



Appeal Decisions

Hearing Held on 13 and 14 February and 25 March 2024

Site visit made on 26 March 2024

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal A: APP/C1570/C/22/3306591

Land south side of Mill Lane, Ickleton, Saffron Walden (southwest of M11 Junction 9A and east of the railway line)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Norwood Construction Group Ltd against an enforcement notice issued by Essex County Council.
 - The enforcement notice was issued on 11 August 2022.
 - The breach of planning control as alleged in the notice is "Without the benefit of planning permission, a material change of use of the Land and existing buildings to a use for aggregate and waste recycling involving the importation, deposit, treatment and storing of waste materials and the provision and use of various associated plant and machinery and storage containers. Together with the construction of two buildings and engineering works (hardstanding and bunding). Together comprising "the unauthorised development".
 - The requirements of the notice are:
 - a) Cease and do not resume, the importation, deposition, storing and treatment of waste materials on the land.
 - b) Remove from the Land all the waste materials, including imported soils, construction and demolition wastes and other waste materials, including that which has been used to form the perimeter bund.
 - c) Remove from the Land the two buildings and hardstanding constructed and all plant and machinery associated with the unauthorised development.
 - d) Restore the Land to its condition prior to the commencement of the unauthorised development.
 - The period for compliance with the requirements is:
 - a) In relation to the steps set out in requirement (a) within 1 day from the date this notice takes effect.
 - b) In relation to the steps set out in requirement (b) within 4 months from the date this notice takes effect.
 - c) In relation to the steps set out in requirement (c) within 5 months from the date this notice takes effect.
 - d) In relation to the steps set out in requirement (d) within 6 months from the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/Z1585/W/22/3306988

Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Norwood Construction Group Ltd against the decision of Essex County Council.
- The application Ref ESS/20/22/UTT, dated 23 February 2022, was refused by notice dated 22 July 2022.
- The development proposed is the change of use from previously permitted B8 storage facility to a recycled aggregate production facility. The site has existing hardstanding which would remain in place and be utilised by the proposed facility, along with two agricultural buildings, which would also be retained and be used by the proposed facility. The site has an existing access road off the B1383 which will be used as access and egress from the site. On site parking will be provided for up to 5 x HGV's.

Appeal C: APP/Z1585/W/22/3319411

Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden, Essex CB10

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Norwood Construction Group Ltd against the decision of Essex County Council.
 - The application Ref ESS/109/22/UTT, dated 14 November 2022, was refused by notice dated 1 March 2023.
 - The development proposed is the change of use of a storage facility B8 to create a recycled aggregate production facility. The two existing buildings would remain and used within the proposed use. Access is via the B1383 car parking on site for 5 x HGV's.
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Decisions

Appeal A

1. It is directed that the enforcement notice be corrected by:
 - The deletion of the allegation at paragraph 3 and the substitution thereto of:

'Without the benefit of planning permission, a material change of use of the Land and existing buildings to a use for aggregate and waste recycling comprising the importation, deposit, treatment and storing of waste materials and the provision and use of various associated plant and machinery and storage containers and the siting of a mobile home (outlined in purple on the attached plan) for use as a canteen ancillary to that use. Together with the construction of one building (outlined in blue on the attached plan) and engineering works to create a hardstanding (hatched black on the attached) and bunding (cross hatched black on the attached plan). Together comprising "the unauthorised development".'

and varied by:

- The deletion of the words 'Land south side of Mill Lane, Ickleton, Saffron Walden (southwest of M11 Junction 9A and east of the railway line)' in paragraph 2 and the substitution thereto of the words 'Land at Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden, Essex'.
- The deletion of the plan attached to the enforcement notice and its substitution thereto of Plan A attached to this decision notice.
- The deletion of all the words in paragraph 5 a) and the substitution thereto of the words 'Cease the use'. Delete the word 'perimeter' and insert the words 'cross hatched black on the attached plan' after the word 'bund' in paragraph 5 b).
- Delete all the words in paragraph 5 c) and the substitution thereto of the words 'Remove from the Land the building outlined in blue on the attached plan and hardstanding hatched black on the attached plan and all plant and machinery associated with the unauthorised development.'
- The deletion of the all the words in paragraph 6 and the substitution thereto of the words:
'One month for requirement (a) from the date this notice takes effect
Six months for requirement (b) from the date this notice takes effect
Seven months for requirement (c) from the date this notice takes effect
Nine months for requirement (d) from the date this notice takes effect'

Subject to these corrections and variations the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

2. The appeal is dismissed.

Preliminary Matters

3. Appeal B was withdrawn by the appellant at the Hearing.
4. The application (ref: ESS/109/22/UTT) the subject of Appeal C was a resubmission of the application (ref: ESS/20/22/UTT) the subject of Appeal B, with additional information presented.
5. In relation to Appeal A the appellant introduced a ground (g) appeal i.e. that the time for compliance with the requirements was too short, at the Hearing.
6. In relation to Appeal C the description of development was changed by the Council to:

'Change of use of the land to allow the construction of a recycled aggregate production facility, including storage bays and HGV parking'.

This description was agreed with the applicant and is contained in the agreed Statement of Common Ground dated 6 March 2024.

