

Essex County Councils
Minerals & Waste Planning
County Hall
Chelmsford
Essex CM1 1QH



Your ref 21/0532/OUT
Our ref:
Date: 03 September 2021

Dear Sir / Madam

Nature of Response: To respond to the re-consultation on Application Reference 21/0532/OUT

Proposal: Outline Planning Application Comprising of 68 Residential Units, Three Class E (Commercial, Business and Service) Units, One B2 (General Industrial) Unit and Two B8 (Storage and Distribution) Units with Associated Access, Parking, Amenity Space, Strategic Landscaping and Noise Attenuation. Restoration and Improvement of Existing Estate Roads and Infrastructure.

Location: Land East Of Manor Trading Estate Benfleet Essex SS7 4PS

Thank you for your email received 1st September 2021 reconsulting the Mineral and Waste Planning Authority (MWPA) on the above proposals.

The application site forms the basis for the minerals and waste safeguarding assessment set out below.

This consultation response primarily seeks to address the conclusions drawn in the newly submitted Waste Infrastructure Impact Assessment (WIIA) supporting Application Reference 21/0532/OUT. For convenience, issues raised by the MWPA in its previously response which are not covered by the WIIA are subsequently repeated following the section on the WIIA.

A spatial representation of the application site and the matters discussed can be found in Appendix One. A list of relevant designations and specific facilities which would potentially be affected are listed, with their most recent planning application reference where relevant, in Appendix Two.

Waste Infrastructure Impact Assessment

The application site sits within a number of Waste Consultation Areas as shown in Appendix One and Appendix Two. Its location within these Waste Consultation Areas means that the application is subject to Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP). The WLP can be viewed on the County Council's website via the following link:

<https://www.essex.gov.uk/minerals-waste-planning-policy/waste-local-plan>

Policy 2 of the WLP seeks to ensure that existing and allocated waste sites and infrastructure are protected from inappropriate neighbouring developments that may prejudice their continuing efficient operation or ability to carry out their allocated function in the future. Policy 2 defines Waste Consultation Areas as extending up to 250m from the boundary of existing or allocated waste infrastructure, unless they are Water Recycling Centres, where the distance increases to 400m.

Policy 2 of the WLP states (inter-alia), that:

Proposals which are considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure, including the site allocations within this Plan, are unlikely to be opposed where:

- a. a temporary permission for a waste use has expired, or the waste management use has otherwise ceased and the site or infrastructure is considered unsuitable for a subsequent waste use; or*
- b. redevelopment of the waste site or loss of the waste infrastructure would form part of a strategy or scheme that has wider environmental, social and/or economic benefits that outweigh the retention of the site or the infrastructure for the waste use, and alternative provision is made for the displaced waste use; or*
- c. a suitable replacement site or infrastructure has otherwise been identified and permitted.*

A WIIA has duly been submitted in support of the application, which assesses a number of potential impacts. This concludes that “the proposed development would not involve the loss of a safeguarded waste facility or represent a constraint on existing capacity. Given the foregoing, no evidence is required to demonstrate that an existing facility within the Waste Consultation Area needs to be removed or relocated within the immediate area.”

With regard to noise related issues, the WIIA refers to the Noise Constraints Study prepared by Integrated Acoustics which was submitted with the outline planning application and which seeks to demonstrate that suitable noise conditions can be achieved across the site through proposed mitigation measures. Following its initial consultation response, the MWPA engaged noise consultants to provide a bespoke response with regards to this Study, which was submitted to Castle Point Borough Council on 14th July 2021. This bespoke response concluded that “Based on the information submitted to date in support of the planning application, Jacobs consider there to be the potential for new residents to be subject to adverse effects and for complaints regarding noise from scrap operations.” No further evidence has been provided to the contrary and therefore this conclusion is considered to still stand, and therefore the MWPA does not support the overarching WIIA

conclusion that the proposed development would not represent a constraint on existing waste facilities. The proposal is therefore currently “considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure” and is therefore not compliant with Policy 2 of the WLP.

It is noted that NPPF Paragraph 187 states that ““Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.” At Paragraphs 6.1 – 6.2, the WIIA notes that “The proposed development is at the outline application stage. Therefore, detailed designs of the prospective dwellings will be confirmed through any subsequent reserved matters applications.” This is considered appropriate, but it is noted that the granting of more detailed permissions will be contingent on the noise issues potentially outstanding to be capable of sufficient mitigation. Paragraph 6.2 of the WIIA further states that “In any case, all the proposed dwellings are located outside of any unacceptable noise contours.” This statement is not currently supported based on the conclusions drawn in the noise consultant’s response dated 14th July 2021.

Regarding transport related issues, reference is made to the Transport Statement prepared by Intermodal Transportation which concludes that the proposed development would not lead to an unacceptable level of vehicular movements within the Manor Trading Estate or on surrounding routes. The MWPA has no reason to doubt the conclusion drawn and has no further comment to make with regards to transport issues.

For all other matters, no evidence is presented to substantiate the statements made. As such, the determining authority will need to be satisfied that these statements are appropriate.

