during excavation of materials or construction of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details with respect to excavation of materials shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The lighting details with respect to construction of the IWMF shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1900 Monday to Sunday and at no time on, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

44. No lighting for use during operation of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors, times and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

45. No development shall commence until a detailed phasing scheme for the construction of the access road for the creation of the retaining wall around the site of the IWMF and extraction of the minerals from the site has been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

46. No development shall commence until details of soil handling, soil storage and machine movements and the end use of soils have been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the details approved.

47. Unless otherwise agreed in writing by the Waste Planning Authority, no topsoil, subsoil and/or soil making material shall be stripped or handled unless it is in a dry and friable condition [3] and no movement of soils shall take place:

During the months November to March (inclusive);
(a) When the upper 50 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS1377:1977, 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or
(b)When there are pools of water on the soil surface.

[3] The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.

48. No minerals processing other than dry screening of excavated sand and gravel or in the reformation of levels using Boulder or London Clays shall take place within the site.

49. Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development.

50. Prior to the commencement of development, details of any temporary or permanent site perimeter fencing shall be submitted to and approved in writing by the Waste Planning Authority. The fencing shall be erected in accordance with the details approved.

51. (a) No development shall take place until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include the suppression of dust caused by the moving, processing and storage of soil, overburden, stone and other materials within the

site during excavation of materials and construction of the IWMF

(b) No beneficial occupation of the IWMF shall commence until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:
(i) ; The suppression of dust caused by handling, storage and processing of waste; and
(ii) Dust suppression on haul roads, including speed limits.
In relation each scheme provision for monitoring and review.

The development shall be implemented in accordance with the approved schemes and programme for the duration of the development hereby permitted.

52. (a) No development shall commence until details of measures to control any fugitive odour from the excavation of materials and construction of the IWMF have been submitted to and approved in writing by the Waste Planning Authority the measures shall be implemented as approved.
(b) No beneficial occupation of the IWMF shall commence until details of equipment required to control any fugitive odour from the handling/storage/processing of waste have been submitted to and approved in writing by the Waste Planning Authority. The details shall be implemented as approved.

53. Prior to the commencement of development a further ecological survey of the Site shall be carried out to update the information contained within the Environmental Statement and the impact of the development assessed and if required mitigation measures as set out within the Environmental Statement updated and amended to mitigate any impacts. Prior to the commencement of development, the ecological survey assessment of impact and any updated and amended mitigation shall be submitted to and approved in writing by the Waste Planning Authority. Any updated or amended mitigation shall be carried out in accordance with the approved details.

54. No development shall commence until a habitat management plan including details of the proposed management and mitigation measures described in the Environmental Statement (amended) has been submitted to and approved in writing by the Waste Planning Authority. The plan shall include:
(i) Description and evaluation of the features to be managed;
(ii) Ecological trends and constraints on site that may influence management;
(iii) Aims and objectives of management;
(iv) Appropriate management options for achieving aims and objectives;
(v) Prescriptions for management actions;
(vi) Preparation of a work schedule (including a 5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually);
(vii) Personnel responsible for implementation of the plan; and,
(viii) Monitoring and remedial/contingencies measures triggered by monitoring.

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

55. No demolition, excavation works or removal of hedgerows or trees shall be undertaken on the site during the bird nesting season [1 March to 30 September inclusive] except where a suitably qualified ecological consultant has confirmed that such construction etc should not affect any nesting birds. Details of such written confirmations shall be sent to the Waste Planning Authority 14 days prior to commencement of the works.

56. Only one stack shall be erected on the site to service all elements of the IWMF. The height of the stack shall not exceed 85 m Above Ordnance Datum.

57. No development shall commence until details and a timetable for implementation for all

bunding and planting have been submitted to and approved in writing by the Waste Planning Authority. The planting details shall include species, sizes, spacing and protection measures. The bunding details shall include shape and angles of slope and depth of soils. The scheme shall be implemented within the first available planting season (October to March inclusive) following commencement of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with Condition 58 of this permission. The bunding and planting details and timetable for implementation shall be implemented in accordance with the approved details.

58. Any tree or shrub forming part of the retained existing vegetation or the planting scheme approved in connection with the development that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of construction of the IWMF, shall be replaced during the next available planting season (October-March inclusive) with a tree or shrub to be agreed in advance in writing by the Waste Planning Authority.

59. No development shall commence until details of tree retention and protection measures have been submitted to and approved in writing by the Waste Planning Authority. The details shall include indications of all existing trees, shrubs and hedgerows on the site and on the immediate adjoining land together with measures for their protection and the approved scheme shall be implemented in accordance with the details approved.

60. No development shall commence until a scheme for the management and watering of trees adjacent to the retaining wall surrounding the IWMF for the period of the excavation of materials and construction of the IWMF, and throughout the first growing season after completion of construction where necessary, has been submitted to and approved in writing by the Waste Planning Authority. The management and watering of trees shall be carried out in accordance with the scheme approved.

61. No beneficial use of Woodhouse Farm shall commence until details of the layout of the adjacent parking area including hard and soft landscaping and lighting have been submitted to and approved in writing by the Waste Planning Authority. The parking area shall be provided in accordance with the details approved prior to beneficial use of Woodhouse Farm.

62. Prior to commencement of development, details of traffic calming measures designed to reduce the speed of traffic using the access road in the vicinity of the River Blackwater so as to protect potential crossing places for otters and voles, shall be submitted to and approved in writing by the Waste Planning Authority. The traffic calming measures shall be provided in accordance with the details approved.

63. Prior to commencement of development, details of the lining and signing of the crossing points of the access road with Church Road and Ash Lane shall be submitted to and approved in writing with the Waste Planning Authority. The lining and signing shall require users of the access road to “Stop” rather than “Give Way”. The details shall be implemented as approved.

ESSEX COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2010

In pursuance of the powers exercised by it as County Planning Authority, Essex County Council has considered an application to carry out the following development:

Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility. The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks. And approval of details required by condition (the details taking account of the proposed amended drawings), the conditions sought to be discharged are as follows: 6 (access road, cross over points), 13 (Signage, Telecommunications & Lighting at Woodhouse Farm complex), 14 (Stack design and finishes), 15 (design details and construction materials), 17 (management plan for the CHP), 18 (green roof), 20 (construction compounds, parking of vehicles), 22 (foul water management), 23 (surface water drainage and ground water management), 24, (groundwater monitoring), 37 (signs on access road at footpath crossings), 43 (lighting scheme during construction), 45 (phasing scheme for access road, retaining wall and mineral extraction), 50 (fencing – temporary and permanent), 53 (ecological survey update), 54 (Habitat Management Plan update), 57 (landscaping – bunding & planting), 59 (trees, shrubs and hedgerows – retention and protection), 60 (tree management and watering adjacent to retaining wall), 61 (Woodhouse Farm parking and landscaping), 62 (traffic calming measures at River Blackwater for otters and voles) and 63 (access road crossing points – lining and signing)

Location: **Land at Rivenhall Airfield, Coggeshall Road (A120), Braintree CO5 9DF**

and in accordance with the said application and the plan(s) accompanying it, hereby gives notice of its decision to GRANT PERMISSION FOR the said development subject to compliance with the following conditions and reasons:

1 The development hereby permitted shall be begun before the 2 March 2016. The date of commencement of the development shall be notified in writing to the Waste Planning Authority within 7 days of commencement.

Essex County Council

Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall only be carried out in accordance with planning application ECC ref ESS/37/08/BTE (PINS Ref. APP/Z1585/V/09/2104804) dated 26 August 2008 (as amended) and

As amended by Non-Material Amendment application reference ESS/37/08/BTE/NMA2 dated 4 September 2012, accompanied by letter from Berwin Leighton Paisner dated 29 August 2012 and email dated 18 September 2012 as approved by the Waste Planning Authority on 25 October 2012.

and

As amended by planning application reference ESS/44/14/BTE dated 5 August 2014, accompanied by letter from Holmes & Hills dated 5 August 2014, report entitled "Business development since obtaining planning permission" dated August 2014, report "Changes in the Case for Need since September 2009" dated August 2014 and letters from Honace dated 5 August 2014 and Golder Associates dated 4 August 2014 and granted by the Waste Planning Authority on 4 December 2014.

and

As amended by planning application reference ESS/55/14/BTE dated 12 December 2014, accompanied by letter from Holmes & Hills LLP dated 12 December 2014, SLR report "Justification for Removal of Fuel Sourcing Conditions" Rev 4" dated December 2014 and letter from Honace dated 5 August 2014 and Golder Associates dated 4 August 2014.

And

As amended by planning application reference ESS/34/15/BTE dated 4 August 2015 and drawing numbers:

Drawing Ref	**Title**	**Dated**
1-1A	Land Ownership & Proposed Site Plan	21/12/15
1-2B	Proposed Planning Application Area and Site Plan	21/05/15
1-5B	Typical Arrangement and Architectural Features	21/05/15
1-8	Schematic Arrangement of Woodhouse Farm	21/05/15
1-9A	Simplified Process Flow	21/05/15
1-10A	Integrated Process Flow	21/05/15
3-3B	Site Plan Layout	21/05/15
3-8E	Building and Process Cross Sections	Dec 2015
3-12E	Building and Process Layout and Cross Sections	Dec 2015

3-14B	Upper Lagoon & Wetland Shelf	18/12/14
3-16	Services Plan	21/05/15
3-19D	General Arrangement & Front Elevation	Dec 2015
8-6A	Landscape Mitigation Measures	21/05/15
IT569/SK/06 A	Proposed Improvements to Site Access Road Junction with Church Road	05/08/08
IT569/SK/07 A	Proposed Improvements to Site Access Road Junction with Ash Lane	05/08/08
19-2C	Tree Survey	21/05/15
19-3C	The Constraints and Protection Plan	21/05/15
19-5A	Base Plan Woodhouse Farm	21/05/15
IWMF RP 01	IWMF Roof Layout Plan	24/12/15

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

Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application drawings, details (except as varied by other conditions), to ensure that the development is carried out with the minimum harm to the local environment and in accordance with MLP policies P1, S1, S10, S11, S12, DM1, DM2 and DM3, WLP policies W3A, W4A, W4B, W4C, W7A, W7C, W7G, W8A, W10B, W10E, W10F and W10G, BCS policies CS5, CS7, CS8 and CS9 and BDLPR policies RLP 36, RLP 49, RLP 54, RLP 62, RLP 63, RLP 64, RLP 65, RLP 71, RLP 72, RLP 80, RLP 81, RLP 84, RLP 87, RLP 90, RLP 100, RLP 105 and RLP 106.

3 The total number of Heavy Goods Vehicle (HGV[1]) movements associated with the excavation of materials (i.e. overburden, sand, gravel, and boulder clay) and import and/or export of materials associated with the operation of the completed Integrated Waste Management Facility (IWMF[2])hereby permitted shall not exceed the following limits:

404 movements 202 in and 202 out per day (Monday to Friday);
202 movements 101 in and 101 out per day (Saturdays);

and shall not take place on Sundays, Public or Bank Holidays, except for clearances from Household Waste Recycling Centres between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority. No HGV movements shall take place outside the hours of operation authorised in Conditions 34 & 36 of this permission.

[1] An HGV shall be defined as having a gross vehicle weight of 7.5 tonnes or more
[2]IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A and W10E and BDLPR policies RLP 36 and RLP 90.

4 The total number of HGV vehicle movements associated with the construction of the IWMF (including deliveries of building materials) when combined with the maximum permitted vehicle movements under Condition 3 shall not exceed the following limits:
404 movements 202 in and 202 out per day (Monday to Sunday).
No HGV movements shall take place outside the hours of operation authorised in Condition 35 of this permission.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A and W10E and BDLPR policies RLP 36 and RLP 90.

5 A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request. The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A and W10E and BDLPR policies RLP 36, RLP62 and RLP 90.

6 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the extended access road and crossing points with Public Right of Way. The approved details include the application for approval of details reserved by condition dated 4 August 2015 and include the following drawings:

Drawing Ref	Title	Date
IT569/PAA/01A	Horizontal & vertical alignment of extended access road Sheet 1	18/11/15
IT569/PAA/02C	Horizontal & vertical alignment of extended access road Sheet 2	18/11/15
IT569/PAA/03	Extended access road cross sections, Sheet 1	14/05/15
IT569/PAA/04	Extended access road cross sections, Sheet 2	14/05/15
IT569/PAA/05	Extended access road cross sections, Sheet 3	14/05/15
IT569/PAA/06	Extended access road cross sections, Sheet 4	14/05/15
IT569/PAA/07A	Extended access road cross sections, Sheet 5	14/07/15
IT569/PAA/08	Typical drainage details	May 2015

IT569/PAA/09	Typical access road detailed cross sections	May 2015
IT569/PAA/10	Drainage long section detail, Sheet 1	May 2015
IT569/PAA/11	Drainage long section detail, Sheet 2	May 2015
142064-DC-GA-C-116 C	Access road longitudinal section	17/12/15
142064-DC-GA-C-117	Access road cross sections	Jun 2015
IT569_WR_01_Rev A	Widening details for access road between Church Road and Ash lane	15/05/2015
IT569/S278_01G	Footpath crossing typical detail	12/11/15

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A, W10E and W10G *and BDLPR policies RLP 36, RLP 49 and RLP 90.*

7 No works on the construction of the IWMF shall commence until the access road extension and widening and all footpath cross-over points have been constructed.

Reason: In the interests of highway and pedestrian safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A, W10E and W10G *and BDLPR policies RLP 36 RLP 49 and RLP 90.*

8 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.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A, W10E and W10G *and BDLPR policies RLP 36, RLP 49 and RLP 90.*

9 No vehicles shall park on the haul road between the A120 and Ash Lane.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1, S10 and DM1, WLP policies W4C, W8A, W10E and W10G *and BDLPR policies RLP 36, RLP 49 and RLP 90.*

10 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the scheme and programme of archaeological investigation and recording approved on 16 February 2016 under condition 10 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Project Design for Archaeological Monitoring & Recording dated November 2014 by Archaeology South-East

- Figure 2 Integrated Waste Management Facility (IWMF) Areas 1-3 – Archaeological mitigation strategy.

Upon completion of the archaeological field work, the investigations shall be written up in a report and submitted for approval in writing by the Waste Planning Authority.

Reason: To ensure that any archaeological interest has been adequately investigated and recorded prior to the development taking place and to comply with MLP policies S10 and DM1, WLP policy W10E and BDLPR policies RLP105 and RLP 106.

11 The development shall be implemented in accordance with approved details with respect to the recording of the airfield buildings/structures. The record of airfield buildings/structures was approved on 16 February 2016 under condition 11 of planning permission ESS/55/14/BTE. The approved details include application for approval of details reserved by condition dated 4 August 2015 and the following document "Type T2 Aircraft Hanger at Woodhouse Farm & Other WWII structures at Rivenhall Airfield – Historic Building Records dated December 2010.

Reason: To ensure that any heritage interest has been adequately investigated and recorded prior to the development taking place and to comply with MLP policies S10 and DM1, WLP policy W10E and in accordance with the NPPF.

12 No ecological management works affecting the moat adjacent to Woodhouse Farm shall commence until details of the proposed works and proposed water supply for the moat and a timescale for its implementation have been submitted to and approved in writing by the Waste Planning Authority. The works to the moat and water supply arrangements shall be implemented in accordance with the details approved.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and to protect the setting of the Woodhouse Farm Listed Buildings and in accordance with MLP policies S10 and DM1, WLP policy W10E, BCS policy CS5, CS8 and CS9 and BDLPR policies RLP 80,RLP 84 and RLP 100.

13 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the signage, telecommunications equipment and lighting within the Woodhouse Farm complex (comprising Woodhouse Farmhouse, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 [which can be found in the S106 legal agreement dated 30 October 2009 associated with ESS/37/08/BTE]). The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings & documents:

Drawing Ref.	Title	Dated
135	Site plan & signage proposals	Jul 2015
	APC Communications solutions – Internet & voice solutions V2	14/07/15
	Pell Frischmann – Exterior lighting design	23/07/15
DW40019H001/P1	Proposed lighting layout	22/07/2015
CW40019H001	Proposed lighting to car parking and pedestrian areas	23/07/2015
	The Pharos LED bollard – Urbis Schreder	
	The Axia (the Green light) - Schreder	

The signage, telecommunications equipment and lighting shall be implemented in accordance with the details approved.

Reason: To protect the setting of the Listed Buildings and in the interest of visual amenity and to comply with MLP policy DM1, WLP policies, W8A W10B and W10E, BCS policy CS9 and BDLPR policies RLP 36, RLP 65, RLP 90 and RLP 100.

14 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the design and maintenance of the stack. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and specifications:

Drawing Ref.	Title	Dated
LA01A	Chimney stack top cladding details plan & elevations	23/07/15
LA02A	Chimney stack top cladding details fixing details	23/07/15
	Alucobond reflect- technical data sheet	
	Alucobond – cleaning & maintenance of stove-lacquered surfaces	
	Genie – Self-propelled telescopic booms - specifications	
	Genie – Self-propelled telescopic booms - features	

The stack shall be constructed and maintained in accordance with the approved details throughout the life of the IWMF.

Reason: In the interest of visual amenity and to protect the countryside and to comply with WLP policies W8A, W10B and W10E and BCS policy CS5, BDLPR policies RLP 36, RLP 65 and RLP 90.

15 Prior to construction of the IWMF buildings or the structures to the rear of the main building details of the IWMF buildings and structures including the

design and samples of the external construction materials, colours and finishes of the external cladding of the, and design and operation of the vehicle entry and exit doors, shall be submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the details and samples approved.

Reason: For the avoidance of doubt, in the interests of visual and landscape amenity and to comply with WLP policies W8A, W10B, W10E and BCS policy CS5 and BDLPR policy RLP 90.

16 *(Intentionally blank)*

17 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the management plan for the CHP plant to ensure there is no visible plume from the stack. . The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and documents referenced

- S1552-0700-0008RSF entitled "CHP Management Plan for Plume Abatement" Issue no. 5 dated 16/02/16 by Fichtner
- S1552-0700-0013RSF entitled "Plume Visibility Analysis" both by Fichtner.

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

Reason: In the interest of visual amenity, to protect the countryside and to comply with WLP policies W8A, W10B and W10E and BCS policy CS5 and BDLPR policies RLP 36, RLP 65 and RLP 90.

18 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the green roof for the main IWMF building. The approved details include the application for approval of details reserved by condition dated 4 August 2015, statement by Honace "Condition 18 Green Roof" and document entitled "Bauder extensive biodiverse vegetation (XF301)". The green roof shall be implemented in accordance with the details approved.

Reason: In the interests of visual and landscape amenity and enhancement of ecological biodiversity and to comply with WLP policies W8A, W10B and W10E, BCS policy CS8 and BDLPR policies RLP 80, RLP 84 and RLP 90.

19 No works to install process equipment or plant within the IWMF shall commence until details of the IWMF process layout and configuration have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the layout and configuration of the process equipment and plant would not give rise to impacts not assessed as part of the application and Environmental Statement and to protect local amenity and to comply with WLP policies W8A, W10B and W10E, BCS policy CS5 and

BDLPR policies RLP 36, RLP 62 and RLP 90.

20 The development hereby permitted shall be implemented in accordance with the details submitted with respect to construction compounds and parking of all vehicles and plant and equipment associated with the extraction of materials and the construction of the IWMF. The approved details include the application for approval of details reserved by condition dated 4 August 2015 and as set out on drawing CCE-HZI-50043049 Rev 0.3 dated 17/12/15. .

Reason: In the interest of visual amenity, to protect biodiversity and the countryside and to comply with MLP policies S10 and DM1, WLP policies W8A, W10B, W10E and BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 65, RLP 80 and RLP 90.

21 No beneficial occupation of the IWMF shall commence until details of the provision to be made for and the marking out of parking spaces for cars, HGVs and any other vehicles that may use the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The parking provision and marking out shall be implemented in accordance with the approved details. The parking areas shall be retained and maintained permanently for manoeuvring and parking. No HGVs shall park in the parking area adjacent to Woodhouse Farm complex except in relation to deliveries for the uses at Woodhouse Farm complex.

Reason: In the interest of visual amenity, to protect biodiversity and the countryside and to comply with WLP policies W8A, W10B, W10E, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 65, RLP 80, RLP 84 and RLP 90.

22 The development hereby permitted shall be implemented in accordance with the details submitted with respect to foul water management. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing Ref	Title	Dated
142064-DC-GA-C-108G	Proposed drainage layout Sheet 1 of 2	16/10/15
142064-DC-GA-C-109G	Proposed drainage layout Sheet 2 of 2	16/10/15
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

And email from Honace with enclosures dated 22/01/16 (17:13).

The foul water management scheme shall be implemented in accordance with the details.

Reason: To minimise the risk of pollution on ground and surface water, to minimise the risk of flooding and to comply with WLP policies W4A, W4B,

W8A and W10E and BDLPR policies RLP 36, RLP 62, RLP 71 and RLP 72.

23 The development hereby permitted shall be implemented in accordance with the details submitted with respect to surface water drainage and ground water management. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing Ref	Title	Dated
142064-DC-GA-C-108G	Proposed drainage layout Sheet 1 of 2	16/10/15
142064-DC-GA-C-109G	Proposed drainage layout Sheet 2 of 2	16/10/15
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

And email from Honace with enclosures dated 22/01/16 (17:13).

The surface water drainage and ground water management scheme shall be implemented in accordance with the approved details.

Reason: To minimise the risk of pollution on ground and surface water, to minimise the risk of flooding and to comply with WLP policies W4A, W4B, W8A and W10E and BDLPR policies RLP 36, RLP 62, RLP 71, RLP 72 and RLP90.

24 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the scheme of ground water monitoring. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings and documents:

Drawing ref	Title	Dated
SOD-24 Rev A	Ground water borehole monitoring points	29/07/15
6-4	Groundwater Monitoring points	12/05/11
13 Rev A	Ground water Monitoring points	20/03/14
213033-150	As-built borehole locations	17/09/14
142064-DC-GA-C-111A	Drainage Construction details	30/06/15

- Appendix A – Bradwell Quarry Groundwater Monitoring plots Jan 2008 to Jul 2015
- CC Ground Investigations Ltd – Key to exploratory hole logs
- CC Ground Investigations Ltd – Rotary borehole log for borehole nos. BH10 (sheets 1 to 4) dated 2014, BH11 (sheets 1 to 6) dated 2014, BH19 (sheets 1 to 4)dated 2014,
- Email from Honace dated 11/02/16 (09:19)
- Email from Honace dated 11/02/16 (13:59)

.

Reason: To minimise the risk of pollution to ground and surface water and to comply with MLP policies MLP S1, S10 and DM1, WLP policies W4A, W4B, W8A and W10E and BDLPR policies RLP 36, RLP 62, RLP 71 and RLP 72.

25 The development hereby permitted shall be implemented in accordance with the details submitted with respect to land contamination and land remediation and mitigation measures where contamination is identified approved on 16 February 2016 under condition 25 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Condition 25 – Contaminated Land by Honace
- Rivenhall – Record Site Plan & Schedule of buildings
- Analytical Report Number : 14-59380 dated September 2014 by i2 Analytical Ltd
- Drawing no. 213033-150 As-Built Borehole Locations dated 14 July 2014

Reason: To minimise the risk of pollution to ground and surface water, to minimise the risk of flooding and to comply with MLP policies MLP S1, S10 and DM1, WLP policies W4A, W4B, W8A and W10E and BDLPR policies RLP 36, RLP 62, RLP 64, RLP 71 and RLP 72.

26 The market de-inked paper pulp plant shall only source its heat steam and energy from the IWMF with the exception of periods of start-up and maintenance and repair of the IWMF.

Reason: To ensure the market de-inked paper pulp plant only remains at the site as a direct consequence of its co-location with the IWMF and to protect the countryside from inappropriate development and to comply with WLP policies W8A and W7G and BCS policy CS5.

27 No waste, except pre-sorted waste paper and card and Solid Recovered Fuel, shall be brought on to the site other than that arising from within the administrative area of Essex and Southend-on-Sea. Records indicating the origin of all waste consignments and tonnages brought to the site shall be kept and made available for inspection by the Waste Planning Authority for at least 2 years after receipt of the waste. The records shall be made available to the Waste Planning Authority within 14 days of a written request.

Reason: In the interests of the environment by assisting the Essex and Southend-on-Sea waste planning authorities to become self-sufficient for managing the equivalent of the waste arising in their administrative areas, ensuring that the waste is transported in accordance with the proximity principle, minimising pollution and minimising the impact upon the local environment and amenity and to comply with WLP policies W3A, W3C and W10E.

28 *(Intentionally blank)*

29 No waste other than those waste materials defined in the application shall enter the site for processing or treatment in the IWMF plant. No more than 853,000tpa of Municipal Solid Waste and/or Commercial and Industrial Waste shall be imported to the site.

Reason: To ensure the scale of the facility would not give rise to impacts not assessed as part of the planning application and Environmental Statement and to protect local amenity and to comply with WLP policies W3A, W8A and W10E, BCS policy CS5 and BDLPR policies RLP 36, RLP 62 and RLP 90.

30 *(Intentionally blank)*

31 No waste brought onto the site shall be deposited, handled, stored, composted or otherwise processed outside the IWMF buildings and structures.

Reason: To ensure minimum disturbance from operations, to avoid nuisance to local amenity and to comply with WLP policies W3A, W8A and W10E, BCS policy CS5 and BDLPR policies RLP 36, RLP 62 and RLP 90.

32 All waste materials shall be imported and exported from the site in enclosed, containerised or sheeted vehicles.

Reason: To ensure minimum nuisance from operations on local amenity, particularly litter and odour and to comply with WLP policies W3A, W8A and W10E, BCS policy CS5 and BDLPR policies RLP 36, RLP 62 and RLP 90.

33 No vehicle shall leave the IWMF site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with WLP policies W3A, W4C, W8A and W10E and BDLPR policies RLP 36 and RLP 90.

34 No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between the following hours:

07:00-18:30 hours Monday to Friday; and,
07:00 -13:00 hours Saturdays;
and shall not take place on Sundays, Bank and Public Holidays except for water pumping, environmental monitoring and occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with MLP policies S1, S10 and DM1, WLP policies W10E and W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

35 The construction works (including deliveries of building materials) for the development hereby permitted shall only be carried out between 07:00-19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with MLP policies S1, S10 and DM1, WLP policies W10E and W10F and BDLPR policies RLP 36 RLP 62 and RLP 90.

36 No waste or processed materials shall be imported or exported from any part of the IWMF other than between the following hours:
07:00 and 18:30 hours Monday to Friday; and,
07:00 and 13:00 hours on Saturdays,
and not on Sundays, Public or Bank Holidays except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority.

Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with WLP policies W10E and W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

37 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the signage for Public Rights of Way where they cross the access road. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawing no. IT569/S278_01G entitled “Footpath crossing typical detail” dated 12/11/15. The signage for Public Rights of Way implemented in accordance with the approved details and shall be maintained throughout the life of the IWMF.

Reason: In the interest of the safety of all users of both the Right of Way and the haul road and to comply with MLP policies S1, DM1, WLP policies W3A, W4C, W8A, W10E and W10G and BDLPR policies RLP 36, RLP 49, RLP 62 and RLP 90

38 Except for temporary operations, as defined in Condition 42, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level (LAeq 1 hour) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the LAeq 1 hour levels set out in the following table:

Noise Sensitive Properties Location	Criterion dB LAeq 1 hour
Herring's Farm	45
Deeks Cottage	45
Haywards	45
Allshot's Farm	47
The Lodge	49
Sheepcotes Farm	45
Greenpastures Bungalow	45
Goslings Cottage	47
Goslings Farm	47
Goslings Barn	47
Bumby Hall	45
Parkgate Farm Cottages	45

Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Reason: In the interests of residential and local amenity and to comply with MLP policies S1, S10, DM1, WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

39 The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 42 dB(A) LAeq 1hour between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties, listed in Condition 38, adjoining the site. Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Reason: In the interests of residential and local amenity and to comply with WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

40 The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 40 dB(A) LAeq 5min between the hours of 23:00 and 07:00, as measured and/or predicted at 1 metre from the façade facing the site at noise sensitive properties, listed in Condition 38, adjoining the site.

Reason: In the interests of residential and local amenity and to comply with WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

41 Noise levels shall be monitored at three monthly intervals at up to five of the locations, listed in Condition 38, as agreed with the Waste Planning Authority. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise

which control the noise climate. The survey shall be for four separate 15 minute periods, two during the working day 0700 and 1830, and two during the evening/night time 18:30 to 07:00 hours, the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Waste Planning Authority.

Reason: In the interests of residential and local amenity and to comply with MLP policies S1, S10, DM1, WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

42 For temporary operations at the site in relation to the excavation of materials, the free field noise level at sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70dB LAeq 1 hour, due to operations on the site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. Not less than 5 days written notice shall be given to the Waste Planning Authority in advance of the commencement of any temporary operation. Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration, and other temporary activity as may be agreed, in advance of works taking place, with the Waste Planning Authority.

Reason: In the interests of amenity and to comply with MLP policies S1, S10, DM1, WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

43 The development hereby permitted shall be implemented in accordance with the details submitted with respect to lighting. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Condition 43 Construction lighting By Honace
- Hilcare Ltd – Project P118536R2a – Reschemed scheme as a flat open area using 6m columns and the specified number of flood lights dated 03/08/2015 including with data sheets, light locations and light level calculations

The lighting shall be erected, installed and operated in accordance with the approved details throughout the life of the IWMF. The lighting details with respect to excavation of materials shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. No lighting for construction of the IWMF shall be illuminated outside the hours of 0700 and 1900 Monday to Sunday and at no time on, Bank or Public Holidays except for security and safety lighting activated by sensors. The lighting shall be maintained such that no lighting shall exceed 5 lux maintained average luminance.

Reason: In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity and in the interests of highway safety and to comply with MLP policies S1, S10, S12, DM1, WLP policies W3A, W8A, W10E and W10F, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 62, RLP 65 and RLP 90.

44 No lighting for use during operation of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors, times and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity, in the interests of highway safety and to comply with MLP policies S1, S10, S12, DM1, WLP policies W3A, W8A, W10E and W10F, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 62, RLP 65 and RLP 90.

45 The development hereby permitted shall be implemented in accordance with the details submitted with respect to phasing of the construction of the access road, creation of the retaining structures around the site of the IWMF and extraction of the minerals. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing Ref	Title	Dated
IT569_PAA_12	Access Road construction phasing	Jul 2015
142064-DC-GA-C-118 B	Proposed earthworks sequencing	25/01/16

Reason: In the interests of residential and local amenity and protection of the environment and in the interest of protecting biodiversity, in the interests of highway safety and to comply with MLP policies S1, S10, S12, DM1, WLP policies W3A, W8A, W10E and W10F, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 62, RLP 65 and RLP 90.

46 The development hereby permitted shall be implemented in accordance with the details submitted with respect to soil handling, soil storage and machine movements and the end use of soils as approved on 16 February 2016 under condition 46 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Condition 46 – Soil Handling by Honace
- Figure 5-1 Agricultural land classification – Rivenhall Airfield RCF

dated 10 July 2006
- Figure 5-2 Soil types – Rivenhall Airfield RCF dated 10 July 2006
- Drawing no. 5-4 Agricultural Land Classification – Site A2 Bradwell Quarry dated 11 May 2011
- Drawing 5-5 Soil types – Site A2 Bradwell Quarry dated 11 May 2011

Reason: To minimise structural damage and compaction of the soil and ensure sustainable use of surplus soils and to aid in the restoration and planting of the site and to comply with MLP policies S1, S10 and DM1 and WLP policies W3A and W10E.

47 Unless otherwise agreed in writing by the Waste Planning Authority, no topsoil, subsoil and/or soil making material shall be stripped or handled unless it is in a dry and friable condition[3] and no movement of soils shall take place:
During the months November to March (inclusive);

(a) When the upper 50 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS1377:1977, 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or
(b)When there are pools of water on the soil surface.

[3] The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.

Reason: To minimise structural damage and compaction of the soil and to aid in the restoration and planting of the site and to comply with MLP policies S1, S10 and DM1 and WLP policies W3A and W10E.

48 No minerals processing other than dry screening of excavated sand and gravel or in the reformation of levels using Boulder or London Clays shall take place within the site.

Reason: To ensure that there are no adverse impacts on local amenity from the development not previously assessed in the planning application and Environmental Statement and to comply with MLP policies S1, S10, DM1 and DM3, WLP policies W3A, W8A and W10E, BCS policy CS5 and BDLPR policies RLP 36, RLP 62 and RLP 90.

49 Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill,

draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development.

Reason: To minimise the risk of pollution to water courses and aquifers and to comply with MLP policies S1, S10 and DM1, WLP policies W3A, W4A, W4B, W8A, and W10E and BDLPR policies RLP 36 and RLP 62.

50 The development hereby permitted shall be implemented in accordance with the details submitted with respect to temporary and permanent site perimeter fencing. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the drawings and documents

Drawing Ref	Title	Dated
CCE-HZI-500430049 Rev 0.3	Construction site layout	17/12/2015
732.1/08A HDA D1	Rabbit proof fence detail	Jun 2015
732.1/10A HDA D3	Tree protection fencing – BS 5837:2012	Jul 2015

- Condition 50 Temporary & permanent fencing by Honace
- Jacksons – Securi Mesh 358 Mesh – welded mesh panels
- Jacksons – Securi Mesh Gates – welded mesh panel

The temporary and permanent fencing and gates shall be erected in accordance with the details approved and maintained throughout the life of the IWMF.

Reason: In the interest of visual amenity, to protect the countryside and to comply with MLP policies S10 and DM1, WLP policy W10E and BCS policies CS5 and BDLPR policies RLP 36, RLP 65 and RLP 90.

51 (a) The development hereby permitted shall be implemented in accordance with the details submitted with respect to a scheme and programme of measures for the suppression of dust as approved on 16 February 2016 under condition 51a of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Condition 51a – Dust minimisation scheme by Honace
- Construction dust – HSE Information Sheet no. 36 (revision 2)

(b) No beneficial occupation of the IWMF shall commence until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:

(i) The suppression of dust caused by handling, storage and processing of waste; and
(ii) Dust suppression on haul roads, including speed limits.
In relation each scheme provision for monitoring and review.

The development shall be implemented in accordance with the approved schemes and programme for the duration of the development hereby permitted.

Reason: To reduce the impacts of dust disturbance from the site on the local environment and to comply with MLP policies S1, S10, DM1, WLP policies W3A, W8A and W10E and BDLPR policies RLP 36, RLP 62 and RLP 90.

52 (a) The development hereby permitted shall be implemented in accordance with the details submitted with respect to measures to control fugitive odour from the excavation of materials and construction of the IWMF as approved on 16 February 2016 under condition 52a of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following document "Condition 52a – Odour minimisation scheme by Honace"

(b) No beneficial occupation of the IWMF shall commence until details of equipment required to control any fugitive odour from the handling/storage/processing of waste have been submitted to and approved in writing by the Waste Planning Authority. The details shall be implemented as approved.

Reason: In the interests of local amenity and to comply with WLP policies W3A, W8A and W10E and BDLPR policies RLP 36, RLP 62 and RLP 90.

53 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the ecological information and mitigation. The approved ecological information and mitigation includes the following:

Ecological information approved on 27 July 2011 in accordance with condition 53 of planning permission Ref. APP/Z1585/V/09/2104804 (ECC ref ESS/37/08/BTE). The details approved included letter dated 19 May 2011 from Golder Associates with accompanying application form and Ecology report dated October 2010.

The application for approval of details reserved by condition dated 4 August 2015 and the information contained within the Ecological report by Green Environmental Consultants dated July 2015 and Appendix 7-1 Baseline ecology report August 2008.

Ecological mitigation shall be carried out in accordance with the approved details throughout the life of the IWMF.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policy CS8 and BDLPR policies RLP 80, RLP 81 and RLP 84.

54 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the habitat management plan. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the "Habitat Management Plan – revised July 2015 – report number 499/10" by Green Environmental Consultants and appendices A to E.

The development shall be implemented in accordance with the approved habitat management plan throughout the life of the IWMF.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policy CS8 and BDLPR policies RLP 80, RLP 81 and RLP 84.

55 No demolition, excavation works or removal of hedgerows or trees shall be undertaken on the site during the bird nesting season [1 March to 30 September inclusive] except where a suitably qualified ecological consultant has confirmed that such construction etc. should not affect any nesting birds. Details of such written confirmations shall be sent to the Waste Planning Authority 14 days prior to commencement of the works.

Reason: To make appropriate provision for conserving and enhancing the natural environment, in the interests of biodiversity and in accordance with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policy CS8 and BDLPR policies RLP 80, RLP 81 and RLP 84.

56 Only one stack shall be erected on the site to service all elements of the IWMF. The height of the stack shall not exceed 85 m Above Ordnance Datum.

Reason: In the interest of visual amenity, to protect the countryside and to comply with WLP policies W8A and W10E, BCS policy CS5 and BDLPR policies RLP 36, RLP 65 and RLP 90.

57 The development hereby permitted shall be implemented in accordance with the details submitted with respect to bunding and planting. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings

Drawing Ref	**Title**	**Dated**
732.1_07B HDA SA1	Soft landscape proposals site access	Jun 2015
732.1_02G HDA SL1	Soft landscape proposals sheet 1 of 5	18/12/15
732.1_03G HDA SL2	Soft landscape proposals sheet 2 of 5	18/12/15
732.1_04G HDA SL3	Soft landscape proposals sheet 3 of 5	18/12/15
732.1_05G HDA SL4	Soft landscape proposals sheet 4 of 5	18/12/15
732.1_06G HDA SL5	Soft landscape proposals sheet 5 of 5	18/12/15
732.1_09 HDA D2	Standard tree pit detail	Jun 2015

Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity, to protect the countryside and to comply with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 62, and RLP 90.

58 Any tree or shrub forming part of the retained existing vegetation or the planting scheme approved in connection with the development that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of construction of the IWMF, shall be replaced during the next available planting season (October-March inclusive) with a tree or shrub to be agreed in advance in writing by the Waste Planning Authority.

Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity, to protect the countryside and to comply with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policies CS5 and CS8 and BDLPR policies RLP 36, RLP 62 and RLP 90.

59 The development hereby permitted shall be implemented in accordance with the details submitted with respect to tree retention and protection measures. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing Ref	**Title**	**Dated**
732.1_07B HDA SA1	Soft landscape proposals site access	Jun 2015
732.1_02G HDA SL1	Soft landscape proposals sheet 1 of 5	18/12/15
732.1_03G HDA SL2	Soft landscape proposals sheet 2 of 5	18/12/15
732.1_04G HDA SL3	Soft landscape proposals sheet 3 of 5	18/12/15
732.1_05G HDA SL4	Soft landscape proposals sheet 4 of 5	18/12/15
732.1_06G HDA SL5	Soft landscape proposals sheet 5 of 5	18/12/15
732.1_10A HDA D3	Tree protection fencing	Jul 2015
732.1_08A HDA D3	Rabbit proof fence detail	Jun 2015

The tree protection measures shall be implemented at the time of planting and maintained throughout the life of the IWMF.

Reason: In the interest of visual amenity, to ensure protection for the existing natural environment, including adjacent TPO woodland and to comply with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policies CS5 and CS8 and BDLPR policies RLP 80, RLP 81 and RLP 90.