Appeal A: The Notice

7. The address for Appeal A in the Heading of this decision is taken from the Enforcement Notice. In the Statement of Common Ground dated 6 March 2024 (SoCG) both parties accepted that the land should be referred to as 'Land at Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden, Essex, CB10 1NU.' I will refer to the site as Boro Farm in this decision and I will vary the address of the site in the Notice to accord with that agreed.
8. The allegation refers to the erection of two buildings. However, it was agreed that one of the buildings referred to in the allegation is a mobile home for use as a canteen associated with the use. In the SoCG it was agreed between the parties that correcting the allegation to refer to the erection of one building and the stationing of a mobile home for use as a canteen ancillary to the alleged use would not cause injustice or prejudice to either party. I will therefore correct the allegation to reflect this and vary the requirements to require the removal of the building and the mobile home.
9. A revised plan, which identifies the building, mobile home, hardstanding and bunding, in the allegation has been produced. I will substitute this revised plan for the original plan attached to the Notice. I will also vary the allegation and requirements to refer to the identification of the building, mobile home, hardstanding and bunding on the plan. As this was agreed by both parties at the Hearing, no injustice would be caused by this plan substitution.

Background to the appeal site

10. In 2010 retrospective planning permission was granted for the importation of 250,000 cubic meters of inert waste to facilitate development of land for agricultural improvement. In 2012 an extension of time for the importation of waste and restoration was granted. This required the importation of waste to cease by 31 August 2011 and the restoration to be completed by 30 September 2011.
11. In 2020 planning permission was granted for the change of use of the redundant farmyard for the siting of circa 80 storage containers for a self-storage facility and the erection of a 2.4m high welded mesh fence. This was not implemented and has since lapsed¹. In the SoCG it is recorded as a matter of dispute whether Uttlesford District Council would grant planning permission for such a self-storage facility if a new planning application were to be submitted. As a matter of fact, the planning permission granted in 2020 has lapsed and there is no demonstrable and permitted fallback for a self-storage facility on the appeal site.
12. In addition to the Enforcement Notice the subject of Appeal A, a second Enforcement Notice reference ENF/1172 alleging the material change of

¹The SoCG dated 6 March 2024 records that planning permission UTT/20/0775/FUL lapsed on 6 July 2023 as a result of non-implementation.

use of the Land from agricultural land to land used for waste and aggregate recycling involving the importation, deposit, spreading and storing of waste and other materials, land raising/creation of bunds and the installation and use of associated plant, equipment and machinery was issued on 25 April 2023 and that Enforcement Notice took effect on 31 May 2023. The Land identified in ENF/1172 is immediately adjacent and to the north of appeal sites A and C. The SoCG confirms that this Enforcement Notice has not been complied with to date.

13. ENF/1172 requires the cessation of the use and restoration of the land.

Intensity of the Use (the subject of Appeal A and Appeal C)

14. The site currently has a Standard Rules 2010 no 12: treatment of waste to produce soil, soil substitutes and aggregate environmental permit. Although a letter dated 6 February 2023 from the Environment Agency (EA), states that this permit was issued in error. The error was that the site's proximity to the chalk stream habitat of the River Cam was not identified by the EA prior to issuing the permit. However, the EA note that the permit is still valid. The EA state that they have informed the operator (appellant) of this and options with advice and guidance have been presented. However, in the interim the operator has been requested to remove any waste deposited within the 50m buffer zone of the chalk stream habitat.
15. The EA advises that the operator (appellant) will need to vary their environmental permit to a bespoke permit due to potentially suitable Standard Rules permits not being applicable given the application area's proximity to the protected chalk stream habitat.
16. The appellant stated at the Hearing that the Standard Rules permit allows storage of 40,000 tonnes and throughput per annum of 75,000 tonnes. He also confirmed that a Bespoke Permit preapplication request would be sought for 50,000 tonnes storage and 125,000 tonnes throughput.
17. The appellant stated at the Hearing he currently operates the following at the site:
 - The HGV Licence is for 12 vehicles on the site overnight
 - The appellant runs 11 HGVs from the site (owned lorries).
 - There are 5/6 other lorries, not owned by the appellant, that attend the site.
 - Each of the appellant's lorries averages 5 loads per day although this was clarified to be for 3 Artic lorries (44T) 3 loads per day and 8 x Tipper lorries (32T) average 5 loads per day. I consider this is about 98 movements² per day.
18. The appeal site is operated by the appellant as a recycled aggregate production facility. This use commenced at some point between November 2021 and February 2022. The intensity of that use has changed over time and included land that was targeted by the second Enforcement Notice ENF/1172. The site at the time of the Hearing was operating roughly within the boundaries of the appeal site. However, a

² 3 Artic lorries (44T) 3 loads per day (6 movements x 3 equals 18 movements) and 8 x Tipper lorries (32T) average 5 loads per day (10 movements x 8 equals 80 movements) totalling 98 movements per day.

new structure housing a filter press/wash machine had been erected that was, or appeared partially, beyond the boundary of the appeal site. This structure was not on site at the time the Enforcement Notice was served and therefore is not identified within it.