Conclusion

The MWPA maintains its holding objection on the basis that a more detailed noise study is required, as part of a WIIA or otherwise, to demonstrate that residential development could be established without it being subject to noise levels originating from existing waste management activities that would be capable of creating a nuisance for any future occupiers.

The remainder of this response repeats that issued previously.

General Planning Policy Matters

Section 6 of the Planning Design and Access statement identifies that the Development Plan in Castle Point consists of the Castle Point Local Plan (1998) and saved policies (2007). This is not correct.

Essex County Council is the Minerals and Waste Planning Authority for Castle Point and is responsible for the production of mineral and waste local plans. The Development Plan in Castle Point therefore also comprises of the Essex Minerals Local Plan 2014 (MLP) and the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP). These plans set out the policy framework within which minerals and waste planning applications are assessed. They also contain policies which safeguard known mineral bearing land from sterilisation, and existing, permitted and allocated mineral and waste infrastructure from proximal development which may compromise their operation.

Mineral Matters

Safeguarding Mineral Resources and Mineral Infrastructure

No part of the application site is located within land which is designated as a Mineral Safeguarding Area (MSA) or Mineral Consultation Area (MCA) and therefore no safeguarding issues are identified with regards to mineral resources or associated infrastructure.

Waste Matters

Noise Constraint Study to Proposed Residential Development, July 2020

The planning application is accompanied by a document entitled 'Noise Constraint Study to Proposed Residential Development, July 2020' (NSC) which seeks to demonstrate that the level of noise emanating from the nearby waste management site that would be experienced by prospective occupiers of the proposed residential development would be within accepted levels of tolerance, when mitigation is provided.

Section 2 of the report considers that the most relevant advice to the report with respect to noise can be found within the Noise Policy Statement for England (NPSE). The NSC states that:

'Where the impact is less than significant but still adverse, all reasonable steps should be taken to mitigate and minimise adverse effects. Importantly, the NPSE advises that 'this does not mean that such adverse effects cannot occur.'

It is contended by the MWPA that NPPF Paragraph 182 is just as, if not more, important in relation the application as a whole, and this states that:

"Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be

required to provide suitable mitigation before the development has been completed.”

It is therefore clear that for this development to be capable of being permitted, the applicant must ensure that the impact of noise from existing industry that could have a significant adverse effect on new development is capable of being fully mitigated such that any future resident would not be in a position to have reasonable grounds to raise a complaint against an existing business.

The NSC provides a conclusion with regards to what form a proposed optimum acoustic barrier would take such that it provides the best possible mitigation against noise impact. In this regard, the NSC concludes that a 12m barrier, 1m ‘in’ from the GSK site boundary, is the barrier height at which no further acoustic benefit would be secured. The resultant ‘build line’ shown in Appendix 3 is the limit up to which 2-storey dwellings (i.e. ground and first floor), including their gardens, could be built on the development site (NSC, Paragraph 2,9) before exceeding sound levels which would equate to an adverse impact.

However, as set out at Paragraph 2.3 of the NSC, the NSC is founded on an application of BS 4142, and the determination of noise amounting to a ‘nuisance’ is beyond the scope of this standard. As such, it has not been demonstrated that development up to this ‘build line’ would not give rise to future noise complaints from prospective residents, and subsequently compromise the ability of existing waste management facilities to operate in conformity with their planning permissions.

As such, the MWPA contends that a more detailed noise study is required, as part of a WIIA or otherwise, to demonstrate that residential development could be established without it being subject to noise levels capable of creating a ‘nuisance’ for any future occupiers.

Please note that this position has since been updated through the Jacobs assessment of the Noise Constraint Study issued 14th July 2021.

Site Waste Management Plan

Paragraph 8 of the NPPF recognises the importance of “using natural resources prudently and minimising waste” to ensure the protection and enhancement of the natural environment and to achieve sustainable development. It also reiterates the need to mitigate and adapt to climate change and move towards a low carbon economy. An efficient and effective circular economy is important to achieving these objectives.

Policy S4 of the Minerals Local Plan (2014) advocates reducing the use of mineral resources through reusing and recycling minerals generated as a result of development/ redevelopment. Not only does this reduce the need for mineral extraction, it also reduces the amount sent to landfill. Clause 4 specifically requires:

“The maximum possible recovery of minerals from construction, demolition and excavation wastes produced at development or redevelopment sites. This will be promoted by on-site re-use/ recycling, or if not environmentally acceptable to do so, through re-use/ recycling at other nearby aggregate recycling facilities in proximity to the site.”

It is vitally important that the best use is made of available resources. This is clearly set out in the NPPF and relevant development plan documents. We would therefore recommend that, in lieu of these issues being addressed prior to a decision, conditions are attached to require the applicant to prepare an appropriately detailed waste management strategy through a Site Waste Management Plan.