60 The development hereby permitted shall be implemented in accordance with the details submitted with respect to management and watering of trees adjacent to the retaining wall surrounding the IWMF. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the statement by HDA entitled “Rivenhall

Integrated Waste Management Facility – Condition 60" dated 8 June 2015. The management and watering shall be carried out in accordance with the approved details throughout the life of the IWMF.

Reason: In the interest of visual amenity, to ensure protection for the existing natural environment, including adjacent TPO woodland and to comply with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policies CS5 and CS8 and BDLPR policies RLP 80, RLP 81and RLP 90.

61 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the layout of parking area including hard and soft landscaping and lighting adjacent to Woodhouse Farm. The approved details include: the application for approval of details reserved by condition dated 4 August 2015, the Statement by Honace entitled "Condition 61 Woodhouse Farm Parking & Lighting" and the followings drawings:

Drawing ref	**Title**	**Dated**
IT569/CP/01 Rev B	Woodhouse car park layout and typical details	21/07/15
732.1_05G HDA SL4	Soft landscape proposals sheet 4 of 5	18/12/15
DW40019H001 Rev p1	Proposed lighting layout	22/07/15

The parking, lighting and landscaping shall be maintained in accordance with the details approved throughout the life of the IWMF.

Reason: To protect the setting of the Listed Buildings and in the interest of visual amenity and to comply with MLP policy DM1, WLP policies W8A and W10E, BCS policy CS9 and BDLPR policies RLP 36, RLP 65, RLP 90 and RLP 100.

62 The development hereby permitted shall be implemented in accordance with the details submitted with respect to traffic calming measures designed to reduce the speed of traffic using the access road in the vicinity of the River Blackwater. The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing Ref	**Title**	**Dated**
IT569_S278_01G	Footpath crossing typical detail	12/11/15
IT569_S278_02C	Vole and otter crossing	24/07/2015
SignPlot v3.10	"Vole and otter crossing" sign	

The traffic calming measures shall be maintained throughout the life of the IWMF in accordance with the approved details.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and in accordance with MLP policies S10 and DM1, WLP policies W8A and W10E, BCS policy CS8 and BDLPR policy RLP 84.

63 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the lining and signing of the crossing points of the access road with Church Road and Ash Lane. . The approved details include: the application for approval of details reserved by condition dated 4 August 2015 and the following drawings:

Drawing ref	Title	Dated
IT569/S278/03 C	Proposed improvements to site access road junction with Church Road	June 2015
IT569/S278/04 C	Proposed improvements to site access road junction with Ash Lane	June 2015
SignPlot v3.10	“Heavy Plant crossing” sign	
SignPlot v3.10	“Stop” sign	
SignPlot v3.10	Priority sign	

The lining and signing shall be maintained in accordance with the approved details throughout the life of the IWMF.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with MLP policies S1 and DM1, WLP policies W4C, W8A, W10E and W10G and BDLPR policies RLP 36 and RLP 49.

64 The development hereby permitted shall be implemented in accordance with the details submitted with respect to the scheme and programme of historic building recording for Woodhouse Farm and buildings (including Bakehouse & pump) approved on 16 February 2016 under condition 64 of planning permission ESS/55/14/BTE. The approved details include: application for approval of details reserved by condition dated 4 August 2015 and the following documents:

- Brief for Historic Building Recording at Woodhouse Farm, Kelvedon by Place Services.
- Written Scheme of Investigation Historic Building Recording at Woodhouse Farm ASE Project 8293
- Figure 2 Location of buildings to be recorded at Woodhouse Farm, IWMF, Rivenhall dated Feb 2015

The written scheme and programme of historic building recording shall be implemented prior to the commencement of any demolition, works or conversion of any kind taking place at Woodhouse Farm and buildings as part of this permission. Upon completion of the programme of historic building recording, the recordings shall be written up in a report and submitted for approval in writing by the Waste Planning Authority.

Reason: To ensure that any heritage interest has been adequately investigated and recorded prior to the development taking place and to

comply with MLP policies S10 and DM1, WLP policy W10E, BCS policy CS9 and BDLPR policy RLP 100 and the NPPF.

65 There shall be no use of the access road from the A120 to the IWMF except by traffic associated with the IWMF, Bradwell Quarry or to access agricultural land for agricultural purposes.

Reason: In the interests of highway safety, as traffic movements above those associated with the IWMF, Bradwell Quarry and existing agricultural movements would need to be considered afresh and to comply with MLP policies S1 and DM1, WLP policies W4C, W8A and W10E and BDLPR policies RLP 36 and RLP 54.

66 In the event that the IWMF is not brought into beneficial use within 5 years of commencement of the development (as notified under condition 1) the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.

Reason: To ensure that if the development of the IWMF is not progressed to a beneficial use within a reasonable period, that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation and in accordance with WLP W8A, W10E and MLP DM1 and BCS policies CS5 and CS8.

67 No clearance works within the Woodhouse Farm complex (comprising Woodhouse Farmhouse, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 [which can be found in the S106 legal agreement dated 30 October 2009 associated with ESS/37/08/BTE]) shall be undertaken until the Waste Planning Authority has been provided with a copy of a licence issued by Natural England pursuant to Regulation 53 of the Conservation and Species Regulations 2010, giving authorisation for the works.

Reason: In the interests of protection of protected bat species and in accordance with MLP policies S10 and DM1, WLP policies W10E, BCS policy CS8 and BDLPR policy RLP 84.

68 Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.

Reason: To ensure the timely refurbishment of the Listed Buildings and their being brought into beneficial in order to protect thee heritage assets and to comply with MLP policies S10 and DM1, WLP policy W10E, BCS policy CS9 and BDLPR policy RLP 100 and the NPPF.

69 Following the approval of details required by condition 19 and prior to the installation of process equipment and plant, an updated noise assessment shall be undertaken and submitted to the Waste Planning Authority for approval to demonstrate that the maximum noise levels set out in condition 38 would not be exceeded. Installation of process equipment and plant for the IWMF shall not commence until the updated noise assessment has been approved by the Waste Planning Authority.

Reason: In the interests of residential and local amenity and to comply with WLP policies W3A, W8A, W10E, W10F and BDLPR policies RLP 36, RLP 62 and RLP 90.

INFORMATIVES

- This planning permission is subject to a legal agreement
- Reference to Solid Recovered Fuel (SRF) for the purposes of this planning permission is considered to be the same as Refuse Derived Fuel (RDF)
- The material used to surface the haul road would preferably be hot rolled asphalt.

Reason for Approval

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighting against the following policies of the development plan:

Essex & Southend Waste Local Plan (WLP) adopted 2001

W3A - Waste Strategy
W3C - Receipt of Essex wastes only
W4A - Flooding and surface water
W4B - Surface & ground water
W4C - Highways
W7A - Composting within buildings
W7C - Support for anaerobic digestion and composting
W7G - Energy from waste incineration
W8A - Preferred locations for waste management
W10E - Development control criteria
W10F - Hours of working
W10G - Safeguarding/improvements to Rights of Way

Minerals Local Plan (MLP) adopted 2014

P1 - Preferred and reserve sites for sand and gravel extraction
S1 - Presumption in favour of sustainable development/ Sustainable development locations
S10 - Protecting and enhancing the environment and local amenity

S11 - Access and transportation
S12 - Mineral site restoration and afteruse
DM1 - Development management criteria
DM2 - Planning conditions and legal agreements
DM3 - Primary processing plant

Braintree District Council Local Development Framework Core Strategy (BCS) adopted 2011

CS5 - Countryside
CS6 - Promoting accessibility for all
CS8 - Natural Environment and Biodiversity
CS9 - Built and Historic Environment

Braintree District Local Plan Review (BDLPR) 2005
RLP 36 - Industrial & Environmental Standards
RLP 54 - Transport Assessments
RLP 62 - Pollution control
RLP 63 - Air quality
RLP 64 - Contaminated land
RLP 65 - External Lighting
RLP 71 - Water supply and land drainage
RLP 72 - Water quality
RLP 80 - Landscape Features and Habitats
RLP 81 - Trees, Woodland, Grasslands and Hedgerows
RLP 84 - Protected species
RLP 86 - Rivers corridors
RLP 87 - Protected Lanes
RLP 90 - Layout and design of development
RLP 100 - Alterations, extensions and changes of use to Listed Buildings and their settings
RLP 105 - Archaeological Evaluation
RLP 106 - Archaeological Excavation and Monitoring

Statement of Reasons

The key overarching purpose of planning is to deliver sustainable development. The NPPF in particular promotes a presumption in favour of sustainable development; referred to as the ‘golden thread’ running through decision taking. The National Planning Policy for Waste, the BCS, the WLP and the emerging RWLP also refer to sustainability objectives.

At paragraph 6 of the Framework it is stated that “*the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental*.” In an economic role planning should “*be contributing to building a strong, responsive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation*.” In a social role planning should be “*supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations;*

and by creating high quality built environment, with accessible local services that reflect the community's needs and support is health, social and cultural well-being." In an environmental role planning should be "*contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy."*

While the amendments would result in a change in capacities of the IWMF it is still considered that the facility would provide an integrated approach to waste management. The MBT & MRF would ensure recyclables are recovered prior to use of the residue as a fuel source for the CHP, in accordance with the principle of pushing waste up the waste hierarchy. The on-site de-ink paper pulp plant would make direct efficient use of the heat and steam from the CHP and produce recycled paper pulp in the UK reducing the need for imported supplies. The remaining capacity of the CHP, in combination with biogas from the AD facility, would generate "green" electricity, contributing to sustainable development, reducing carbon emissions from non-fossil fuel electricity generation and contributing to reducing the impacts of climate change.

The IWMF would provide waste management capacity for C & I waste within Essex & Southend further up the waste hierarchy and thereby reducing C & I waste going to landfill. The IWMF would create capacity to utilise SRF/RDF generated in the county. Even if the IWMF was not awarded the contract for the management of SRF/RDF generated at Tovi Eco Park by the WDA the IWMF capacity to deal with SRF/RDF would ensure that Essex & Southend had capacity to deal with SRF/RDF helping to achieve net self-sufficiency for the County's waste management needs. The spare capacity in the CHP would encourage waste currently landfilled to be used as a resource from which energy could be recovered again helping to move waste management up the waste hierarchy.

No objection has been received from the Environment Agency with respect to the potential emissions from the CHP plant and Government guidance is clear that unless statutory bodies raise concerns with respect to emissions it is not the planning authorities' role to refuse the application on pollution or health grounds. These will be addressed through the Environmental Permit and the planning authority should assume these control mechanisms would work effectively.

The concern that the application should have been a new full application was considered by the WPA and it was concluded that the way the conditions were imposed in the 2010 planning permission reflected the Inspector's intention to allow flexibility in the implementation of the consent and that the application could be considered by way of a variation to the original consent.

The application was supported by an Environmental Statement. No significant adverse effects have been identified arising from the proposed changes which were not already addressed by mitigation or secured by condition. As a result of the amendments, there would be no additional impacts with respect to traffic, landscape, visual impact, impacts on the Historic environment, archaeology, ecology or impacts of residential amenity, which are not already mitigated by the proposals and/or controlled by existing or proposed conditions or obligations of the legal agreement.

While the facility would utilise more water from an existing permitted abstraction licence, there is storage capacity within the site to utilise this abstraction and ensure adequate water supply even in dry periods, without adverse impact. Therefore the proposals are in accordance with WLP policies W8A, W4A, W4B, W4C, W10E and BDLPR policies RLP 36, 54, 62, 63, 64, 65, 71, 72, 80, 81, 84, 86, 87, 90, 100, 105 and 106.

The Inspector in considering the original application stated

The eRCF is consistent with the key planning objectives set out in PPS10 [now superseded and embodied within the NPPW]*. It would help to deliver sustainable development by driving waste management up the waste hierarchy and addressing waste as a resource. It would reduce the need for disposal by landfill and would recycle waste into marketable products. Moreover, it would have benefits in terms of climate change. It would also contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community and assist in the implementation of ECC's strategy to provide a framework within which the community takes more responsibility for its own waste. The eRCF would contribute to the implementation of the national waste strategy.*

It is not considered that the proposed changes would undermine these original conclusions. The proposal is sustainable development, in that it meets the needs of Essex & Southend; contributes to the sustainable management of waste; provides recycling capacity for C & I waste; provides reprocessing capacity for recovered paper efficiently using on site heat and power; provides a source of energy offsetting fossil fuels and reducing greenhouse gases from alternative forms of energy, better waste management, in particular by providing capacity to divert C & I waste from landfill; and is in accordance with the principles of the waste hierarchy set out in the National Planning Policy for Waste.

The development is therefore considered to represent sustainable development for the purposes of the NPPF and is considered to comply with the relevant policies of the development plan taken as a whole.

There are no other policies or other material considerations which are overriding or warrant the withholding of permission.

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

The proposed development would not be located adjacent to a European site. Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

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

The Waste Planning Authority has engaged with the applicant prior to submission of the application, advising on the validation requirements and likely issues.

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

Dated: 26 February 2016

COUNTY HALL
CHELMSFORD

Signed:

Andrew Cook - Director for Operations, Environment and Economy

IMPORTANT - ATTENTION IS DRAWN TO THE NOTES ON THE NEXT PAGE

NOTES

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

Appeals to the Secretary of State

• If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

• If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

• If this is a decision that relates to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

• Alternatively, if an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

• Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs

• The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

• The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

20 Western Avenue
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Our ref: OXF11780

Date:1 September 2021

Claire Tomalin
County Planning Team
Essex County Council
E2
County Hall
Chelmsford
Essex
CM1 1QH

Dear Claire

Application to discharge planning condition 66 of planning permission ESS/34/15/BTE on Land at Rivenhall Airfield, Coggleshall Road (A120), Braintree, CO5 9DF.

On behalf of our client, Indaver, please find our application to discharge condition 66 of planning permission ESS/34/15/BTE. The appropriate planning fee has also been paid.

As we have previously discussed, and as you are aware, development has already commenced in connection with the above development, including significant earthworks, and with the procurement process in connection with the delivery of the IWMF very well advanced. To that extent, you as planning authority and other interested parties, may take some comfort from the fact that after many years of difficulty and delay, development of the site is finally underway. The first component of the waste management infrastructure within the IWMF building that is likely to be realised is the CHP plant and equipment. The commissioning of this part of the plant is not expected until 2024/5.

Notwithstanding the above, condition 66 on the planning consent requires us to address the timing of the delivery of the permission if it is not able to be brought into beneficial use within the stated time frame. Condition 66 states that:

In the event that the IWMF is not brought into beneficial use within 5 years of commencement of the development (as notified under condition 1) the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.

Reason: Reason: To ensure that if the development of the IWMF is not progressed to a beneficial use within a reasonable period, that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation and in accordance with WLP W8A, W10E and MLP DM1 and BCS policies CS5 and CS8.

In summary the policies referred to in the reason relate to:
W8A - Preferred locations for waste management

RPS Consulting Services Ltd. Registered in England No. 147 0149 20 Western Avenue, Milton Park, Abingdon, Oxfordshire OX14 4SH
rpsgroup.com

W10E - Development control criteria
DM1 - Development management criteria
CS5 - Countryside CS6 - Promoting accessibility for all
CS8 - Natural Environment and Biodiversity

We have explained that as we will be unable to bring the development into 'beneficial use' until 2024/5, we are faced with needing to address this condition now. Therefore, for the avoidance of doubt, the date by which 'a plan of action' or 'scheme of rehabilitation' needs to be submitted for your approval is 5 years and 6 months from the date stated on Condition 1. The condition 1 date is 2 March 2016, so Indaver is required to submit a plan of action or scheme of rehabilitation by 2 September 2021.

As you know, we have sought to meet with you to discuss the precise approach and detail required to enable us to discharge the condition, but unfortunately despite arranging a date your authority subsequently had to cancel as you had not received the advice you were seeking on matters in connection with this condition.

In the circumstances, given that time is running out, we have taken our own view as to what information you may need to allow you to approve the discharge of this condition.

Our Approach

Firstly, it is worth noting that Condition 66 (and clauses in the s106 agreement) appears to have been imposed on the permission due to the fact that, looking back though its history, there seems to have been considerable doubt as to whether it would be developed at all.

It is certainly a complex development and there have been challenges along the way, legal and otherwise, that have meant the development has been unable to start in earnest until recently. However, development is now well underway, and arguably condition 66 might be regarded as redundant in these circumstances.

Nevertheless, having reviewed possible approaches to discharging this condition, we have settled upon a submission of a 'plan of action'. A 'scheme of rehabilitation' makes little sense as we have already commenced development and it is the stated intention of Indaver to build out the development within the terms of the current planning permission.

In light of the above, we present a plan of action below which we hope will allow this condition to be settled and for all parties to move forward.

Plan of Action

RPS proposes the following staged plan of action which we believe reflects the circumstances and decisions we currently face. They are presented in a manner which aims to provide the planning authority with transparency in relation to our intentions for the site. In sequence the plan is:

1. **To build out the permission as authorised by the Planning Permission.**
   Indaver regard this permission as valuable commercially and necessary to deal with the waste management needs arising in the area. As is well known, their immediate focus is to deliver the CHP (or Energy from Waste (EfW)) component within the approved building. They are looking at developing the other consented waste management and energy components too, with the help of GFC, but we cannot yet confirm details of these and when they might be brought forward.

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rpsgroup.com

If, in the event that for technical or commercial reasons, Indaver is unable to bring forward all parts of the consented development e.g. the market or technology has changed, then they are likely to wish to resort to options under stage 2 or 3 of the plan of action, as set out below.

2. **Build out those elements within the consent which are technically and commercially viable, all within the building which currently has consent**, and/or;

3. **Submit an application for consent for alternative waste management and/or energy generation uses.**

Option 2 allows for the possibility of us not building out certain elements of the consented scheme if they prove untenable technically or commercially. In particular, we are concerned that at present the paper pulp plant may fall into this category, and therefore lead us to initiate options 2 or 3 of the plan.

I realise there has been some speculation about the lawfulness of not building out *all* of the various waste management components as consented, but we are aware of what the law allows us to do, and not do, with respect to the terms of the existing permission, and we have already begun dialogue with you in this regard to enable us to form some common ground on this matter. Suffice to say we will always comply with the terms of the permission, complex though this is, and we would be more than happy to continue to explore that with you going forward, as and when required. It is important that we do this to avoid any misinterpretation.

Finally, in terms of Option 3, we are exploring the possibility of increasing the power output of the EfW to above the 50 MWe threshold, which would require consent from the Secretary of State under the Planning Act 2008 (a Development Consent Order). Option 3 of the plan caters for this scenario. In addition, although not currently planned, should we wish to apply for something that falls outside the scope of the current planning permission, we will of course approach you and the local liaison committee in advance to set out those plans.

I hope the above is sufficient to allow to progress our application and I look forward to discussing and hopefully agreeing the above 'plan of action' at your earliest convenience given we fell short of time to do so before we were obliged to submit.

Kind Regards,

Yours sincerely,
for RPS Consulting Services Ltd

Data Protection Act
[redacted]

Christopher Lecointe
Director of Environmental Planning
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20 Western Avenue
Milton Park
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Data Protection Act
[redacted]

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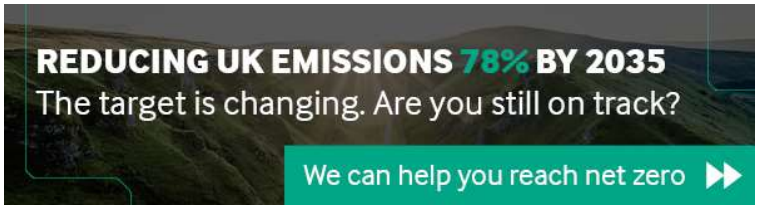

COGGESHALL PARISH COUNCIL

Village Hall, 25 Stoneham Street, Coggeshall, Essex, CO6 1UH

01376 562346 clerk@coggeshall-pc.gov.uk

Dear Sir or Madam Dated 20-Sept 2021

Re application ref ESS-36-17-BTE-01 (66) Discharge of Condition 66

The Parish Council **objects** to the discharge of Condition 66.

Whilst we acknowledge that the applicant has complied with condition 66 insomuch as they have provided a plan of action within the timeframe required, the **Plan of Action (PoA) does not meet the full requirements of condition 66. Consequently, Coggeshall Parish Council (CPC) objects to the removal or discharge of Condition 66** on the basis that the PoA

1. Is non-compliant;
2. Contradicts the Authorised permission granted in 2016;
3. Is not viable as consented by their own admission and therefore ECC must stop the development;
4. Goes against the express wishes of the inspector's original decision;
5. Does not comply with waste hierarchy as stated in the ESS/36/17/BTE stack height refusal;
6. Does not represent 'non-material changes' and as such requires a new application
    a. Changes significantly,
    b. Is described in a different way,
    c. Has components removed meaning it is designed differently,
    d. Will result in different objections;

    and
7. Contravenes the policies W8A and now W10B and W10C.

Consequently, the Plan of Action is unacceptable with respect to discharging condition 66.

Furthermore, as the applicant confirms they will not adhere to the authorised permission, CPC requires ECC to enforce condition 66 and cessation of the development coupled with a scheme of rehabilitation.

Please find this response to the planning application in the following pages.

Yours faithfully

Philippa Potter

Philippa Potter

Locum Parish Clerk

For and on behalf of Coggeshall Parish Council

1 Introduction

This document sets out the reasons for the objection to the discharge of Condition 66 by Coggeshall Parish Council.

1.1 Relevant history and background

In 2010 the Inspector permitted an Integrated Waste Management Facility (IWMF) in its entirety, and the then Secretary of State (SoS) supported this. At no point did he allow for individual components to be omitted, with the IWMF being described as

> *The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam.*

The above description has been used in all subsequent applications and in each of the many variations, notably the removal of the geographic limits, other time extensions and ESS/34/15/BTE.

In 2015 the applicant applied for a 2-year extension to the 2010 planning permission to build an integrated waste management facility and was granted a 1-year extension with the history to that point demonstrating ongoing delays, changes and planning creep.

In 2016 ECC granted ESS/34/15/BTE for the 'Variation' of condition 2 (application drawings) of planning permission to allow the amended layout of the IWMF, with some 69 conditions.

This variation changed the overall capacities of the IWMF. It reduced the anaerobic digestion and Mechanical Recovered Fuel by 70% and increased incineration from 365,000 tpa to 600,000 tpa.

These changes demonstrated an early desire to move towards a totally incineration-based solution.

It is worth noting that in condition 3 imposed within the decision notice for ESS/34/15/BTE the footnote 2 clarifies that the '*IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site'.*

Aside from the liaison meeting in early 2021, at no point has the applicant indicated that they would not comply with the authorised permissions.

After lengthy delays and 3 attempts to secure an Environment Agency (EA) permit, including a rejection of the increased stack height and the need for the incinerator by the Development & Regulation Committee, the applicant finally acquired a permit to operate in conjunction with their new operator Indaver in mid-2020 with a continuation of site operation around the same time.

Furthermore, and as a result of ESS/34/15/BTE (granted 28th February 2016) the applicant entered into a S106 agreement.

They fully accepted all the conditions at their own risk, with no EA permit to operate and no operator making a legal start on 2nd March 2016, just days after the capacities change was permitted.

Condition 66 sets out

> In the event that the IWMF is not brought into beneficial use within 5 years of commencement of the development (as notified under condition 1) the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the **site for approval by the Waste Planning Authority**. The Plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.
>
> Reason: To ensure that if the development of the IWMF is not progressed to a beneficial use within a reasonable period, that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation and in accordance with WLP W8A, W10E and MLP DM1 and BCS policies CS5 and CS8.

2 Reasons for our objection

The following table is a brief summary of the IWMF components as per the authorised permission and shows the implications if the proposals from the applicant are accepted.

IWMF component	Description	Proposals
Anaerobic Digestion (AD) facility	For treating food and green waste generating biogas for production of electricity on site and generating a compost like output.	**To remove this element primarily as there is no market and the recent award of the AD to an existing provider in Essex.**
Materials Recycling facility (MRF)	Sorts through waste recovering recyclables such as paper, card, plastics and metal. Recyclables, except some paper would be exported from the site for reprocessing.	**To be removed from the integrated approach implying the incineration of municipal waste as well as commercial and industrial waste.**
Mechanical Biological Treatment (MBT) facility	Treats waste by mechanical treatment e.g. shredding and then biological treatment using air and moisture to bio-stabilise the waste, the output being a Refuse Derived Fuel (RDF)	**To be removed from the Integrated approach as there is no market and awarded to an existing MBT plant in Essex.**
De-Ink Paper pulp plant	Reprocess waste paper imported to the site, as well as any suitable paper recovered by the MRF and would utilise, heat, steam and power generated by the CHP. Paper pulp board would be exported from the site	**To be removed from the integrated approach as not commercially viable.**
Combined Heat and Power (CHP) plant	Intended to use RDF generated on site and some imported to RDF/Solid Recovered Fuel (SRF) to generate heat, steam and electricity to be used on site. Some electricity would be exported to the National Grid.	**The ONLY component to be retained.** **The removal of the RDF means total reliance on imported fuel waste.** **The removal of the Paper pulping significantly reduces efficiency as energy is wasted going up the stack.**

It needs to be highlighted that the correspondence from the applicant's planning representative was received on the last day of the timeframe (2nd September 2021) dictated by condition 66. It was received with no offer of restitution during the 6 month grace period despite their informing the liaison committee on 26th February 2021 of their intentions to build only the incinerator and that they were in breach of condition 66 on 17th June 2021.

Given the above and all the 'historical meanderings and planning creep' it is also clear that the applicant had no intention of progressing IWMF to a beneficial use within the required time frame, has no intention of meeting condition 66 or complying with the permission granted insomuch as the details provided pursuant to Condition 66 (ie the Plan of action for an alternative use or a scheme of rehabilitation);-

1. are not acceptable in terms of the original Inspector's decision (endorsed by the then Secretary of State);
2. are not in accordance with the authorised planning permission;
   and
3. place the Waste Planning Authority (WPA) in a position where they are forced to accept further unknown changes irrespective of their nature;
   and finally
4. are not Non-Material in themselves, representing the second major change and, as such require a new application.

Turning to the letter ref OXF1170 it provides and action plan with 3 options:

2.1 Option 1;-Adhere to the 'authorised planning permission'

Whilst this option masquerades as compliant, the submission contradicts itself by stating that while their immediate focus is on the incinerator, **'other consented components'** may be developed that **'might'** be brought forward. This implies an arbitrary approach to the authorised planning permission.

2.1.1 Reason for objection

The option is without any substance, detail or timeframe and is therefore NOT a plan of action and certainly bears no resemblance to the authorised planning permission.

Furthermore this option states there may be 'Commercial or Technical reasons' preventing the IWMF completion as authorised.

Commercial reasons are not material to this application and as such must be dismissed whereas technical reasons are the responsibility of the Environment Agency and not a planning consideration. (It is a commonly held belief that it will not be possible to operate the site with a 35m stack above local ground level.)

2.2 Option 2;- Build commercial and technically viable elements

Again this is not an action plan but limits the submission to reliance on the commercial and technical viability and clearly states yet again *'the possibility of us not building out certain elements of the consented scheme if they prove untenable technically or commercially'.*

This option simply tells the planning authority what they are not going to do and forces the WPA to accept this and other future changes.

2.2.1 Reason for objection

As stated above, commercial reasons are not material to this application and must be dismissed. In contrast, technical reasons are the responsibility of the Environment Agency and not a planning consideration.

We would further extend our comment on the stack height adding that, whilst the 35m has been proven in models and in theory, there is no other stack this low in the UK[1], or operational evidence that successful operations have ever been delivered with a stack this low coupled with the proposed capacity of this process (600,000 tpa).

We believe that this and other technical and operational risks are now manifesting themselves and the lack of detailed design is deliberately intended to obscure these technical issues.

2.3 Option 3;- Increased power output

The applicant states that 'should we wish to apply for something that falls outside the scope of the current planning permission, we will of course approach you'. However, as we have identified above, this is simply not true: the capacity has already been increased by over 60% and a further increase is irresponsible.

2.3.1 Reason for objection

Of even greater concern is the aspiration to increase the meagre output of the incinerator. This can be achieved with further changes to the design and an increase in capacity, meaning an even bigger incinerator.
It cannot be acceptable to have an option within a plan of action that is so vague and so controversial, and that introduces substantial risk across the board, especially since we have already seen the applicant's intention to reduce the integrated element and to 'focus' on incineration.

Our summary of the Plan of Action and proposed options is that they do not comply in any way with the authorised planning permission; neither do they tell the WPA what is being delivered. The applicant cites flawed reasonings at the expense of the planning system that would serve to inject considerable unacceptable commercial and planning risk and uncertainty.

3 Applicable policies

Condition 66 refers to a variety of policies in support of its inclusion as a condition, namely

1. Waste Local Plan W8A, W10E
2. Minerals Local Plan DM1
   and

[1] Source Environment Agency

3. Braintree Core Strategy policies CS5 and CS8

These policies are now ever more relevant as we have a significant increase in climate change, more and more climate change data is becoming available, and there is far greater knowledge now then there was in 2016, let alone 2010.

3.1 Waste Local Plan

The WLP has recently been reviewed and whilst the policies cited were part of the original Plan applicable in 2016, they still apply.

3.1.1 Policy W8A

The policy referred to as W8A sets out the requirements for the management of waste. We now know that the D&R committee rejected the requirements for the incinerator with the increased stack height application ESS-36-17-BTE not only on the grounds of visual impact but

> *It has not been demonstrated that there is a need for the waste treatment capacity of the IWMF, in Essex and Southend-on-Sea, beyond those shortfalls identified in Policy 1 of the Waste Local Plan and as such would be, likely to give rise to waste not being managed in accordance with the principles of the Waste Hierarchy, of achieving net self-sufficiency for waste management in Essex and Southend-on Sea and the Proximity Principle, contrary to the NPPW and would undermine the strategic objectives of the Essex and Southend Waste Local Plan 2017[2].*

Consequently, the lack of adherence to the authorised planning permission extends to not conforming to Policy W8B and W8C below

> *b. the proposed development (including landfill) has been demonstrated to be the most appropriate and acceptable development in relation to the Waste Hierarchy, and;*
> *c. the proposal would not cause any unacceptable adverse impacts to the environment, human health or local amenity.*

3.1.2 Policy W10E

This policy states- Proposals for waste management development will 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: a. local amenity (including noise levels, odour, air quality, dust, litter, light pollution and vibration);

This is now reinforced within the WLP 2021 review page 75, section 9.51
Mitigating and Adapting to Climate Change
9.51 There is a need to reduce the contribution to climate change from waste management activities while also adapting to its potential effects.

[2] Source ESS/36/17/BTE decision notice

3.2 Minerals Local Plan

3.2.1 MLP Development Management Policy DM1 as amended

Proposals for minerals development will be permitted subject to it being demonstrated that the development would not have an unacceptable impact, including cumulative impact with other developments, upon:

1. Local amenity (including demonstrating that the impacts of noise levels, air quality and dust emissions, light pollution and vibration are acceptable),

2. The health *and wellbeing* of local residents, *as well as the wider community,* adjoining *who could be impacted by operation of* the site *development*,

3.3 Braintree District Council Core Strategy Policies

The following Braintree District Council Core Strategy policies are applicable:

3.3.1 Policy CS 5 The Countryside

Development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

3.3.2 Policy CS8 Natural Environment and Biodiversity

All development proposals will take account of the potential impacts of climate change and ensure the protection and enhancement of the natural environment, habitats and biodiversity and geo-diversity of the District. This will include where appropriate protection from:-

- Air, noise, light and other types of pollution
- Excessive use of water and other resources

Further information from section 8.4

The Ecological Footprint for the world is 2.2 global hectares per person, but the UK average is 5.4 global hectares per person. This is 65% higher than our ecological budget (the sustainable amount we can use). The Ecological Footprint for Braintree District as at 2002 was just below 5.5 global hectares per person (Stockholm Environment Institute). There is therefore a need to reduce the impact of the District.

3.4 Reason for objection

Based on the above it is clear that the Plan of Action contravenes all these policies especially given the evidence now available with respect to climate change, Global warming, the impact of CO2, air quality and changes in knowledge that have occurred since 2016 when these policies are overlaid on Condition 66.

4 Duty to Cooperate

The Waste Planning Authority has to Cooperate to *establish existing spare capacities both inside and outside the Plan area to manage such waste*[3].

As part of that duty to cooperate, we wish to point out there is now significantly more available incinerator capacity and as such there is an opportunity to collaborate with other Waste Planning Authorities as part of this Duty to Cooperate.

At present, there are 54 fully operational facilities which in 2019/20 had a capacity of 16.13 million tonnes.

In the same year 11.6 million tonnes was incinerated, leading to a 4.53 million tonnes spare capacity[4] (over 30%).

It needs to be taken into account considering these changes and the need for a new application.

5 Conclusion

The world has changed in the decade since the IWMF was permitted and conditions imposed, and not just due to Covid.

This objection is not just to the incinerator, it is also an objection to the way in which the applicant has shown total disregard for the Planning Authority, the Secretary of State and the planning process designed to protect human health and our environment with continuous change, planning creep and by disguising their ultimate objectives and continuing to hoodwink the planning authorities.

In the decade of delays and change we have gained a much deeper understanding of how air quality impacts human health and the environment and the incinerator has become unacceptable.

We now understand the impact of poor air quality and the damage that the emissions from the incinerator will do to both our environment and our health with Climate change, small particles, and with CO2 emissions taking centre stage and driving an unprecedented 2.7^{o}C increase in global warming[5].

How is it acceptable to permit this level of CO2 under these circumstances?

Furthermore there is now irrefutable case-based evidence that poor air quality is a leading cause of fatal respiratory diseases in children and vulnerable adults, and degenerative neurological conditions such as dementia;- we cannot ignore such facts.

---

[3] Source WLP

[4] Source Defra

[5] Source COP21

All that this Plan of Action does is to abuse the use of conditions, question their validity and inject a huge level of unacceptable risk and uncertainty;- it is simply not clear what will be delivered.

On this basis, ECC must now stop development on the site, understand what is being built and require a new application based on emerging standards, not the ones that prevailed 5-10 years ago, before making a much more informed decision

Addressing condition 66 provides the opportunity to reassess environmental impact and climate change impact in light of current data, thinking and evidence.

5.1 Reason for objection

Given that options 1 & 2 are in themselves non-compliant and therefore unacceptable, CPC objects to the discharge of Conditions 66 because the Plan of Action;-

1. Has no substantial detail;
2. Contradicts itself;
3. Contravenes the authorised permissions;
4. Contravenes the original Inspector's decisions supported by the Secretary of State;
5. Does not conform to the waste hierarchy;
6. Opens the possibility for an even bigger incinerator (to increase electrical output);
7. Forces ECC into an unrecoverable position concerning future changes; and
8. Results in significant commercial and planning risk and subsequent exposure.

In addition, the changes are material, substantial and therefore require a new application since the proposals

1. Significantly change the size and proportions; as shown in the table on page 3;
2. Alter the description from an integrated waste management facility to an incinerator only; as shown in the table;
3. Change the application site area as regards the allocation of land to Indaver and the land retained by Gent Fairhead along with the change in associated activities;
4. Significantly alter the design of the facility changing from an integrated waste facility to that of incineration; as shown in the table; and
5. Would affect objections to the original proposal.

In addition the letter ref OXF1170 admits that the IWMF lacks commercial viability but makes it very clear the developer has no intention of adhering to the authorised permission.

Consequently, the only alternative is to halt works on site enforce conditions laid down by ECC and force a completely new application for either the changes to the authorised permission or the alternative use as stated in option 3.

Furthermore, the applicant is adopting this approach as it is less risky and costly than a new application, which they know to be the correct course of action, even considering the legalities of challenging a refusal from the D&R committee.

THE RT. HON. PRITI PATEL MP
WITHAM

HOUSE OF COMMONS
LONDON SW1A 0AA

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Website: www.pritipatelmp.com

Mr Gavin Jones
Chief Executive
Essex County Council
PO Box 11
County Hall
Chelmsford
Essex
CM1 1LX

Our Ref: ZA71234 11 November 2021

Dear Mr Jones,

Rivenhall Incinerator, Planning Application: ESS/34/15/BTE/66/01

Further to my previous correspondence regarding the latest planning application for the Rivenhall Incinerator and the proposal by Indaver to discharge condition 66, you will be aware of the continuing concern, disappointment and frustration locally with the application, the so-called 'plan of action' proposed and the process by which this application is to be considered.

First, local residents are extremely concerned that this application has succeeded in being validated. As you will know, condition 66 stipulates that:

the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.

Many residents do not feel that the document submitted by Indaver constitutes a 'plan of action'. The document submitted constitutes little more than a very brief summary or menu of potential options for further consideration and decision. It is not a 'plan of action' but a plan to delay and stall. It makes no firm commitments on the approach being taken and it appears it is being used as a tool to keep open the prospect of more damaging development taking place on this site and because, by their own admission, the currently approved scheme is not commercially viable.

Moreover, the reason given for the condition states that the plan of action is proposed so:

that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation

The submission from Indaver is neither a substantial plan 'for an alternative use' nor is it a plan to rehabilitate the site. Consequently, it remains unclear as to why the Council has deemed this application to discharge condition 66 to be valid and I would welcome more

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details of the rationale behind it and any legal advice that has underpinned the decision to validate the application.

Moreover, it is important to note, that condition 66 is designed to provide people with certainty about the future of the site if the consented scheme is not developed as approved within the designated five year timescale. Condition 66 was put in place to give a reasonable time for the site to be fully completed as proposed, which it has not been. The document from Indaver and the three options it suggests provides no such certainty over the future and no clarity about what they will develop. It merely concedes that the development cannot take place as currently consented. A clear alternative is not given and no timetable to deliver such an alternative is provided either.

Consequently, any decision to discharge condition 66 based on the document and evidence provided by Indaver would not provide further certainty and clarity and would have the opposite effect. The application does not constitute a clear 'plan of action' and as such it must be refused by the Council.

Furthermore, as you will know, the proposals from Indaver covers three options, one of which includes the prospect of new build incinerator of a larger and more environmentally damaging scale than the one that falls within the existing consented scheme (Option 3). Although such a proposal would need to go through the Development Consent Order process, the Council should consider in relation to the discharge of condition 66 whether this proposal is viable and credible. A development on this scale would not be viable or credible and given how damaging it would be for the environment the Council should not accept this as being a credible 'plan of action' for the site for the purposes of discharging condition 66.

Options 1 and 2 are also not credible as 'plans of action' for the site as they give no details of timescales and both options would represent a significant net increase in the environmental harm caused by the site by focusing on developing and putting into the use the incinerator first or the incinerator only. As such, all three options listed are not credible and as they do not represent a 'plan of action' and do not provide certainty over the future of the site they should be rejected.

In the addition to the points raised above, I have received a number of comments and questions from residents about this application and the process. I have copied them below and would welcome your response to them:

- Given the recent liaison meetings, attended by the ECC principal officer, and the plan of action issued 2nd Sept 2021 in response to condition 66 clearly stating they are only 'bringing forward the Incinerator', constructing the remaining elements' only if they are commercial and technically viable',
  When do you consider you have been 'officially informed' of the changes?

- The operator Invader stated at all liaison meetings and in writing to the planning authority that the only element they are committed to constructing is the waste incinerator.
  How will you mitigate the risk that the applicant only builds the Incinerator under option one contravening the authorised planning permissions?

- Further to the above and given the EA response, when do you consider the integrated nature of the authorised panning is breached?

- Given the original application was controversial and only allowed AFTER ministerial call in and WITH the application expressly including ALL elements, and it was the clear wish of the then Secretary of State that all would be delivered together,
  Why is ECC not requiring a plan for all elements to be built, as per condition 66?