19. In relation to Appeal C the Transport Statement³ sets out the following information:

- Maximum of 75,000 tonnes of selected inert waste per annum to convert to recycled aggregate
- Overnight parking for up to 10 HGV's
- Up to 10 parking spaces for employee car parking
- Maximum of 20 arrival and 20 departures per day averaging 3 vehicles per hour over the course of a typical working day.

No actual traffic surveys of the site operating are provided.

20. In relation to Appeal C the Noise Impact Assessment July 2022 (NIA) sets out the following information:

- Overnight parking for 5 HGV's.
- Operation of mobile aggregate recycling plant and machinery in the open.
- Storage and transportation of materials.
- Plant and vehicle maintenance within buildings.
- Peak of 50 HGV movements per day⁴ with a stated maximum of 6 HGV's entering and leaving the site over an hour⁵.
- Proposed working hours 07:00-20.00 Monday to Friday and 08:00 – 13:00 Saturdays.
- Noise measurements taken between 26 May 2022 and 1 June 2022 excluding Sunday 29 May 2022.

21. In the Jacobs⁶ comments for the Council on the Appeal C NIA at application stage it is stated:

- That a Transport Statement (TS) submitted with the application derived a maximum traffic flow of 20 arrival and 20 departures per day equating to an average of 3 vehicle movements per hour.
- That the NIA has not been updated to reflect the T S. The NIA referred to a maximum of 50 HGV movements per day.

22. There is no substantiated evidence in relation to the actual traffic movements that have taken place while the appeal site has been operating. It is clear that the intensity of the use of the appeal site has changed over time and the operator has also used land beyond the appeal site as well which is the subject of the second EN. The basis of the TS and the NIA utilise different movements per day and the appellant indicates that movements are actually much greater than either of those reports.

³ Capital Transport Planning Transport Statement Boro Farm Great Chesterford October 2022

⁴ Para 1.1.5 equates to 25 movements in and 25 movements out of the appeal site.

⁵ Table 6.1

⁶ Jacobs consultation response for application ESS/109/22/UTT dated 15 December 2022.

Appeal A on ground (a) and Appeal C

23. The main issues for both Appeal A on ground (a) and Appeal C are:

- Whether the development is justified at this location given the provision of the development plan and the need for the facility;
- The effect of the development on the living conditions of nearby occupiers with particular regard to noise, dust and light spill; and
- The effect of the development on biodiversity.

Reasons

Policy Background

24. The development plan includes Essex and South-End-on-Sea Waste Local Plan (adopted July 2017) (WLP), Essex Minerals Local Plan (adopted July 2014) (MLP), Uttlesford Local Plan (adopted January 2005) (ULP) and The Great and Little Chesterford Neighbourhood Plan (Made February 2023) (GLCNP).
25. In relation to the ULP the Council carried out a National Planning Policy Framework Compatibility Assessment which was adopted by Cabinet for Development Management Purposes in September 2012. ULP Policies S7 The Countryside and ENV8 Other Landscape Elements of Importance for Nature Conservation were considered to be partly consistent with the NPPF.
26. The appeal site is within an area identified as countryside in the (ULP).

Whether the development is justified at this location given the provision of the development plan and the need for the facility

Need/justification

27. The relevant policies in relation to the siting of waste development are WLP Policies 1, 3, 4 and 6 and MLP Policy S5. The appeal site is in open countryside. It is not allocated as a Strategic Site Allocation within the WLP and is outside the identified Areas of Search set out in WLP Policy 4.
28. WLP Policy 1 seeks to address a shortfall in waste capacity within the plan area. Policy 3 identifies strategic site allocations for types of waste, including inert waste recycling. Policy 4 identifies Areas of Search and locational criteria to provide greater flexibility than a reliance on allocated sites.
29. The WLP intends that waste management facilities are developed on sites that have been allocated or are within an employment area designated as an Area of Search. The supporting text for WLP Policy 3 supports the intensification of existing permitted uses and records there may be instances where land adjoining existing waste sites could be satisfactorily incorporated as part of proposals.
30. On sites outside of the allocated sites or designated Areas of Search sites will be expected to justify why the unallocated site is at least as suitable for such development as the site allocations or Areas of Search,

utilising the site assessment methodology. In addition, the need for such a facility within the plan area will need to be based on the principal of net self-sufficiency.

31. WLP Policy 6 permits open waste facilities on unallocated sites or outside Areas of Search where allocated sites or sites within the Areas of Search are shown to be unsuitable for the proposed development, there is a capacity need for the development to manage waste, although not exclusively, arising from within the administrative areas of Essex and Southend on Sea, and the site is at least as suitable for such development as allocated sites or Areas of Search. In addition, further criteria are set out including areas of previously developed land. The explanatory text explains that there is a strong preference for waste development to be delivered on allocated sites and within the Areas of Search before alternative (unallocated) locations are considered.
32. Policy S5 of the MLP supports the supply of recycled/secondary aggregates in the County to reduce reliance on land won and marine won primary aggregates. The policy sets out preferred locations for aggregate recycling facilities and supporting the approach set out in the Development Plan for Essex.
33. The appeals' development would fall within the non-strategic aggregate recycling sites within MLP Policy S5 if the capacity of the site is less than 100,000 tonnes. The existing standard rules permit for the appeal site allows storage of 40,000 tonnes and throughput per annum of 75,000 tonnes. However, the appellant stated that a Bespoke Permit preapplication request would be sought for 50,000 tonnes storage and 125,000 tonnes throughput. As such, the appellant would be pursuing a capacity which was strategic and not non-strategic.
34. The parties agreed that there was a continuing shortfall in capacity for the management of inert waste as identified in WLP Policy 1 and that the Council⁷ is not achieving the recovery of at least 70% of construction and emollient waste in accordance with the Government's target in order to achieve the objectives of EU 2018 Waste Framework Directive as updated through the Waste (Circular Economy Amendment) Regulations 2020 and as expressed in national policy through the Waste Management Plan for England 2021.