A SWMP would be expected to:

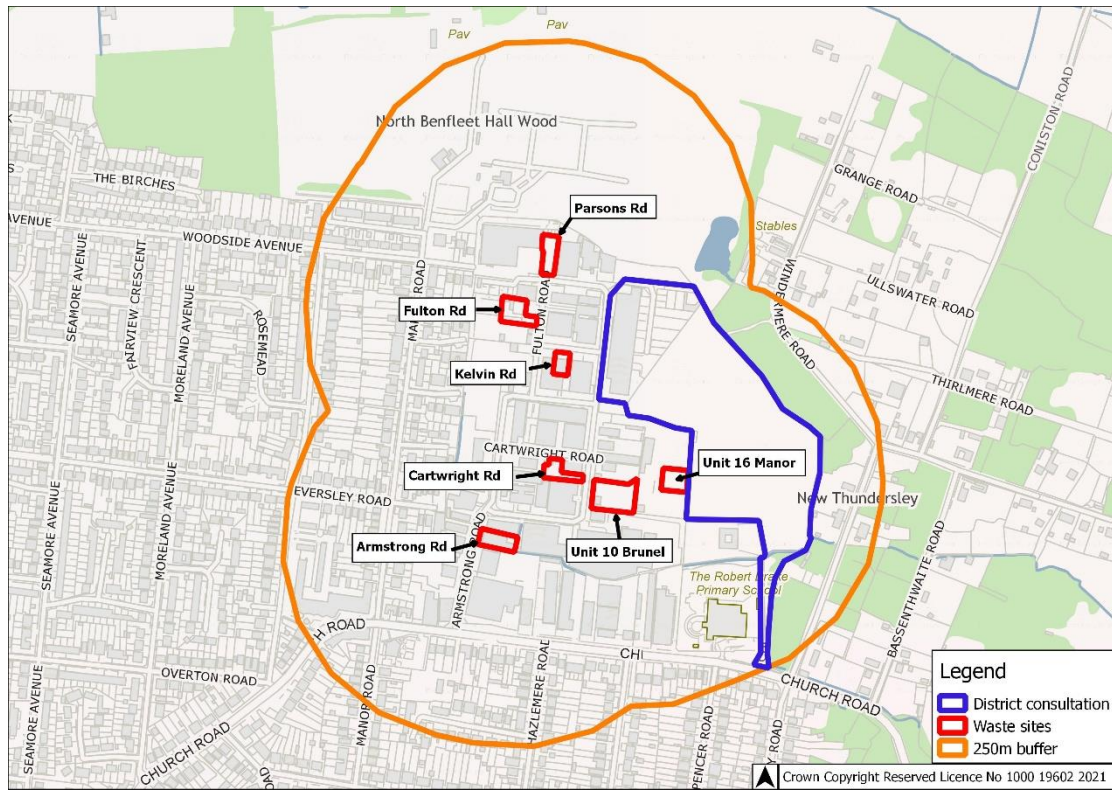
- present a site wide approach to address the key issues associated with sustainable management of waste, throughout the stages of site clearance, design, construction and operation,
- establish strategic forecasts in relation to expected waste arisings for construction,
- include waste reduction/recycling/diversion targets, and monitor against these,
- advise on how materials are to be managed efficiently and disposed of legally during the construction phase of development, including their segregation and the identification of available capacity across an appropriate study area.

Yours sincerely,



Philip Dash
Principal Planner
Email: philip.dash@essex.gov.uk

Appendix One – Minerals and Waste Safeguarding Screening – Full Extent of Project Area



Appendix Two – Schedule of Safeguarded Waste Infrastructure relevant to the Project Area

Site type	Site name	Planning application number	Further Details
Waste management infrastructure (subject to WCA designations – Policy 2 of Essex and Southend-on-Sea Waste Local Plan)	12 Parsons Road, Manor Trading Estate, New Thundersley, Benfleet, SS7 4PY	ESS/34/05/CPT	Change of use to provide waste transfer station
	Level D, Fulton Road, Manor Trading Estate, Benfleet, SS7 4PZ	ESS/76/12/CPT	Change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices
	4 Kelvin Road, Manor Trading Estate, Benfleet, SS7 4QB	ESS/24/09/CPT	Change of use of land from tyre and exhaust centre to proposed end of life vehicle recycling centre, decontamination facility for vehicles/machinery, process of materials for export and spares centre new and used car parts to be sold Gala Motors or RA Motors Ltd
	Unit 10, Brunel Road, Benfleet, Canvey, SS7 4PS	ESS/28/10/CPT	Change of use of site and buildings from "the sale of tyres and installation of equipment for the baling and sale of waste tyre products" to a metal recycling site

			and end of life vehicle de-pollution facility.
	6 Armstrong Road, Benfleet, SS7 4PW	ESS/37/18/CPT	Change of use from car sales/repair centre to end-of-life vehicle recycling centre
	5a Brunel Road, Manor Trading Estate, Benfleet SS7 4PS	CPT/548/97/FUL	Construction of a metal clad building & provision of a screened pick station & waste processing machine Found via AMR - CPT permission. Cartwright Road, Manor Trading Estate Benfleet Essex SS7 4QA - address on CPT website
	Unit 16 Manor Trading Estate, Brunel Road, Manor Trading Estate, Benfleet SS7 4PS	CPT/16/02/FUL	Use For Waste Recycling And Recovery And As A Waste Transfer Station Found - CPT permission