- Please can you identify what beneficial use has been cited and that will allow the discharge of condition 66?

- Please can you identify how the plan of action provided complies with condition 66 and the authorised planning?

- Please provide supporting information on how the application fits with the revised ECC policy on climate change, net zero CO2, etc.

- Given the 'uncertainty risk' now associated with this development, why is Essex County Council not stopping this development?

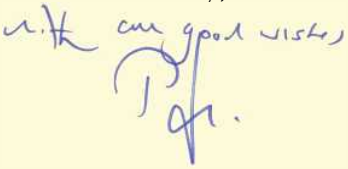
- The delivery of just the Incinerator is a different development (Condition 66 what put in place for this very reason).
  Why are you not asking for a separate new application?

- Please can you provide me with a copy of the legal advice you have been given? I do not consider this confidential at this stage.

- Since the only way residents, stakeholders, and statutory bodies can adequately engage and given the significant level of risk and uncertainty, will the Council and its Development and Regulation Committee stop the currently unauthorised development and require a new application?

As you will note, concerns about this application and the process are very strong amongst the local community and they would like the Council to refuse this application to discharge condition 66 and for action to subsequently take place to put a stop to the incinerator. I look forward to your reply.

Yours sincerely,

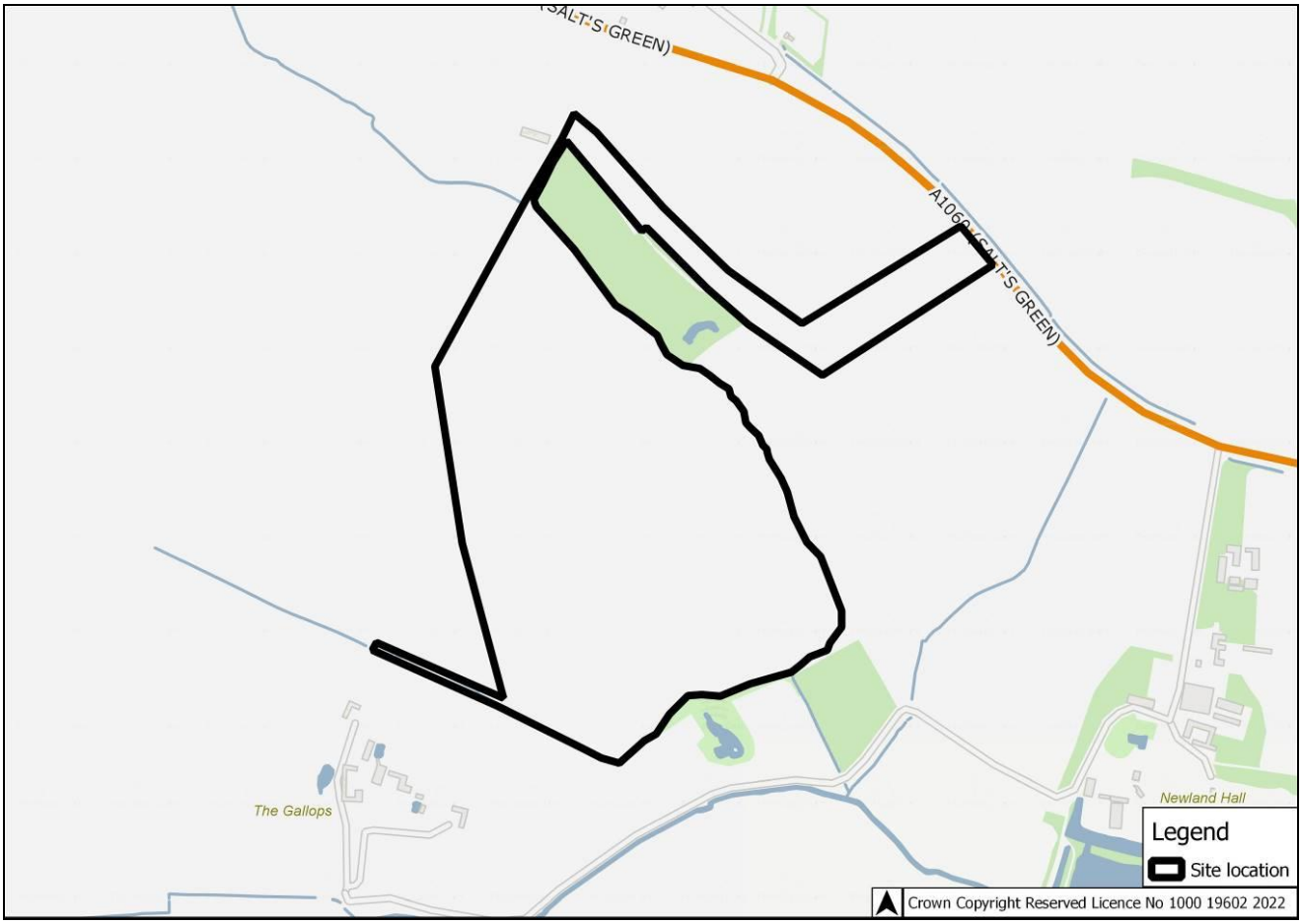


Rt Hon Priti Patel
Member of Parliament for Witham

AGENDA ITEM 4.2

DR/07/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)	
Proposal: MINERALS AND WASTE DEVELOPMENT - Sand and gravel quarry and associated works/development including formation of new access and mobile plant area; together with the importation of inert material to facilitate site restoration	
Ref: ESS/77/20/CHL	**Applicant:** H R Philpot & Son
Location: Land south of A1060 (Salt's Green), Chalk End, Roxwell, Chelmsford, CM1 4NJ	
Report author: Chief Planning Officer (County Planning and Major Development)	
Enquiries to: Tom McCarthy Tel: 03330 320943 The full application can be viewed at https://planning.essex.gov.uk	



1. SITE

The area to which this application relates is to the south of the A1060, to the west of Boyton Cross and north-west of Roxwell near Chelmsford. The area is the eastern part of a field set 200m back from the A1060, measuring some 13ha. The field is currently in arable rotation with the character of the surrounding area largely being agricultural.

The nearest residential properties to the proposed area of working are Mountneys, The Gallops, The Byre and The Stables (south of the site); Newland Hall and Woodend Farm (east of the site); and Littleacres, Chalk End House, Barleydale and Little Down located on the south side of Fambridge End Road (north of the site and the A1060). Mountneys; Newland Hall and Barn; and Chalk End House are all Grade II Listed.

In terms of land-use designations, the site is located within the Metropolitan Green Belt. There are no international or national ecological designations of note within the immediate vicinity, albeit the wooded area to the north; field boundary hedgerows and trees and watercourse are features of local landscape character. For reference, there are also a number of Local Wildlife Sites and Special Roadside Verges within 1km.

There are numerous Public Rights of Way (footpaths) in the vicinity of the site including Footpath 2 (PROW 230_2) which dissects the field which in part is proposed to be worked.

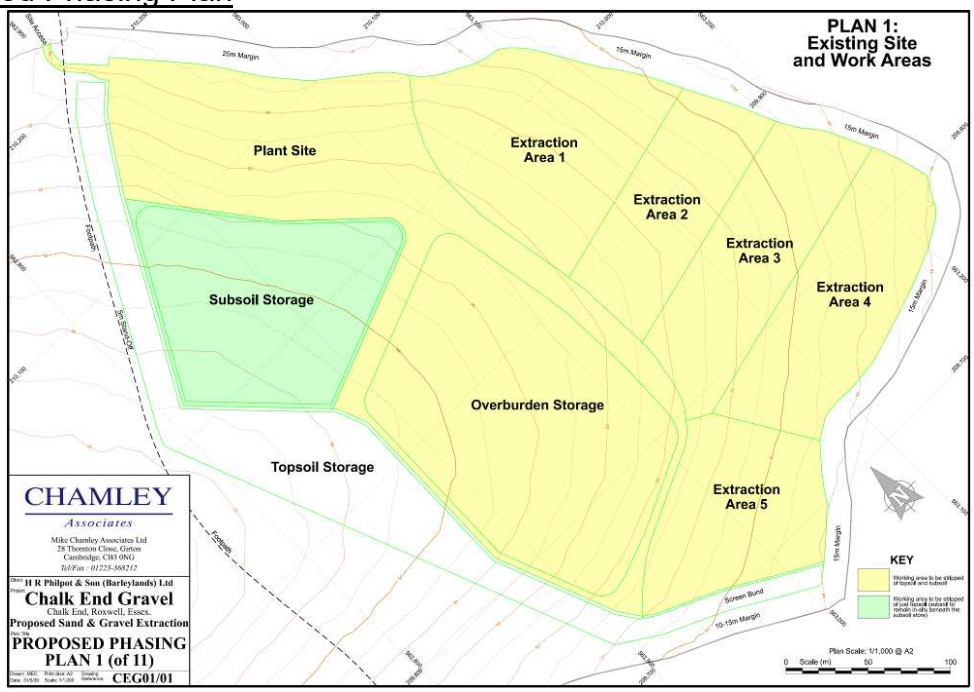
<u>Extract from the Essex Highways PRoW Interactive Map</u>

2. PROPOSAL

This application is for a new sand and gravel quarry. It is estimated that the quarry would yield approximately 125,000m3 of sand and gravel once the soils and overburden have been stripped back. The application site has a very high overburden to sand and gravel ratio (3:1) with circa 35,000m3 of topsoil, 70,000m3 of subsoil and 290,000m3 of overburden cumulatively proposed to be stored across all phases of the development, whilst the extraction is taking place, and eventually reused as part of the restoration.

The site is proposed to be worked in a phased manner, starting in the north-west and progressing in a clockwise manner (as shown on the below plan). It has been suggested that extraction would take six years to complete with a further two years to fully restore the site.

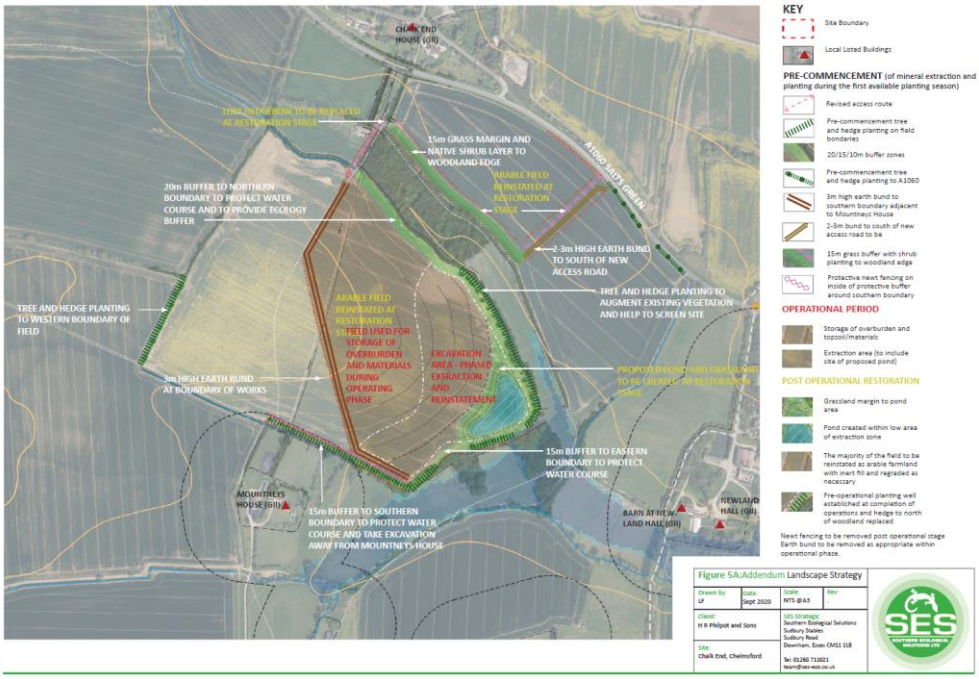
Proposed Phasing Plan



With regard to restoration, this application proposes an almost identical amount of import (122,000m3) to the quantity of sand and gravel that would be extracted. The fill material would be clean, inert soil of which no processing is proposed i.e. this would be imported straight for deposit. No household or commercial waste would be imported and/or used as part of the restoration.

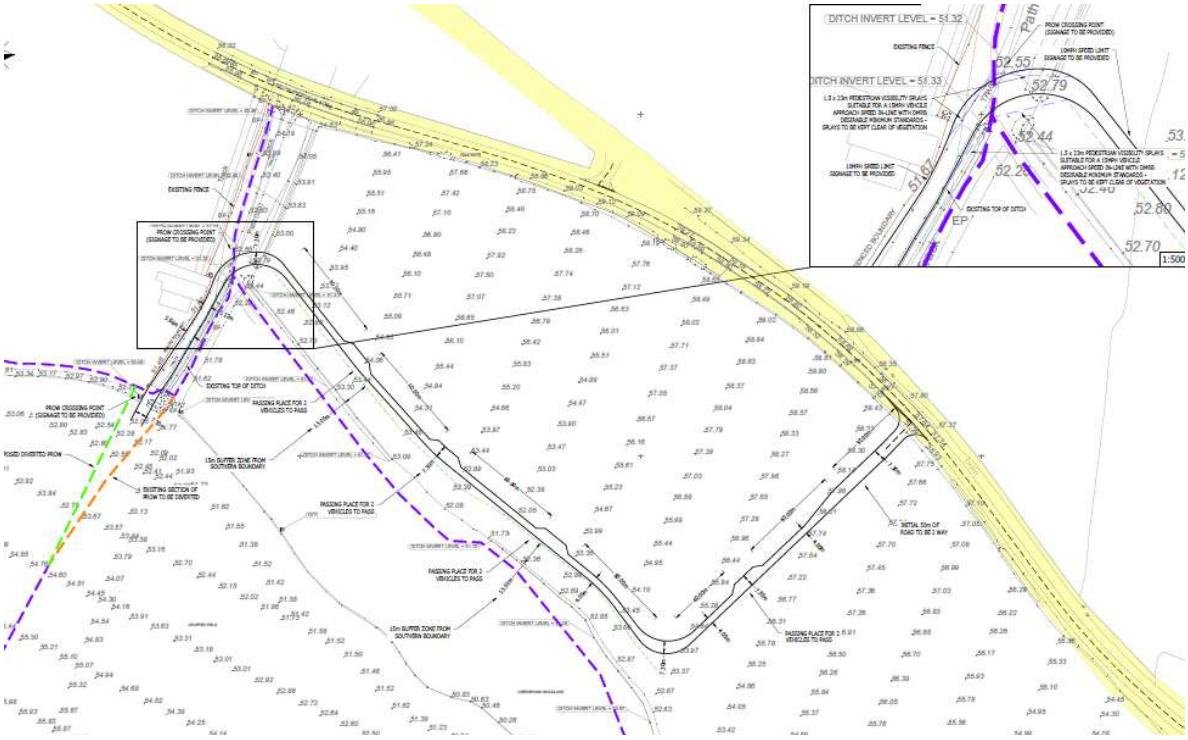
As part of the restoration proposals, the intention is to return the land levels to near existing and agricultural use. The restoration proposals do nevertheless propose the creation of a pond in the eastern corner of the site to improve attenuation and a maintained buffer margin to facilitate long term landscape and biodiversity enhancement, as indicated on the below submitted landscape strategy.

Landscape Strategy



To facilitate the proposal a new access off the A1060 is proposed to be created. This would be located approximately halfway between the access to Newland Hall and Chalk End / Fambridge End Road. The access would dissect the field to the south of the A1060, turning west and travelling adjacent to the field boundary and area of woodland, before turning south to provide access into the field proposed to be worked.

Extract from drawing 'Proposed Internal Road – Option A'



On-site a processing area is proposed to assist with the extraction phase of the development. Together with a range of temporary mitigation measures such as landscape/attenuation bunds which would be formed from extracted soils and overburden to limit the potential for significant adverse amenity impacts.

Proposed hours of operation are 07:00-18:00 Monday to Friday; and 07:00-14:00 Saturdays; with no Sunday or Public Holiday working.

The application is accompanied by an Environmental Statement, submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). The Statement covered the following topics: landscape, ecology and transport. Officers are content that the Statement submitted accords with the Regulations. A review and assessment of the conclusions formed with the Statement can be found within the appraisal section of this report. Together with an assessment of topics or areas not specifically covered within the Environmental Statement but relevant to the proposal.

3. POLICIES

The following policies of the Essex Minerals Local Plan (MLP) adopted July 2014, Essex and Southend-on-Sea Waste Local Plan (WLP) adopted July 2017 and Chelmsford Local Plan (CLP) adopted May 2020 provide the development plan framework for this application. The following policies are of relevance to this application:

<u>Essex Minerals Local Plan</u>
Policy S1 - Presumption in favour of sustainable development
Policy S2 - Strategic priorities for minerals development
Policy S3 - Climate change
Policy S4 - Reducing the use of mineral resources
Policy S6 - Provision for sand and gravel extraction
Policy S8 - Safeguarding mineral resources and mineral reserves
Policy S10 - Protecting and enhancing the environment and local amenity
Policy S11 - Access and Transportation
Policy S12 - Mineral Site Restoration and After-Use
Policy P1 - Preferred Sites for Sand and Gravel Extraction
Policy DM1 - Development Management Criteria
Policy DM2 - Planning Conditions and Legal Agreements
Policy DM3 - Primary Processing Plant

<u>Essex and Southend-on-Sea Waste Local Plan</u>
Policy 1 - Need for Waste Management Facilities
Policy 9 - Waste Disposal Facilities
Policy 10 - Development Management Criteria
Policy 11 - Mitigating and Adapting to Climate Change
Policy 12 - Transport and Access
Policy 13 - Landraising

<u>Chelmsford Local Plan</u>
Policy S1 - Spatial Principles
Policy S2 - Addressing Climate Change and Flood Risk

Policy S3 - Conserving and Enhancing the Historic Environment
Policy S4 - Conserving and Enhancing the Natural Environment
Policy S11 - The Role of the Countryside
Policy DM6 - New Buildings in the Green Belt
Policy DM10 - Change of Use and Engineering Operations
Policy DM13 - Designated Heritage Assets
Policy DM14 - Non-Designated Heritage Assets
Policy DM15 - Archaeology
Policy DM16 - Ecology and Biodiversity
Policy DM17 - Trees, Woodland and Landscape Features
Policy DM18 - Flooding/SUDS
Policy DM24 - Design and Place Shaping Principles in Major Developments
Policy DM29 - Protecting Living and Working Environments

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.

Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management and is a material consideration in planning decisions.

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).

Essex Minerals Local Plan 5 Year Review

A formal review of the MLP commenced in late 2019 with consultation on the draft proposed amendments occurring in April 2021. As part of this review, it was originally proposed that no additional sites needed to be allocated during this review period. However, following a further assessment and analysis of the responses received, including a review of national guidance, the approach to determining the provision of land won sand and gravel in the County (Policy S6) is proposed to be further amended. Engagement on additional proposed changes to Policy S6 is therefore being held between February and March 2022. The consequence of these amendments may be that additional sites are needed during the plan period, particularly if it remains appropriate to use the review to ensure the ability to sustain a 7 year landbank to the end of the Plan period in 2029. Accordingly, a call for sites is also being undertaken during February to March 2022 to inform the next steps of the review process. The call for sites process is in parallel and without prejudice to the conclusions drawn with regards to proposed amendments to Policy S6.

For the avoidance of doubt, and with regard to this application, the review process currently proposes to rely on existing preferred sites remaining in the Plan, provided they remain capable of being delivered, irrespective of policy amendments made and/or any new or updated methodology used to assess any new sites put forward. Any new site allocations made to accommodate the revised need for mineral are therefore intended to supplement existing preferred site allocations.

Further public consultation on the review will take place in due course.

4. CONSULTATIONS

Summarised as follows:

CHELMSFORD CITY COUNCIL – Whilst the City Council has never supported this allocation it is a matter of fact that it is an allocated site so the City Council does not raise an objection in principle to this application. There are however a number of issues which need to be carefully considered and addressed to ensure the amenity and safety of residents of the are protected during the extraction period:

Highways and impact on neighbouring properties amenity

There is concern from local residents and Roxwell, Good Easter, and Margaret Roding Parish Councils about the impact on the amenities of nearby residential properties and also about the traffic generation and road safety concerning vehicles entering and exiting the site. The City Council supports these concerns and will expect any entrance/exit to be fully compliant with Essex County Council Highway safety standards and appropriate wheel washing put in place by means of a condition in order for the proposal to be considered as acceptable.

It is also expected that appropriate noise/vibration mitigation measures are put in place to reduce the impact on nearby residential proprieties from traffic and machinery using the site. The appropriate noise and dust controls will also need to

be in place with appropriate monitoring conditioned for the site.

Landscape

It would be desirable if the footprint of the woodland along the eastern boundary in the landscape plan is strengthened by tree and scrub planting in addition to the grassland being proposed.

The landscape specification sheet proposes three types of replacement trees - Oak, Field Maple and Hornbeam. To ensure the treescape remains resilient to future climate change and threats from pest or disease, the diversity for tree planting should be increased to include other species of varying form, life span and ecological benefits such as Alder, Poplar, Crab Apple, Willow, Bird Cherry.
It is noted no detail has been provided for the restoration of the site (i.e. new pond) and this should be secured by an appropriately worded condition.

A condition should also be imposed to ensure that the revised access track and associated landscaped bund are removed at the restoration stage

Arboricultural Impact

The proposed layout requires the removal of one tree and one group both categorised as 'C'. Four small sections of hedgerows are also proposed for removal to facilitate access and sight splays and this is mainly to the front of the site where this adjoins Farmbridge End Road. None of these trees are protected by a Preservation Order or are within a Conservation Area and in principle their removal is acceptable subject to replacement planting of trees and hedges of appropriate size and species.

The tree protection plan at appendix 4 shows where barrier fencing is to be installed to protect retained trees, hedges and woodland based on the root protection area distances but paragraph 6.73 of the Environmental Statement states the scheme has been designed to maintain a 15-20m buffer from habitats including the woodland and hedgerows. It is unclear however whether this is during work or post work. It is requested that the protective barrier to the woodland is installed during construction and be at least 15m with this measurement either from the boundary or outer canopy edge of trees, whichever is greater, to prevent disturbance woodland ecosystem.

Biodiversity

At paragraph 6.20 of the Environmental Assessment it states access was not gained for ponds within 250m for surveys in respect to Great Crested Newts. It should be noted that a breeding population is present within the property Mountneys to the south of the site and this is functionally linked to the application site. Appropriate avoidance and mitigation measures will be required and a licence from Natural England due to the possibility of death/injury of newts, and disturbance or destruction of newt habitat.

Active Badger setts have been recorded and a suitable buffer area of at least 30 metres should be required to avoid disturbance to the badgers and their setts.

The proposed restoration has gone through a clear process to deliver the most practical means of restoration and creation of habitats. The new wetland to the south will further support Great Crested Newts and provide additional biodiversity net gains to ecology. It would however be desirable for the scheme to show its calculations for biodiversity net gain using the Defra 2.0 beta metric to show clear losses and gains for area and linear habitats. It is unclear whether any net gains will be provided pre-construction/ operation as otherwise during the life of mineral site it will be running at a net loss due to the loss of hedgerows and arable land etc, which is unacceptable. Net gains could be delivered through the perimeter of the site (15-20m buffer area) but this will still require calculating.

Historic Environment

The heritage statement submitted with the application identifies a negligible level of harm to the setting of Mountneys.

The rural context forms part of the wider setting to all four listed buildings. Whilst there is limited visibility between the sites, the rural setting nonetheless contributes to the significance of the heritage assets. The change in landscape character would be considerable from the current agricultural setting. The harm would be therefore be low to the setting of Mountneys and minor to the other three listed buildings.

This harmful impact would be for the quarry period of ten years. Following landscape restoration, the site would be restored and the adverse impacts would be avoided.

The harm to the setting would amount to a low level of less than substantial harm until landscape restoration, to be weighed up against any public benefit delivered by the proposals in accordance with NPPF para 196.

It is assumed that the County Archaeologist at ECC Place Services has been consulted on this in terms of the archaeological study and it would be expected that trial trenching would be required on site ahead of the commencement of the development.

NATIONAL PLANNING CASEWORK UNIT – No comments received.

ENVIRONMENT AGENCY – The applicant will require licences from the Agency in order to undertake the proposals. The applicant has undertaken groundwater level monitoring and this has confirmed that a portion of the void would be underneath the natural groundwater level and that groundwater control would therefore need to be employed as part of the quarrying activity. Any extraction beneath the water table necessitates the submission of a full Hydrogeological Impact Appraisal (HIA) to support the licence applications to be made to the Agency, should planning permission be granted.

LEAD LOCAL FLOOD AUTHORITY – No objection.

NATURAL ENGLAND – No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

ESSEX WILDLIFE TRUST – No comments received.

HISTORIC ENGLAND – Do not wish to offer any comments.

GEO ESSEX – No objection. Although it is requested that if possible access is secured to the site, during its working life, to allow geologists from Geo Essex to record the geology.

HIGHWAY AUTHORITY – No objection subject to conditions requiring submission of a finalised design for the access junction, demonstration of the ability to provide required visibility splays and a maintenance regime for land within these splays, a vehicle speed limit on the access road and details of proposed signage and fencing associated with the crossing points of the public right of way network.

ESSEX AREA RAMBLERS – Alternative means of access would have likely meant that existing public rights of way routes could have been left unaffected. In the event that alternatives are not feasible/practical questions are raised as to whether footpaths should be diverted rather than signage introduced. It is considered unacceptable to allow the access road to cross/dissect the footpath if an alternative can be easily achieved.

PIPELINE / COMMUNICATION / UTILITY COMPANIES – Either no comments received; no objection; no objection subjection to standard advice; or no comments to make.

PUBLIC HEALTH ENGLAND

<u>Air Quality</u>

Reducing public exposures to non-threshold pollutants (such as particulate matter and nitrogen dioxide) below air quality standards has potential public health benefits. We support approaches which minimise or mitigate public exposure to non-threshold air pollutants, and address inequalities (in exposure) and encourage their consideration during development design, environmental and health impact assessment, and development consent.

With reference to the Dust and Air Quality Assessment (October 2020), a number of points have been noted below where further clarity may be needed within the assessment, to ensure that all sources of particulate matter/ dust are addressed and the cumulative impact of different sources across the site is considered.

- It is unclear if the Dust and Air Quality Assessment (October 2020) includes consideration of the importing and infilling of waste (noted to be inert soil). This should be clarified in the document.
- Dust propagation from soil stripping, storage and reinstatement are described as being generally short-term and transient operations. However, the phasing diagrams (plans 1-10) show overburden, subsoil and topsoil stockpiles as being present throughout the proposed timescales. It is

recommended that proposed mitigation measures for the overburden storage/stockpiles be implemented for the duration of the proposed works.

- Greater clarity and consistency are required regarding overburden/stockpile terminology and the differentiation between soil, overburden stripping, storage, re-instatement activities and wind scouring of exposed surfaces and stockpiles to ensure accurate characterisation and assessment of risks. For example, with specific reference to Mountneys, in Table 5.5, only extraction area 5 is considered for wind scouring of exposed surfaces and stockpiles, yet the phasing diagrams (in Appendix C) also identify subsoil, overburden stockpiles in the southwest of the site. In contrast, the report states (in Section 1.5) that 'extracted material will be processed and stockpiled on site using mobile washing and dry screening plant, which will be located in the north of the site' and (in section 3.5.5) that 'Stockpiles of extracted materials will be kept within the plant site and away from receptors.'
- The impacts from disamenity dust have been scoped into the assessment. However, the minimum distances used for this appears to be the same as used in the impact assessment against long-term air quality standards (i.e. at the building façade). Given Mountneys shares a boundary with the site, there is a potential for course particles to be deposited within 100m, it is recommended that the risk assessment be updated; and any additional mitigation measures identified for when activities take place near to the site boundary.
- Given the proximity to receptors, no information is provided regarding mitigation measures to limit potential disamenity impacts from the creation of the screening bunds. The applicant states that a Construction Environmental Management Plan (CEMP) will be in place and this should be agreed with the Local Authority Environmental Health Department.
- There are a number of footpaths in close proximity to the site, however there is a lack of consistency in the description of the location of these. The local planning authority should ensure that appropriate mitigation measures are put in place to protect those using the public footpaths.

<u>Noise</u>

It is recommended that Local Authority Environmental Health Department are consulted with regards to the potential impacts from noise from the proposed development.

THE COUNCIL'S NOISE AND AIR QUALITY CONSULTANTS –

<u>Noise</u>

No objection subject to conditions covering maximum noise levels, details of plant proposed to be used including sound power levels and noise compliance monitoring.

<u>Air Quality</u>

The quarrying activities likely to result in the greatest magnitude of dust impacts have been identified and the assessment conclusion, based on the evidence as

presented, is in line with the relevant technical guidance documents.

The proposal to prepare a Dust Management Plan which sets out all the dust management and mitigation measures is welcomed. With the appropriate mitigation in place, it is acknowledged that there is unlikely to be significant air quality and dust impacts, and the proposals are considered to be acceptable from an air quality perspective. However, given the proposed close proximity of some residential dwellings to quarry operations, particularly to the south of the site, the following recommendations are also provided in relation to the mitigation proposals:

- A condition to be placed on the planning permission that requires the applicant to submit the DMP to Essex County Council for approval. No works shall commence on Site until the DMP is approved.
- Inclusion of specific procedures or protocol within the DMP for the application of specific dust suppression measures (including the decision making process) or altering site activities based on likelihood of dust emissions causing adverse impacts off-site.
- Specific consideration within the DMP for increased due diligence and dust management in relation to activities in the southern and south western section of the Site to minimise risk of adverse impacts at the nearest residential properties.

THE COUNCIL'S LANDSCAPE, ECOLOGY, TREE, HISTORIC BUILDINGS AND ARCHAEOLOGY CONSULTANTS –

<u>Landscape</u>

Concerns raised around the timescale of operations and that landscape impacts have the potential to become established into the long term. Noting this is an allocated site within the MLP, conditions are duly recommended in respect of additional hedgerow with tree planting along the road frontage both east and west of the access point; additional screening of the 'green lane' access off the A1060 to the field as existing; revisions to the planting mix/quantity of the hedgerow proposed about the access road, adjacent to the woodland edge; and increase in buffer to/from the woodland from 15m to 20m (or re-orientation of the passing bays to increase distance from main haul road).

<u>Ecology</u>

We are satisfied that there is sufficient ecological information available for determination. The mitigation measures identified in Chapter 6 of the Environmental Statement (Strutt & Parker, June 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species and habitats. The mitigation measures should be included in a Construction Environmental Management Plan (Biodiversity) which should be secured by a condition. This should also include a non-licenced Great Crested Newt Method Statement.

As the site currently supports two pairs of breeding Skylarks and two pairs of breeding Yellow Wagtail, both Priority Species, we also recommend that a Farmland Bird Mitigation Strategy is secured as a condition. This should secure off

site mitigation measures throughout the construction period and post restoration.

The details of the reasonable biodiversity enhancements proposed on site, to secure measurable net gains for biodiversity, should be included in a should be included in a Biodiversity Enhancement Strategy. The Biodiversity Enhancement Strategy should secure measurable net gain for biodiversity (BNG) to be delivered within the approved restoration plan. Consequently, a calculator, such as the DEFRA biodiversity metric 2.0 should be used to demonstrate this for delivery over the lifetime of this application. We recommend that the habitat created is secured for long term management not just a 5-year aftercare period. The details of the long-term management of the restored site should also be included in a Landscape and Ecological Management Plan, which will ensure that the reasonable enhancements are appropriately managed during the aftercare period to ensure that they secure net gain for biodiversity in the long-term.

Trees

An Arboricultural Impact Assessment and Preliminary Method Statement, along with a Tree Protection plan in line with BS5837:2012 'Trees in relation to Design, Demolition & Construction, has been provided. The revised access is likely to cause more of an impact to the woodland, as the access will now run 15m north of the woodland edge. Dust has the potential to detrimentally impact on woodland and accordingly it would be preferable for the access to be tarmacked with appropriate dust suppression measures undertaken (e.g. dampening).

It is recommended that a site specific Arboricultural Method Statement (AMS) and finalised Tree Protection Plan (TPP) be secured by condition in the event that planning permission is granted.

Historic Buildings

The application site is located in proximity to a number of designated and non-designated heritage assets. Therefore, with regard to these proposals, the principal considerations are the potential indirect impacts to the heritage assets set out below, due to change within their settings:

- Chalk End House, Grade II Listed (List Entry ID: 1235665);
- Newland Hall, Grade II Listed (List Entry ID: 1235663);
- Barn at Newland Hall, Grade II Listed (List Entry ID: 1237443);
- Mountneys House, Grade II Listed (List Entry ID: 1235719);
- Barns at Mountneys (Curtilage listed); and
- Mountneys Cottage (Non-designated heritage asset).

The submitted Heritage Impact Assessment which concludes that the proposed development would result in 'less than substantial' harm to the significance of the Grade II Listed Mountneys House, due to change within its setting, is agreed with. It is considered however that this harm would be more towards the medium level of 'less than substantial'. In accordance with paragraph 196 of the National Planning Policy Framework, this harm should be weighed in the balance against the viability of the scheme and the potential public benefits.

Archaeology

The proposed development lies within an area known to be archaeologically sensitive. The Historic Environment Record shows that the site lies within an area from which cropmarks have been identified from aerial photographs (EHER 48039). The submitted desk-based assessment also identifies the potential for archaeological deposits being present on the site. Immediately to the south of the site lies a moated site at Newlands Hall (EHER 664) which contains a grade II listed house and barn. Many of the moats in this area of Essex have their origins in the 12th and 13th centuries.

Although the applicant has indicated that there is a threat to only 50% of the site by extraction, the storage of material or processing plants have the potential to both disturb and destroy archaeological deposits that are only shallowly buried. Much of this archaeology will be just beneath the topsoil. Therefore, the total area would require evaluation to ensure that there are no significant archaeological deposits threatened on the site. Conditions are therefore recommended to secure a programme of archaeology investigation in accordance with an agreed written scheme of investigation.

ROXWELL PARISH COUNCIL – Object. Whilst it is recognised that this site is part of the MLP, if you look into the comments made when the MLP was produced, it will be noted that many individuals and organisations opposed this site.

The proposals do not reflect the communities aspirations and engagement has done nothing to enhance the communities voice in the planning decision. Concern is raised in this regard as to how information is presented in the Statement of Community Involvement submitted by the applicant.

Although current records show that this stretch of the A1060 has not had any serious accidents within the last five years, this could well be a future accident black spot once slow moving vehicles entering and exiting the site are added to them mix. In addition to the potential for accidents, the additional HGVs will also have a detrimental impact on the residents living within close proximity of the carriageway.

It is not confirmed who will be carrying out the extraction. The applicants are farmers, so it is questioned if they have experience or knowledge to carry out this type of work. How would the site and operations be monitored?

Roxwell residents have had to put up with gravel extraction and subsequent landfilling for well over 70 years, surely Roxwell deserves a break.

Insufficient time has been given to fully consider the documentation submitted and fully respond.

ABBESS BEAUCHAMP & BERNERS RODING PARISH COUNCIL – Object on the basis of lorry movements. The rural road through the Parish and other villages are narrow and unsuitable for this sort of traffic.

GOOD EASTER PARISH COUNCIL – Acknowledges the requirements of the MLP to provide sand and gravel and also the WLP to provide sites to dispose of inert waste. However, a number of concerns are raised in respect of the proposals which are requested to be addressed. Including that the access proposed to support the proposals must be designed appropriately and also sufficient for the long term, if the southern parcel does come forward.

In terms of the access, as proposed, it is considered that this will present the potential for a serious accident. The MLP required this site/allocation to be supported by a dedicated right turn lane but this is not included. Although this application is only for part of the site, it is considered that this should be secured now. In addition although the MLP seeks to suggest Footpath 2 should be diverted, the proposals do not propose this – just warning signage.

In the event that planning permission is granted, the access road should also be constructed from reinforced concrete to relevant highway standards, furthermore adequate wheel washing facilities must be installed together with road sweeping plant.

No measures to prevent Salts Green/Chalk End from being used as a glorified roundabout have been proposed. It is considered traffic signage and other measures should be secured to ensure all lorries entering or leaving the site do not use Chalk End or other local roads through Good Easter. Extreme concern exists about the vulnerability of three historic bridges at the end of Shorts Farm Lan, on Fountain Road and on Farmbridge End Road.

Measures to limit noise and dust should be secured, with appropriate monitoring regimes. The suggestion that the dust emission risk from the removal of topsoil and overburn as ‘medium’ is considered unacceptable and measured should be secured to ensure this risk is ‘low’.

The intention to import inert waste is noted. However, clarification is requested on how this would be controlled and household or commercial waste would not be allowed to be deposited.

Vehicle movements suggested should be secured by planning condition as maximums and it is not considered that any later phases of extraction should be allowed until this phase is complete, so traffic movements are not greater than that outlined as part of this proposal.

No details of any Section 106 payments that may be considered toward the local community that will be impacted by this development/disruption has been provided. It is considered that some contribution towards the Parish Council’s impacts should be made, to be used solely for local amenity improvement.

MARGARET RODING PARISH COUNCIL – Object. The proposed site would be accessed from the A1060, this is not a strategic route or trunk road. The carriageways are single and narrow. At the proposed site access, the highway has a 60mph speed limit. HGVs would be slow entering and leaving, which will undoubtedly result in safety issues.

If planning permission is granted, a condition should be secured which requires a new speed limit of 40mph to be introduced from Peppers Green Lan to the parish boundary with Leaden Roding and 30mph within the centre of the village.

AYTHORPE RODING PARISH COUNCIL (comments received albeit not directly consulted) – The Transport document is naive and incorrect in concluding that lorries will use the A1060 which, in itself, is not a suitable route to reach the major road network. It is inevitable, without a strict route plan, that lorries will use the B184 north to Dunmow or south to Harlow which will cause a massive impact on the villages in terms of noise and volume of traffic and potential damage to properties next to the road.

LOCAL MEMBER – CHELMSFORD – BROOMFIELD AND WRITTLE – Any comments received will be reported.