The SoCG records that the Council's latest AMR (2017-2021) with regard to this, states the "70% target was not met in 2020, where only 53.4% was 'recovered' with the remainder being landfilled. However, this percentage is derived solely from the EA WDI and does not include unlicensed (e.g mobile) facilities or take into account beneficial recovery at landfills." I therefore accept that the shortfall in the capacity for the management of inert waste has resulted in a failure to meet targets.

35. Appeal C was supported by an Assessment of Allocated Sites (AAS) which identifies the Strategic Site Allocations for inert waste recycling in Policy 3 of the ESLP. It considers the availability of each allocated site and the suitability of the appeal site compared to the allocated sites.

⁷ Essex County Council

36. The AAS concluded that the allocated sites are already committed to other developers. The Council accept that the allocated sites are largely occupied by other developers but takes issue with the fact that the report fails to consider land adjoining existing sites, which is supported by WLP Policy 3, that could satisfactorily incorporate part of the development the subject of the application. The Council found that the report failed to include an assessment of the 31 Areas of Search laid out in WLP Policy 4.
37. The AAS fails to justify why the unallocated appeal site is at least as suitable for such development as the site allocations or Areas of Search, utilising the site assessment methodology set out in the WLP. The AAS does not consider any non-allocated sites within the Areas of Search or any land adjoining existing waste sites which could satisfactorily be incorporated as part of the operation. As such, the AAS does not provide a robust justification for the open waste facilities on the appeal site which is an unallocated sites and outside Areas of Search. I therefore find that the development is contrary to WLP Policies 1, 3, 4 and 6 and MLP Policy S5.

Effect on Character and Appearance

38. ULP Policy S7 states development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development is justified. The National Planning Policy Framework (the Framework) states decisions should contribute to and enhance the natural and local environment.
39. The appeal site lies within A1: Cam River Valley Landscape Character Type (LCT) in the Uttlesford Landscape Character Assessment (2006). The key characteristics of this LCT are rolling, open landscape with wide views from higher ground, well vegetated riverbanks with shrubs, trees and water meadows along the winding narrow river corridor, low hedges and a few trees mainly in small copses, dispersed settlements on valley sides connected by busy B roads. The M11, the railway line and the B1382 run north-south through the western slopes of the Cam River Valley. The appeal site is an open landscape, close to the River Cam corridor, with views towards the M11 and further to higher ground.
40. There is limited visibility from the Public Right of Way to the north due to intervening vegetation and separation distances. The bunding, which is part of the development, runs along the boundary with the railway line and limits views across into the site. There is also limited visibility from private gardens, albeit moving machinery can be seen on occasion. Views into the site from trains using the railway track are likely, albeit fleeting.
41. The bunding, storage of waste and storage of materials have clearly changed the appearance of the site. That change through the introduction of bunding, waste materials, open storage, HGV overnight parking, staff vehicles, machinery, an office building and the mobile home used as a staff facility have detracted from what was agricultural buildings with some hardstanding and open land. The introduction of bunds in what is an area of relatively flat land appears at odds with that

natural topography. The development has not protected or enhanced the character of the area, and in my view has detracted from the countryside character of the appeal site as set out above.

42. While I note that planning permission had been granted for up to 80 storage containers on the land this was never implemented and has lapsed. As such, it is not a demonstrable fallback development. I appreciate that the now lapsed self-storage facility with 80 storage containers and mesh fencing would have had an effect on the character of the LCT. However, as that has now lapsed that affect has never been realised and does not weigh in favour of the development in these appeals.
43. I therefore find that the development is contrary to ULP Policy S7 as it fails to protect or enhance the character of the countryside. It also fails to contribute to or enhance the local environment.

Other matters

44. The building housing the filter press/washing machine is not part of the development the subject of Appeal A ground (a) because it was erected after the Notice was issued. Further, it is not shown on the plans accompanying the Appeal C submission. However, it was clear that the appellant utilised this building and the plant within it to facilitate the operations on the appeal site. Clearly there is a need for such additional buildings and plant for the recycling operations which is not recognised in the submissions for either appeal. In this respect, further structures within the appeal site would be likely to add to the harm to the character and appearance of the wider area.

Conclusion on the first issue

45. There is no upper limit to capacity for dealing with inert waste within the County in the WLP. There is an acknowledged shortfall in provision for the management of inert waste in the County. The appeal site would contribute to the shortfall in provision. However, the appellant has failed to demonstrate why the unallocated appeal site is at least as suitable for such development as the site allocations or Areas of Search, utilising the site assessment methodology set out in the WLP. I therefore find that the development the subject of Appeal A on ground (a) and Appeal C are therefore contrary to WLP Policies 3, 4 and 6, MLP Policy S5 and ULP Policy 7.

The effect of the development on the living conditions of nearby occupiers with particular regard to noise, dust and light spill

Noise

46. Processes associated with the development would give rise to noise through the use of machinery to treat the waste, the loading, dumping and tipping activities.
47. The NIA baseline noise survey was carried out at a time when the site was operating, albeit I was told at the Hearing that the site was not operational on one day of the survey period, Saturday 28 May 2022. The NIA concludes that, even though there are some uncertainties due to

the complexity and high variance of both sound sources and residual acoustic environment the assessment, it is based on a worst case scenario that has assumed all plant will be running simultaneously and at quite high percentage on-time usages. The rating level is 1dB or more below the background sound level and the uncertainty is unlikely to change the outcome of the assessment.

48. The Council's consultant Jacob's did not attend the Hearing. However, their consultation response in relation to the application the subject of Appeal C noted that in relation to baseline monitoring methodology there was only one monitoring location in a field about 230m east of the M11. It notes that noise levels may therefore be lower at some receptors than measured at this location. Jacobs on behalf of the Council, did advise at pre application stage and for the application the subject of Appeal B that a robust noise assessment should be submitted to demonstrate compliance with the guidance presented in Planning Practice Guidance on Minerals (PPG: Minerals).
49. The PPG: Minerals sets out guidance on related similar processes such as aggregates recycling and disposal of construction waste. It provides guidance and appropriate noise standards for such operations. The submitted NIA assessment was based on BS4142 and not the guidance in the PPG: Minerals. PPG: Minerals advises that, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field). For operations during the evening (1900-2200) the noise limits should not exceed the background noise level (LA90,1h) by more than 10dB(A) and should not exceed 55dB(A) LAeq, 1h (free field). It goes on to state '*In any event the noise limit should not exceed 42dB(A) LAeq,1h (free field) at a noise sensitive property.*'
50. Jacobs, on behalf of the Council for the Appeal C application, accepted that due to the influence of road traffic noise from the M11, ambient noise levels at receptors are frequently likely to be in excess of its recommended site attributable noise limit of 55dB(A) for both daytime and the 1900-2000 periods and that, based on background noise monitoring presented in the NIA, noise from the development would be acceptable.
51. The Environment Agency at application stage commented that the noise monitoring unit was placed on the other side of the M11, to the south east of the appeal site. The EA notes that the noise monitoring took place from 26 May to 1 June 2022 and the environmental permit was not issued until 7 June 2022. It is then noted that 7 out of 9 sensitive receptors are on the same side of the M11 as the application site, the closest of which is roughly 70m closer to the site than the distance the noise monitor was placed at. The EA notes that the noise monitor used in the report may not give an accurate representation of noise levels experienced by the majority of the sensitive receptors identified. The EA advises that further assessment may be needed, and this may be undertaken through regulation of the environmental permit.
52. The NIA took no account of noise generation from HGV vehicles on the local road network arising from the development. The dwelling on Newmarket Road known as Fairacre would be the most directly affected

by HGV traffic entering and exiting the site from Newmarket Road. Other dwellings may be affected depending on the routing of HGV vehicles.

53. The NIA at paragraph 1.1.5 notes 50 HGV movements per day (25 ingress 25 egress). Whereas paragraph 6.1.4 states 50 deliveries (which could be 50 ingress 50 egress). Both data sets are a higher number of HGV movements per day than the TS for Appeal C that bases its conclusions on 40 HGV movements per day. Furthermore, the information provided by the appellant at the Hearing indicates a greater number of HGV movements than the NIA 50 movements per day: the appellant's own lorries were stated to be 3 Artic lorries (44T) 3 loads per day and 8 x Tipper lorries (32T) average 5 loads per day. I consider these lorry movements amount to about 98 movements per day⁸. In addition the appellant stated that another 5/6 lorries not owned by the appellant attend the site.
54. Within the SoCG, dated 6 March 2024 the Council's noise consultant has commented that there were areas of uncertainty in the calculations undertaken in the NIA. It was confirmed that the one crusher and two screens are the dominant noise sources experienced by receptors, followed by excavators. However, intensification of activity resulting in additional plant on site such as crushers, screens, excavators or similar mobile plant have the potential for noise levels to increase. In reaching their conclusion, Jacobs considered that HGV movements and tipping of waste materials contribute comparatively little to the overall site attributable noise level experienced by receptors. Compliance with a noise limit of 55dB LAeq 1 hr may not be achieved if intensification has required additional mobile plant. Although they do state that an increase in HGV movements and tipping activity would be unlikely to breach the noise limit.
55. Given the greater number of HGV movements and volume of materials, along with the additional plant currently utilised at the site, I am not satisfied that the NIA provides adequate information to assess the effects of the development being considered under ground (a) for Appeal A. Numbers of vehicles and volumes of materials dealt with on the appeal site at the time of the Notice being served have not been the subject of assessment.
56. The predicated noise levels at dwellings are at external locations. The NIA predicted levels at receptor locations demonstrate that for the noise levels included in the NIA all would be below the 55dB(A) LAeq.1hr set out in the proposed condition. Nevertheless, local residents and the Council consider that the development the subject of Appeal A i.e. that enforced against, has resulted in unacceptable noise and disturbance to local residents.
57. The anecdotal evidence of third parties/local residents who submitted comments in writing or attended and spoke at the Hearing indicates that residents consider that the development at the appeal site has adversely affected their living conditions due to noise and disturbance arising from

⁸ 3 Artic lorries (44T) 3 loads per day (6 movements x 3 equals 18 movements) and 8 x Tipper lorries (32T) average 5 loads per day (10 movements x 8 equals 80 movements), totalling 98 movements per day.

activities on the appeal site and through increasing HGV vehicle movements on the local highway network. The noise most referred to by local residents was tonal, intermittent and impulsive noise. The NIA does not identify such noise types specifically.