5. REPRESENTATIONS

28 properties were directly notified of the application. The application was also advertised by way of site notice and press advert. This application was formally consulted on twice during determination. A second full consultation was undertaken as changes were made to the proposals which impacted on the Environmental Statement submitted. 43 letters of representation have been received, across the two consultations. These relate to planning issues, summarised as follows:

Observation	Comment
Disruption and noise from activities would cause a large inconvenience.	See appraisal.
The proposed hours of operation are unreasonably long.	See appraisal.
The development is going to completely spoil the countryside that we all enjoy.	See appraisal.
A lot of the local community use the footpaths for dog walks, horse riding, cycle routes for a better wellbeing which will all be spoilt.	See appraisal.
I only recently moved to the area and was completely shocked to find out about this allocation in the MLP.	Civil issue.
Habitat loss.	See appraisal.
The development will affect the value of my property.	Property price alone is not a material planning consideration.
Will the surrounding houses be in any compensated for the	Any claim for planning blight under the Town and Country Planning Act 1990 or

disruption/nuisance?	for compensation under the Land Compensation Act 1973 would be separate to the terms of any planning permission granted.
Impact on mental state/wellbeing from stress.	See appraisal.
Concerns over impacts to groundwater levels and private borehole water supplies.	See appraisal.
It is of particular note that the application is submitted, strategically, in the middle of a public health pandemic when public meetings are impossible. Not democratic at all.	Whilst it is accepted that this application was originally submitted during lockdown, the Government did not seek to close down the planning regime during this period. It is acknowledged that the timing meant that in person public meetings were not possible. However, the MWPA has been as accommodating as possible with requests for extensions to the consultation period and also the sharing of information/timely display of consultation responses on the website.
To achieve the averages and associated maximum number of movements per day, more than 10 per hour will be more than occasional.	Noted.
Traffic on the A1060 is already frequent. Adding an additional HGV every 6 minutes is not safe or sustainable. By whose assessment is the number of vehicle movements “not considered to be significant to materially impact the capacity of the A1060”?	See appraisal.
Why is the Traffic Assessment not undertaken by Essex Highways? The survey was also undertaken in October 2018 so can no longer be considered up to date.	The Transport Assessment has been undertaken by the applicant’s consultants. As part of the determination, the Highway Authority are formally consulted by the MWPA. The Highway Authority accordingly, at this time, review the Assessment submitted and provide comments/a recommendation to the MWPA.
Only a summary of the traffic survey appears to have been presented.	Traffic Flow Diagrams were provided as part of the Transport Assessment

Where is the more detailed analysis of traffic usage and speeds?	submitted, with commentary as to what these show and suggested impacts from the development discussed in the main text of the Assessment.
Questions posed in terms of information presented and averages used in context of the proposal.	Noted.
The access/exit junction is on a particularly fast piece of the A1060. Whilst the sight lines may be deemed to be sufficient, the general traffic at that point will be moving at close to the posted national speed limit.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
From the site to the junction with the A1060 the vehicles will be moving on a rising gradient. This will cause the engines to have to work harder to accelerate and consequently will result in increased exhaust emissions into the atmosphere around the junction and surrounding residences.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
How has it be calculated that the site will take 8 years to work?	See appraisal.
The feedback from the public meeting held by the applicant clearly shows the local ill-feeling towards this proposal. It is disgraceful that a proposal should go forward with the known outcome of alienating at least 75% of the local community!!	Noted.
Amenity concerns – noise, dust and odour.	See appraisal.
Concerns about light nuisance from both fixed lights and vehicles.	See appraisal.
This is Green Belt land.	See appraisal.
Object to another quarry on the A1060. The road is already busy and there is also other development potentially coming forward – Warren Farm and the residential re-development of Ashtree Farm.	See appraisal.

Flood defences are far more important to be addressed, brooks need clearing and dams created for our homes.	Noted.
The Flood Risk Assessment indicates overland flow running along the natural valley which runs in a West – East direction. The full extent of the overland flow does not appear to have been considered. The proposed bund to the south west of the site would appear to intercept the overland flow and without any mitigation measure this could direct the flow towards the Barns at Mountneys and will increase the risk of surface water flooding.	See appraisal.
There are no benefits to this proposal, only negative impacts for the environment and the local community.	See appraisal.
There are numerous blind spots, blind driveways/access and dips in the road which render the proposed access point unsafe.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
Added road traffic pollution.	See appraisal.
The proposed site is referred to as the smaller, northern part of the whole A40 site. When the site was approved as part of the ECC Minerals Plan it was put to us as residents that it would be developed as a whole site and would be completed within 14 years. By giving approval to develop a relatively small part of the site the Council would be setting a precedent for further piecemeal applications to be approved which could end up prolonging the development of the site way past the 14 years agreed.	See appraisal.
The access put forward is the option that is the most convenience and least cost to the applicant, rather than that which would be safer for motorists and cause less nuisance to residents.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
There appears to be differences in the suggested required visibility splays for the access?	See appraisal.

I was appalled to read in the Planning Statement 6.110 that "the main noise source is from traffic passing along the A1060 at the northern end of the site. Therefore, the residents in the properties in Chalk End are already used to noise from traffic movement along the A1060". I can assure you that we are not "used to" the noise.	Noted. See appraisal.
It is very difficult to understand and make sense of the Dust and Air Quality Assessment. The report states that a detailed air quality assessment for Nitrogen Dioxide (NO2) is not required as the number of traffic movements at 96, is below the 100 HDV movements per day. However, there will also be over 20 movements by staff vehicles a day, are these not considered to be pollutants or will they all be driving electric vehicles? The measurements also do not take into account the fact that as lorries will be accelerating out of the site, fully loaded, the level of NO2 will be much higher.	See appraisal.
Impacts of dust on receptors (residents) at Chalk End are suggested to be negligible. However the reports submitted also describe coarser dust as "disamenity dust" and can be associated with annoyance.	See appraisal.
Concerns that Chalk End / Fambridge End Road would be used for parking by employees and/or vehicles.	See appraisal.
The processing plant should be moved further away from residential properties.	See appraisal.
Impacts to the Public Right of Way network.	See appraisal.
There is no mention within the Planning Statement of how the workings of the site would be monitored?	Should planning permission be granted, operations would be monitored periodically by the MWPA with site monitoring reports produced following visits made. The site would also be controlled and monitored by the

	Environment Agency as permits/licences would be required from the Agency.
The proposal will affect my Human Rights and the right to the peaceful enjoyment of our homes and gardens.	See Human Rights section at the end of report.
The access should be moved east, further towards Newland Hall.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
At the Examination in Public and in the Essex Replacement Minerals Local Plan Site 40 'Land at Shellow Cross Farm' is considered as a whole and at no stage was the notion of part opening up and winning of material discussed or examined.	Noted. See appraisal.
In bringing forward only a small parcel of land for extraction including access road and plant it is not possible to measure the full implications of the longer-term impact of the development of site A40. There is no guarantee that the proposed access road and plant will be removed in 8 years' time at the end of the extraction and processing period.	See appraisal.
Throughout the Examination in Public of the MLP it was argued by those bringing forward site A40 that the material was necessary to serve the development needs of the west of the county in particular Harlow. Development in Chelmsford was to be served by other mineral extraction sites around the County town and was well provided for by other sites during the period of the plan.	The strategy behind the MLP, and the allocations within, is to provide for the best possible geographic dispersal of sand and gravel across the County, accepting that due to geographic factors the majority of sites will be located in the central and north eastern parts of the County (to support key areas of growth and development and to minimise mineral miles) with a focus on extending existing extraction sites with primary processing plant, and reducing reliance on restoration by landfill.
In the site selection criteria used by Essex County Council in 'scoring' the different sites put forward for inclusion in the Minerals Plan a 'western area' score of +6 was added to site A40 as there were few sites promoted to serve the projected development needs of the	The western weighting (or +6 points) was applied in an early site scoring methodology. This methodology or weighting was not taken forward during the formal site assessment methodology which resulted in the preferred site list within the MLP.

western towns of the County. Site A40 was needed, it was argued, to serve the needs of Harlow expansion. The +6 points added to the A40 score brought the site into the site list for inclusion in the Minerals Plan. If, as proposed, the site is now to serve Chelmsford the site would never have reached the score for inclusion in the development sites in the Minerals Plan.	See below confirmation in the form of an extract from the Inspector's report following the EiP: "At Stage 3 of the Assessment, Preferred Sites are first identified from those passing Stages 1-2 broadly on their proximity to the main towns of the County and to the Haven and Thames Gateways growth areas. This is consistent with the County-wide distribution strategy of the Plan as a whole. One of the main concerns among Representors revolves around the use of an indicative optimal transport distance from source to end use of 20 kilometres. That was introduced at the pre-submission stage in preference to the six-point 'western weighting' formerly applied to the scores of sites in the west of the County at the Preferred Options stage of public engagement. This in itself attracted opposition. However, on fresh examination the 20 kilometre criterion logically applies the spatial strategy and results in a reasonable distribution of sites with respect to growth areas, albeit with a greater concentration in Braintree."
The application should be refused if the destination of the materials is predominately Chelmsford in that it is contrary to the material presented at the Examination in Public which led to site A40 being included in the selected sites for mineral development.	Noted. See above comments
The access point chosen seems primarily to have come from the indicative access presented at the Minerals Local Plan. It is suggested that relocating the access to the east would not accord with the location within the adopted Mineral Plan and it would have additional impact upon the countryside. Where is the analysis for this statement?	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
The access as shown in the MLP is indicative and not definitive.	Noted.

A well-designed access point further east on the A1060 could well provide a safer access point with little damage to the countryside as the land is currently open farmland with minimal environmental quality.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
Why is no right turn lane proposed?	See appraisal.
Noise and pollution from vehicles appears not to have been assessed.	See appraisal.
The Noise Assessment Report references an observed effect level, however from reading the report and information provided, no reference to an observed effect level can be seen. There is however a Significant Observed Adverse Effect Level (SOAEL). I assume the report means it would be classed as SOAEL due to the site being at times more than 10-15 dB higher than the measured typical background levels provided. Therefore, mitigation would be required.	See appraisal.
In terms of noise, 55dB (A) L is referenced as acceptable in the report however, this is an upper guideline level under BS8233: 2014 and the desired level for residential is under 50dB (A) L in BS8233: 2014 and under World Health Organisation Environmental Guidelines for the European Region (2018).	See appraisal.
The proposed 3m bunds seem inadequate.	See appraisal.
It is noted from the application form that liquid waste would be created from the proposals. No reference is however made to how this material would be treated and/or disposed of.	Dewatering would be required to facilitate extraction on this site as a portion of the void would be underneath the natural groundwater level. The design of lagoons and pumps would form the basis of a condition in the event that planning permission is granted. A license for dewatering would also be required from the Environment Agency. Management of discharge and silt would accordingly be confirmed by details

	secured.
This application is clearly a precursor to the applicant trying to bring forward the southern part of the site.	Noted.
Farmbridge End Road at Chalk End should be legally excluded in the Routing Plan.	See appraisal.
This site requires infill to bring it back to the existing levels. This area within the A40 proposal is meant to be restored by soil from the southern part of the A40 site. This infill process will require a significant increase in vehicle movements with the risk of illegal infill being introduced during the process.	Noted. See appraisal.
The planning statement refers to Chalk End as a small hamlet consisting of 7 properties. There are actually 17 homes in Chalk End, with well over 40 permanent residents.	Noted.
The existing vegetation/shrubbery to the rear of the properties in Chalk End, north of the A1060 is on highway land. It is not in the applicant's control and therefore no guarantees can be provided with regard to this remaining as is as a form of mitigation.	Noted.
The Transport Assessment refers to accident statistics which we as residents know do not reflect the number of "incidents" which occur due to speeding and overtaking on this dangerous section of road.	Noted.
The proposal will further degrade the A1060, at further cost to the taxpayer.	Noted. See appraisal.
Impact on wildlife including badgers, rabbits, squirrels, roe deer, muntjacs Foxes, hares, owls and buzzards to name but a few.	See appraisal.
On the rates proposed by this application, A40 as whole could have an operational life of 50 years. The	Noted. See appraisal.

extraction proposed by this application is some 84% slower than that envisaged within the MLP.	
The access is too close to residential properties.	See appraisal. Although it is noted that this comment was received pursuant to the originally proposed access point.
The restoration proposes the import of waste which was never suggested or agreed as part of the MLP allocation.	Noted. See appraisal.
This should not be considered part of A40, it is clearly a project of a very different nature.	Noted. See appraisal.
The proposed amount of material to be extracted is insignificant in the wider picture, at best adding just 2.6 months' supply to the landbank.	Noted. See appraisal.
The amount of overburden on-site questions the viability of extraction.	Noted although as a private venture, profitability is not necessarily a material planning consideration.
The landbank is already above 7 years and therefore there is no need for this site to come forward and/or the MWPA to be lenient or flexible in terms of the fact this is simply within the site area of A40.	See appraisal.
ECC must recognise that more/better port facilities could bring additional gravel to Essex and that marine gravel could form a useful reserve buffer reducing the need to hold excessive land reserves.	Proposals for marine dredging of aggregates are decided by the Marine Management Organisation albeit monitoring indictor 3 of the MLP does also seek to review the contribution marine dredged sources are having to aggregate provision. Commentary with regard to transhipment sites is provided within policy S9 of the MLP.
Minerals/gravel demand in Essex is well below ECC's last 'official' forecast. This clearly demonstrates the need for a major review of the MLP before further irrevocable decisions are taken.	See appraisal.
The national relaxation of planning rules allowing buildings to be converted to residential will reduce demand for	Noted.

primary building materials.	
There is a statutory requirement (from the National Planning Policy Framework) for ECC to review the Essex Minerals Plan 2014 in 2020 i.e. after 5 years. This was supposed to be completed for consultation in May 2020 but wasn't, due to COVID19 and a new date has not been set. This proposal should not be determined until the review is complete.	See 'Policies' section of this report.
Concerns as to water supplies and shallow water distribution pipes that cross the site. Similar concerns exist for communication infrastructure/cables.	See appraisal.
Impact on the water table and subsequently private boreholes.	See appraisal.
The submitted noise assessment is inadequate. It is based on assertions and generalisations derived from inappropriate data. It is considered additional noise mitigation is needed.	See appraisal.
The three barns adjacent to Mountneys were converted into residential properties after the MLP was adopted. It is accordingly not clear whether appropriate consideration has been given to the properties as part of this application. The barns are closer to the development site than Mountneys yet all documents submitted simply reference Mountneys as the closest sensitive receptor.	Noted. For the avoidance of doubt, the MWPA are aware of these properties and these have been fully considered as part of the appraisal of this application.
Although the cumulative impact of other major developments in the vicinity have been mentioned in the Planning Statement, no reference has been made to the division of the site and the consequent multiple impacts that site A40 could have.	See appraisal.
With regard to point 12 of the MLP allocation (the boundary with Mountneys) it is this application fails to address this point. A 15m stand-off,	See appraisal.

double row hedge is insufficient. Mention is made to a 3m high bund but no detail can be found on this within the application.	
Noise impact and concern that noise levels could be above 55 dB(A) which in comparison to existing background levels 32 dB(A) is considered an unacceptable increase.	See appraisal.
If the ground water level is adversely impacted, a number of properties will have no water supply. This is unacceptable and clearly a very worrying situation.	See appraisal.
If planning permission is granted, what happens if the southern part of A40 comes forward after this development has been completed?	Any such application would be considered on its merits, in context of the development plan at the current time.
Health impacts from reduced air quality.	See appraisal.
How will controls, like the maximum number of vehicle movements be monitored and enforced.	See appraisal.
What assurances or guarantees are there in terms of the quality of the restoration?	See appraisal.
The consultation period on this application was insufficient to consider and thoroughly assess all submitted. Undertaken a consultation during a pandemic when the country is in lockdown is also unacceptable.	The application was advertised in accordance with planning legislation and the Council's adopted Statement of Community Involvement.
We are entitled to rely on our Council to defend and support us as local people wishing to maintain the quality of life that Essex CC publicly promotes. I do recognise the need for sand and gravel to be made available but there are 31 quarries in Essex.	Noted.
Insufficient consideration has been made for walkers who use the public right of ways in the vicinity of the site.	See appraisal.

The proposed reduction in the number of years the site would be operational is welcomed, however I still believe that when viewed in relation to the details set out in the ECC Minerals Plan it is too long.	See appraisal.
Whilst the proposal to move the entrance is welcomed as the visibility on that stretch of road is better than the original proposed, the A1060 is still a dangerous, fast road at that point and I believe that if the plan is approved the speed limit should be reduced to 40 mph in order to avoid accidents involving lorries entering and leaving the site.	See appraisal.
It is proposed that a bund is established between the haul road and the woodland. I believe that a bund should be established on both sides of the haul road to mitigate the noise and dust to residents of Chalk End.	See appraisal.
The reduction to 8 years is minimal and provides no further clarity that the 14 year MLP figure is achievable for the whole site.	Noted.
The revised access point is still too close to residential properties.	See appraisal.
Welcome the changes proposed by the applicant in relation to the access point off the A1060 which I believe will significantly reduce the environmental impact on local residents. However, request the MWPA ensure that appropriate bunding is established along the north side of the new access road so as to minimise the visual impact and noise impact on local residents.	See appraisal.
Comments with regard to the need for a right hand turning lane remain valid for the new access point.	See appraisal.
There should be additional planting and a 3m bund (not just 2-3m) to the immediate North and West of the	See appraisal.

revised access road as well as to the East as proposed. All bunds should be at least 3m across the site but those to the South East and South West should be 5m high.	
The existing access to this field off the A1060 (and the access originally proposed to serve this development) is in very poor condition, being uneven and covered in rubble and sharp and broken materials that are a danger to walkers and animals. This should be immediately re-landscaped with softer materials restoring a rural footpath.	See appraisal.
Mountneys has been empty since this application was lodged so objections are not balanced.	Noted.
The agent for this application is also the agent acting for the sale of Mounteys. This gives rise to a potential conflict of interest.	Noted.
The site notice does not refer to The Stables when it discusses potential impact on the setting of listed buildings.	See appraisal. The Stables is considered to be curtilage listed through association with Mountneys. The site notice is not that detailed, simply detailing the name of all buildings/structures which are listed in the own right.
Bunding or screening should be proposed along both sides of the access road.	See appraisal.
Appropriate wheel washing facilities must be provided, together with a requirement for a permanent site based road sweeper.	See appraisal.

6. APPRAISAL

The key issues for consideration are:

A. Principle of Development and Need
B. Green Belt
C. Landscape and Visual Impact
D. Ecology
E. Heritage

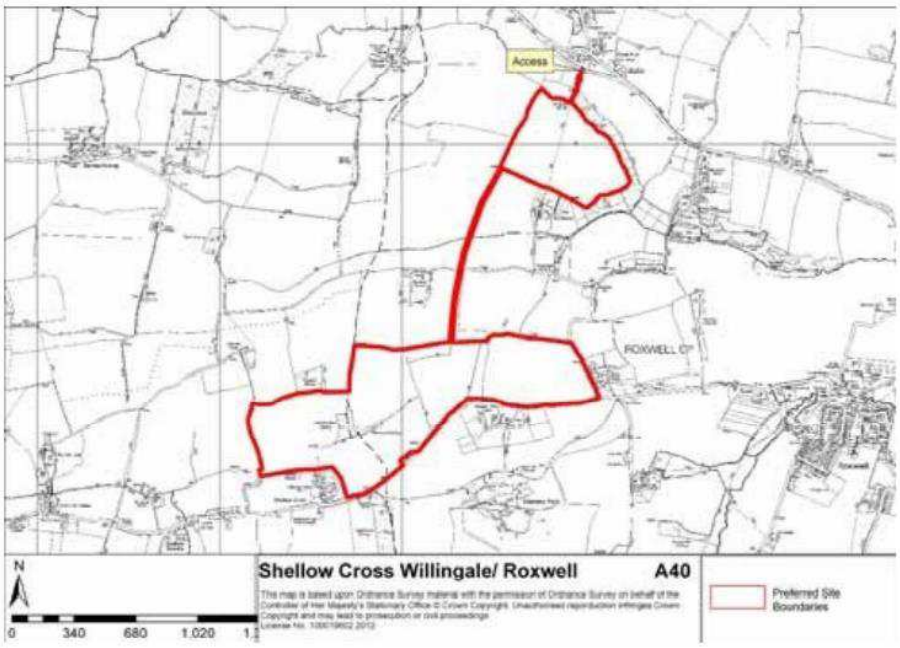
F. Highways
G. Hydrology and Hydrogeology
H. Amenity
I. Climate Change

A PRINCIPLE OF DEVELOPMENT AND NEED

Policy P1 of the MLP details that in the case of the preferred sites for sand and gravel, the principle of extraction has been accepted and the need for the release of the mineral proven. The Mineral Planning Authority will grant planning permission for sand and gravel workings at the preferred sites, subject to the proposal meeting the detailed development requirements set out for each site, other relevant policies of the Development Plan and any other material considerations.

Land at Shellow Cross Farm (allocation A40) covers the land to which this application relates. Site A40 is the largest (land-wise) allocation in the plan and is estimated to be capable of yielding approximately 3.5 million tonnes of mineral. The allocation principally forms two parcels of land – a northern and southern one, which were envisaged to be linked by haul road or conveyor. The site life was predicted to be 14 years with restoration expected at a low level to agricultural and nature conservation.

A40 Site Location Plan from page 169 of the MLP



The MLP envisaged that the allocation would be worked as one. However, the allocation is not prescriptive in this regard. That said, any partial proposal coming forward would be required to fully meet or conform with the relevant development requirements of the allocation; and in no way prejudice or compromise the future full release/working of the site.

With regard to the above, the MLP detailed 12 specific issues to be addressed as part of any application coming forward:

1. *The processing plant would be located within the northern parcel of land and a new access created onto the A1060.*
2. *No access would be permitted from Elm Road to the south.*
3. *A Transport Assessment would be required with any application/EIA. The highway boundary and land ownership needs to be further investigated and a speed check undertaken. A right-turn lane and road realignment would be required.*
4. *The landscape has a medium to high sensitivity to change and the southern area would have the greatest impact due to its size. Appropriate phasing of site working and restoration would be required to minimise this impact.*
5. *An appropriate buffer of at least 15m would need to be provided around Rowe's Wood Local Wildlife Site and Bushey-hays/ Ashwood Spring Local Wildlife Site. Operations should avoid simultaneous open void space on either side of the designated woodlands.*
6. *There is evidence of and potential for protected and notable species on site. An ecological assessment based on appropriate survey work would be required with any application/EIA.*
7. *The site is likely to have a visual impact on several properties on Elms Road to the south, properties with views of the northern area and footpaths that cross the site. Appropriate bunding/ screening would be required to reduce this impact. A minimum 100m stand-off should be maintained to all residential property.*
8. *The quarry lies within a potentially sensitive historic area. Early consultation with English Heritage would be needed as the proposal could affect a number of Listed Buildings and scheduled sites (including moated sites). A historic environment assessment which includes details of appropriate restoration to protect the setting of the Listed Buildings must be agreed as part of any application/ EIA.*
9. *The risk of flooding associated with the small ditches and watercourses around the edge of the site would need to be assessed as part of site specific Flood Risk Assessment and suitable mitigation measures adopted. A hydrological survey and assessment would need to inform any application/ EIA.*
10. *PRoW footpaths Roxwell 2, 14 & 17 and a Bridleway Roxwell 68 cross the site and would need to be temporarily diverted during operations.*
11. *Careful consideration must be given to the final low-level restoration contours to ensure the final landform blends with the surrounding topography and that restoration would be predominantly back to agricultural use given the site contains Grade 2 agricultural soils.*
12. *Revision of site area around Mountneys is required, pushing the boundary further to the north with additional/ significant planting also required along the eastern boundary.*

Due consideration of the above will be given in the appropriate proceeding sections of this appraisal.

Landbank

In terms of the wording of policy P1, the need from the mineral from this site is considered proven and the principle of extraction accepted. This application seeks to extract all mineral from the land, to which this application relates, which the applicant considers is both environmentally and economically viable to do so. In this regard, the working area does not include the western half of the field as it is understood that the amount of overburden in comparison to quantity and quantity of mineral makes this unviable. The estimated yield from the site 125,000m3 or 225,000t which is less than was envisaged as part of the MLP (at 500,000t). However, it is acknowledged that the yield proclaimed in the MLP was only an estimate and with A40, it was the southern larger part of the allocation which contained the more substantial part of the reserve (3mt).

In broader landbank terms, purely for reference in this instance as this forms part of a site allocation, policy S6 of the MLP states that the Mineral Planning Authority shall endeavour to ensure reserves of land won sand and gravel are available until 2029, sufficient for at least 7 years extraction or such other period as set out in national policy. Mineral extraction outside preferred or reserve sites will be resisted by the Minerals Planning Authority unless the applicant can demonstrate:

a) An overriding justification and/or overriding benefit for the proposed extraction;
b) The scale of the extraction is no more than the minimum essential for the purpose of the proposal; and
c) The proposal is environmentally suitable, sustainable, and consistent with the relevant policies set out in the Development Plan.

With regard to the supply and the required seven-year landbank, the MLP was adopted with an apportionment of 4.31mtpa, a figure which took into account the 'National and Sub-National Guidelines for Aggregates Provision in England 2005-2020' (DCLG, June 2009) and the views of the East of England Aggregates Working Party following an assessment of the appropriateness of the previous ten years of rolling sales (ten year sales prior to adoption of the MLP).

For reasons of commercial confidentiality, aggregate sales are reported across Greater Essex, which includes the separate minerals planning areas of Southend-on-Sea and Thurrock. The apportionment from which the landbank is calculated across Greater Essex is 4.45mtpa.

The Greater Essex Local Aggregate Assessment provides an annual breakdown of the supply and demand of aggregates and as such is a useful tool to effectively monitor the policies and allocations within the MLP. The most recently published LAA, for the calendar year of 2020, states that the permitted sand and gravel reserve in Greater Essex stood at 33.59mt. By dividing this figure by the Greater Essex apportionment (4.45mtpa), the landbank was calculated to be 7.55 years as of 31 December 2020.

By subtracting 13 months demand at the apportionment rate (0.37mt per month) – the Greater Essex permitted reserve as of 31 January 2021 can be approximated to 28.77mt with a resultant landbank of 6.46 years, which is below the requirement of maintaining a landbank of sand and gravel of at least seven years as set out in

NPPF Paragraph 213(f). That said, it must be remembered that in view of current circumstances it is unlikely that the landbank would have depreciated at the apportionment rate over the last 13 months. Sales of sand and gravel were reported as being 2.96mt in 2020, which is approximately two thirds of the apportionment rate.

The 10 year rolling sale average (2011-2020) of sand and gravel was 3.26mtpa, and if this rate is used to calculate how much sand and gravel has been extracted over the last 13 months (3.53mt) and the landbank going forward, this stands at 9.22 years, which exceeds the NPPF requirement by over two years.

Additionally, there are a number of applications currently pending determination in Greater Essex which collectively, if approved, add approximately 10.6mt to the landbank. This equates to an additional 2.4 years of supply when using the Greater Essex apportionment and 3.25 years of supply under the 10 year rolling sales average. In both cases, this raises the landbank to above the seven year requirement.

Waste Import

The MLP allocation sought low level restoration of this site. This restoration type covers the complete A40 allocation. As per site specific point 11, careful consideration is to be given to the final low-level restoration contours to ensure the final landform blends with the surrounding topography and that restoration would be predominantly back to agricultural use given the site contains Grade 2 agricultural soils. The size of the area to which this application relates and the adjacent land levels in the opinion of officers render a site-wide low-level restoration difficult. It is acknowledged that low level restoration features (water bodies) could be incorporated but a depression across the whole site and/or substantial water body has the potential to be uncharacteristic or incongruous in the wider setting, especially if such a water body has no active or beneficial agricultural use.

This site is not however allocated within the Waste Local Plan for inert landfill. Accordingly, although officers do have reservations about the capabilities of the northern parcel being appropriate for low level restoration, per-se, the level of import must be the minimum necessary to facilitate the intended restoration and benefits to comply with the WLP.

Originally the MLP envisaged that sufficient overburden and soil would exist from the A40 as a whole to effectively restore this part to agricultural use. The fact that this northern parcel has come forward separately is therefore considered the sole reason that import is required/proposed.

In this regard, the WLP does nevertheless in policy 1 identify that there is a need for additional sites to meet a shortfall in a capacity for the management of inert waste. However, policy 9 states that landfill facilities will only be permitted where: 1) the landfill site allocations in this Plan are shown to be unsuitable or unavailable for the proposed development; 2) although not exclusively, a need for the capacity of the proposed development has been demonstrated to manage waste arising from within the administrative areas of Essex and Southend-on-Sea; 3) it is

demonstrated that the site is at least as suitable for such development as the landfill site allocations, with reference to the site assessment methodology associated with this Plan; and 4) that the proposed landfill has been demonstrated to be the most appropriate and acceptable development in relation to the Waste Hierarchy.

Expanding on this policy 13 prescribes that proposals for landraising with waste will only be permitted where it is demonstrated that are no feasible or practicable alternative means to achieve the proposed development. Proposals will also demonstrate that: a) there is a proven significant benefit that outweighs any harm caused by the proposal; b) the amount of waste materials used to raise the level of the land is the minimum amount of material necessary and is essential for the restoration of the site; and c) in the case of land remediation and other projects, will provide a significant improvement to damaged or degraded land and/or provide a greater environmental or agricultural value than the previous land use. Proposals for landraising that are considered to constitute a waste disposal activity, for its own sake, will not be permitted. Due consideration of this, in context of the quantity of material proposed to be imported to facilitate restoration and a beneficial use and MLP policy S12 can be found in the proceeding sections of this appraisal.

B GREEN BELT

As detailed in the NPPF the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts are their openness and their permanence.

Paragraph 138 of the NPPF states that the Green Belt serves five purposes:
a) to check the unrestricted sprawl of large built-up areas;
b) to prevent neighbouring towns merging into one another;
c) to assist in safeguarding the countryside from encroachment;
d) to preserve the setting and special character of historic towns; and
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Openness has been defined, through the courts, as the absence of development and it has been established that there are clear distinctions between openness and visual impact. In principle it is wrong to arrive at a specific conclusion as to openness by reference to visual impact alone – this is just one of the considerations that forms part of the overall weighing exercise with openness as such having both spatial and visual considerations.

As explained at paragraphs 147 and 148 of the NPPF inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 150 details that certain forms of development are not inappropriate in the Green Belt, provided that they preserve openness and do not conflict with the purposes of including land within it. Included in this list is mineral extraction and engineering operations.

With regard to this application and the extraction element, the Green Belt assessment is considered relatively straightforward i.e. does the development preserve openness and not conflict with the purposes of the Green Belt.

With regard to the infilling or restoration, given the quantity of material proposed to be imported it is considered that as a development or activity this is more appropriate to be viewed or classed as waste disposal rather than large scale engineering. Waste development is normally considered an inappropriate form of development within the Green Belt, in so much that waste uses are not one of the identified forms of development which are not inappropriate by definition.

The applicant as part of the planning statement submitted in support of this application, has suggested that they do not consider the proposal (as a whole) to represent inappropriate development, relying on the mineral extraction and engineering exceptions in paragraph 150. The applicant does not consider it appropriate to break down the development into pieces or elements, as in isolation the mineral extraction is not viable. This argument is acknowledged however, development viability is not a consideration of inappropriateness and accordingly it is considered it would be wrong not to class or consider any elements of the proposal which are not necessary to facilitate the winning and working of the mineral as elements of inappropriate development.

The harms to the Green Belt in this instance would only be temporary as the site is proposed to be restored to a beneficial (agricultural) use at the earliest possible opportunity, in accordance with MLP Policy S12. In the long term there would accordingly be no conflict with the purposes of the Green Belt – especially noting, once all the plant and machinery has been removed and land full restored that the site would not be classed as previous development land.

That said, as detailed previously, extraction is not inappropriate development if openness is preserved. Elements of the proposals or working such as the haul road, processing plant, bunds and stockpiles would adversely impact on openness. However, these are considered to be essential elements to facilitate mineral extraction so it would seem counter-intuitive in including mineral extraction in paragraph 150 if there was not an expectation of such associated development. Accordingly, in principle, as an allocated site where the need for the mineral has already been proven through the MLP it is considered that very special circumstances to allow the development purely in Green Belt terms do exist.

In comparison to the MLP allocation this proposal does however also seek to import material and as suggested earlier, given the quantity of material proposed to be imported this is considered to represent a waste disposal activity rather than engineering, albeit related to a mineral site restoration. Whilst it is not proposed to process or treat this material i.e. the material would be imported and deposited, the harms associated to the Green Belt from this activity, in isolation and cumulatively with the mineral extraction, need to be considered in context of the justification and

benefits.

C LANDSCAPE AND VISUAL IMPACT

Policy S10 of the MLP details that applications shall demonstrate appropriate consideration has been given to public health, safety, amenity, quality of life of nearby communities and the natural, built and historic environment. Appropriate mitigation measures shall be included in the proposed scheme so that no unacceptable adverse impacts would arise. Opportunities shall also be taken to improve/enhance the environment and amenity.

Policy S12 of the MLP details that proposals for minerals development will only be permitted if it can be demonstrated that the land is capable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and/ or local communities. Sites shall be restored using phased, progressive working and restoration techniques, provide biodiversity gain; be restored in the following order of preference: i) at low level with no landfill (including restoration to water bodies); ii) if i) is not feasible then at low level but with no more landfill than is essential and necessary, to achieve satisfactory restoration; and iii) if neither of these are feasible and the site is a Preferred Site within the Waste Local Plan then by means of landfill; and be provided with a scheme of aftercare for a period of not less than five years to ensure the land is capable of sustaining an appropriate afteruse.

Policy DM1 of the MLP, with regard to landscape, countryside and visual impact, states development should not have an unacceptable impact upon the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness. Noting the restoration proposals include import and landfill, it is however important that consideration needs to be given to the quantities of material proposed to be imported, to demonstrate compliance with policies 9, 10 and 13 of the WLP. This is a consideration given the impacts associated with the import which for example may outweigh the benefits from restoration to pre-development levels.

At a local character level, this site form part of the ‘Writtle Farmland Plateau’, an extensive flat to slightly undulating plateau dissected by small river and stream valleys. The area is characterised by isolated farmsteads and hamlets and a predominantly arable landscape with hedgerows and some blocks of woodland resulting in irregular field patterns.

The site as existing in agricultural use, comprising high quality agricultural land (Grade 2/3). And is predominantly hedged to all but a section of the western and southern boundaries. The site slopes generally down to the east (from 58m AOD in the north-west to 48m AOD along the eastern boundary) and is surrounded by open fields, hedgerows and scattered properties, some of which have views into the site.

With regard to the landscape character area (Writtle Farmland Plateau), key planning and land management issues identified as part of the Landscape Character Assessment include disturbance of sense of tranquillity as result of noise and traffic associated with the A414 and A1060. The overall sensitivity to change

is defined as moderate; with strategy objectives detailed as to conserve and enhance including specifically:

- Conserving and enhancing the existing hedgerow network by planting hawthorn and strengthening elm.
- Establishing arable field margins as an important nature conservation habitat.
- Seeking ways to reduce the visual impact of the main road corridors (A414 and A1060), through introducing new and strengthening existing parallel shelterbelts where appropriate.
- Conserving historic lanes and unimproved roadside verges.

Policy S4 of the Chelmsford Local Plan outlines a commitment to the conservation and enhancement of the natural environment through the protection of designated sites and species, whilst planning positively for biodiversity networks and minimising pollution. Policy S11 expands that the balance between the requirement for new development in the countryside and to ensure development does not have an adverse impact on the different roles and character of the countryside is to be carefully considered as part of every application. Policy DM17 then focusses on a more local, site-specific level with it outlined that planning permission should not result in unacceptable harm to natural landscape features that are important to the character and appearance of the area. Harm or loss of these features will not be permitted unless a landscape strategy, which would compensate for the loss or harm, is secured or where there are overriding public benefits arising from the development.

The site is proposed to be progressively worked and filled in five main phases. The main processing plant would remain throughout the five phases, as would the sand and gravel; top soil; subsoil; and overburden stockpiles albeit these would be in a state of flux as material is added and removed as operations progress through the phases.

As part of initial site set-up and as soil is extracted from area 1, a 3m high screen bund is proposed to be formed around the southern boundary of the working area. The bund would effectively act as a barrier to the working area, during operations, with this running to the access point in the north-west corner of the site. To soften the impact of the bund, and improve the long term boundary to the field, within the 15m stand-off to the field edge, a hedgerow intermixed with oak trees is also proposed. With regard to the access, a bund is proposed to be formed on the eastern side of the access road with planting (a hedgerow) proposed along the A1060.

As part of the restoration, all the supporting infrastructure (access road, processing plant area) would be removed from the site with the field returned to arable use. As part of the restoration proposals a pond and area of grassland is to be created, within the east of the site. The pond is proposed principally as drainage betterment; and to provide biodiversity gain but also as feature to help blend the proposed revised land levels with the adjacent land.

In terms of landscape and visual effects, the Assessment submitted in support of the application has sought to consider impacts during initial works and during full operation; on completion of the restoration; and then establishment of the

restoration. As identified as part of this, the principal change to the site would be during the operational phase as the agricultural field would be replaced by a sand and gravel quarry. The introduction of this use has been categorised as a medium to high adverse impact of change. The change is however temporary and in context of proposed mitigation screening and the limited visibility of the site, the overall significant is assessed as substantial to moderate decreasing over time to minor beneficial at restoration and medium beneficial once the restoration has established.

Turning to visual impacts, Mountneys, Mountneys Cottage, The Gallops, The Byre and The Stables would likely experience the greatest magnitude of change with these properties benefiting from unfiltered views or glimpses of the field in question. Views of the development will nevertheless vary depending on the stage of the operations and the level of intervening vegetation. In addition to the aforementioned properties, the proposed quarry workings would also substantially change the visual setting for uses of the public right of way network in this vicinity.

To the north, the four properties which back on to Salts Green (A1060) would also have views or glimpses of the access road or at least vehicles as they utilise this route.

The Council's landscape officer has principally raised concerns from a duration of impact perspective, rather than raising fundamental concerns to the landscaping rationale. Accepting this is an allocated site, concern has been raised that the life of the site has been proposed at eight years when effectively this is only a small part of A40 and this was envisaged to be worked as a whole in 14 years. This concern which has also been echoed in many of the letters of public representation received is acknowledged by officers. In respect of the amount of material proposed to extracted, officers note that the rate of extraction proposed is slow. That said, the large quantity of overburden and quite small phases of working do complicate the ability to work the site quickly. No objection in principle is raised to the eight-year time frame noting that progressive restoration is proposed and should the southern part of the allocation come forward it is likely that there would likely be able to be some overlap of operations.

With regard to landscaping in general and the visual impacts from the operations, the mitigation proposed and the long term landscape restoration strategy are considered acceptable. The Council's consultant has made some suggestions in terms of the species proposed to be planted and quantities. However, it is considered that such revisions could be secured by way of planning condition. A condition could also secure a re-orientation of the passing bays on the access road which would increase the stand-off to the woodland and also create a straight southern field boundary which is likely to make arable use of this field easier. It is accepted that re-orienting the bays would change the priority to vehicles leaving the site. However, in context of the length of the haul road and the number of vehicle movements it is not considered that this would pose a particular issue. It is also considered that that the potential of a bund on the east side of the haul road could also be explored. Subject to the aforementioned concerns being secured, it is not considered that the landscape and visual harms during the operational phase of the development would support a reason for refusal, noting the proposed restoration and proclaimed benefits.

D ECOLOGY

Policy S4 of the Chelmsford Local Plan details, in part, that the needs and potential of biodiversity will be considered together with those of natural, historic and farming landscapes, the promotion of health and wellbeing, sustainable travel, water management including water resources, and climate change adaptation. Policy DM16 states all proposals should:

i. Conserve and enhance the network of habitats, species and sites (both statutory and non-statutory, including priority habitats and species) of international, national and local importance commensurate with their status and give appropriate weight to their importance;
ii. Avoid negative impacts on biodiversity and geodiversity, mitigate unavoidable impacts and as a last resort compensate for residual impacts; and
iii. Deliver a net gain in biodiversity where possible, by creating, restoring and enhancing habitats, and enhancing them for the benefit of species.

A phase 1 Habitat Survey was undertaken by the applicant in July 2019. Phase 2 Surveys were then subsequently undertaken for badgers, bats, breeding birds, hazel dormouse, great crested newt, invertebrates, reptiles, water vole and otter.

Findings from the above have suggested that the proposed development would predominately result in the loss of arable field habitat. However, this would only be a temporary impact, as long term the proposal is to return the field to such use. Surveys undertaken for protected and notable species have not identified any likely significant impacts or disturbance subject to normal standards of working and best practice in terms of initial mitigation.

To facilitate access into the site, the southern end of the north south hedgerow, would require partial removal. However, this loss is not considered significant, at some 13m, in context of its quality and value in the local setting and is also proposed to be reinstated as part of the restoration. Appropriate buffers are incorporated to the woodland, on both the north and southern sides, with a margin/buffer also incorporated around the working area to the field boundary.

The Council's ecological consultant has raised no objection to the development subject to conditions covering a construction environmental management plan; farmland bird mitigation strategy; biodiversity enhancement strategy; and landscape and ecological management plan. Subject to the aforementioned being secured it is considered that the development would comply from an ecological perspective with policies S10 and S12 of the MLP and S4 and DM16 of the Chelmsford Local Plan.

E HERITAGE

Policy DM1 of the MLP seeks to ensure consideration of the historic environment including heritage and archaeological assets. A position replicated in policy S3 of the Chelmsford Local Plan, with policies DM13, DM14 and DM15 then covering listed buildings, non-designated heritage assets and archaeology, respectively.

The NPPF at paragraph 199 states that when considering the impact of a proposed development on the significant of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss of less than substantial harm to its significance.

As detailed previously in this report, there are a number of listed buildings within the vicinity of the area to which this application relates. The Heritage Impact Assessment submitted in support of this application seeks to suggest that in context of the distance to assets, the development would likely only impact on the setting of Mountneys, with the impact suggested as negligible or less than significant.

The Council's historic building consultant agrees with the above, in so much that Mountneys would be the only assets impacted by the proposal. In their view, although there would a 15m wide undisturbed boundary to the southern and eastern boundaries, the proposal would result in a change from the existing character and agrarian landscape. And this change would cause less than substantial harm to the setting of Mountneys and its significance.

With regard to this it is, it is noted in 2017 planning permission (and Listed Building consent) was granted by Chelmsford City for the conversion and alteration of barns at Mountneys to three residential properties. The land afforded, as part of this, to Plot C (The Stables) included some of the paddocks which staddle the southern boundary of the field to which this application relates.

The original context of Mountneys as a property has accordingly changed from when the MLP was written and adopted. This is not saying that the barn conversions, and the three new residential properties, have degraded the historic value of Mountneys. However, it is considered that as the barns through their now defined individual residential curtilage have added a new layer of context in terms of consideration of impact on the setting of Mountneys.

When planning permission and listed building consent was granted by CCC for the barn conversions, the officer report noted that there would be some domestication of the site, but as the conversion retained the simple form and rural appearance of the buildings and the private gardens were well screened this had been minimised and accordingly there would be no adverse impact on the setting of the building, subject to conditions. In 2018 when permission was granted for the construction of a stable block with tack room and hay store on land which forms part of Plot C, in support of the officer view that the conversions have loosened the association with Mountneys, it is not that this permission was granted without listed building consent and/or any reference to Mountneys.

That said, it is accepted that we are assessing or considering impact on setting, so the extent of curtilage listing is largely irrelevant. The land now associated with Plot C has remained a stables/paddocks, as shown in the below photo, and therefore although now longer part of Mountneys still has the same impact on the setting of that property and this needs to be considered, especially as this boundary is relatively open.

Photo taken from southern part of site, on field boundary, looking south towards Mountneys

As discussed in respect of landscaping, as part of these proposals the applicant proposes to plant a native hedge and two Oak trees along this southern boundary. There would then be a 15m standoff (or buffer) before the 3m high screening bund.

During operations, the proposed screening bund together with the stockpiles of soil, overburden and sand and gravel behind would adversely impact on the setting of Mountneys. This impact given the separation is however considered to be less than substantial as the significance of the building would in no way be impacted. Accordingly, as per paragraph 199 this impact needs to be weighed against the public benefits of the scheme, which have already been demonstrated to exist through the allocation of the site within the MLP.

Archaeology

Based on known archaeological data the site is considered to have limited potential for archaeological interest, although the Historic Environment Record shows that the site lies within an area from which cropmarks have been identified from aerial photographs. Previous ground disturbance on-site is limited, with land use principally being agricultural and accordingly the Council's archaeology consultant has, whilst raising no objection in principle, requested conditions are attached to any planning permission securing a programme of archaeological and geoarchaeological investigation; the undertaking of the work agreed as part of this programme and subsequent evaluation of findings; a mitigation strategy (if appropriate); and submission of a post excavation assessment, to ensure accordance with relevant policy.

F HIGHWAYS

In response to some of the letters of public representation received, the proposed access arrangements for this site were revised during the course of determination. Originally access to the site was proposed as shown within the MLP. However, following concerns received particularly from residents at Chalk End it was requested that the applicant sought to consider if an alternative means of access was deliverable. This was requested as although the first proposed access was that as shown in the MLP, this was simply the access arrangement submitted to

show the site was workable/deliverable. The allocation was not prescriptive in terms of this being the access point from the A1060. The specific issues to be addressed through any planning application simply required access to be from the A1060.

The revised option proposed sought to move the access some 400m east. The access proposed comprises a 7.3m wide access road for the initial 60m length, with this aligned perpendicular with the A1060 and straight. The road then tapers to 4m width, with inter-visibility passing places every 60m to facilitate two-way access.

The junction would be able to deliver the required visibility splays of 2.4 x 177m (north) and 2.4 x 215m (south) with forward visibility in excess of these requirements achievable to/from a vehicle waiting to turn right into the access. The access arrangements have been through Stage 1 Road Safety Audit and the matters raised are capable of being dealt with in connection with the detailed design.

Policy S11 of the MLP, supported by policy DM1, states development proposals should not have unacceptable impacts on the efficiency and effective operation of the road network including safety and capacity, local amenity and the environment. 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. A position which is largely replicated in the WLP as part of policy 10.

The application proposes that HGV vehicles would be restricted to a maximum of 96 two-way movements (48 in and 48 out) Monday to Friday and 48 two-way movements (24 in and 24 out) Saturdays. It is anticipated that the site could have up 10 members of staff. Working on the basis that each member of staff would drive to the site on their own, this would be 20 additional two-way vehicle trips (10 in and 10 out) per day.

The below table shows the predicted change on the A1060 as a result of the vehicles movements associated with this development. The predicted change both during the am and pm peaks and as a daily average is as a maximum +1.1% and accordingly it is not predicted that the development would give rise to undue congestion or traffic accumulation on the A1060.

<u>Table 6.1 from the submitted Transport Assessment</u>

Table 6.1: Predicted change on the A1060, 2025 Assessment Year

Link	Weekday 08:00 – 09:00			Weekday 17:00 – 18:00			Average Day		
	Base	*Dev't*	*Change*	*Base*	*Dev't*	*Change*	*Base*	*Dev't*	*Change*
A1060 (North of Access)	650	652	+2	679	681	+2	5886	5914	+28
			+0.3%			+0.3%			+0.5%
A1060 (South of Access)	650	657	+7	679	686	+7	5886	5952	+66
			+1.1%			+1.0%			+1.1%

The Highway Authority has raised no objection to the development subject to conditions requiring submission of a finalised design for the access junction, demonstration of the ability to provide required visibility splays and a maintenance regime for land within these splays, a vehicle speed limit on the access road and a

construction management plan inclusive of details of wheel washing facilities.

In terms of the required right hand turn lane detailed in the MLP site requirements, this is not proposed. Discussions did take place with the Highway Authority with regard to this, and need, and it was agreed that based on the information provided that the right hand turn lane need not be provided. Consideration as part of this was given to the duration of the operations, the number of vehicle movements proposed and also the detailed design of the access arrangements. For the avoidance of doubt, this conclusion has been formed to this application/proposal only. The need for a right turn lane to support any further applications for working of A40 would be duly considered at that point. Importantly the Highway Authority in this regard consider that the access arrangement proposed by this application would be capable of incorporating a righthand turn lane in the carriageway in the future if a need is identified.

In terms of the additional concerns raised by way of third party representations, it is confirmed that in the event that planning permission is granted appropriate wheel washing facilities would be secured on-site. The applicant has confirmed that they would be willing to agree to a routeing plan to effectively ensure that Chalk End / Fambridge End Road is not promoted as a route to or from the site and/or that the road is used as a waiting/parking area for staff and/or HGVs. Such a plan would normally not be enforceable as a planning condition, as effectively in highway terms unless there is a restriction on the highway limiting such use it can be difficult to not only identify the harm but also prove that the vehicle is actually associated with this site and therefore under the control of the applicant. Similarly, noting that in this instance the Highway Authority has not sought to suggest an order is necessary and/or raised this issue as a highway safety concern it is not considered that the routeing plan would meet the tests as an obligation to a legal agreement. That said, in context of the local concern, it is considered that a driver instruction sheet and enforcement protocol could be secured by way of condition, which would effectively allow the MWPA to proactive engage with the operator in terms of the management of the suggested routeing and use of nearby local roads if issues do evolve.

Public Rights of Way

The proposed access would cross Footpath 2, in two places, and also Footpath 3. To avoid one of the crossings with Footpath 2, the applicant is proposing to apply to amend the route of this Footpath, moving it slightly east, as shown on the drawing replicated in the proposal section of this report. The other crossing with Footpath 2 and crossing of Footpath 3 are unavoidable because of the access road, with no practical diversion an option. Designated formed crossing points on the haul road, together with signage and the provision and maintenance of visibility splays is accordingly proposed to ensure that safe passage is maintained and the routes are accordingly protected as required by the NPPF. No objection, subject to the aforementioned, has been raised by the Public Right of Way team within Essex Highways.

G HYDROLOGY AND HYDROGEOLOGY

Policy DM18 of the Chelmsford Local Plan states planning permission will only be granted where it can be demonstrated that the site is safe from all types of flooding, either because of existing site conditions or through flood risk management from the development, now and for the lifetime of the development; and the development would not worsen flood risk elsewhere. As a major application/development, the policy also required water management measures to reduce surface water run-off to be included. The site has a low probability of fluvial, groundwater, reservoir and artificial flooding. However, given the proposals may reduce the existing infiltration characteristics of the existing soil, surface water flood mitigation is required and proposed.

During quarry operations, sumps are proposed to be located at the lowest part of the quarrying void, sized to accommodate the 1 in 100 year plus 40% climate change event with flows pumped up to temporary settlement lagoons at the 1 in 1 year greenfield run off rate.

In terms of hydrogeology, and in-particular groundwater, monitoring undertaken by the applicant in support of this application has sought to suggest that groundwater rests close to the surface. Albeit the Assessment submitted has suggested that it is unlikely that if that if the boulder clay over laying the sand and gravel was removed that the site would be completely saturated, with the water table residing in the Kesgrave bed. The overburden (clay) on-site is expected to range in thickness although it is anticipated that this would range between 10-20m thick, with the Kesgrave sand and gravel layer, circa 1-7m thick, below. As alluded the Kesgrave bed is expected to be saturated with confined groundwater to the point that de-watering would be required to facilitate extraction.

Monitoring undertaken by the applicant has indicated that the site is not hydraulically connected or in hydraulic continuity with groundwater levels. It is therefore suggested that de-watering for the mineral extraction is unlikely to have a significant bearing on local watercourses or private water supplies, although the Environment Agency would be ultimately responsible for ensuring that there would be no degradation on private water supplies through the abstraction licensing regime.

As raised with the consultation response received from the Environment Agency a dewatering/abstraction license would be required prior to commencement of any such works. There is no guarantee that this licence will be granted as the full impacts of would need to be considered through submission of a Hydrogeological Impact Appraisal in support of such an application to the Agency. Whilst as outlined at paragraph 188 the focus of planning policies and decisions should be on whether the proposed development is an acceptable use of land, rather than the control of process or emissions (where these are subject to separate pollution control regimes), officers are conscious of the concerns raised about private water supplies and if there for example the aforementioned Appraisal identifies the potential for an impact that an appropriate solution is agreed and secured as part of the planning permission. Accordingly, whilst this would represent a doubling of submission, it is considered appropriate that should planning permission be granted that submission of a full Hydrogeological Impact Appraisal, inclusive of an

appropriate action plan in terms of identified impacts and also an appropriate monitoring regime both during and for a period post completion of the development is secured prior to commencement of the development.

Policy 10 of the WLP states proposals should not have an unacceptable impact on water resources with regard to: the quality of water within water bodies, preventing the deterioration of their existing status or failure to achieve the objective of 'good status' and the quantity of water for resource purposes within water bodies; the capacity of existing drainage systems and best and most versatile agricultural land.

The composition of the site geology would permanently change as a result of this development with the Kesgrave bed removed and replaced by inert fill. The porosity of the proposed infill is unknown so there is uncertainty as to the long term impact of this. However, the attenuation pond proposed as part of the restoration of the site would seek to ensure that if the porosity is lower than existing that sufficient attenuation exists to accommodate the increased run-off. In this regard, it is proposed a series of dry swales would connect to the attenuation pond, discharging at a runoff rate equivalent to the 1 in 1 year greenfield runoff rate for all storm events up to and including the 100 year plus 40% climate change event. The proposals would therefore, in the long term, reduce runoff rates below that of the pre-developed site as a betterment or improvement to the land. No objections from a flood risk perspective are therefore raised to the development coming forward.

H AMENITY

Policy DM1 of the MLP details proposals should include demonstration that the impacts the impacts of noise levels, air quality and dust emissions, light pollution and vibration are acceptable. With as detailed previously policy S10 also covering public health and safety, amenity and the quality of life of nearby communities.

Policy DM29 of the Chelmsford Local Plan relates to protecting living and working environments and states planning permission will only be granted for proposals that:

i. safeguard the living environment of the occupiers of any nearby residential property by ensuring that the development is not overbearing and does not result in unacceptable overlooking or overshadowing. The development shall also not result in excessive noise, activity or vehicle movements; and
ii. is compatible with neighbouring or existing uses in the vicinity of the development by ensuring that the development avoids unacceptable levels of polluting emissions by reason of noise, light, smell, fumes, vibrations or other issues, unless appropriate mitigation measures can be put in place and permanently maintained.

<u>Noise</u>

Background noise levels of LA90 32 dB(A), to the south of the site, are suggested in the submitted Noise Assessment. To the north of the site background noise levels are higher, principally as a result of traffic on the A1060, at LA90 39 dB(A).

The Assessment submitted as part of this application, has sought to predict noise levels/impacts at four locations (Chalk End, south of Wood End Farm, Mountneys

and Newlands Hall). The assessment submitted is based on the phasing plans submitted, a 3m bund to the south of the extraction area and 2m bund to the south-east of the new access road as this crosses the field.

The Planning Practice Guidance in respect of mineral operations and noise limits details that mineral planning authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900).

As shown below, the Noise Assessment has predicted that operations would conform to such a limit, except for when workings are taking place in areas 4 and 5, which are to the south of the site closest to Mountneys.

Table 6 from the submitted Environmental Noise Assessment

Item	Assessment Location			
	A1 (Chalk End)	A2 (South of Wood End Farm)	A3 (Mountneys)	A4 (Newlands – Wedding venue)
Assumed background noise	Background noise at Assessment Location L_{A90} dB(A)			
	39	32	32	32
Modelling Phase (see section 6.5.2)	Predicted noise level $L_{Aeq,1hour}$ dB(A) at Assessment Location			
Extraction Area 1	48.5	40.1	41.5	39.8
Extraction Area 4	48.0	40.9 (41.4)	43.0 (42.7)	41.6 (42.2)
Extraction Area 5	48.0	40.1 (40.0)	44.7 (45.3)	40.6 (40.6)

With regard to the predicted exceedances above 10dB(A), the applicant has sought to suggest that increasing the height of the southern bund to 5m would not make a significant contribution in terms of bring the noise levels down. Accordingly, it is not considered that the benefits associated with a higher bund would outweigh the landscape impacts associated.

That said, it is not considered that the exceedance is acceptable without mitigation so when working in areas 4 and 5 the applicant has proposed that either the amount of time the excavator is working is reduced to no more than 30 minutes per hour or a smaller/quieter excavator (19 tonne) is used in comparison to the 37 tonne specified. With these measures considered the noise level at Mountneys reduces to less than 42dB(A).

The Council's noise consultant has raised no objection to the development coming forward on noise grounds, acknowledging the noise criteria for minerals development as detailed within the Planning Practice Guidance would likely be achieved. Should planning permission be granted conditions are nevertheless recommended in terms of maximum noise levels at the locations considered as part of the Assessment; details/specification of machinery and plant proposed to be used including relative sound power levels; and a schedule of compliance noise monitoring.

With regard to the above, it is nevertheless noted that a number of letters of public representation received have raised concern over the proposed hours of operation. Hours proposed by this application are 07:00-18:00 Monday to Friday; and 07:00-14:00 Saturdays; with no Sunday or Public Holiday working. Concerns raised are that the hours seem excessive long, particularly on Saturdays. In terms of the concerns raised, it is considered that 07:00-18:00 working hours Monday to Friday are reasonably standard. It is considered that for areas 4 and 5 that working at 07:00am may pose some heighted nuisance for Mountneys, The Gallops, The Byre and The Stables. However, it is considered that the imposition of maximum noise levels would be the appropriate control of such concern. It maybe to comply with the limits enforced that working doesn't commence in such areas until later in the morning. However, this is considered to be a decision which should be able to made by the applicant/operator, noting that subject to compliance with the noise limits no concerns are raised in principle.

In terms of the Saturday working, it is considered that background noise levels may be slightly lower than that suggested during the week given levels are heavily influenced by road traffic to the north. Noting this is a rural area, and levels are predicted to be quite close to background, reduced hours of 08:00-13:00 on Saturdays are considered an appropriate compromise, should planning permission be granted, for the local community whilst also affording the applicant a sufficient period of working time on this day.

Dust and Air Quality

The Air Quality Assessment submitted in support of this application has sought to suggest that the majority of receptors are unlikely to experience anything other than a negligible effect from the proposed development. That said both Barleydale and Little Down on Fambridge End Road are predicted to experience slight adverse effects as a result of vehicles movements. However, provided standard precautions are taken such a maximum 10mph speed limit on the access road and regular deployment of a water bowser it is not suggested that this impacts would be a reason to refuse planning permission.

The dust assessment concludes that with the proposed mitigation in place, formally adopted into a Dust Management Plan, the impacts on air quality and disamenity would be negligible or not significant. This conclusion is accepted by the Council's consultant who has raised no objection to the development subject to a condition which secures submission of a Dust Management Plan and compliance with this approved plan during the course of operations.

Lighting

No details have been provided in terms of external lighting proposed to support this development. In this regard it is considered that an element of lighting may be required along the access road and within the processing plant site. No fundamental objections and/or concerns are considered to exist to any element of lighting to support safe working conditions. However, the extent of lighting would be expected to be the minimum necessary, and strictly controlled in terms of hours of illuminance, to ensure no undue impacts to ecology and/or nearby properties.

Subject to a condition which seeks to prevent any external lighting from being installed until details are submitted to and approved by the MWPA, it is considered that compliance with policy can be ensured in the absence of the detail to make such an assessment now.

Human Health

As detailed within the Institute of Air Quality Management's Guidance on the Assessment of Mineral Dust Impacts for Planning (May 2016), high concentrations of dust particles suspending in the air (PM10) can potentially have effects on human health and accordingly effects on human health should be considered in terms of the likelihood of PM10 concentrations exceeding Air Quality Objectives. In this regard, if long term background PM10 concentration are less than 17µg/m3 there is little risk that the Process Contribution (PC) would lead to an exceedance of the annual-mean objective and such a finding can be put forward qualitatively, without the need for further consideration, in most cases.

PM10 background concentration levels are predicted for 2021 in the vicinity of the site at 16 µg/m3, which is 40% of the annual mean objective (40 µg/m3). PM2.5 background concentrations levels are predicted for 2021 to be 9.50 µg/m3, which is 38% of the annual mean objective (25 µg/m3).

Based on the IAQM guidance and that predicted background concentration levels are less than 17 µg/m3, it is considered there is little risk that the PC would lead to an exceedance of the annual mean objective and/or target for PM2.5.

The Council's air quality consultant has raised no objections to the development on health grounds and potential elevated levels of particulate matter from operations proposed as part of this application.

I CLIMATE CHANGE

In July 2019 Chelmsford City Council declared a climate and ecological emergency and pledged to take action to make their activities net-zero by 2030. In January 2020, CCC subsequently agreed a Climate and Ecological Emergency Action Plan with an initial focus on fifteen key areas. One of these key areas is updating planning guidance on how on-site renewable energy measures can be integrated into new developments and for all new dwellings to incorporate sustainable design features to reduce CO2 and NO2 emissions and the use of natural resources.

The Essex Climate Action Commission has also been set up by Essex County Council, as an independent body to advise the Council on how best to tackle the climate challenge and become a net zero emissions county. And, in this regard published the below report including a number of recommendations in July 2021:

- Essex Climate Action Commission – Net Zero: Making Essex Carbon Neutral

This reports only concerns the determination of an application for planning permission. Due regard has however been given to relevant policies and guidance forming the development plan in terms of climate change and sustainability in general. This is so particularly in terms of the achieving sustainable development

and the environmental objection of mitigating and adapting to climate change, including moving to a low carbon economy. The NPPF at paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

This development would result in a number of HGV movements over the life of the site, with material extracted exported by vehicle and material imported for the purposes of restoration also coming in via vehicle. Machinery and equipment on-site, and utilised as part of the mineral processing plant, would also use energy and give rise to emissions. This is however an allocated site, and the MLP did seek to allocate sites in context of a plan-wide spatial strategy which included reducing mineral miles. Unfortunately, minerals can only be worked where it is found and often the only means of appropriate distribution is by road. It is not considered that the MPA could seek to impose conditions requiring the sole use of green or electric vehicles, for example, given current lack of technology advances.

This development would, over its operational life, give rise to increased greenhouse gas emissions which are not otherwise mitigated. Whilst small changes do make a difference, it is however considered that the increase in greenhouse gas emissions from the development would likely be insignificant in terms of overall Carbon Budgets. In compliance with policy S3 of the MLP the development has however been designed to incorporate sustainable drainage within the restoration and also improve attenuation. The water body, which forms part of the restoration proposals, also as discussed in the ecology section of this report will provide habitat enhancements to help deliver long term biodiversity net gain.

7. CONCLUSION

As part of a site allocation within the Essex Minerals Local Plan (2014) no in-principle objection is raised to this in terms of the need/justification for this development coming forward. Whilst the MLP did not envisage A40 being worked in parts, an assessment has failed to identify any undue impacts as a result of this which would support a reason for refusal either as a proposition in insolation or in context of prejudicing the wider A40 allocation.

It is considered that the very special circumstances to allow this development in the Green Belt and the resulting public benefits are less than that which exist for A40 as a whole. However, the resulting harms are also reduced, given the smaller site working area. All impacts identified have been short term, whilst operations are on-going, minor in terms of severity and also capable of being offset, to a further degree, through mitigation.

The planning balance is more tightly balanced, especially in terms of the Green Belt, than usual for a site allocation as the proposed importation of material is inappropriate development as a waste activity. That said, the restoration facilitated by the importation would give rise to benefits from a landscape, ecological and

agricultural perspective which could not likely be delivered through a restoration without import. In context of this and the position portrayed in the MLP and WLP in terms of restoration and landfill, subject to strict control of the type and quantity of material being imported to facilitate restoration, it is considered that the harms to openness during operations would be outweighed by other considerations in the longer term.

In terms of the site specific requirements prescribed in the MLP, the processing plant would be located within the northern parcel and access is proposed from/onto the A1060. Whilst a right-turn lane is not proposed, this has been agreed with the Highway Authority as not required to support this application. The application has been submitted with a Transport Assessment and the proposed access arrangements have been assessed by the Highway Authority as acceptable subject to conditions securing further finalised design details.

The site would be worked in a phased manner and the proposed restoration would enable an agricultural afteruse. Appropriate consideration has been given to potential ecological and heritage impact with buffers incorporated to field boundaries, including Mountneys, and the adjacent woodland. Early planting particularly along the southern boundary and bunding is also proposed around the working area and haul road to further offset the visual impact of the site and safeguard local amenity in terms of the potential of noise and dust nuisance.

The proposed formation of an attenuation pond as part of the restoration proposals would limit the amount of material required to imported, whilst providing attenuation betterment and ensuring no resultant off site flooding from run-off. Initial assessments have also sought to suggest the site is not in hydraulic continuity with groundwater levels so there should be no undue impact on nearby private water supplies. Albeit confirmation of this and/or appropriate mitigation would be provided within a Hydrogeological Impact Appraisal secured by way of planning condition.

In context of the above, it is considered that, where appropriate, the proposals has demonstrated compliance with the site specific requirements as detailed in the MLP. An assessment of relevant planning policy has furthermore failed to identify any significant conflict which cannot be overcome through the imposition of appropriately worded conditions. Concerns raised about the duration of the proposed works and A40 as a whole are acknowledged. However, this application has to be assessed on its individual merits and in this regard the time frame proposed, at 8 years, is considered acceptable. The proposal would enable the southern part of A40 to come forward, without the need for a significant quantity of abortive works, and if the southern part doesn't come forward then the ability to fully restore the site to a policy compliant standard is considered deliverable with no long term impact and/or environmental degradation.

8. RECOMMENDED

That planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of 3 years. Written notification of the date of commencement shall be sent to the Mineral and Waste Planning Authority within 7 days of such commencement.

Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following plans: 'Site Location Plan', undated; 'Proposed Phasing Plan 1 (of 11), drawing number: CEG01/01, dated 31/5/20; 'Proposed Phasing Plan 2 (of 11), drawing number: CEG01/02, dated 31/5/20; 'Proposed Phasing Plan 3 (of 11), drawing number: CEG01/03, dated 31/5/20; 'Proposed Phasing Plan 4 (of 11), drawing number: CEG01/04, dated 31/5/20; 'Proposed Phasing Plan 5 (of 11), drawing number: CEG01/05, dated 31/5/20; 'Proposed Phasing Plan 6 (of 11), drawing number: CEG01/06, dated 31/5/20; 'Proposed Phasing Plan 7 (of 11), drawing number: CEG01/07, dated 31/5/20; 'Proposed Phasing Plan 8 (of 11), drawing number: CEG01/08, dated 31/5/20; 'Proposed Phasing Plan 9 (of 11), drawing number: CEG01/09, dated 31/5/20; 'Proposed Phasing Plan 10 (of 11), drawing number: CEG01/10, dated 31/5/20; 'Proposed Phasing Plan 11 (of 11), drawing number: CEG01/11, dated 31/5/20; and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the Mineral and Waste Planning Authority, except as varied by the following conditions:

   Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment and in accordance with Policy S1 - Presumption in favour of sustainable development, Policy S2 - Strategic priorities for minerals development, Policy S3 - Climate change, Policy S4 - Reducing the use of mineral resources, Policy S6 - Provision for sand and gravel extraction, Policy S8 - Safeguarding mineral resources and mineral reserves, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction, Policy DM1 - Development Management Criteria, Policy DM2 - Planning Conditions and Legal Agreements and Policy DM3 - Primary Processing Plant of the Essex Minerals Local Plan (2014); Policy 1 - Need for Waste Management Facilities, Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria, Policy 11 - Mitigating and Adapting to Climate Change, Policy 12 - Transport and Access and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S1 - Spatial Principles, Policy S2 - Addressing Climate Change and Flood Risk, Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM15 – Archaeology, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

3. The development hereby permitted shall be limited to a period of eight years from the notified date of commencement of the development. The development shall be undertaken on a phased basis, as shown on the approved drawings, with all extraction and processing of excavated material ceasing after six years from the notified date of commencement. The site shall then be fully restored within a further two years (eight years total). Any building, plant, machinery, foundation, hardstanding, roadway, structure, plant or machinery constructed, installed and/or used in connection with the development hereby permitted shall be removed from the site when no longer required for the purpose for which built, erected or installed. In any case this shall not be later than eight years from the notified date of commencement, by which time the land shall have been restored in accordance with the restoration scheme.

   Reason: To ensure restoration of the site within the approved timescale, to minimise the duration of disturbance from the development hereby permitted and to comply with Policy S1 - Presumption in favour of sustainable development, Policy S2 - Strategic priorities for minerals development, Policy S3 - Climate change, Policy S6 - Provision for sand and gravel extraction, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria, Policy 11 - Mitigating and Adapting to Climate Change, Policy 12 - Transport and Access and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S1 - Spatial Principles, Policy S2 - Addressing Climate Change and Flood Risk, Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

4. No excavation shall take place beyond the five extraction areas as shown on drawing titled 'Proposed Phasing Plan 1 (of 11)', drawing number: CEG01/01, dated 31/5/20 and no excavation shall take place below 35m AOD. Prior to infilling of each of the five extraction areas taking place, a topographical survey of the site shall be submitted to the Mineral and Waste Planning Authority for review and approval in writing to confirm the extent of excavation which has taken place. In addition, on completion of infilling of each of the five extraction areas another topographical survey of the site shall be submitted to the Mineral and Waste Planning Authority for review and approval in writing to confirm the extent of infilling in respect of the approved restoration plan.

   Reason: To ensure development is carried out in accordance with submitted details, that the development does not give rise to unconsidered impacts and to comply with Policy S10 - Protecting and enhancing the environment and local

amenity, Policy S12 - Mineral Site Restoration and After-Use and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM15 – Archaeology, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

5. Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral and Waste Planning Authority as soon as practicable) the development hereby permitted shall only be carried out during the following times:

   07:00 to 18:00 hours Monday to Friday
   08:00 to 13:00 hours Saturday

   and at no other times or on Sundays, Bank and/or Public Holidays

   Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

6. The total number of heavy goods vehicle movements* associated with the development hereby permitted shall not exceed the following limits:

   96 movements (48 in and 48 out) per day (Monday to Friday); and
   48 movements (24 in and 24 out) per day (Saturdays)

   No movements shall take place outside the hours of operation authorised by this planning permission.

   A written record shall be maintained at the site office of all movements in and out of the site by heavy goods vehicles; such records shall contain the vehicle registration number and the time and date of the movement and shall be made available for inspection by the Mineral and Waste Planning Authority within seven days of written request.

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

<u>Reason</u>: In the interests of highway safety, safeguarding local amenity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

7. All vehicle access and egress to and from the site shall be from the A1060, as indicated on drawing titled 'Proposed Site Access (Priority 'T' Junction), drawing no. 185471-002 (Rev B), dated 30/09/21. No development shall nevertheless take place until full details of a junction design, which has received full technical approval from the Highway Authority, have been submitted to and approved in writing by the Mineral and Waste Planning Authority. No material shall leave the site until the access design approved has been constructed in full. The junction visibility splays shall be maintained clear of intrusions for the life of the development.

   <u>Reason</u>: In the interests of highway safety and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

8. No development shall take place until full details/specification of the proposed internal access road from the A1060 into the proposed plant area have been submitted to and approved in writing by the Mineral and Waste Planning Authority. That submitted shall include details of construction; design (finish/surface); the location of the passing bays; and proposed speed limit. That submitted shall furthermore clarify details proposed to manage surface water run-off from the access road, as appropriate. The access road shall subsequently be installed and maintained in accordance with the details approved until removed as part of restoration.

   <u>Reason</u>: In the interests of highway safety, landscape and visual amenity, ecology and to ensure the development is not constructed without appropriate mechanism to manage surface water run-off, to enable consideration of alternative locations for the passing bays on the access road to increase the stand-off to the adjacent woodland and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S2 - Addressing Climate Change and Flood Risk, Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and

Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 or any Order amending, replacing or re-enacting that Order), no gates shall be erected at the vehicular access unless they open inwards from the public highway towards the site and be set back a minimum distance of 18 metres from the nearside edge of the carriageway.

   Reason: In the interests of highway safety and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

10. No development shall take place, other than the construction of the haul/access road, until finalised details of the proposed Public Rights of Way crossing points, as indicated on drawing titled 'Proposed Internal Road Option A', drawing no. 185471-004 (Rev C), dated 30/09/21, have been submitted to and approved in writing by the Mineral and Waste Planning Authority. The details shall confirm the location and specification for the formation of the crossing points, visibility splays and maintenance together with signage, mirrors and any proposed fencing or gates. A copy of the signed diversion order for the partial diversion of Footpath 2 shall also be provided. The development shall be implemented in accordance with the approved details with the crossings and associated measures installed and subsequently maintained for the duration of the development hereby permitted.

    Reason: In the interest of the safety of all users of both the Right of Way and the haul road and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

11. No exportation of material shall take place until details of a driver instruction sheet and enforcement protocol has been submitted to the Mineral and Waste Planning Authority for approval in writing in respect of vehicle routeing to and from the site and general consideration of nearby residential properties and roads. The aforementioned shall include, but not be limited to, details to ensure that using, parking and/or waiting on Chalk End / Fambridge End Road is not in any way promoted by the operator.

Reason: In the interests of safeguarding local amenity, preventing unnecessary disturbance, aggravation and conflict within the local community and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

12. No development shall take place until a detailed layout plan for the plant site, as shown on drawing titled 'Proposed Phasing Plan 1 (of 11)', drawing number: CEG01/01, dated 31/5/20, has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The layout plan shall seek to show the proposed layout of this area including all facilities/welfare, car parking areas, plant, equipment and machinery, together with the specification/sound power level of the aforementioned and any mobile plant, equipment and machinery proposed to be used on-site. In addition details shall be provided as to the proposed on-site water management/lagoon system and associated dewatering sumps within each phase/area of extraction.

    Reason: For the avoidance of doubt as to the layout of the plant area and machinery/plant approved, in the interests of amenity and the environment and to comply with Policy S6 - Provision for sand and gravel extraction, Policy S10 - Protecting and enhancing the environment and local amenity, Policy DM1 - Development Management Criteria and Policy DM3 - Primary Processing Plant of the Essex Minerals Local Plan (2014); and Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

13. No development shall take place until details of wheel and underside chassis cleaning facilities have been submitted to and approved in writing by the Mineral and Waste Planning Authority. 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.

    Reason: In the interests of highway safety, to prevent material being taken onto the public highway and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

14. No development shall take place, including any groundworks, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The Plan shall provide confirmation as to:
    - The proposed initial construction/set up timetable;
    - Initial access arrangements for the purpose of construction;
    - Areas proposed for staff and visitor welfare and parking during initial site set up; and
    - Areas proposed for the loading and unloading of plant and materials

    In terms of environmental management, and specifically biodiversity, the plan shall also seek to cover include the following:

    a) Risk assessment of potentially damaging construction activities;
    b) Identification of biodiversity protection zones;
    c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
    d) The location and timing of sensitive works to avoid harm to biodiversity features;
    e) The times during construction when specialist ecologists need to be present on site to oversee works;
    f) Responsible persons and lines of communication;
    g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and
    h) Use of protective fences, exclusion barriers and warning signs; and the

    The approved CEMP shall be implemented and adhered to throughout the construction period of the development hereby approved.

    <u>Reason</u>: In the interests of highway safety, environmental protection, safeguarding amenity and to comply with Policy S6 - Provision for sand and gravel extraction, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation, Policy DM1 - Development Management Criteria and Policy DM3 - Primary Processing Plant of the Essex Minerals Local Plan (2014); and Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

15. The free field Equivalent Continuous Noise Level (LAeq, 1 hr) at the below noise sensitive properties, or at a monitoring location representative of these properties collectively, shall not exceed the following limits:

    Littleacres, Chalk End House, Barleydale and Little Down: 49dB LAeq 1hr
    Woodend Farm: 42dB LAeq 1hr

Mountneys, The Gallops, The Byre and The Stables: 42dB LAeq 1hr
Newland Hall Farm: 42dB LAeq 1hr

Reason: In the interests of amenity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

16. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq, 1 hr) at Littleacres, Chalk End House, Barleydale and Little Down; Woodend Farm; Mountneys, The Gallops, The Byre and The Stables; and Newland Hall Farm shall not exceed 70dB LAeq 1hr. Temporary operations shall not exceed a total of eight weeks in any continuous duration 12 month duration. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of a temporary operation which shall, for the purpose of this condition, include site preparation, bund formation and removal and any other temporary activity that has been approved in writing by the Mineral and Waste Planning Authority in advance of such a temporary activity taking place.

    Reason: In the interests of amenity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

17. Noise levels shall be monitored at three monthly intervals from the date of the commencement of development at locations to be agreed in advance in writing by the Mineral Planning Authority. In addition to this three monthly monitoring, further specific monitoring shall be undertaken at the start of extraction operations in areas 1, 4 and 5. 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 of 30 minutes separated by at least 1 hour during the working day and the results shall be submitted to the Mineral Planning Authority within one month of the monitoring being carried out (two weeks for the additional monitoring undertaken when operations commence in areas 1, 4 and 5). Should an exceedance in the maximum noise limits secured by condition be noted appropriate commentary shall be provided together with a scheme of additional mitigation if the exceedance is considered to be a likely continual issue. The additional scheme of mitigation shall be provided to the Mineral and Waste Planning Authority for review and approve in writing, as appropriate. The frequency of monitoring shall not be reduced, unless otherwise approved in writing by the Mineral Planning Authority.

Reason: In the interests of amenity, ensuring prescribed noise levels are not being exceeded and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

18. No development shall take place until a scheme to minimise dust emissions has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The dust management plan shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The development shall be implemented in accordance with the approved scheme with the approved dust suppression measures being retained and maintained in a fully functional condition for the duration of the development hereby permitted.

    Reason: To reduce the potential for dust disturbance from the site on the local environment and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

19. No fixed external lighting shall be erected or installed and/or mobile external lighting utilised on-site until details of the location, height, design, luminance and operation have been submitted to and approved in writing by the Mineral and Waste Planning Authority. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed. Furthermore, a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels and proposed hours of operation. The details shall ensure the lighting is designed to minimise the potential nuisance of light spill to adjacent properties, highways and/or any features/habitat of ecological interest/value. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

    Reason: To minimise nuisance and disturbance to the surrounding area and the environment and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy

DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

20. No development shall take place until a landscape scheme covering the operational phase of the development hereby permitted has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The scheme shall include details of all proposed pre-commencement planting, screening/mitigation bunds, buffer areas to field boundaries and the woodland adjacent to the access road and any and all new boundary fencing. In addition, the scheme shall detail all existing trees and hedgerows on site with details of any works proposed to existing trees and/or hedgerows and also for those to be retained, measures for their protection. The scheme submitted shall build on principles detailed in drawings titled 'Detailed Soft Landscape Scheme for Eastern Boundary', drawing number: 18027-108, dated 29/05/20, 'Detailed Soft Landscape Scheme for Southern Boundary pre-commencement/early planting, drawing number: 18027-109, dated 29/05/20, 'Detailed Soft Landscape Scheme for Western Field Boundary', drawing number: 18027-110, dated 29/05/20, 'Detailed Soft Landscape Scheme for North Eastern Boundary', drawing number: 18027-111, dated 29/05/20, 'Detailed Soft Landscape Scheme for Access Area', drawing number: 18027-112A, dated 29/05/20, 'Detailed Soft Landscape Scheme for Access Area', drawing number: 18027-112B, dated 29/05/20 and 'Specification Sheet Pre-commencement/early planting', drawing number: 18027-113A, dated Oct 20 and include detail of all areas to be planted with species, sizes, spacing, protection and programme of implementation. The scheme shall be implemented within the first available planting season (October to March inclusive) on the basis of the approved programme of implementation.

    <u>Reason</u>: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), on the basis that insufficient detail is contained on the submitted landscaping plans, additional/revised planting specification is required to achieve landscaping objectives and to improve the overall appearance of the site in the interest of visual amenity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM13 - Designated Heritage Assets, Policy DM14 - Non-Designated Heritage Assets, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

21. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken an ecological assessment to confirm that no birds would be harmed and/or appropriate measures are in place to protect nesting bird interest on site. Any such written confirmation or ecological assessment shall be submitted to the

Mineral Planning Authority for approval prior to any removal of hedgerows, trees or shrubs during this period.

Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

22. No stripping or handling of topsoil or subsoil shall take place until details for the forming, planting and maintenance of all perimeter screening/noise attenuation bunds and stockpiles and a scheme of machine and soil movements for the stripping and replacement of soils has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The scheme shall:
    a) Be submitted at least three months prior to the expected commencement of soil stripping;
    b) Detail how soils will be handled during construction, bunds planted and maintained, and soils re-spread as part of restoration;
    c) Define the type or machinery to be used to strip and replace soils; and include
    d) Confirmation that soil will only be stripped and handled when in a dry and friable condition*; and that no area of the site traversed by heavy goods vehicles of machinery (except for the purpose of stripping that part or stacking of topsoil in that part) unless all available topsoil and/or subsoil has been stripped from that part of the site.

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

    **The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.*

    Reason: To ensure the retention of existing soils on the site for restoration purposes, to minimise structural damage and compaction of the soil to aid final restoration works, to protect the amenities of local residents and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM16 - Ecology and Biodiversity, Policy

DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

23. No development shall take place until a restoration plan has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The restoration plan shall replicate the finished land levels shown on drawings titled ''Northern' Field Restoration (West)', drawing number: 18027-105A, dated 05/10/20, and 'Detailed Soft Landscape Scheme for 'Northern' Field Restoration (East)', drawing number: 18027-106B, dated 05/10/20 but updated to reflect the operational landscaping scheme secured by way of condition attached to this permission. The plan shall also include detail of any additional planting proposed, as part of the restoration stage, with species, sizes, spacing, protection and programme of implementation. The development shall be undertaken and the site restored in accordance with the details subsequently approved.

    Reason: To ensure that the site is restored as proposed and is capable of returning to a predominately agriculture afteruse, in the interests of landscape and visual amenity and to comply with Policy S3 - Climate change, Policy S6 - Provision for sand and gravel extraction, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria, Policy 11 - Mitigating and Adapting to Climate Change and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S2 - Addressing Climate Change and Flood Risk, Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

24. An aftercare scheme detailing the steps that are necessary to bring the land to the required standard for agricultural afteruse shall be submitted to and approved in writing by the Mineral and Waste Planning Authority prior to the re-placement of soils on site. The submitted Scheme shall accord with that suggested with the Planning Practice Guidance and:
    a) Provide an outline strategy 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; and
    b) Provide for a detailed annual programme to be submitted to the Mineral Planning Authority not later than two months prior to the annual Aftercare meeting.

    Unless the Mineral Planning Authority approve 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.

<u>Reason</u>: To ensure the satisfactory restoration of the site to agriculture and to comply with Policy S3 - Climate change, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria, Policy 11 - Mitigating and Adapting to Climate Change and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S2 - Addressing Climate Change and Flood Risk, Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

25. No development shall take place until a Biodiversity Enhancement Strategy for Protected and Priority species and a Farmland Bird Mitigation Strategy has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The Biodiversity Enhancement Strategy shall include the following:
    a) Purpose and conservation objectives for the proposed enhancement measures;
    b) detailed designs to achieve stated objectives; and
    c) locations of proposed enhancement measures by appropriate maps and plans;

    The Farmland Bird Mitigation Strategy which is specifically required to compensate for the loss of any farmland bird territories particularly Skylark and Yellow Wagtail shall include the following:
    a) Purpose and conservation objectives for the proposed measures e.g. nest plots;
    b) detailed methodology for the compensatory measures e.g. nest plots;
    c) locations of the compensatory plots; and
    d) persons responsible for implementing and manging the compensation measures.

    The Biodiversity Enhancement Strategy and Farmland Bird Mitigation Strategy shall be implemented in accordance with the approved details and all features managed in accordance with the LEMP secured by way of planning condition attached to the permission.

    <u>Reason</u>: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

26. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The Plan shall include but not be limited to, in respect of landscaping:
    a) Aims and objectives of management;
    b) Appropriate management options for achieving aims and objectives;
    c) Prescriptions for management actions;
    d) Preparation of an annual work schedule/plan; and
    e) Details of the body or organisation responsible for management
    and for ecology:
    a) Description and evaluation of features to be managed;
    b) Ecological trends and constraints on site that might influence management;
    c) Aims and objectives of management;
    d) Appropriate management options for achieving aims and objectives;
    e) Prescriptions for management actions and annual work schedule; and
    g) Details of the body or organisation responsible for monitoring.
    The plan shall furthermore outline the proposed period of management which, for the avoidance of doubt, may be greater than the formal five year agricultural aftercare period, depending on the time required to achieve the predicted biodiversity gains from the mitigation measures and enhancements proposed as part of the development. The approved plan shall be implemented in accordance with the approved details.

    <u>Reason</u>: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

27. No development shall take place until a Hydrological Impact Appraisal shall be submitted to and approved in writing by the Mineral and Waste Planning Authority. The Appraisal shall include a baseline for natural groundwater levels, identify potential implications as a result of the development and provide targets for restoring the natural baseline. The Appraisal shall furthermore confirm how groundwater levels will be monitored during the development and for a period post completion with a mitigation strategy identified in the event that the natural baseline is not restored. The development shall be implemented in accordance with the approved Appraisal.

    <u>Reason</u>: To ensure that the development does not give rise to significant hydrological impacts, to safeguard groundwater from pollution and/or any other adverse changes and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-

Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM18 - Flooding/SUDS, Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

28. No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation and recording has been submitted to and approved in writing by the Mineral and Waste Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented as approved with confirmation to also be sought from the Mineral and Waste Planning Authority that the investigation works have been completed satisfactorily.

    Reason: To ensure that any archaeological interest has been adequately investigated in accordance with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment and Policy DM15 – Archaeology of the Chelmsford Local Plan (2020).

29. Prior to commencement of development but following completion of the archaeological investigation, a mitigation strategy detailing the proposed excavation/preservation strategy for areas containing archaeological deposits shall be submitted to the Mineral and Waste Planning Authority for review and approval and writing. No development or preliminary groundworks shall commence in these areas until the fieldwork as detailed in the mitigation strategy has been completed. With regard to this, request shall be also made to the Mineral and Waste Planning Authority for written confirmation that the aforementioned mitigation fieldwork has been satisfactorily completed before commencement of the development.

    Reason: To ensure development of an appropriate mitigation strategy covering both excavation (preservation by record) or preservation in situ of any archaeological features or deposits identified by the trial-trenching or geophysical survey undertaken in accordance with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment and Policy DM15 – Archaeology of the Chelmsford Local Plan (2020).

30. Within six months of completion of the programme of archaeological investigation, as approved, a post excavation assessment shall be submitted to the Mineral and Waste Planning Authority for review and approval in writing. This shall include the completion of post excavation analysis, preparation of a

full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To ensure that the results of the fieldwork are reported on and made available to the public in a timely and appropriate manner, in order to fulfil the requirements of preservation by record, and in accordance with Policy S10 - Protecting and enhancing the environment and local amenity and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S3 - Conserving and Enhancing the Historic Environment and Policy DM15 – Archaeology of the Chelmsford Local Plan (2020).

31. Only non-contaminated inert waste material, which has been detailed and defined within of the approved application details, shall be imported to the site to facilitate with the restoration of the site. For the avoidance of doubt, there is to be no processing or treatment of imported material on-site. The plant site/area hereby approved shall solely be used to process mineral extracted from the site.

    Reason: To ensure that there are no adverse impacts on the environment and or to amenity from the importation and use of inappropriate types of waste and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S4 - Conserving and Enhancing the Natural Environment, Policy S11 - The Role of the Countryside, Policy DM6 - New Buildings in the Green Belt, Policy DM10 - Change of Use and Engineering Operations and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

32. There shall be no retailing or direct sales of soils or bagged aggregates to the public from the site.

    Reason: In the interest of highway safety and efficiency, to ensure that there are no adverse impacts on the local amenity from the development not assessed as part of the application details and to comply with Policy S10 - Protecting and enhancing the environment and local amenity, Policy S11 - Access and Transportation and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 10 - Development Management Criteria and Policy 12 - Transport and Access of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy DM24 - Design and Place Shaping Principles in Major Developments and Policy DM29 - Protecting Living and Working Environments of the Chelmsford Local Plan (2020).

33. In the event of a cessation of operations hereby permitted for a period in excess of 12 months, prior to the completion of the development, which in the opinion of the Mineral and Waste Planning Authority constitutes a permanent cessation

within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990 (as amended), a revised scheme of restoration and aftercare shall be submitted to and approved in writing by the Mineral and Waste Planning Authority. The revised scheme shall be submitted within six months of the 12 month date and shall outline a revised scheme of restoration and aftercare for review and consideration by the Mineral and Waste Planning Authority. In such an instance the site shall then be restored in accordance with the revised scheme as per the timetable approved.

Reason: To secure a satisfactory alternate restoration of the site in the event of a cessation of operations, in the interest of local amenity and the environment and to comply Policy S3 - Climate change, Policy S6 - Provision for sand and gravel extraction, Policy S10 - Protecting and enhancing the environment and local amenity, Policy S12 - Mineral Site Restoration and After-Use, Policy P1 - Preferred Sites for Sand and Gravel Extraction and Policy DM1 - Development Management Criteria of the Essex Minerals Local Plan (2014); Policy 9 - Waste Disposal Facilities, Policy 10 - Development Management Criteria, Policy 11 - Mitigating and Adapting to Climate Change and Policy 13 – Landraising of the Essex and Southend-on-Sea Waste Local Plan (2017); and Policy S2 - Addressing Climate Change and Flood Risk, Policy S3 - Conserving and Enhancing the Historic Environment, Policy S4 - Conserving and Enhancing the Natural Environment, Policy DM16 - Ecology and Biodiversity, Policy DM17 - Trees, Woodland and Landscape Features, Policy DM18 - Flooding/SUDS and Policy DM24 - Design and Place Shaping Principles in Major Developments of the Chelmsford Local Plan (2020).

BACKGROUND PAPERS

Consultation replies
Representations

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

The proposed development would not be located adjacent to a European site. Therefore, it is considered that an Appropriate Assessment under Regulation 63 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.

HUMAN RIGHTS

The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights' ("the Convention"). The Convention includes provisions in the form

of Articles, the aim of which is to protect the rights of the individual (including companies).

In carrying out the development pursuant to any grant of planning permission there is likely to be an impact would fall within the following provisions addressing the rights of property owners under the Convention, notably under the following articles:

Article 1 (of the First Protocol) - This protects the rights of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.

Article 8 - This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and it is necessary in the interest of national security, public safety or the economic well-being of the country.

Article 14 - This protects the right to enjoy rights and freedom in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.

The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole. Similarly, any interference with Article 8 rights must be necessary for the reasons set out.

Any interference with Convention rights must be necessary and proportionate.

In the case of each of these Articles the Council should be conscious of the need to strike a balance between the rights of the individual and the interests of the public.

In the light of the public benefit that has been identified as arising from the development it is considered that it would be appropriate to grant planning permission. In considering this, the Council has considered the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights is considered to be necessary and proportionate in the context of the delivery of development. In the circumstances, it is not considered that granting planning permission would constitute an unlawful interference with the individual property rights or other Convention rights. The report sets out the public interest for granting planning permission.

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

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

Procedure)(England) Order 2015.

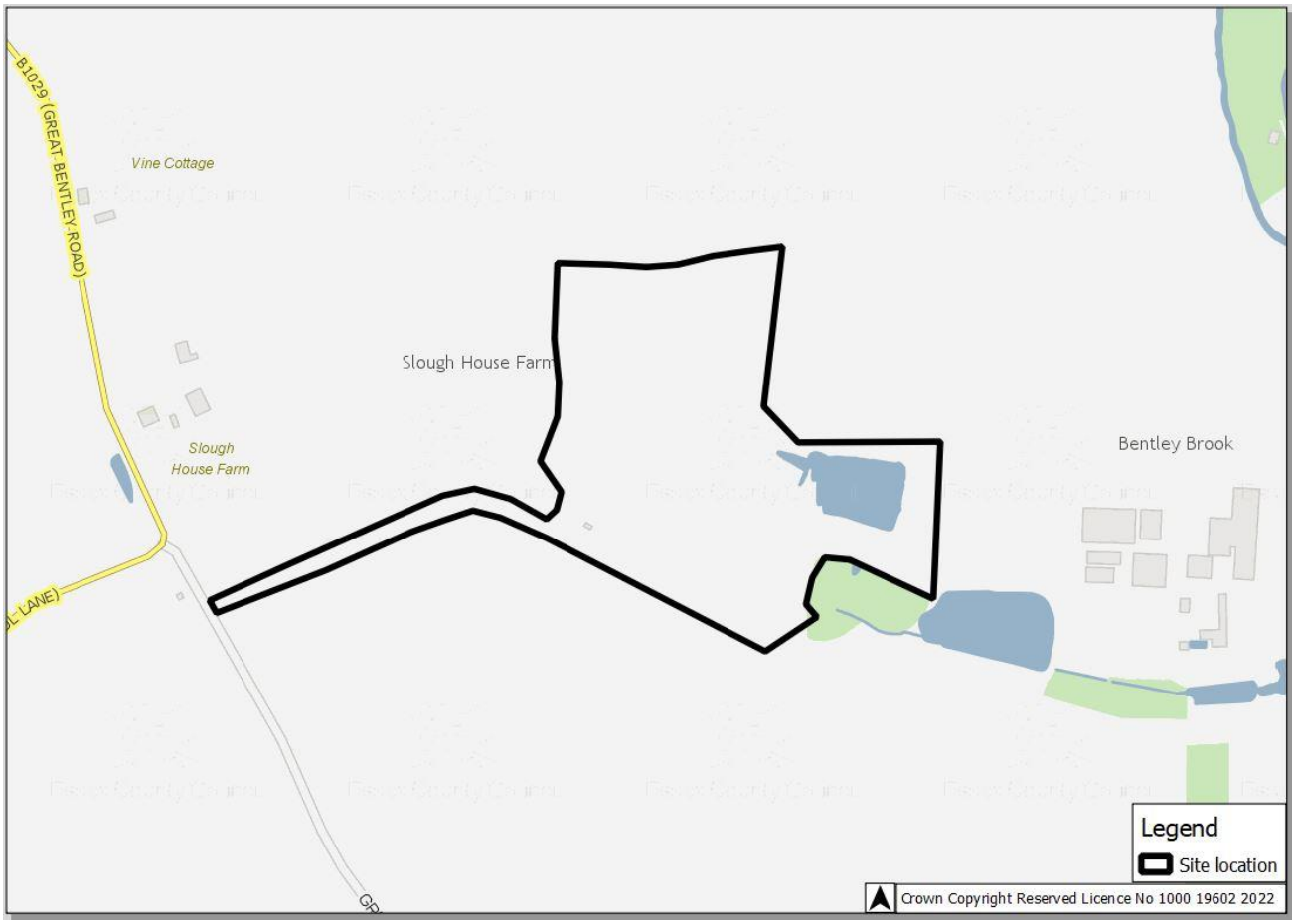
LOCAL MEMBER NOTIFICATION

CHELMSFORD – Broomfield and Writtle

AGENDA ITEM 4.3

DR/08/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)	
Proposal: MINERALS AND WASTE DEVELOPMENT - Continuation of the construction of an agricultural reservoir involving the extraction of minerals and the removal of surplus soils without compliance with condition 6 (cessation of development) attached to planning permission ref ESS/41/15/TEN to allow additional time for completion and restoration of the development.	
Ref: ESS/99/21/TEN	**Applicant:** Steven Poole & George Wright
Location: Lufkins Farm, Great Bentley Road, Frating, CO7 7HN	
Report author: Chief Planning Officer (County Planning and Major Development)	
Enquiries to: Tom Sycamore Tel: 03330 321896 The full application can be viewed at https://planning.essex.gov.uk	



1. BACKGROUND

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Planning permission was previously approved for the construction of an agricultural reservoir at Lufkins Farm in 2010 (ref: ESS/21/08/TEN) involving the extraction of minerals and the removal of surplus soils, with the implementation date extended in 2014 (ref: ESS/10/13/TEN).

Permission was granted in 2016 (ref: ESS/41/15/TEN) to allow alterations to the site and a further extension of the implementation date by 5 years. This permission also allowed for onward transportation of extracted mineral to Alresford Creek Quarry to be processed. A separate application (ref: ESS/40/15/TEN) was approved in 2016 for the construction of a temporary access to the site via Great Bentley Road. A non-material amendment (ref: ESS/41/15/TEN/NMA1) was approved in 2019 to allow the temporary storage of extracted material onsite, prior to onward transportation to Alresford Creek Quarry for processing.

Condition 6 of extant permission ESS/41/15/TEN required the operator to notify the Mineral Planning Authority (MPA) of the date of commencement, and the permission would be limited to three years from the date of commencement. The MPA was formally notified on 14th January 2019, thus the permission lapsed on 14 January 2022.

The current application was made before the planning permission lapsed and seeks to vary the permission to allow an additional two-year extension of time to extract the remaining sand and gravel and complete the reservoir i.e. until the 14 January 2024.

For context, a separate application is currently being considered under ref: ESS/101/21/TEN for the extraction of approximately 1 million tonnes of sand and gravel and the construction of a second agricultural reservoir, adjacent to the existing site at Lufkins Farm.

2. SITE

The site, operated by Brett Aggregates Ltd, is located to the south-east of Colchester on the western edge of Great Bentley. The site area is approximately 7.7 hectares with an extraction area of approximately 4 hectares. The reservoir being created is located just west of Brook Farm. Access to the site is via a purpose-built entrance and access road off Great Bentley Road to the west. Land to the south is agricultural land in the control of Lufkins Farm and is subject to an application for the construction of a second agricultural reservoir.

The site itself is characterised by an active quarry with stockpiles of material, a site office and weighbridge. The reservoir currently under construction is set to provide a water storage capacity of approximately 109,000 cubic metres.

3. PROPOSAL

The proposal seeks to vary condition 6 of the extant planning permission to allow a two year extension of time to complete the extraction of mineral and restore the site to an agricultural reservoir, until the 14 January 2024.

Condition 6 states:

"The permission shall be limited to a period of 3 years from the date of commencement of development by which time operations shall have ceased and the site have been restored in accordance with the scheme approved under Condition 13. Written notification of the date of commencement shall be sent to the Mineral Planning Authority within 7 days of such commencement."

The application seeks to vary this condition to be reworded as follows:

Within two years of the date of this permission operations shall have ceased and the site have been restored in accordance with the scheme approved under Condition 13.

The proposal seeks to continue transporting extracted material from Lufkins Farm to Alresford Creek Quarry for processing. However, as part of the simultaneous application currently being determined for a second agricultural reservoir at Lufkins Farm, it is proposed to include onsite mineral processing at Lufkins for both schemes. Irrespective of this, this application seeks to extend operations as existing and will be determined as such.

4. POLICIES

The following policies of the Essex Minerals Local Plan adopted July 2014, the Section 1 of the Tendring District Local Plan 2013-2033 and Beyond, adopted January 2021 and Section 2 of the Tendring District Local Plan 2013-2033 and Beyond, adopted January 2022 provide the development plan framework for this application. The following policies are of relevance to this application:

MINERALS LOCAL PLAN (MLP)

S1 – Presumption in favour of sustainable development
S6 – Provision for sand and gravel extraction
S10 – Protecting and enhancing the environment and local amenity
S11 – Access and Transportation
S12 – Mineral Site Restoration and After-Use
DM1 – Development Management Criteria

NORTH ESSEX AUTHORITIES' SHARED STRATEGIC SECTION 1 PLAN (TLP 1)

SP1 – Presumption in favour of sustainable development

TENDRING DISTRICT LOCAL PLAN 2013-2033 AND BEYOND, SECTION 2 (TLP 2)

CP2 – Improving the transport network

NEIGHBOURHOOD PLAN

Alresford Neighbourhood Plan 2018-2033

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).

The level of consistency of the policies contained within the Tendring District Local Plan is considered further in the report.

Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

On 9 October 2017 Tendring District Council, along with Braintree and Colchester Councils, submitted their Local Plans and accompanying documents to the Planning Inspectorate.

Due to strategic cross-boundary policies and allocations, Tendring, Braintree and Colchester's Local Plan share an identical Section 1. As a result of this, Section 1 was considered through a joint examination in public. Tendring specific policies and allocations can be found within Section 2 of the Local Plan, which was considered through a separate examination. In accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, documents were submitted to the Planning Inspectorate to support the examination of the entire

Plan.

Section 1 of the Tendring District Local Plan 2013-2033 and Beyond was formally adopted on 26 January 2021. Section 2 of the Plan was formally adopted on 25 January 2022.

5. CONSULTATIONS

Summarised as follows:

TENDRING DISTRICT COUNCIL – No objection.

ENVIRONMENT AGENCY – No comments received.

NATURAL ENGLAND – No objection.

HIGHWAY AUTHORITY – No objection subject to informatives.
The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted from the Planning Statement the reasons for the extension and that it is proposed to reword Condition 6 so that 'Within two years of the date of this permission operations shall have ceased'. Considering these factors and subject to the original conditions set out in Decision Notice ESS/41/15/TEN being strictly adhered to, the Highway Authority does not object to the proposals as submitted.

Informative 1 – All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of the works.
Informative 2 – The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

COUNTY COUNCIL LANDSCAPE CONSULTANT – No objection.
The application seeks an extension of time of two years to allow the cease of existing operations and completion restoration work in accordance with the scheme approved under Condition 13 – restoration drawing number 0318/R/1a. We have no objections to allowing an extension of time.

GREAT BENTLEY PARISH COUNCIL – No comments received.

FRATING PARISH COUNCIL – No comments received.

ALRESFORD PARISH COUNCIL – Objection.
Alresford Parish Council objects to further excavation at the Lufkins site if arisings continue to be sent to Alresford for processing. The arrangement is unacceptable

because an additional 60 vehicle movements to and from Lufkins Farm to Alresford Quarry site that will be generated in addition to the already considerable HGV traffic generated by the Brett site in Alresford.

Brett Aggregates and their contractors' HGVs carrying mineral from Lufkins Farm to Alresford Quarry are operating outside working times detailed in 2010 ROMP. HGV traffic should not operate before 07:00am on weekdays but are often entering Alresford Quarry as early as 06:30am. HGVs arriving at Alresford Quarry between 07:00-07:30am must have loaded and left Lufkins Farm before 07:00am (videos available).

Brett Aggregates or their contractor's vehicles do not follow the approved vehicle routes agreed in 1995 when the haul road access to the site was moved from Ford Lane, Alresford, to Wivenhoe Road, Alresford. The approved route, that for access and egress all HGVs must use the B1027, Keelers Lane, then Wivenhoe Road, Alresford. This was reaffirmed in the 2010 ROMP review.

Contrary to HSE regulations, many HGVs carrying excavated mineral are travelling un-sheeted from Lufkins Farm enroute to Alresford Quarry. For example 26 un-sheeted trucks recorded in just 2 days over the 15th/16th November 2021 (videos available).

The excessive noise generated by greatly increased numbers of HGVs through the village of Alresford since Bretts' Lufkins Farm development commenced is extremely disruptive, particularly when large bulk carriers return empty.

Residents of the 10 properties sites 10-200 metres from the haul road suffer severely as HGVs crash over the haul road's broken concrete surface, enroute to Alresford Quarry. The omission of the haul road from inclusion in the Alresford Quarry site plan when it came into use as the only HGV access to Alresford Quarry in 1995 means these residents are currently not consulted, nor have been, on planning decisions regarding Alresford Quarry e.g. Lufkins Farm phase 1, which has had an extremely detrimental impact on their lives, and enjoyment of their homes and gardens.

The haul road runs alongside an environmentally sensitive site and valuable community resource, the historic bridleway. Extreme levels of noise pollution and dust from the large numbers of vehicles frequently exceeding the site limit of 20mph. HGVs roaring by within just a few metres severely impacts the health benefits and enjoyment that the bridleway's previously peaceful beauty, offered to pedestrians, dog walkers, horse riders, nature lovers, families with children, runners and cyclists, etc. There have been instances of dogs, horses and vulnerable youngsters reacting in panic, creating a very real safety issue. Wildlife is also frequently placed at risk.

Safety is a major concern at the junction of the haul road with Marsh Farm Lane and there have been several near miss incidents from HGVs failing to comply with stop signs. Alresford Parish Council and residents have repeatedly requested that Brett improve road markings and signage on the haul road e.g. requests for signage indicating a public right of way crossing the haul road near the quarry, have been ignored.

Repeated representations have been made to Brett Aggregates, since November 2019, asking for action to reduce these and many other risks. Sadly, no effective action on road repairs, nor to reduce the environmental damage of noise or address safety issues, has been taken to date.

The Parish Council finds this current state of affairs in our relationship with Bretts to be most unfortunate, all the more so as it seems wholly avoidable. As a Parish Council we are proud of our record of working constructively with businesses in our community and we always work to create relationships based on mutual respect.

We offer the following solution: Brett Aggregates are proposing onsite processing in their planning application for Lufkins Farm phase 2, ref: ESS/101/21/TEN. If Essex County Council decides to approve this current application for extension of Lufkins Farm phase 1, it should do so on the planning condition that Brett commence processing all extracted mineral onsite at Lufkins Farm from the start of that extension period. Onsite processing of material at its place of extraction on Lufkins Farm would immediately ameliorate the severity of the environmental damage and safety concerns outlined above. Lufkins Farm development has been described as “high volume, short term” and now that this “short term” may be extended it is considered vital that Essex County Council take this positive action now, thereby limiting the extremely negative impact that the large numbers of vehicles needed to transport high volume of material to Alresford for processing is currently having, both on our community and the environment generally. We note that the onsite processing should mean that the HGV daily traffic from Lufkins through the residential areas of Alresford ceases, however on close inspection of the EIA for transportation associated with the yet to be considered recent planning application ESS/101/21/TEN evidences that 30% or more of arisings will still be transported to Alresford – this is unacceptable to residents and the Parish Council. Mitigation of the environmental and human impact needs to be at the core of planning decisions.

For the reasons stated above, Alresford Parish Council objects unanimously.

Additional subsequent comments received:–
Lorries travelling through the centre of the village create health and safety risks in addition to environmental damage, particularly given the high level of daily school/general pedestrian traffic within the area.
Video submitted, highlighting following safety concerns:

- Vehicles clearly exceeding the 10mph speed limit;
- Vehicles accessing and leaving before 07:00 official opening time;
- Un-sheeted loaded vehicles in breach of HSE regulations;
- Vehicles reversing without a banksman;
- Vehicles travelling far too fast in adverse weather conditions;
- Noisy vehicles upsetting dog walkers on bridleway;
- Random use of hazard warning lights;
- No apparent safety guidance in place regarding priority of trucks passing on the single track haul road.

LOCAL MEMBER – TENDRING – BRIGHTLINGSEA – Any comments received will be reported.

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

6. REPRESENTATIONS

5 properties were directly notified of the application. 3 letters of representation have been received. A petition has also been submitted objecting to any extension being granted to the existing works. The petition includes 30 signatories from 25 households. The representations relate to planning issues, summarised as follows:

Observation	Comment
Application is more about mineral extraction than the construction of reservoir because the farmer would have wanted it completed by now. Claim of covid disruption is a convenient excuse.	Principle of development already established. Extension of existing operation considered in appraisal.
Lorries loaded with ballast thunder past my door for the last year.	HGV driver behaviours are responsibility of operator. Impact to highway considered in appraisal.
How do we know that the reason for the extended time is just to dig deeper and extract more material? Is the volume/weight of extracted material measured or verified?	Justification of extension considered in appraisal. Operational weighbridge in place at Lufkins Farm. Records available at request of MPA.
HGVs regularly travel un-sheeted between Lufkins and Alresford.	Condition 18 of extant permission requires all vehicles to be sheeted when leaving site. Planning enforcement procedures in place to allow investigation of potential breaches.
No need to bring material to Alresford Quarry. Enough room at Lufkins for onsite processing. Transportation to Alresford is not sustainable or environmentally friendly.	Proposal is for extension of operations as existing. Principle of HGV movement between Lufkins and Alresford Quarry already approved. Impacts considered in appraisal.
Previously approved one way system to avoid Wivenhoe Road and the village of Alresford via Keelars Lane is not followed.	Vehicle routeing plan considered in appraisal.
HGVs using haul road do so at speed with total disregard to the inconvenience of noise and dust for bridleway users.	Amenity impacts considered in appraisal.

Current planning conditions are not being adhered to therefore this application should be refused on grounds of non-compliance and the operation being unacceptable to continue by subjecting the people of Alresford to noise and air pollution.	Amenity impacts considered in appraisal. Planning enforcement procedures in place to allow investigation of potential breaches.
Too many HGVs using travelling through Alresford via Wivenhoe Road to access Alresford Quarry.	Highway impact and vehicle routeing plan considered in appraisal.
Twin mini roundabouts at the junction of Wivenhoe Road and Coach Road / Ford Lane have become damaged due to HGVs passing over the raised sections, thus creating noise.	Highway and amenity impacts considered in appraisal.
Surface of Wivenhoe Road has deteriorated due to heavy traffic.	Highway impacts considered in appraisal.
Air pollution is a concern.	Amenity impacts considered in appraisal.
Passing heavy traffic has caused subsidence, resulting in cracks developing in house walls.	Road network is used by many vehicles. Cannot be assumed that Lufkins Farm traffic specifically is the cause of cracks in walls.
HGVs regularly speed and exceed 30mph limit in Alresford.	HGV driver behaviours are responsibility of operator. Impact to highway considered in appraisal.
HGVs should be re-routed to reduce volume passing through Alresford.	Vehicle routeing plan considered in appraisal.
Processing onsite at Lufkins would avoid the need to transport material through Alresford.	Separate application (ESS/101/21/TEN) seeking provision of onsite processing plant at Lufkins. Not proposed as part of this application.
HGVs operate outside working time detailed in 2010 ROMP. Vehicles regularly arrive at Alresford before 07:00am.	2010 ROMP (ref: ESS/31/10/TEN(R)) applies to Alresford Creek Quarry, not Lufkins. Extant permission ESS/41/15/TEN, and subject of this application, also has 07:00am limit. Planning enforcement procedures in place to allow investigation of potential breaches.

Alresford and other Parishes have no consultee role.	Great Bentley Parish Council and Frating Parish Council were directly notified as Lufkins Farm falls within both Parish boundaries. Alresford Parish Council have been granted an extension of time to allow response to be prepared as they were not directly notified. Meeting between planning officer and Alresford Parish Councillors also taken place to discuss the application.
Owners of 10 residential properties within 200m of the Alresford Quarry not consulted and continue to suffer noise blight due to no traffic management controls by Brett Aggregates.	As per the Essex Statement of Community Involvement (SCI) for minerals and waste, the direct neighbour notification system specifically targets those residents and businesses within 250 metres of a proposed minerals and waste site boundary, in this case Lufkins Farm.
Enjoyment of bridleway is ruined by noise created by HGVs speeding along Alresford Quarry haul road.	Amenity impacts considered in appraisal.

7. APPRAISAL

The key issues for consideration are:

A. Principle of development
B. Justification of time extension
C. Highway impact and vehicle routeing
D. Residential amenity impact
E. Legal agreement

A PRINCIPLE OF DEVELOPMENT

The development, subject of this application, was originally approved in 2010 and renewed and updated in 2016 as per the extant permission which was fully assessed and appraised against current MLP policies. It is considered that the principle of mineral extraction on this site and the development of an agricultural reservoir is already established and complies with MLP Policies S1 and S6.

Completing the extraction and restoration of the site is considered to be essential in order to comply with MLP Policy S12.

B JUSTIFICATION OF TIME EXTENSION

As part of the justification put forward by the applicant, it is stated that the construction of the agricultural reservoir has been delayed primarily due to the COVID-19 pandemic resulting in furloughed staff and the need to streamline

operations across other parts of the business. This includes operations at Alresford Quarry where material is currently transported from Lufkins to be processed.

As a result, a further two-year period is sought in order to extract the remaining material and complete the construction of the reservoir. Some concerns have been raised regarding the intentions of the applicant in prolonging the delivery of the reservoir in order to extract more mineral. The site is being worked to the approved scheme and is subject to a number of planning conditions including, but not limited to, maintaining monthly output/production records and limiting the number of daily vehicle movements. The site also has an operational weighbridge that records the weight of extracted material exiting the site.

As part of an ongoing six-monthly site monitoring schedule by ECC, it has been observed onsite that excavation has been halted throughout the majority of 2020 due to the low demand for mineral product impacted by the pandemic.

It is considered that extending the time limit on existing operations is required in order to allow the scheme to be completed and benefits of an agricultural reservoir realised. Tendring District Council also raise no objection to the proposal. An extension of 2 years is considered reasonable to ensure the development is completed at the earliest opportunity, in line with Policy S12 of the MLP.

C HIGHWAY IMPACT AND VEHICLE ROUTEING

As mentioned, the existing scheme is intrinsically linked to Alresford Quarry as material is extracted from Lufkins Farm and taken to Alresford to be processed, before onward transportation. This was approved as part of the extant permission ESS/41/15/TEN. At present, HGVs leave Lufkins Farm and travel through the village of Alresford along Wivenhoe Road before turning into the haul road down to Alresford Quarry.

A number of objections have been raised from local residents of Alresford, as well as Alresford Parish Council, around the issues currently experienced caused by HGVs travelling between the two sites. Particular issues include speeding HGVs, full loaded HGVs travelling un-sheeted, damage to road surfaces caused by too many HGVs and a general high volume of HGVs not suitable for the local road network.

Although this activity is already permitted as per the extant planning permission, consideration of relevant planning policies and review of the operation is required given that the potential impacts are proposed to be extended by a further two years. MLP Policy S11 relates to access and transportation and requires operations to demonstrate that development does not have unacceptable impacts on the efficiency and effective operation of the road network, including safety and capacity, local amenity and the environment. Where transportation of minerals is proposed by road, this will be permitted where the road network is suitable for use by HGVs or can be improved to accommodate such vehicles. MLP Policy DM1 also refers to the safety and capacity of the road network. Tendring Local Plan Section 2 Policy CP2 states, inter alia, that proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the

residual cumulative impact on the road network would be severe.

It is evident that a vast majority of local concern is based around the continued use of Wivenhoe Road by HGVs travelling between Lufkins and Alresford. One potential solution is to process all material extracted at Lufkins onsite, removing the need to transport it to Alresford. However, at present this is not part of the approved plan at Lufkins Farm. For context, the separate application being considered for the construction of a second agricultural reservoir at Lufkins Farm includes the provision of an onsite processing plant whereby all material could be processed onsite and would not need to be transported to Alresford. However, the outcome of this application is still undetermined and cannot be considered in relation to this application.

Some representations have referred to an existing vehicle routeing arrangement that avoids Wivenhoe Road by turning left out of the Alresford Quarry haul road and using Keelars Lane, thus bypassing Alresford village. This arrangement was attached to the Alresford Quarry planning permission and reinstated as part of the 2010 Review of Old Mineral Permission (ROMP) (ref: ESS/31/10/TEN(R)). This permission does not relate to Lufkins Farm operations therefore does not apply to HGVs leaving the Lufkins Farm site.

Following discussions between the applicant, ECC and Alresford Parish Council, it is proposed to formalise a similar arrangement as part of this permission should it be granted. This could be secured by condition requiring the submission of a Traffic Management Plan to include an approved HGV route, route monitoring, signage and other such management steps to ensure HGVs bypass Alresford village and greatly reduce the stress currently caused to the road network. Also to note, the proposal is for a two-year extension which is considered to be relatively temporary. It is considered that such an arrangement would alleviate impacts and improve the safety and capacity of the road network, complying with MLP Policies S11 and DM1, and Tendring Local Plan Section 2 Policy CP2. The Highway Authority raise no objection to the proposal to allow a two year extension of time to complete the scheme.

For completeness, the application for a second agricultural reservoir at Lufkins currently being considered would include an onsite processing plant as aforementioned, but would still result in 30% of HGVs travelling to Alresford Quarry to feed the concrete batching plant at Alresford. Whilst this is not being considered as part of this application, the applicant has stated that a similar vehicle routeing arrangement could be imposed should this application be recommended for approval.

D RESIDENTIAL AMENITY IMPACT

Other issues have been raised around the operational activity of HGVs and driver behaviours, particularly in relation to the noise and speeding vehicles entering Alresford Quarry for processing. It should be noted that vehicles related to Lufkins Farm only represent a proportion of overall traffic entering Alresford Quarry. Material from other sites across the region enter Alresford related to the site's concrete batching plant activities. It is considered that the operational activity of HGV drivers is a separate issue to the principle consideration of a two year time

extension and is the responsibility of the operator to manage staff behaviours. In addition, Alresford Quarry is subject to a separate planning permission as aforementioned (ref: ESS/31/10/TEN(R)) which is due for review as part of the ROMP requirements in 2025.

Irrespective of this, dialogue is currently ongoing between local residents, ECC, Alresford Parish Council and Brett Aggregates regarding these local issues and the possibility of a Local Liaison Meeting between all parties in order to minimise residential amenity impacts close to Alresford Quarry.

As part of this planning application, existing conditions would be secured. This includes operations authorised between 07:00 – 18:00 hours Monday to Friday and 07:00 – 13:00 hours on Saturdays; all HGVs leaving Lufkins Farm to be sheeted; noise limits at Lufkins Farm. Essex County Council has its own Local Enforcement Site Monitoring Plan and there are procedures and powers in place to allow enforcement action and investigation into any potential breaches of planning conditions.

In relation to the principle of a further two years to allow the full excavation of the site and completion of the reservoir, considering that no changes to the extant planning permission are proposed, it is considered that operations as existing comply with MLP Policies S10 and DM1. An alternative suggested solution raised by some representations is to provide onsite processing at Lufkins Farm to remove the need for vehicles to travel to Alresford Quarry. As already alluded to, it is considered that this would not prevent vehicles from entering and egressing Alresford Quarry due to its onsite concrete batching plant separate from operations at Lufkins Farm. However, if the application for a second agricultural reservoir at Lufkins were approved, any further extracted material from Lufkins would be processed onsite.

E LEGAL AGREEMENT

The original planning permission (ESS/10/13/TEN) was subject to Section 106 Legal Agreement dated 24 January 2014 and a subsequent Section 106A Deed of Variation dated 19 April 2016, was entered into with respect to a variation to that permission ESS/41/15/TEN and related application ESS/40/15/TEN.

It is considered that a new Deed of Variation is required, should permission be granted, to ensure all previous legal obligations remain associated with the new permission. The time required to complete the Deed Of Variation will mean that the site will be operating without the benefit of planning permission until the legal agreement is completed and the planning permission is issued. If it resolved to grant planning permission, it is not considered expedient to take formal enforcement action despite the original cessation date passing. The operator has confirmed, that if resolved to be granted they would work in accordance with the planning conditions as set out in the recommendation until the planning permission is issued.

8. CONCLUSION

The proposal seeks to vary condition 6 of extant planning permission ref:

ESS/41/15/TEN to allow a two year time extension until 14 January 2024 in order to complete mineral extraction and restore the site to an agricultural reservoir. The principle justification for the time extension is considered to be acceptable and necessary in order to allow for the completion of the overall scheme.