58. The NIA concludes that there would be a low impact on the nearby residential properties. This accepts that there would be an impact. The draft planning conditions on noise proposed a noise limit of 55dB(A) LAeq,1hr. This would be greater than the PPG12: Minerals guidance that the noise limit should not exceed 42dB(A) LAeq,1h (free field) at a noise sensitive property.
59. I have significant concerns that the NIA relies on a single monitoring point, in an area of probably higher background noise than the residential properties that are nearby and on the other side of the M11 than the appeal site and 7 out of 9 sensitive receptors. While I accept that background noise levels at residential properties probably exceed the 42dB(A) LAeq,1h (free field) set out in PPG12 Minerals, that does not justify intensification on top of the existing noise environment from other tonal intermittent or impulsive noises because of the development.
60. Moreover, I am not satisfied that the NIA assesses all potential/existing noise sources on the site in terms of types of machinery, plant and vehicle movements. Furthermore, the NIA is based on HGV movements that are greater than those in the Transport Assessment, possibly less HGV movements than those stated at the Hearing by the appellant, and there has been additional plant/machinery introduced within the appeal site since the NIA was drafted. Higher vehicle movements may equate to a greater volume of material and activity around dealing with that material on the site. I cannot be satisfied on the evidence available that what has taken place and what would be likely to take place on the appeal site could be adequately controlled by the imposition of conditions to limit noise and disturbance directly from the appeal site to safeguard the living conditions of nearby residents.
61. While it was stated at application stage in relation to the now withdrawn Appeal B that traffic from the site would not go through Great Chesterford, I am not satisfied that this could reasonably be controlled through the imposition of conditions. There is no routing or baseline data within the Transport Statement. There is no substantiated evidence that demonstrates that the traffic noise and vibration impacts of HGV's travelling through Great Chesterford would not have an unacceptable impact on the living conditions of local residents. I am not satisfied that the conditions proposed by either the Council or the appellant could adequately address my concerns and ensure that the living conditions of local residents are not unacceptably harmed as a result of HGV traffic generated as a result of the development travelling through Great Chesterford.
62. Great Chesterford Parish Council has referred to the guidance in the World Health Organisation Environmental Noise Guidelines for the European Region 2019. The noise guidelines for a *dwelling indoors* is 35dBLAeq 16 hr and for an *inside bedroom* 30dBLAeq 8hr (23.00 to 07.00). The appellant advises that the NIA only addresses LAeq 1hr and

therefore a new noise assessment would be necessary to consider the development with reference to this guidance.

63. In the light of my concerns set out above I find that the development is contrary to ULP Policy GEN4 as it has not been demonstrated that the development at the existing intensity for Appeal A or that within Appeal C has or could be operated to achieve acceptable noise levels such that a material disturbance would not result. In addition, the evidence does not demonstrate that the HGV traffic generated has not or would not cause a material disturbance on residential occupiers in Great Chesterford.

Lighting

64. In relation to lighting on the appeal site, I noted some existing lighting attached to buildings. The Council is concerned in relation to the need for operational lighting and the lack of information provided with Appeal C in relation to this. They are also concerned about safety in relation to the proximity of any lighting on the appeal site to the railway and the M11 and light spillage on the environment, namely nearby trees and hedgerows.
65. The proposed maximum hours of operation are from 0700 to 2000 Monday to Friday and 0800 to 1300 on Saturday. Such hours of operation would not necessarily mean that operations would be carried out at all times within those hours of operation, although it would allow them to. However, I understand that the hours of operation proposed would allow operations when daylight was not adequate to light the operational areas during parts of the year.
66. There is minimal lighting at the appeal site at the present time and if operations were to be undertaken when natural light levels were low, particularly in the winter months, additional lighting would be necessary for safety reasons. I am satisfied that it would be reasonable to impose suitable conditions to control additional lighting at the appeal site, which would require the submission of a lighting scheme for approval by the local planning authority. However, it does not automatically follow that a particular lighting scheme would be acceptable, and it would depend upon the extent and details of that scheme. Such a scheme could include the hours of operation for all or part of the lighting scheme. Such details would be a matter for the Council to determine on the basis of the information submitted.
67. I am satisfied that lighting on the appeal site could be adequately controlled by the imposition of conditions to mitigate any safety, environmental or living conditions effects to an acceptable level from any lighting on the site. As such, in terms of lighting the development through the imposition of conditions, it would comply with ULP Policy GEN4.