Existing operations require HGVs to transport extracted mineral from Lufkins Farm to Alresford Quarry for processing. Concerns have been raised regarding the heavy HGV traffic travelling through the village of Alresford enroute to Alresford Quarry. It is considered appropriate to require a Traffic Management Plan to include an agreed vehicle routeing arrangement in order to redirect HGVs down an alternative route and alleviate pressure on the highway network.

Some local concerns associated with the haul road at Alresford Quarry are considered to be a separate issue to the principle of a two year time extension in order to complete the scheme which could be addressed separately through liaison between interested parties, site monitoring and planning enforcement if necessary.

As such, it is considered that the proposal is acceptable in principle and, subject to planning conditions and the deed of variation to the legal agreement, complies with MLP Policies S1, S6, S10, S11, S12 and DM1, as well as TLP 1 Policy SP1 and TLP 2 Policy CP2.

9. RECOMMENDED

That planning permission be granted subject to

a) the prior completion within 6 months (unless otherwise agreed with the Chairman of Development and Regulation Committee) of a deed of variation to ensure all previous legal obligations remain associated with the new permission;

b) the conditions set out below:

1 The development hereby permitted shall be carried out in accordance with:

- the details submitted by way of the application ref ESS/21/08/TEN dated 23 May 2008 and covering letter dated 22 May 2008, together with drawings numbered 0318/A (26/02/2007), 0318/O/1b (17/08/2015) and 0318/R/1a, Supporting Statement dated 20 May 2008, Irrigation Requirements Report dated December 2004, Traffic Statement dated March 2007, Hydrogeological Assessment dated August 2007, Preliminary Appraisal of Ecological Interests and Constraints dated March 2007 as amended by Ecological Appraisal update August 2009, Search of Essex Heritage Conservation Record dated 19/10/04, Archaeological Evaluation dated December 2007, Correspondence between Hafren Water and the Environment Agency dated 26 March 2008, 04 April 2008 and 25 April 2008, email dated 28 July 2008 with drawing number 0318/I/1 dated 08/08/2007, email dated 12 August 2008, email dated 07 August 2008 and Licence for access over land at Hill House Farm dated 2007;

AS AMENDED BY

- the details submitted by way of the application ref ESS/10/13/TEN dated 13 March 2013, covering letter dated 13 March 2013 and supporting statement entitled 'Lufkins Farm, Great Bentley, Essex, Application for a new planning permission to replace the existing planning consent ESS/21/08/TEN in order to extend the time limit for implementation' by Mineral Services Ltd, together with drawing numbered 0318/A v2 dated 08/03/13 and Ecological Appraisal update March 2013;

AS AMENDED BY

- the details submitted and approved by way of the application ref ESS/41/15/TEN dated 21 August 2015;

AS AMENDED BY

- the details submitted by way of the application ref ESS/41/15/TEN/NMA1 dated 20 September 2019 and Plan no. 0318/O/1b titled 'Operations Plan' dated 21 August 2019;

AS AMENDED BY

- the details of the application dated 12 November 2021, ref: ESS/99/21/TEN

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

Reason*: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment and in accordance with Essex Minerals Local Plan (2014) policies S1, S6, S10, S11, S12 and DM1, North Essex Authorities' Shared Strategic Section 1 Plan policy SP1 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy CP2.*

2 Notwithstanding the provisions of the Town and Country planning (General Permitted Development) Order 1995 (or any order evoking and re-enacting that Order with or without modification) no building, structure, fixed plant or machinery (other than hydraulic excavator, plant for the movement of materials, the office weighbridge and portacabin and mobile WC), shall be erected, extended, installed or replaced on the site without the prior agreement in writing of the Mineral Planning Authority.

Reason: *To enable the Mineral Planning Authority to adequately control, monitor and minimise the impacts on the amenities of the local area and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

3 All aggregate materials available for sale shall only originate from the workings

hereby permitted. No aggregate shall be imported for processing or resale.

Reason: *To ensure uses on site are wholly ancillary to the mineral operations hereby permitted and in the interest of local amenity and compliance with Essex Minerals Local Plan (2014) policies S10 and DM1.*

4 From the date production commences the operators shall maintain records of their monthly output/production and shall make them available to the Mineral Planning Authority upon request. All records shall be kept for the duration of the extraction.

Reason: *To enable the Mineral Planning Authority to monitor progression and activity at the site and compliance with Essex Minerals Local Plan (2014) policies S6 and S11.*

5 The development hereby permitted shall cease by 14 January 2024 by which time operations shall have ceased and the site shall have been restored in accordance with the scheme approved under Condition 12.

Reason: *To provide for the completion and progressive restoration of the site within the approved timescale, in the interest of local amenity and to comply with Essex Minerals Local Plan (2014) policies S10 and S12.*

6 In the event that operations are terminated, or suspended for a period in excess of 12 months, the excavated area and other operational land shall be restored in accordance with the scheme or schemes approved under Condition 12 and within a period of 6 months from the date of notification by the Mineral Planning Authority, except as varied by details to be submitted to and approved in writing by the Mineral Planning Authority.

Reason: *To enable the Mineral Planning Authority to adequately control the development, to ensure that the land is restored to a condition capable of beneficial use and to comply with Essex Minerals Local Plan (2014) policies S10 and S12.*

7 Unless the Mineral Planning Authority otherwise agrees in writing any building, plant, machinery, foundation, hardstanding, roadway, structure or erection in the nature of plant or machinery used in connection with the development hereby permitted shall be removed from the site when they are respectively no longer required for the purpose for which they were installed, in any case not later than 14 January 2024 and upon their removal the land shall be restored in accordance with the approved restoration scheme.

Reason: *To enable the Mineral Planning Authority to adequately control the development, to ensure that the land is restored to a condition capable of beneficial use and to comply with Essex Minerals Local Plan (2014) policies S10 and S12.*

8 Operations authorised or required by this permission shall only be carried out between the following times:

0700 – 1800 hours Monday to Friday;

0700 – 1300 hours Saturdays;

And at no other time or on Sundays and Public Holidays, except for emergency maintenance and monitoring of the site and the following provisions, unless otherwise approved in writing by the Mineral Planning Authority. For the avoidance of doubt, all vehicles in excess of 7.5 tonnes gross vehicle weight (t gvw) and vehicles in excess of 3.5t gvw associated with the operations shall not be allowed to enter or leave the site outside of these times.

For clarity, the operation of plant and machinery for the stripping of soil, construction of screen bunds or the extraction of sand and gravel shall not commence before 0800 hours prior to the completion of the screen bunds related to the phase being worked and intended to afford visual and aural protection to nearby residents.

Reason: *In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

9 All storage bunds intended to remain in situ for more than 6 months or over the winter period shall be grassed over and weed control and other necessary maintenance carried out to the satisfaction of the Mineral Planning Authority. Details of the seed mixture and the application rates shall be submitted to and approved in writing by the Mineral Planning Authority no less than one month before completion of the formation of the storage bunds is expected. The seeding shall thereafter take place in accordance with the approved details.

Reason: *To ensure the retention of the existing soils on the site for restoration purposes and minimise the impact of the development on the locality and to comply with Essex Minerals Local Plan (2014) policy S10.*

10 Lighting on site shall not be installed except in accordance with details submitted to and approved in writing by the Mineral Planning Authority. The development shall be subsequently implemented in accordance with the approved details.

Reason: *To minimise the nuisance and disturbances to neighbours (and the surrounding area and in the interests of highway safety) and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

11 All plant and machinery shall operate only during the permitted hours, as specified in Condition 8, except in an emergency (which shall be notified to the Mineral Planning Authority as soon as practicable), and shall be silenced at all times in accordance with the manufacturers recommendations.

Reason: *To ensure minimum disturbance from operations and avoidance of nuisance to the local community and compliance with Essex Minerals Local Plan (2014) policy S10.*

12 The development hereby permitted shall not be carried out unless in accordance with the details for the protection of existing plants and detailed planting scheme relating to condition 13 attached to permission ref ESS/21/08/TEN, as set out in

the statement entitled 'Lufkins Farm Schedule of Conditions' received on the 20 February 2009 and drawing numbers 0318/R/1a dated 06/10/10, as approved by the Mineral Planning Authority on 13 October 2010 and 0318/O/1b dated 17/08/2015.

Reason: *To comply with Section 197 of the Town and Country Planning Act 1990, to improve the appearance of the site in the interests of visual amenity, to screen the workings and to assist in absorbing the site back into the local landscape and compliance with Essex Minerals Local Plan (2014) policies S10 and S12.*

13 Any tree or shrub forming plant of a planting scheme approved in connection with this development that dies, is damaged, diseased or removed five years after completion of the operations shall be replaced by the applicants during the next planting season with a tree or shrub or species and size to be agreed with the Mineral Planning Authority.

Reason*: In the interest of the amenity of the local area, to ensure development is adequately screened and to comply with Essex Minerals Local Plan (2014) policies S10 and S12 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy PPL3 .*

14 Any temporary fuel or chemical storage vessel shall be within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed to avoid spillage.

Reason: *To minimise the risk of pollution of watercourses and aquifers and compliance with Essex Minerals Local Plan (2014) policy S10 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy PPL5 .*

15 The access / haul road used in connection with the operations hereby permitted shall be sprayed with water during dry weather conditions to prevent dust nuisance.

Reason: *To reduce the impacts of dust disturbance from the site on the local environment and to comply with Essex Minerals Local Plan (2014) policy S10.*

16 No loaded lorry shall leave the site unsheeted.

Reason: In the interests of highway safety, safeguarding local amenity and to comply with Essex Minerals Local Plan (2014) policies S10 and S11 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy CP2.

17 All ingress to and egress from the site by vehicles shall be by the access and internal access road from Great Bentley Road as per planning ref. ESS/40/15/TEN. A metal gate shall be placed across the access point from the public highway and securely locked outside of the permitted hours referred to in Condition 8 to this approval.

Reason*: In the interests of highway safety, safeguarding local amenity and to comply with Essex Minerals Local Plan (2014) policies S10 and S11 and Tendring*

District Local Plan 2013-2033 and Beyond: Section 2 policy CP2.

18 Unless with the prior written agreement of the Mineral Planning Authority there shall be no more than 60 vehicle movements in excess of 3.5t gvw (30 in/30 out) from the site on any single working day. Except on Saturday mornings when there shall be no more than 30 vehicle movements in excess of 3.5t gvw (15 in/15 out) from the site.

Reason*: In the interests of highway safety, safeguarding local amenity and to comply with Essex Minerals Local Plan (2014) policies S10 and S11 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy CP2.*

19 Within one month of the date of this permission a Traffic Management Plan, detailing the routeing of HGVs to and from the site, shall be submitted to and approved in writing by the Mineral Planning Authority. The Plan shall identify the arrangements for:

(i) The routeing of HGVs associated with the permitted site operations;
(ii) Monitoring of the approved arrangements for the life of the site;
(iii) Ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements;
(iv) The disciplinary steps that will be exercised in the event of default; and
(v) Appropriate signage and details of signage to be erected advising drivers of the vehicle route.

The approved plan shall be implemented for the duration of the development hereby permitted.

Reason: *In the interests of amenity, highway safety and to comply with Essex Minerals Local Plan (2014) policies S10 and S11 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy CP2.*

20 Within six months of the date of this permission, the programme of archaeological work, including processing, assessment, archiving and publication of results, relating to condition 24 attached to permission ref ESS/21/08/TEN, shall be submitted to the Mineral Planning Authority in accordance with the statement received 20 February 2009 and 'NAU Archaeology Written Scheme of Investigation for Archaeological Excavation (revised)' ref BAU1998 dated December 2010, as approved in writing by the Mineral Planning Authority on 22 December 2010.

Reason*: To ensure that any archaeological interest has been adequately investigated and recorded prior to the development taking place and to comply with Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy PPL7.*

21 The development hereby permitted shall not take place unless in accordance with the scheme of soil movements relating to condition 25 attached to permission ref ESS/21/08/TEN, as set out in the statement entitled 'Lufkins Farm Schedule of Conditions' received on the 20 February 2009 and drawing number 0318/MB1 dated 28/11/08, as approved by the Mineral Planning Authority on 14 September 2010.

Reason: *To ensure the retention of existing soils on the site for restoration purposes and minimise the impact of the development on the locality and to comply with Essex Minerals Local Plan (2014) policies S10, S12 and DM1.*

22 The development hereby permitted shall not take place unless in accordance with the scheme of machine movements relating to condition 26 attached to permission ref ESS/21/08/TEN, as set out in the statement entitled 'Lufkins Farm Schedule of Conditions' received on the 20 February 2009 and drawing number 0318/MB1 dated 28/11/08, as approved by the Mineral Planning Authority on 14 September 2010.

Reason: *To minimise structural damage and compaction of the soil and to aid the final restoration and to comply with Essex Minerals Local Plan (2014) policies S10 and S12.*

23 Before any part of the site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or staking topsoil on that part), or is surfaced or built upon, or used for the stacking of subsoil, soil making material or overburden, or as a plant yard, or for the construction of a haul road, all available topsoil (and subsoil) shall be stripped from that part.

Reason: *To conserve agricultural soils and to avoid structural damage and compaction of soils and to comply with Essex Minerals Local Plan (2004) policies S10 and S12.*

24 a) All topsoil shall be stripped to the full depth (generally 30cm) and shall, wherever possible, be immediately re-spread over an area of reinstated subsoil. If this immediate re-spreading is not practicable, the topsoil shall be stored separately for subsequent replacement.

b) When subsoil is to be retained for use in the restoration process it shall be stripped to a depth of not less than 70cm and shall, wherever possible, be immediately re-spread over the replaced overburden/low permeability cap. If this immediate re-spreading is not practicable the subsoil shall be stored separately for subsequent replacement. Subsoil not being retained for use in the restoration process shall be regarded as overburden.

Reason: *To ensure the retention of the existing soils on the site for restoration purposes and minimise the impact of the development on the locality and to comply with Essex Minerals Local Plan (2014) policy S10.*

25 Bunds for the storage of agricultural soils shall conform to the following criteria:

a) Topsoil, subsoil and subsoil substitutes shall be stored separately;
b) Materials shall be stored like upon like, so that topsoil shall be stripped from beneath subsoil bunds and subsoil from beneath overburden bunds;
c) Where continuous bunds are used dissimilar soils shall be separated by a third material, previously agreed in writing with the Mineral Planning Authority;
d) Topsoil bunds shall not exceed 3m in height and subsoil (or subsoil

substitute) bunds shall not exceed 3m in height.

Reason: *To ensure the retention of the existing soils on the site for restoration purposes and minimise the impact of the development on the locality and to comply with Essex Minerals Local Plan (2014) policy S10.*

26 All topsoil, subsoil and soil making material shall be retained on site unless with the prior approval of the Mineral Planning Authority. No bunds shall remain on site as part of the restoration scheme agreed under Condition 12 to this approval.

Reason: *All soils are required on site to ensure a satisfactory restoration of the land and to comply with Essex Minerals Local Plan (2014) policies S10 and S12.*

27 When replacing all soils, subsoil shall be tipped in windrows and spread to the required level, in 5m wide strips in such a manner as to avoid compacting placed soils. Topsoil shall be tipped, lifted and evenly spread onto the levelled subsoil in a manner as to avoid compacting the placed soils.

Reason: *To minimise structural damage and compaction of the soil and to aid the final restoration and to comply with Essex Minerals Local Plan (2014) policy S12.*

28 The minimum settled depth of subsoil and topsoil shall be not less than 1m.

Reason: *To ensure the restored land is agriculturally versatile and operations are not impeded and to comply with Essex Minerals Local Plan (2014) policy S10.*

29 All stones and other materials in excess of 150mm in any dimension shall be picked and removed from the restored surface of the site.

Reason: *To ensure the restored land is agriculturally versatile and operations are not impeded and to comply with Essex Minerals Local Plan (2014) policy S12.*

30 The applicant shall notify the Mineral Planning Authority at least 5 working days in advance of the final subsoil placement on each phase, or part phase to allow a site inspection to take place.

Reason: *To ensure the site is ready for topsoil spreading and to comply with Essex Minerals Local Plan (2014) policy S12.*

31 The finished surface of the subsoil shall be broken and opened to a depth of 450mm at a tine spacing of 450mm.

Reason: *To ensure the site is satisfactorily restored and to comply with Essex Minerals Local Plan (2014) policy S12.*

32 The topsoil shall be spread so as to produce a minimum even settled depth of 300mm over the reinstated subsoil.

Reason: *To ensure the site is satisfactorily restored and to comply with Essex Minerals Local Plan (2014) policy S12.*

33 The respread topsoil and areas upon which topsoil has been stored shall be ripped or loosened at a tine spacing of not greater than 600mm and to a depth of at least 50mm. Any non-soil making material or larger stone lying on the loosened topsoil surface and, on any surface, larger than would pass through a wire screen mesh with a spacing of 150mm shall be removed from the site or buried at a depth not less than 2m below the final settled contours.

Reason: *To ensure the site is satisfactorily restored and to comply with Essex Minerals Local Plan (2014) policy S12.*

34 Noise levels shall be monitored by the operating company at three monthly intervals at up to five locations to be agreed in writing by the Mineral Planning Authority. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The survey shall be for two separate 15 minute periods during the working day and the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Mineral Planning Authority. After the first year of operation, the frequency of the monitoring may be modified by agreement with the Mineral Planning Authority.

Reason: *To protect the amenities of local residents and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

35 Except for temporary occasions, the free-field Equivalent Continuous Noise Levels (LAeq, 1hour) at noise sensitive properties near the site, due to the permitted operations on the site, shall not exceed the limits set out below:

- 55db – where the background noise level (LA90) without the permitted operations is or exceeds 45 dB;
- LA90 + 10dB – where the background noise level (LA90) without the permitted operations is below 45dB.

Reason: *To protect the amenities of the local residents from the effects of noise pollution and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

36 For temporary by exceptionally noisy operations, the free-field Equivalent Noise Level at noise sensitive properties shall not exceed 70dB LAeq, 1 hour. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. These operations shall include bund formation and removal, soils stripping, removal of spoil heaps and construction of new permanent landforms.

Reason: *To protect the amenities of the local residents from the effects of noise pollution and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1.*

37 A width of 5m shall be left between the toe of the northern bund and footpath 4 Great Bentley including the 2m width of the footpath itself.

Reason: *In order to protect the users of Footpath 4 Great Bentley and to comply with Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy CP1.*

38 The ground vegetation adjacent to the ditch along Thorrington Road shall be strimmed and maintained in a cropped condition and a buffer zone along the peripheral edges of the application site shall be maintained for the duration of the development hereby permitted in accordance with the statement entitled 'Lufkins Farm Schedule of Conditions' received on 20 February 2009 and email dated 29 September 2010, as approved by the Mineral Planning Authority on 13 October 2010, and as amended by paragraphs 15-22 of the Ecological Appraisal Update March 2013.

Reason: *For the protection of ecology, wildlife and protected species within the site and to comply with Essex Minerals Local Plan (2014) policies S10 and DM1 and Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy PPL4.*

39 Prior to discharge of water to Bentley Brook a river level gauge shall be installed upstream of the discharge point to monitor levels within the river to ensure that no water is discharged to Bentley Brook during high flow periods.

Reason: *To ensure the flood risk to the site and surrounding area is not increased as a result of the development and to comply with Tendring District Local Plan 2013-2033 and Beyond: Section 2 policies PPL1 and PPL5.*

40 Prior to first discharge of water to Bentley Brook the river gauge shall be fully operational and maintained for the duration of the development.

Reason: *To ensure river levels can be monitored prior to water discharge into the Bentley Brook and to ensure the flood risk to the site and surrounding area is not increased as a result and to comply with Tendring District Local Plan 2013-2033 and Beyond: Section 2 policies PPL1 and PPL5.*

41 All tree/shrub/hedgerow removal shall be undertaken outside of the bird breeding season.

Reason: *For the protection of nesting birds and to comply with Tendring District Local Plan 2013-2033 and Beyond: Section 2 policy PPL4.*

42 An aftercare scheme detailing the steps that are necessary to bring the land to the required standard for trees, grassland and hedgerows shall be submitted to and approved in writing by the Mineral Planning Authority prior to commencement of restoration works on site. The scheme shall provide an outline strategy for the 5 year aftercare period and provide a detailed annual programme of care. The scheme shall be implemented in accordance with the approved details.

Reason: *To ensure that the land is rehabilitated to a suitable condition to support trees, hedgerows and grassland and to comply with Essex Minerals Local Plan (2014) policy S12.*

Informatives

- Any works in, over, under or within 9m of Bentley Brook will require formal written consent from the Environment Agency prior to the commencement of works. Consent will be required prior to the instalment of the level gauge into the river.

- All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of the works.

- The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

BACKGROUND PAPERS

Consultation replies
Representations

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

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

Therefore, it is considered that an Appropriate Assessment under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) 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

TENDRING - Brightlingsea
TENDRING - Tendring Rural West

AGENDA ITEM 5.1

DR/09/22

Report to: DEVELOPMENT & REGULATION (25th February 2022)	
Proposal: COUNTY COUNCIL DEVELOPMENT Demolition of existing school buildings and structures and the construction of a two-storey building with revised parking, landscaping, boundary treatments and associated facilities.	
Ref: CC/BAS/102/21	**Applicant:** Essex County Council
Location: Fairview, Fairview Road, Basildon, Essex, SS14 1PW	
Report author: Chief Planning Officer (County Planning and Major Development)	
Enquiries to: Shelley Bailey Tel: 03330 136824 The full application can be viewed at https://planning.essex.gov.uk	

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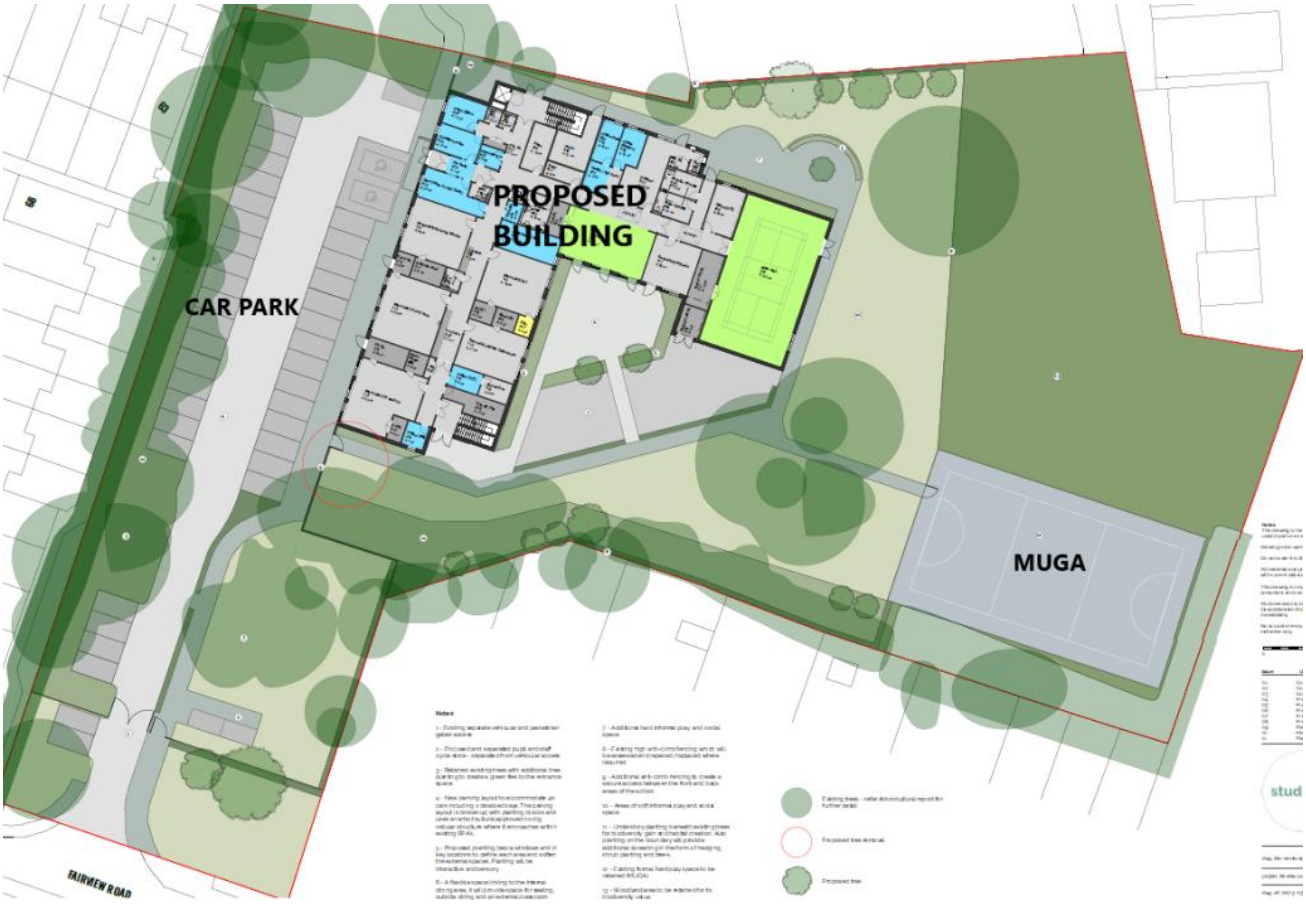
Proposed Layout



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1. BACKGROUND & SITE

The application site is approximately 1ha in size. It is accessed via Fairview Road to the south, which is itself a cul-de-sac from the B1419 Timberlog Lane. The access leads into the existing car park.

There is one existing single storey building located within the western part of the site which currently accommodates Fairview Children's Support Service within the Fairview Centre. A Multi Use Games Area (MUGA) is located within the eastern part of the site.

There are several trees within the site along the western and southern boundaries and in a cluster to the north east, which are subject to a blanket Tree Preservation Order (TPO) (Ref TPO/01/52).

Residential properties surround the site to the west, south and east, with open space and a social club to the north.

The site is located within Flood Zone 1 and there is an existing open space/school playing fields designation on the eastern part of the site not occupied by the building.

The site has been in use for education for many years. There is no relevant planning history pertinent to the planning application.

2. PROPOSAL

The Fairview Centre currently provides educational learning for students in Key Stages 3 and 4.

The existing premises, currently occupied by Fairview Children's Support Service, is proposed to be demolished. The current pupils would be temporarily relocated to Wickford Pupil Referral Unit (PRU) during construction.

The proposed development would include a new up to two-storey building for Key Stage 3 and 4 education, typically with 70% of places allocated for behavioural education needs and 30% for health needs.

The existing MUGA would continue to be utilised. No community use is proposed.

The building would include:

• 15 general teaching and specialist classroom spaces;
• 4 small group rooms including an SEN Therapy space;
• Main Hall and separate Dining area;
• Administration and Support spaces;
• Classroom storage, specialist stores, lockers and maintenance stores; and
• Photovoltaic panels.

The existing access is proposed to be altered to provide separate vehicular and pedestrian gates. A new turning head for taxi drop-off is proposed, together with 40

parking spaces including two disabled bays in the western part of the site.

A cycle store is proposed adjacent to the main access.

3. POLICIES

The following policies of Basildon District Local Plan and Alterations, (BLP), Adopted 1998 and 1999 (Saved policies 2007 only) provide the development plan framework for this application. The following policies are of relevance to this application:

<u>BASILDON DISTRICT LOCAL PLAN AND ALTERATIONS (Saved policies only) (1998 and 1999)</u>

Policy BAS R1 – Open Space – Protection

<u>NEIGHBOURHOOD PLAN</u>
There is no adopted Neighbourhood Plan for the area.

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).

The level of consistency of the policies contained within the Basildon District Local Plan (1998 and 1999) has been considered by Basildon Council through a compliance review.

Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

Basildon Council submitted the Basildon Borough Local Plan 2014-2034 to the Secretary of State in March 2019. Modifications have been required and a consultation is expected in 2022 prior to an Examination Hearing likely later in 2022. As such, emerging policies are a material consideration but have limited weight and have not been referenced in detail in the report.

4. CONSULTATIONS

Summarised as follows:

BASILDON BOROUGH COUNCIL (Planning) – No comments received.

BASILDON BOROUGH COUNCIL (Environmental Health) – A Phase II Site Investigation is recommended. Suggests conditions.

PLACE SERVICES (Urban Design) – No objection, subject to a condition relating to building materials.

Recommends that details of hard landscaping are provided.

PLACE SERVICES (Landscape) – No objection, subject to conditions relating to submission of a landscaping scheme and a landscape management plan.

Makes recommendations relating to the hedge mix and requests hard landscaping details.

PLACE SERVICES (Ecology) – No objection, subject to a condition requiring compliance with the recommendations for compensation and enhancement in the submitted Preliminary Ecological Appraisal and the Biodiversity Enhancement Strategy.

PLACE SERVICES (Trees) - No objection, subject to a condition requiring compliance with the submitted Arboricultural Method Statement.

ESSEX FIRE AND RESCUE – No objection.

Provides standard advice relating to access, building regulations, water supplies and sprinkler systems.

UTILITIES – Requests the addition of informatives in relation to gas and water infrastructure.

Notes that Basildon Water Recycling Centre will have capacity for foul drainage associated with this development.

The preferred method of surface water disposal would be to a sustainable drainage system with connection to sewer as the last option.

HIGHWAY AUTHORITY – No objection, subject to conditions relating to:

- Improvements to the site access to facilitate pedestrian movements prior to occupation;
- Provision of the proposed vehicular turning facility prior to occupation;
- Minimum parking space dimensions;
- Provision of cycle parking;
- No surface water discharge to the highway;
- No unbound material in the surface treatment of the vehicular access;
- Adherence to the proposed construction vehicle parking, loading and storage areas and wheel washing facilities;
- Implementation of a School Travel Plan.

Comment: A School Travel Plan is appropriately requested via planning informative.

LEAD LOCAL FLOOD AUTHORITY – No objection, subject to conditions.

LOCAL MEMBER – BASILDON – Pitsea – Any comments received will be reported.

5. REPRESENTATIONS

32 properties were directly notified of the application. 4 letters of representation, including 1 letter representing the views of several residents, have been received. These relate to planning issues, summarised in the following section.

The applicant has also carried out a pre-application public consultation in accordance with the Adopted Statement of Community Involvement.

Observation	Comment
More control required over children attending the school. Damage caused to properties.	This comment has been forwarded to the applicant. The school has stated that it is committed to good neighbour relations and welcomes resident feedback.
The school is a bad neighbour, with children spending much of the day outside the school gates smoking.	This comment has been forwarded to the applicant. The school has stated that staff monitor pupils at break times and that the proposed improved facilities would help reduce pupils going off site.
Fairview Road is a narrow, quiet no-through road and would have additional and heavier daily traffic.	See appraisal.
Pollution and wear and tear on Fairview Road from additional traffic.	See appraisal.
Extra noise and disruption to residents including blocked driveways from additional pupils.	See appraisal.
The speed of staff driving along Fairview Road should be looked at.	This is outside of the Planning realm, but the comment has been forwarded to the applicant and the school welcomes communication with residents.
The proposal for use by 100 pupils (of which 70 would be on-site) is a waste of money. Residents have counted around 6 pupils on site per day.	Proposed pupil numbers have been clarified. See appraisal.
The proposed provision for 70 pupils on site and 30 off site would be a significant increase in physical numbers attending. Monitoring over the last 4 years suggests never any more than 20 attending daily.	Proposed pupil numbers have been clarified. See appraisal.
If there is no pupil increase, why is there a need for a two-storey building.	See appraisal.
The school is currently closed and pupils are being managed by the other two CSS schools, so why are 3 needed?	The school is not currently closed. Pupils would be temporarily educated at another site during construction, but this is not a long term solution.

No provision for securing the site during open hours, putting pupils at risk.	A ‘secure fencing line’ is proposed internally and along the school frontage. Gates could be closed but this would be up to the school to manage.
Clarity required over trees proposed to be felled as drawings are contradictory.	See appraisal.
Existing boundary fencing for adjacent neighbours is not adequate, leading to concerns over privacy and verbal abuse from pupils.	Replacement fencing is not proposed unless damaged during construction. Pupils are monitored by staff and are challenged on the use of inappropriate language.
Unclear what the reference to 2 parking spaces in Fairview Road is.	2 visitor parking bays are proposed at the site entrance just outside the secure site line. See appraisal.
The proposed 2 unsecure parking spaces outside of the school gates would increase current illegal/undesirable activity taking place.	2 visitor parking bays are proposed at the site entrance just outside the secure site line. See appraisal.
The temporary rear access would be a preferable permanent main entrance rather than using Fairview Road.	Permanent use of this access is not proposed as part of this application and has therefore not been considered.
The application is being pushed through in a pandemic with no direct notification of a residents’ meeting to the person objecting.	Planning services have continued throughout the pandemic, as required by the Government. The applicant undertook a public consultation prior to submission of the application, notifying residents within 150m of the application site. An online consultation was provided initially and followed up with an in-person meeting.
The CEMP misrepresents the streets by using photographs with low traffic levels and parked vehicles.	An officer has visited the site. The application as a whole is considered to adequately assess highway capacity.
Lack of continuity between submitted documents. E.g., the D&A Statement makes no reference to the rear access shown in the CEMP.	Noted. The proposed construction access to the rear is discussed in the appraisal.
Disconnect between a. the stated “70 on-site pupils and 30 outreach pupils” in the “Design & access	Proposed pupil numbers have been clarified. See appraisal.

statement”, b. the current on-site levels of only a half dozen pupils, c. the repeated assertion at the resident consultation meetings of no change in on-site pupil levels.	
Windows at the side of the school would overlook 16 gardens and could also potentially allow pupils to see into the actual properties of 5 of them. This is a privacy concern.	See appraisal.
All properties facing the school are bungalows which have not been permitted to extend their roofline. Residents have not been allowed roof windows/garden playhouse due to facing the school.	Noted. See appraisal.
The proposed 8 trees would not give privacy due to their position and losing leaves in winter, also affecting sight and sound pollution.	See appraisal.
The rear garden fence adjoining the sports area is open fencing that needs a brand-new solid wall.	There is no proposal to amend this fence line.
A 20mph speed limit was previously proposed by residents but has not been included.	This is not proposed as part of the application.

6. APPRAISAL

The key issues for consideration are:

A. Need
B. Policy Considerations
C. Amenity Impact
D. Design
E. Traffic and Highway Impact
F. Ecology and Trees
G. Flood Risk and Drainage

A NEED

Paragraph 95 of the NPPF states:

‘*It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications…’

Fairview Alternative Provision School is proposed as one of 3 main centres under the South Essex Children’s Support Service (CSS). The CSS is a short stay provision which accepts referrals from local schools and the local authority. They educate and support children through individually tailored learning programmes in positive, safe and caring environments, where they have opportunities to reach their full potential.

The development would deliver KS3/KS4 places, of which 70% would be for behavioural purposes and 30% health. There would be around 30 pupils on site at any one time, together with staff to offer individual or outreach support. Up to 70 pupils would use the site on various days and times throughout the week. This is a continuation of the service currently offered by the school at Fairview and pupil numbers are not proposed to increase as a result of the development.

The existing buildings were largely built in the 1970s and require replacement to improve the education environment.

The need for the development to provide appropriate learning accommodation is accepted and given great weight in accordance with para 95 of the NPPF.

B POLICY CONSIDERATIONS

As stated previously in the report, at the heart of the Framework is a presumption in favour of sustainable development.

Whilst the 3 objectives (economic, social and environmental) are not criteria against which every decision can or should be judged, it is useful to consider that the importance of appropriate teaching facilities within the local area would contribute to the wider social and economic prosperity of children.

The environmental objective will be considered throughout the report.

The main policy allocation for the application site is BLP Policy BAS R1 (Open Space), which requires:

‘Within the urban areas, planning permission will not be granted for development of open space which would cause significant harm to the recreational or amenity value of the open space, or to the contribution which the open space makes to the character of the area within which it is located.’

Para 98 of the NPPF states:

‘Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.’

Para 99 of the NPPF states:

‘Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

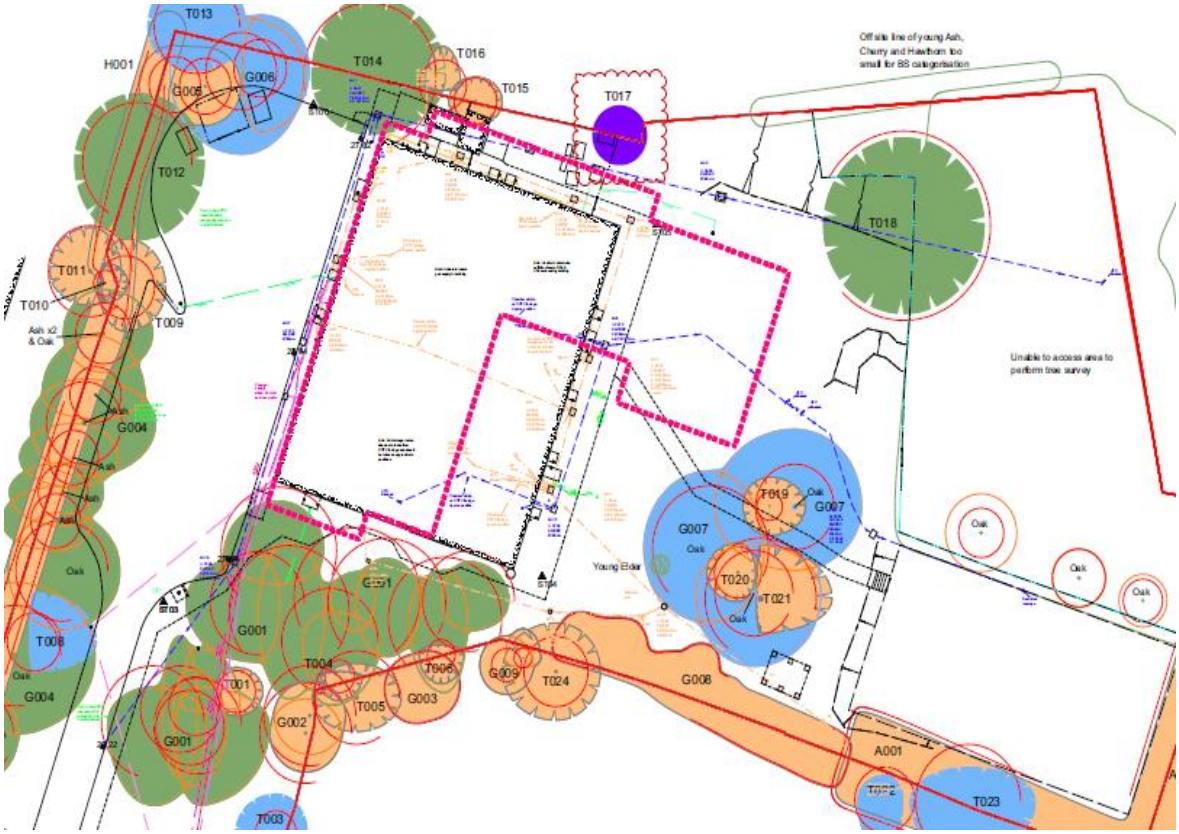
(a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

(b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

(c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.’

The open space designation is allocated on the land to the east of the existing building, as shown in Section 3 of the report.

The proposed building would encroach beyond the existing building, shown by the black line, and into the open space designation to the east to the extent shown by the pink dashed line below:



Whilst only limited weight is given to it, the emerging Basildon Local Plan also allocates the area as ‘playing fields associated with education facilities’.