Dust

68. The appellant has provided a Dust Emissions Management Plan (DEMP) dated February 2022.

69. The Council has concerns that the DEMP lacks detail and clarity in relation to mobile plant and machinery to be used on the site and more specifically within the processing/screening area and the activities undertaken. However, the Council accepts that dust may be able to be adequately controlled by the imposition of planning conditions, management and dust suppression techniques.
70. I am satisfied that dust mitigation and management measures could be required by the imposition of suitable conditions to prevent unacceptable harm to air quality and the living conditions of local residents. As such in terms of dust generation the development, subject to the imposition of conditions, would comply with ULP Policy GEN4.

Other matters

71. At the Hearing it was clear that the appellant required the filter press/washing machine that had been installed in the building that is not part of the development attacked by the Notice in Appeal A and is not shown on the application submissions for Appeal C, to operate efficiently. It was also clear, and confirmed orally at the Hearing, that the imposition of conditions to limit the volume of material to 75,000 tonnes would be immediately or very soon sought to be varied. I note that the appellant stated if they 'have to' operate at a smaller slower pace i.e. 75,000 tonnes, that would be acceptable.

The effect of the development on biodiversity

72. The site is about 4km to the south-west of Hildersham Woods SSSI. The lowland deciduous woodland to the west of the appeal site, associated with the River Cam, is a Priority Habitat. The River Cam, a chalk stream, is about 40m to the west beyond the railway line.
73. At application stage for Appeal C a Preliminary Ecological Appraisal/Low Impact EcIA (September 2022) (PEA) was submitted. The PEA supplements the survey undertaken in April 2020 which was prepared for the proposed self-storage facility the subject of the now lapsed planning permission. The April 2020 survey did not include all the land within the appeal site for Appeal A or Appeal C.
74. The PEA notes that the development use is not identified as posing a risk in conservation terms to the SSSI and therefore mitigation is not required. Furthermore, due to the railway line presenting a barrier to connectivity between the appeal site and the woodland, the PEA identifies that there is no threat of damage to woodland trees and therefore mitigation is not required. Natural England considers that the development the subject of Appeal C would not have a significant impact on statutorily protected nature conservation sites or landscape.
75. Nevertheless, it should be noted that the PEA does not include the whole of the appeal site for Appeal C or for that matter Appeal A, which comprises areas including and adjacent to the access road. Accordingly, this land is not addressed in the PEA.
76. The PEA states retained boundary trees will be protected. However, soil has been banked within the Root Protection Zone of many of these

trees. Without evidence to the contrary, such actions are likely to have damaged them.

77. The southern triangular portion of the site has been cleared. In the 2020 ecological assessment this was described as a feature with local interest as habitat which had a significant potential for common lizard, slow worm and grass snake. This habitat has now been lost and no habitat compensation has been proposed.
78. In relation to the River Cam, it is an internationally rare chalk stream habitat. While the Council accept that the development is unlikely to significantly increase flood risk, the Lead Local Flood Authority issued a holding objection requesting that a drainage strategy be provided. This is due to the lack of detail in the assessment to demonstrate that there would not be any surface water runoff to the River Cam.
79. The appellant considers that a suitable surface water and foul water drainage scheme could be devised which would ensure that water from the site would not reach the River Cam. However, it has not been demonstrated that a 50m buffer zone to the chalk stream habitat can be achieved if the full extent of the appeal site is utilised for the development. While I note that this requirement of the EA may be addressed in a bespoke permit application the EA state it may require further evidence of assessment and mitigation. I am therefore not satisfied that it has been demonstrated adequately that surface water and foul water drainage schemes would address the concerns of the EA in relation to the River Cam.
80. ULP Policies GEN7 and ENV8, which require development not to have an unacceptable impact on the natural environment, resists development that has a harmful effect on wildlife unless the development outweighs the importance of the nature conservation feature, requires measures to mitigate or compensate for the impacts of development, and to enhance biodiversity through the creation of appropriate new habitats. The Framework resists significant harm to biodiversity.
81. The appellant put forward a condition the aim of which was to seek a net gain in biodiversity. However, whether this could be achieved within the appeal site is not known from the information available.
82. For the reasons set out above, I am not satisfied that the evidence demonstrates that the potential harm to the River Cam can be overcome by the imposition of conditions. Moreover, there has been some habitat loss and probably damage to existing trees. As such, there is clearly some harm, and in relation to the effect of the development on the River Cam there is not sufficient evidence to demonstrate it would not be significant harm to biodiversity. The development therefore may be contrary to the Framework. Furthermore, the development does fail to comply with ULP Policies GEN7 and ENV8 as it has not been demonstrated that conditions could either mitigate or compensate for the impacts of the development.

Other matters

83. ULP Policy ENV13 resists development that would involve users being exposed on an extended or long-term basis to poor air quality outdoors

near ground level. The Council's air quality strategy has identified that poor air quality is anticipated alongside the M11. The Council note that much of the site is within a 100m zone from the central reservation of the M11 which is a particular area where Policy ENV13 applies. While HGV drivers attending the site to deliver or collect materials would not be exposed on an extended or long-term basis to poor air quality, those working on the site and based there would be. As such, employees based at the site are likely to be exposed to poor air quality and thus the development is contrary to Policy ENV13.