The proposed development would meet or exceed all of the external space requirements of BB104, except for soft informal space. The recommended space cannot be met through the proposed design and is not met by the existing site. It is noted that the design process has had regard to alternative proposals to include additional storey heights to reduce the loss of soft informal play, however this has been determined to be unfeasible. However, for Alternative Provision schools such as that proposed, PE activities may not be suitable for all pupils. The existing MUGA, together with the proposed exceedance in other space requirements, would be considered to meet the requirements of Para 99 of the NPPF. In addition, the proposed sports hall would further offset the reduction in outdoor PE space with an indoor sports facility that could be used in all weathers.

Taking account of the special requirements of the education facility proposed, it is considered that, although there would be a light encroachment into the open space designation, the development would comply with BLP Policy BAS R1 and the relevant paragraphs of the NPPF.

C AMENITY IMPACT

As set out further in Section D of the report, the NPPF, in summary, requires development to add to the overall quality of the area and be sympathetic to its surroundings. Paragraph 174 of the NPPF further requires, in summary, that new and existing development should not contribute to or be put at unacceptable risk by, unacceptable levels of noise pollution, for example.

Visual

The residential properties located nearest to the proposed building are situated along the southern boundary in Fairview Road (bungalows) and along the western boundary in Frettons. Properties in Timberlog Lane to the east do not directly adjoin the site.

The boundary of the properties in Fairview Road would be approximately 13.5m from the proposed building at the closest point. The actual buildings of the properties would be located over 40m from the façade of the proposed building due to the relatively long gardens.

The boundary of the properties to the west would be located over 25m from the proposed building.

Although not strictly applicable (as it relates to residential developments), but still useful as a guide, the Essex Design Guide references a desirable minimum distance of 25m between the rear facades of residential properties with habitable rooms. The proposed development would be in excess of this.

It is not considered that there would be any daylight/sunlight issues in relation to the proximity of the school building to residential properties. For example, the Essex Design Guide references a spacing of at least 10m between opposing

house-fronts in order to ensure no adverse effect on the daylight and sunlight received by neighbouring properties. As above, the distance between surrounding properties and the proposed building is in excess of this.

In terms of overlooking and privacy, it is considered that the most sensitive boundary would be that of the properties to the south in Fairview Road. There are no proposed windows at first floor level on the southern elevation facing Fairview Road. On the eastern elevation, the nearest first floor window to Fairview Road would be located in a corridor, and another smaller window in a stairwell. Other first floor windows on the eastern elevation would be located around 22m from the boundary of the nearest property on Fairview Road and around 50m from the façade of the nearest property and would not face the properties to the south. In addition, louvred screens are proposed to a portion of the opening to further assist in limiting views.

As stated previously in the report, the site is subject to a Tree Preservation Order and includes a number of larger trees, particularly towards the south-west of the site. The application states that these trees provide partial screening due to a lack of understorey planting and, accordingly, includes proposals to enhance the below canopy habitat with additional planting. Boundary hedging is also proposed, and the Landscape Officer has recommended a suitable planting mix. It is considered that the detail of the proposed planting could be required via condition in the event of approval.

Noise

As stated, the development is not proposed to increase pupil numbers on site. Therefore, it is considered that there would not be any significant change in activity or noise in comparison to existing levels.

The existing MUGA would continue to be utilised. No community use is proposed.

A noise report accompanies the application and suggests that plant noise is controlled to minimise to minimise potential impact on residents. A condition relating to this is common for school developments and, as such, it is considered that suitable wording could be applied in the event of approval.

Therefore, subject to conditions, it is considered that the proposed development would not unacceptably impact on local amenity in compliance with the NPPF.

D DESIGN

Para 126 of the NPPF states:

‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.’

Para 130 of the NPPF requires that planning decisions:

‘(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

The proposed development would replace the existing building with a two-storey building which would form part of the secure line within the site. A single storey 'link' area would encompass the dining and social spaces of the school, visually separating the teaching block and the sports hall. This would provide a smaller scale frontage to the proposed south facing external courtyard.

The 'link' area would lead through to the larger height main hall, which it is considered would be appropriately placed further away from existing residential properties and towards the northern edge of the site.

Proposed West Elevation

Proposed East Elevation

Proposed North Elevation

Proposed South Elevation

The building is proposed as a modern build with effective ventilation, heating, cooling and natural light. Photo-Voltaic (PV) Panels are proposed to power the building when in use and feed into the grid when it is not, thereby reducing the energy demands of the building.

The proposed external materials would be red/brown brick at ground floor and grey coloured render at first floor level. Following pre-application discussions, this has been proposed in a grey colour to give longevity in a site containing a relatively large number of taller trees. The render would also be of a specification to provide natural resistance against algae and fungus growth.

The ECC Urban Design specialist has raised no objection to the proposals and is satisfied with the design strategy. The specialist has commented that the success of the scheme lies greatly within the quality of the built form, and as such has recommended a condition requiring full details of materials. It is considered that such a condition could be reasonably imposed in the event of approval.

It is therefore considered that, subject to conditions, the proposed design would meet the requirements of the NPPF.

E TRAFFIC AND HIGHWAY IMPACT

In summary, Section 9 of the NPPF requires that proposals demonstrate that development does not result in unacceptable levels of traffic on the highway network, and where there are potentially detrimental impacts, that this has been successfully mitigated. It also requires that appropriate opportunities to promote sustainable transport are taken up.

Para 111 of the NPPF states that:

'*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*.'

As stated, access/egress to/from the site is proposed via the existing route off Fairview Road. The application proposes to alter the bellmouth to include a dropped kerb crossing point, as required by the Highway Authority.

The application includes a Transport Statement based on a proposed 100 pupil places. It has been clarified that the proposed number of pupils on site at any one time would be around 30, with up to 70 pupils using the site at various times throughout the day and week. As has been noted previously in the report, this would be a continuation of the service currently offered at the site and pupil numbers would not be increasing.

Based on the Transport Statement, the development would generate an additional 5 trips by private car during AM and PM peak times. This would have negligible impact which could be safely accommodated within the highway capacity. However, as stated, the proposal, would actually not include any increase in pupils so the Transport Statement represents an overestimation of traffic generation.

The Highway Authority has considered the application and has no objection, subject to conditions.

The assessment of how pupils travel to and from school shows most travel by bus, and then an even split between mini-bus, taxi, walking, cycling, train and car drop-off.

In response to concerns regarding construction traffic along Fairview Road raised during the pre-application community engagement process, the applicant has proposed the use of an alternative construction access for a temporary period of around 12 weeks. This would facilitate the larger construction/demolition vehicles and machinery to access the site via the social club land to the north of the application site and out onto South Riding and Long Riding.

It is noted that this alternative construction access, which travels across separately owned land, has not been included within the red line application boundary. The applicant has chosen to rely on deemed consent conveyed by the Town and County Planning (General Permitted Development) (England) Order 2015, as follows:

<u>PART 4 - Temporary buildings and uses</u>

Class A – temporary buildings and structures

Permitted development

A. *The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.*

Development not permitted
A.1 Development is not permitted by Class A if -

(a) the operations referred to are mining operations, or
(b) (b)planning permission is required for those operations but is not granted or deemed to be granted.

Conditions
A.2 Development is permitted by Class A subject to the conditions that, when the operations have been carried out –

(a) any building, structure, works, plant or machinery permitted by Class A is removed, and
(b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out.

Any planning permission granted would not refer to or control the alternative route and its implementation. However, the applicant has confirmed that the route is genuinely proposed and available for use in the event that planning permission is granted for the development the subject of this application.

The Highway Authority has confirmed that there would be no objection in principle to the use of either route.

With regard to parking provision, the Essex Parking Standards: Design and Good Practice (September 2009) requires a maximum of 1 vehicle space per 15 pupils (plus 1 bay or 5% for disabled parking) and a minimum of 1 cycle space per 5 staff plus 1 cycle space per 3 pupils.

The school currently provides 20 parking spaces. 40 parking spaces are proposed, including disabled bays. 2 of these parking spaces would be located outside of the school gates within land owned by the applicant.

The school currently has 5 uncovered cycle spaces. The proposal would increase this to 16 secure covered cycle spaces. It is proposed that a condition could be imposed to control the design of the cycle parking.

With a proposed approximate 30 pupils at any one time (and up to 60 pupils throughout the day) and approximately 30 staff, the proposed level of parking would be much higher than the maximum. However, the Standards state that:

'*Special schools can be varied in their requirements and should be looked at on their own merits. Special Schools parking/drop off arrangements must be taken into consideration as generally extra staff are required and most pupils/ students arrive by taxi or car.'*

In light of this, the applicant has justified a higher level of parking due to the number of staff attending each day, the benefit of providing enough parking on site to ensure minimal disruption to Fairview Road, and to accommodate parking for changeover times throughout the day and for pupils with medical needs.

A framework Travel Plan has been included with the application and, as per the usual approach, it is proposed that a School Travel Plan would be requested via

planning informative in the event of approval.

Therefore, subject to conditions as suggested by the Highway Authority, it is considered that the proposed development would not have unacceptable impact on highway safety or capacity, in compliance with the NPPF.

F ECOLOGY AND TREES

Section 15 of the NPPF relates to conserving and enhancing the natural environment. Paragraph 170 d) states that decisions should minimise impacts on and provide net gains for biodiversity; paragraph 175 a) requires development proposals to mitigate any significant harm to biodiversity where it cannot be avoided.

One Category A and one Category C tree would be removed as a result of the development. It is noted that, as a result of pre-application discussions, the scheme was altered prior to submission to ensure that the minimum number of high-quality trees would be removed.

The Tree Officer has no objection, subject to adherence to the submitted details, and has commented that, as multiple new trees are proposed to mitigate the loss of these trees, it is considered that this initial loss, although undesirable, would allow the scheme to progress. The planting, in time, would mitigate for the loss.

Additional tree planting has been proposed in compensation for the loss of trees and for bird nesting habitat.

Protection measures are proposed to ensure existing trees are not damaged throughout construction. It is considered that these measures could be required by condition in the event of approval.

Reasonable biodiversity enhancements have been proposed to secure measurable net gains for biodiversity, as required by the NPPF. This includes a native/species rich hedgerow along the southern boundary, three integrated bat boxes, five swift boxes integrated or wall mounted on the new building, a hedgehog house within the area of dense scrub, and areas of pollinator friendly planting. These measures could be secured via condition in the event of approval.

With the proposed compensation and enhancement measures secured via condition, it is considered that the proposed development would comply with the biodiversity requirements of the NPPF.

G FLOOD RISK AND DRAINAGE

As stated, the application site is situated within Flood Zone 1 – the flood zone with low probability of flooding.

The NPPF, at Para 167, requires that local planning authorities should ensure that flood risk is not increased elsewhere when determining planning applications. Accordingly, the proposal includes consideration of flood risk and sustainable drainage.

The Lead Local Flood Authority has raised no objection, subject to conditions. It is considered that such conditions could be reasonably imposed in the event of approval.

It is therefore considered that the proposed development appropriately deals with flood risk and drainage and, subject to the imposition of conditions, would comply with the relevant sections of the NPPF.

7. CONCLUSION

The need for the development to provide appropriate learning accommodation is accepted and given great weight in accordance with para 95 of the NPPF.

The main policy consideration from the Adopted Basildon Local Plan is BLP Policy BAS R1. Taking account of the special requirements of the education facility proposed, it is considered that, although there would be a slight encroachment into the open space designation, the development would comply with BLP Policy BAS R1 and the relevant paragraphs of the NPPF.

The layout and siting of the development has been carefully considered in relation to the footprint of the existing building and the surrounding land uses, particularly the impact on the properties to the south. Although two-storey in height, it is considered that the distance from the site boundaries and the placing of the first floor windows would not result in an overbearing building or direct overlooking. Further, the use of the site is not proposed to significantly alter, with pupil numbers remaining consistent with the existing level of use. Therefore, there would not be significant impact on amenity, in compliance with the NPPF.

The design of the building proposes the use of quality materials and the form and massing is considered appropriate for the site, following a design narrative set out in the application. The use of PV Panels would reduce energy demand. This is in compliance with the NPPF.

The proposal would not result in unacceptable levels of traffic on the highway and there are no capacity or safety concerns, in compliance with the NPPF. The developer has committed to providing an enhanced entrance from Fairview Road and this could be controlled via condition. The proposed parking numbers are considered to be acceptable and in compliance with the Essex Parking Standards.

It is considered that the scheme minimises tree loss. The application includes biodiversity compensation and enhancement measures for the loss of trees in particular, in compliance with section 15 of the NPPF.

There are no concerns around flood risk and drainage has been adequately assessed as required by the NPPF.

Overall, and in addition to the economic and social strands, it is considered that the proposed development would meet the environmental strand of ‘sustainable development’ as set out in the NPPF. There is therefore considered to be a presumption in favour of the development.

With the imposition of conditions, it is therefore considered that the proposed development would be acceptable.

8. RECOMMENDED

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, planning permission be granted subject to the following conditions:

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

   Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the details submitted by way of application reference CC/BAS/102/21 dated 24th November 2021, drawings referenced:

   - Site Location – 20260-SI-AAA-XX-DR-A-1170 S2 Rev P02 dated 06/10/21;
   - Existing Site Plan – 20260-LSI-AAA-XX-DR-A-1171 S2 Rev P06 dated 14/02/22;
   - Site Demolition – 20260-LSI-AAA-ZZ-DR-A-1200 S2 rev P02 dated 21/10/21;
   - Site Block Plan – 20260-LSI-AAA-XX-DR-A-1175 S2 Rev P02 dated 21/10/21;
   - Proposed General Arrangement Plan – Ground Floor – 20260-LSI-AAA-GF-DR-A-1300 S2 Rev P04 dated 26/10/21;
   - Proposed General Arrangement Plan – First Floor – 20260-LSI-AAA-01-DR-A-1301 S2 Rev P04 dated 21/10/21;
   - Proposed General Arrangement Plan – Roof – 20260-LSI-AAA-02-DR-A-1302 S2 Rev P04 dated 21/10/21;
   - Site Constraints – 20260-LSI-AAA-XX-DR-A-1172 S2 Rev P08 dated 14/02/22;
   - Proposed General Arrangement Elevations – GA Elevations – 20260-LSI-AAA-ZZ-DR-A-1350 S2 Rev P04 dated 21/10/21;
   - Proposed General Arrangement Elevations – Site Elevations Sheet 01 – 20260-LSI-AAA-ZZ-DR-A-1351 S2 rev P06 dated 21/10/21;
   - Proposed General Arrangement Elevations – Site Elevations Sheet 02- 20260-LSI-AAA-ZZ-DR-A-1352 S2 Rev P06 dated 21/10/21;
   - Site Access – 20260-LSI-AAA-XX-DR-A-1173 S2 Rev P05 dated 26/01/21;
   - Proposed General Arrangement Sections – 20260-LSI-AAA-ZZ-DR-A-1370 S2 Rev P04 dated 21/10/21;
   - Landscape Concept Design - 20173-D3-02 Rev 05 dated 24/11/21;
   - Landscape Concept Design - 20173-D3-01 Rev 11 dated 15/11/21;
   - Foul and Surface Water Drainage Strategy – 2103-553-001 Rev J dated 03/02/22

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

Reason: For the avoidance of doubt as to the nature of the development herby permitted, to ensure the development is carried out in accordance with the approved application details, to ensure that the development is carried out with minimum harm to the local environment and to comply with Basildon District Local Plan and Alterations (1998 and 1999) Policy BAS R1 (Open Space – Protection) and the National Planning Policy Framework.

3. No development shall take place beyond the installation of a damp proof membrane until a landscape scheme has been submitted to and approved in writing by the County Planning Authority. The scheme shall include details of areas to be planted with species, sizes, spacing, protection and programme of implementation and maintenance. The scheme shall also include details of any existing trees and hedgerows on site with details of any trees and/or hedgerows to be retained and measures for their protection during the period of demolition and construction of the development. The scheme shall be implemented within the first available planting season (October to March inclusive) following completion of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with Condition 4 of this permission.

   Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity and to comply with the National Planning Policy Framework.

4. Any tree or shrub forming part of a landscaping scheme approved in connection with the development under Condition 3 of this permission that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of the development shall be replaced during the next available planting season (October to March inclusive) with an appropriate species of tree or shrub the details of which shall have received the prior written approval of the County Planning Authority.

   Reason: In the interest of the amenity of the local area, to ensure development is adequately screened and to comply with the National Planning Policy Framework.

5. No development shall take place beyond the installation of a damp proof membrane until details of the materials to be used for the external appearance of the building, fences and hard landscaping surfaces have been submitted to and approved in writing by the County Planning Authority. The details shall include the materials, colours and finishes to be used on all buildings, hard landscaping surfaces and fences. The development shall be implemented in accordance with the approved details.

   Reason: In the interest of the amenity of the local area and to comply with the National Planning Policy Framework.

6. The development hereby permitted shall take place in full accordance with the submitted Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan Rev B by Hayden's Arboricultural Consultants dated 05/11/21 and the submitted Arboricultural Method Statement drawing ref 8727-D-AMS Rev B dated 03/11/21.

   Reason: In the interest of visual amenity, to ensure protection for the existing natural environment and to comply with the National Planning Policy Framework.

7. The development hereby permitted shall take place in full accordance with the recommendations for compensation and enhancement in the submitted Preliminary Ecological Appraisal ref BCE4693 Version 2 dated April 2021 by Practical Ecology and the Biodiversity Enhancement Strategy V1 by Practical Ecology dated 27/04/21.

   Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and to comply with the National Planning Policy Framework.

8. Prior to beneficial occupation of the development hereby permitted, details of improvements to the existing site access shall have been submitted to and approved in writing by the County Planning Authority. The details shall include provision for the existing footway on the western side of the site access, as indicated on drawing ref 20260-LSI-AAA-XX-DR-A-1173 S2 Rev P05 dated 26/10/21 (Site Access), to be extended around the bellmouth to a suitable termination point and provided with a dropped kerb pedestrian crossing point. The improved access shall be implemented in accordance with the approved details prior to beneficial occupation of the development hereby permitted.

   Reason: In the interests of highway safety and to comply with the National Planning Policy Framework.

9. Prior to occupation of the development hereby permitted, the vehicular turning facility, as shown on drawing ref 20260-LSI-AAA-XX-DR-A-1173 Rev P05 dated 26/10/21 (Site Access) shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

   Reason: In the interests of highway safety, to ensure the free-flow of traffic on the public highway and to comply with the National Planning Policy Framework.

10. Parking spaces, as shown on drawing ref 20260-LSI-AAA-XX-DR-A-1173 S2 Rev P05 dated 26/10/21 (Site Access), shall be laid out with minimum dimensions in accordance with the Essex Parking Standards: Design and Good Practice September 2009.

    Reason: In the interests of highway safety, to ensure the free-flow of traffic on the public highway and to comply with the National Planning Policy Framework.

11. No beneficial occupation of the development hereby permitted shall take place until details of covered cycle parking provision, as indicated on drawing ref 20260-LSI-AAA-XX-DR-A-1173 Rev P05 dated 26/10/21 (Site Access) have been submitted to and approved in writing by the County Planning Authority.

    The details shall include the design, location and number of spaces for cycle parking to be provided prior to the beneficial occupation of the development hereby permitted. The development hereby permitted shall be carried out in accordance with the approved details and shall thereafter be retained and maintained for the duration of the development hereby permitted.

    Reason: In the interest of highway safety, to ensure the free-flow of traffic on the public highway and to comply with the National Planning Policy Framework.

12. There shall be no discharge of water from the development onto the public highway.

    Reason: In the interests of highway safety and to comply with the National Planning Policy Framework.

13. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

    Reason: In the interests of highway safety and to comply with the National Planning Policy Framework.

14. Throughout the period of demolition of the existing buildings and construction of the development hereby permitted, the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in demolition and constructing the development, and wheel and vehicle underbody washing facilities shall take place only in accordance with the Construction Environment Management Plan prepared by Barnes Construction ref BC1919 dated November 2021.

    Reason: In the interest of highway safety and for protection of amenity and for compliance with the National Planning Policy Framework.

15. The Rating Level of noise emitted from the site's fixed plant at nearby residential premises, to be agreed in advance in writing with the County Planning Authority, shall not exceed the representative background sound levels, when assessed in accordance with BS 4142.

    Prior to beneficial occupation of the development hereby permitted, the applicant shall submit details of the fixed plant to demonstrate compliance with this requirement. As part of this, the applicant shall agree the Rating Level limits with the County Planning Authority.

    Reason: In the interests of amenity and to comply with the National Planning Policy Framework.

16. No demolition or construction work shall take place outside of the following times, except for internal works inaudible at the site boundary:

    0800 – 1800 hours Monday to Friday
    0800 – 1300 hours Saturdays

    and there shall be no working on Sundays or Bank or Public Holidays.

    Reason: In the interests of amenity and to comply with the National Planning Policy Framework.

17. No fixed lighting shall be erected or installed on-site until details of the location, height, design, luminance and operation have been submitted to and approved in writing by the County Planning Authority. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details to be submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed. Furthermore a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties, highways and ecology. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

    Reason: To minimise the nuisance and disturbances to neighbours, ecology and the surrounding area and to comply with the National Planning Policy Framework.

18. No development, except demolition, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the County Planning Authority.
    The scheme should include but not be limited to:
    • Final modelling and calculations for all areas of the drainage system.
    • The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
    • Detailed engineering drawings of each component of the drainage scheme.
    • A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
    • A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

    The development shall take place thereafter in accordance with the approved scheme.

    Reason: To minimise the risk of pollution of water courses and aquifers, minimise the risk of flooding to comply with the National Planning Policy Framework.

19. Prior to beneficial occupation of the development hereby permitted, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall have been submitted to and agreed, in writing, by the County Planning Authority. The plan shall include details of long term funding arrangements if any part of the drainage system is maintainable by a maintenance company. The development shall be maintained thereafter in accordance with the approved plan.

    Reason: To minimise the risk of pollution of water courses and aquifers, minimise the risk of flooding to comply with the National Planning Policy Framework.

20. The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved maintenance plan. These must be available for inspection upon a request by the County Planning Authority.

    Reason: To minimise the risk of pollution of water courses and aquifers, minimise the risk of flooding to comply with the National Planning Policy Framework.

21. Prior to beneficial occupation of the development hereby permitted, the existing pipes within the extent of the site, which will be used to convey surface water, shall be cleared of any blockage and restored to a fully working condition.

    Reason: To minimise the risk of pollution of water courses and aquifers, minimise the risk of flooding to comply with the National Planning Policy Framework.

22. If identified as being required following the completion of the desk-top, a site investigation shall be carried out prior to commencement of development to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed, taking into account the application site's existing status and proposed new use. One PDF copy of the site investigation and findings shall be forwarded to the County Planning Authority without delay, upon completion.

    Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and for compliance with the National Planning Policy Framework.

23. A written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site, shall be submitted to and approved in writing by the County Planning Authority prior to commencement of development and all requirements shall be implemented and completed to the satisfaction of the County Planning Authority. No deviation shall be made from this scheme without the express written agreement of the County Planning Authority. If during redevelopment contamination not previously considered is identified, then the County Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and approved in writing with the County Planning Authority.

    Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and for compliance with the National Planning Policy Framework.

24. Following completion of measures identified in the remediation scheme, one PDF copy of a full closure report shall be submitted to and approved in writing by the County Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met. The closure report shall include a completed certificate, signed by the developer, confirming that the required works regarding contamination have been carried out in accordance with the approved written method statement. A sample of the certificate to be completed is available in Appendix 2 of Land Affected by Contamination: Technical Guidance for Applicants and Developers.

    Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and for compliance with the National Planning Policy Framework.

25. Prior to beneficial occupation of the development hereby permitted, full details of the design, dimensions and location of the proposed bin store, as indicated on drawing ref 20173-D3-01 Rev 11 (Landscape Concept Design) dated 15/11/21, shall have been submitted to and approved in writing by the County Planning Authority. The bin store shall be implemented in accordance with the approved details prior to the beneficial occupation of the development hereby permitted.

    Reason: In the interests of local amenity and for compliance with the National Planning Policy Framework.

BACKGROUND PAPERS

Consultation replies
Representations

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

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

Therefore, it is considered that an Appropriate Assessment under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) 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

BASILDON - Basildon Pitsea

AGENDA ITEM 6.1

DR/10/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)
Information Item: MINERALS AND WASTE DEVELOPMENT – Enforcement of Planning Control
Ref: ENF/1155
Location: Widdington Pit, Hollow Road, Widdington, CB11 3SL
Report author: Chief Planning Officer (County Planning and Major Development)
Enquiries to: George Stockdale Tel: 03330 137555

1. SITE

Widdington Pit is accessed via a single lane track which connects to Hollow Road to the west of Widdington village. This road to the west joins to North Hall Road, and the B1383 which connects to Saffron Walden and Bishops Stortford. The nearest residential properties are located to the southwest and northeast along Hollow Road approximately 200m from the site.

The site benefits from time limited planning permissions for the excavation of sand with restoration of the quarry void with inert waste back to an agricultural use (application ref: ESS/35/18/UTT) and for a skip hire, waste recycling, waste transfer and waste composting facility/operation (application ref: ESS/30/19/UTT). Numerous safeguarding conditions are attached to the extant planning permissions including a restriction to permitted hours of operation.

2. BACKGROUND

The Council first started receiving complaints alleging that the site was operating outside the approved hours of operation in summer 2021. Officers subsequently visited the site, unannounced in the early hours, and witnessed that the site or more precisely operations within the site yard (as covered by planning application ref: ESS/30/19/UTT) were taking place before 07:00am.

Condition 4 attached to planning permission ref: ESS/30/19/UTT details:

Operations authorised or required by this permission (including temporary operations) shall only be carried out between the following times:
07:00 to 18:30 hours Mondays to Fridays
07:00 to 13:00 hours Saturday
And at no other time or on Sundays, Bank and Public Holidays

For the avoidance of doubt, all vehicles in excess of 7.5t gross vehicles weight and contractors' vehicles in excess of 3.5t gross vehicle weight associated with the operations shall not be allowed to enter or leave the site outside these times.

The operator was warned by officers, reminded of the permitted hours of operation and informed that should operations continue outside the permitted hours that enforcement action may be taken.

Late January 2022 further complaints were received about early morning activity on site. Officers conducted further unannounced site monitoring and found the site again to be operating prior to the permitted start time of 07:00am. The site manager was informed on the day of the witnessed breach and that a Breach of Condition Notice would be issued.

3. CURRENT POSITION

A Breach of Condition Notice was served by the Council on the site operator (Widdington Recycling Limited) on the 09 February 2022. The Notice took effect immediately.

The Notice requires compliance with condition 4 as attached to planning permission ref: ESS/30/19/UTT and accordingly for the operator to:

1. Cease and not resume or permit to resume any operations on the site prior to 07:00 hours Monday to Friday or after 18:30 hours Monday to Friday.

2. Cease and not resume or permit to resume any operations on the site prior to 07:00 hours Saturday or after 13:00 hours Saturday.

3. Cease and not resume or permit to resume any vehicles in excess of 7.5t gross vehicle weight and contractor's vehicles in excess of 3.5t gross vehicles weight associated with the operations on the site to enter or leave the site outside of the hours 07:00 to 18:30 hours Monday to Friday and 07:00 to 13:00 hours Saturday.

The period for compliance is 28 days after the date the Notice took effect.

Officers will continue to monitor the site, undertaking further unannounced early site monitoring, to ensure compliance with the requirements of the Notice and the permitted hours of operation going forward.

LOCAL MEMBER NOTIFICATION

UTTLESFORD – Stansted

DR/11/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)
Information item: Enforcement of Planning control update
Report author: Chief Planning Officer (County Planning and Major Development)
Enquiries to: George Stockdale Tel: 03330137555

The full applications can be viewed at: http://planning.essex.gov.uk/

1. PURPOSE OF THE ITEM

To update members of enforcement matters for the period 01 November 2021 to 31 January 2022 (Quarterly Period 3).

2. DISCUSSION

A. Outstanding Cases

As at 31 January 2022 there are 29 outstanding cases. Appendix 1 shows the details of sites (21) where, after investigation, a breach of planning control is considered to have occurred.

B. Closed Cases

5 cases were resolved during the period 01 November 2021 to 31 January 2022

Local Member notification

Countywide

District: Basildon
Location: Belvedere Blind Lane Billericay
Nature of problem: Burning of waste and possible ELV
Remarks: Reports of burning of waste received from the Environment Agency. Ongoing multi-agency site monitoring, this case relates to the burning of waste, and it is considered that the EA are the appropriate authority to lead in this matter.

District: Basildon
Location: Heard Environmental, Terminus Drive, Pitsea Hall Lane, Pitsea SS16 4UH
Nature of problem: Stockpile heights
Remarks: Reports of the height of the material stockpiled exceeding that which is permitted. Ongoing site monitoring, further visits scheduled.

District: Braintree
Location: Straits Mill Bocking, Braintree CM7 9RP
Nature of problem: Carpet Recycling
Remarks: Non-compliance with Enforcement Notice requiring all waste to be removed from site. Fire at site in early December. EA considering prosecution on operators, ECC as the WPA are considering prosecuting landowners for non-compliance with the current Enforcement Notice.

District: Braintree
Location: Foxborough Hills, Halstead Road, Sible Hedingham CO9 3AN
Nature of problem: Land raising and waste importation.
Remarks: Reports of waste soil importation. ECC as WPA visited the site in December 2021 to discover large quantities of waste soil had been imported and land had been raised and levelled. Operations appeared to have stopped and no one contactable on site. Planning Contravention Notice served on landowners in early February. Currently waiting on response before considering enforcement response.

District: Braintree
Location: Bluegate Farm Braintree Road, Great Bardfield
Nature of problem: Importation of waste
Remarks: Land is currently being used as a material recovery/recycling facility. The current activities on the Land represent a change of use with activities principally relating to recovering, treating, storing, processing, sorting, transferring and depositing waste. Large stockpile of material on site screener in use and a crusher used as and when required a wheel washer in situ and a Permit was issued by EA in March 2020 to which the company are compliant. An application has not been submitted to retain the use of the land and a timescale has been agreed for the operators to cease activity and remove the waste from the land.

District: Brentwood
Location: Scrapyard at Ashwells Road, Pilgrims Hatch
Nature of problem: Alleged waste activities
Remarks: Reports of waste activities, namely importation and scrap operations. Contact has been made with BBC Enforcement Team and Environmental Health Officers who have carried out site visits. ECC as WPA are scheduled to visit in February.

District: Brentwood
Location: Land development at Beads Hall Lane, Pilgrims Hatch
Nature of problem: Development near a watercourse
Remarks: Reports of land related activities. Contact has been made with BBC Enforcement Team and Environmental Health Officers who have carried out site visits. ECC as WPA are

scheduled to visit in February.
District: Castle Point
Location: Adjacent Orchard Place A127, Benfleet
Nature of problem: Depositing of soil.
Remarks: Reports of waste soil and aggregate importation. Contact has been made with CDC and site visit carried out with them. Site going to be dealt with under lead of Castle Point and potentially EA. Site a district matter. ECC as the WPA will offer assistance where necessary.

District: Castle Point
Location: Unit 6 Scotts Yard, Northwick Road, Canvey Island SS8 0PU
Nature of problem: End of life vehicle recycling
Remarks: Reports of waste activities, namely ELV and scrap operations. Contact has been made with Environment Agency who have carried out site visits. ECC as WPA are scheduled to visit in February along with EA following the ECC & EA Joint Working Protocol

District: Chelmsford
Location: Land at Meadow Lane Runwell SS11
Nature of problem: Waste activities
Remarks: Multi-agency visit on the 10/02/2022 regarding ongoing waste issues. All agencies involved discussing best course of action regarding further enforcement at the site.

District: Chelmsford
Location: Land at Hollow Lane, Hollow Lane, Broomfield, Chelmsford CM1 7HG
Nature of problem: Waste activities
Remarks: The unauthorised Importation, deposition and spreading of waste, mainly soils and builders waste. A TSN was served on the 4th November 2019 to prevent any further importation or spreading of the waste. An Enforcement Notice was served on the 14th January 2020 for the removal of all waste material, full compliance with the notice served was due by the 11th September 2020. Further updates to follow.

District: Colchester
Location: Colchester Skip Hire, Green Acres, Old Packards Lane, Wormingford, Colchester, CO6 3AH
Nature of problem: Early morning monitoring
Remarks: Application ESS/15/19/COL as approved permits a specific number of vehicles to exit the site from 6:00am. These vehicle movements are controlled by planning conditions. Application ESS/11/21/COL was submitted to the Waste Planning Authority to vary the condition relating to the vehicle movements. This application was refused on the 22nd October 2021. Ongoing early morning site monitoring.

District: Epping Forest
Location: Norton Field Farm, Norton Lane, High Ongar, Ingatestone CM4 0LN
Nature of problem: Use of Land for waste recycling
Remarks: Part of the Land at Norton Field Farm is currently being used as an inert transfer/recycling facility. It would appear that construction and demolition waste is imported, processed/screened/crushed on-site and exported. The Landowners have a demolition/groundworkers company and consider that the use of the Land for recycling is Lawful. A certificate of Lawfulness has been submitted to ECC, as waste planning authority, the details submitted within the application are currently being considered. An update will be provided on the outcome of this application in due course.

District: Epping Forest
Location: Ashlyns Farm Open Windrow Composting site, Epping Road, Ongar CM16 6RZ
Nature of problem: Odour and Breach of Condition
Remarks: Reports of non-compliance with planning permission. ECC visited in November and found stockpile too high for planning permission. ECC gave a deadline to comply, and invited a joint inspection with the EA. During joint inspection, the stockpile heights have reduced, however, the site was still not complying with the Planning Permission (ECC) or Permit (EA). Both the EA and ECC are working on a joint enforcement approach to ensure the site complies with the Planning Permission (ECC) and Permit (EA).

District: Epping Forest
Location: Land adjacent to Harvey Automobile Engineering of Paynes Lane Nazeing EN9 2EX.
Nature of problem: Operating outside of their Certificate
Remarks: Waste soil being stored outside of CLUED. ECC as WPA set a deadline to clear the waste stockpile, however due to wet weather this was not achievable. ECC invited a joint inspection with the EA as it was believed stockpile was outside the EA's permitted boundary. Stockpile not compliant with Planning Permission (ECC) or Permit (EA). ECC and EA working towards a joint enforcement approach to ensure site is compliant with Planning Permission and Permit. Further inspections and monitoring necessary.

District: Maldon
Location: Bradwell Wicks Leisure Plots Maldon Road CM0 7HZ
Nature of problem: Importation of waste
Remarks: Importation, deposition. spreading and burning of waste in various locations on the Land. Multi Agency investigation, collected evidence including cataloguing the waste on site by type, volume and location. ECC as WPA did serve a TSN on the 25th June 2020 which required to cease the importation, spreading and burning of waste. The TSN expired on the 28th July 2020. Following any multi agency visit we have to consider the next steps and the best use of available powers to address any breaches of planning or environmental legislation disclosed by the site inspection. When it is apparent that enforcement action may be required by more than one body, ECC and the EA need to ensure there is no duplication of action and therefore a decision is made as to which authority has the appropriate powers to take the lead on a case. Due to the severity of the case as environmental waste crime, it is considered that the EA are the appropriate authority to lead any action in this case.

District: Rochford
Location: 3 Murrels Lane (Off Church Road) Hockley
Nature of problem: Importation of waste
Remarks: Landowner is in the process of clearing the land to ensure compliance with the notice served. COVID restrictions and wet weather have slowed the clearance down but landowner is keen to remove all material to comply with notice served.

District: Rochford
Location: Dollymans Farm, Doublegate Lane, Rawreth, Wickford, SS11 8UD
Nature of problem: Unauthorised mineral extraction
Remarks: Brought to January Committee as an Enforcement Report. Site was served a Stop Notice and an Enforcement Notice to cease unauthorised mineral extraction and refill void created. Site is still under notice and will be monitored to ensure compliance and assess if further enforcement is required.

District: Tendring
Location: Ragmarsh Farm, Harwich Road, Manningtree, CO11 2XW
Nature of problem: Agricultural land with soil stockpile.
Remarks: Reports of waste activities, namely soil importation and improvement, site visited and letter sent to landowner requiring information about the activities. Contact has been made with TDC asking for a joint inspection.

District: Uttlesford
Location: Widdington Recycling, Hollow Road, Widdington, CB11 3SL
Nature of problem: Operating outside permitted hours.
Remarks: Since Summer 2021, ECC have received complaints of the site operating outside their permitted operation hours. Following ECC's most recent monitoring visit, there was a breach of planning control therefore leading to the serving off a BCN. See separate information item.

District: Uttlesford
Location: Land at Armigers Farm, Thaxted, Great Dunmow CM6 2NN
Nature of problem: Working outside of CLUED. Installation of soil washing plant, creation of hardstandings for block making and installation of ready mix concrete plant.
Remarks: Visit undertaken in October 2021. Progress has been made to move soil into land within the certificate. However, the operator has installed a soil washing plant, created hard standings for block making and installed a ready mix concrete plant replacing a previous plant but in a different location on the site. Monitoring on going and a request for pre-application advice suggested to the operator.

District: Uttlesford
Location: Parkers Farm, Smiths Green Lane, Takeley, Bishops Stortford, CM22 6NY
Nature of problem: Potential waste recycling
Remarks: Reports of waste importation. Contact has been made with UDC regarding site and current planning permission. ECC as WPA are scheduled to visit in February.

AGENDA ITEM 6.3

DR/12/22

Report to: DEVELOPMENT & REGULATION (25 February 2022)
INFORMATION ITEM – Applications, Enforcement and Appeal Statistics
Report author: Chief Planning Officer (County Planning and Major Development)
Enquiries to: Emma Robinson – tel: 03330 131512 The full application can be viewed at: http://planning.essex.gov.uk/

1. PURPOSE OF THE ITEM

To update Members with relevant information on planning applications, appeals and enforcements, as at the end of the previous month, plus other background information as may be requested by Committee.

BACKGROUND INFORMATION

None.

Ref: P/DM/Emma Robinson/

MEMBER NOTIFICATION

Countywide.

MAJOR PLANNING APPLICATIONS	SCHEDULE
Nº. Pending at the end of December	35
Nº. Decisions issued in January	1
Nº. Decisions issued this financial year	27
Overall % in 13 weeks or in 16 weeks for EIA applications or applications within the agreed extensions of time this financial year (Target 60%)	96%
Nº. Delegated Decisions issued in January	1
Nº. applications where Section 106 Agreements pending at the end of January	10

MINOR APPLICATIONS	SCHEDULE
Nº. Pending at the end of December	4
Nº. Decisions issued in January	1
Nº. Decisions issued this financial year	26
% of minor applications in 8 weeks or applications within the agreed extensions of time this financial year (Target 70%)	100%
Nº. Delegated Decisions issued in January	1

ALL APPLICATIONS	SCHEDULE
Nº. Delegated Decisions issued in January	2
Nº. Committee determined applications issued in January	0
Nº. of Submission of details pursuant to conditions/legal conditions dealt with this financial year	193
Nº. of Submission of details pursuant to conditions/legal conditions pending at the end of January	39
Nº. of referrals to Secretary of State under delegated powers in January	0

APPEALS	SCHEDULE
Nº. of outstanding planning and enforcement appeals at end of September	0
Nº. of appeals allowed in the financial year	0
Nº. of appeals dismissed in the financial year	0

ENFORCEMENT	SCHEDULE
Nº. of active cases at end of December	27
Nº. of cases cleared this financial year	38
Nº. of enforcement notices issued in January	0
Nº. of breach of condition notices issued in January	0
Nº. of planning contravention notices issued in January	0
Nº. of Temporary Stop Notices issued in January	0
Nº. of Stop Notices issued in January	0