84. Whilst the DEMP states that the site does not fall within or in the proximity of a designated Air Quality Management Area. It also notes that the site adjoins the M11, which would be a source of atmospheric emissions including dust itself. However, the DEMP objective is to demonstrate that appropriate measures to prevent or minimise the release of dust emissions from the recycled aggregate production process. It is not concerned with existing poor air quality along the M11 and the exposure of those that work on the appeal site to that poor air quality.
85. The submitted TS for the application the subject of Appeal C relates to a maximum of 75,000 tonnes of selected inert waste per annum to convert to recycled aggregate. As well as overnight parking for 10 HGV's and 10 parking spaces for employee car parking. Based on the proposed car parking capacity and proposed operations the TS considered that there would be a maximum of 20 arrival and 20 departures, averaging 3 vehicles per hour over a typical working day.
86. Based on the TS parking provisions and assumptions of vehicle movements the TS concluded that the site would generate a negligible increase of vehicle movements across the course of a typical day. There is no substantiated evidence to demonstrate that this would not be the case on the basis of vehicle movements set out in the TS. However, vehicle movements set out in the NIA do not accord with the TS. This therefore raises concerns that the development may have a greater highway impact than assessed in the TS.
87. In relation to access and egress on to Newmarket Road the site is accessed via an existing layby. The appellant does not demonstrate that the access from Newmarket Road via the layby has adequate visibility splays for safe access and egress. However, given the character of the surrounding highway network, I consider that conditions could be imposed to ensure vehicles could enter and leave in a controlled and safe manner.
88. Network Rail raised no objection to the application the subject of Appeal C but raised concerns in relation to proximity to the railway line of the development. I am satisfied that this would have been capable of being addressed by the imposition of suitable conditions to ensure a 2-5m separation between stored materials and the railway boundary was maintained.

Planning Balance and Conclusions on Appeal A ground (a) and Appeal C

89. The Council has a continuing shortfall in capacity for the management of inert waste and the development would contribute to reducing that shortfall. The development has/would have benefits arising from additional employment and provides additional capacity for recycling of aggregates. These are significant benefits.
90. I have also concluded that there would be compliance with relevant policies, subject to the imposition of suitable conditions in relation to dust and light, these being neutral in the planning balance.
91. However, the evidence only considers the availability of allocated sites and fails to demonstrate that Areas of Search are not appropriate sites for the delivery and operation of the proposed facility and/or are unavailable. As such, it has failed to be demonstrated that the appeal site is a suitable location for the development. I have also found that there is harm to the character and appearance of the area.
92. Furthermore, I am not satisfied that the development at the existing intensity for Appeal A or that within Appeal C has or could be operated to achieve acceptable noise levels such that a material disturbance would not result. In addition, the evidence does not demonstrate that the HGV traffic generated has not or would not cause a material disturbance to residential occupiers in Great Chesterford.
93. As set out in my reasoning above, the development has not protected or enhanced the character of the area and has, instead, caused harm to the character and appearance of the area. It has also not been satisfactorily demonstrated that the effect of the development on biodiversity could be overcome by imposing conditions relating to surface water drainage and other mitigation measures, which could be secured through conditions.
94. Consequently, I conclude that the benefits arising from the development, to which I attribute significant weight, does not outweigh the harm to residential amenity, biodiversity and to the character and appearance of the area. Both Appeal A on ground (a) and Appeal C developments do not accord with the local development plan taken as a whole and there are no material considerations of such weight to lead me to conclude otherwise. The Appeal A on ground (a) fails and the Appeal C is dismissed.

Appeal A ground (g)

95. This ground of appeal is that the time given to comply with the notice is too short. The Council has given the following periods for compliance with the notice:
- Requirement (a) (ceasing the use) within 1 day from the date this notice takes effect.
 - Requirement (b) (removal of all waste material) within 4 months from the date this notice takes effect.
 - Requirement (c) (removal of building and mobile home) within 5 months from the date this notice takes effect.

- Requirement (d) (restoration of the land) within 6 months from the date this notice takes effect.

The appellant is seeking the following periods of compliance: requirement (a) 3 months, requirements (b) and (c) 9 months, requirement (d) 12 months.

96. The appellant referred to the existence of existing contracts and the difficulty finding alternative sites for those contracts to be diverted to, especially in the context of a shortfall of such sites. He has also stated that the need for the removal of waste materials would take time as the waste will have to be taken to other sites. Furthermore, the building and mobile home are required to remain on site for workers welfare whilst the waste is removed. The appellant's restoration period, as set out in the Notice, would be three months after the removal of the waste from the site.
97. I appreciate that there are likely to be existing contracts and it would be unreasonable to cease the use in a day without some time to redirect that waste. Three months, as sought by the appellant, would allow a significant further amount of waste to be brought onto the site. In my view, a period of a month would allow some time for the appellant to look for sites to redirect the waste to and minimise the amount of additional waste brought on to the site.
98. I have little information on how long it would take to remove the waste from the site. However, a period of 9 months without substantiated evidence to support that period appears excessive. In my view, a period of 6 months would be reasonable. It would be reasonable for the building and mobile home to be removed after the removal of the waste and as the Council has allowed an additional month after the waste removal, I consider 7 months would be reasonable.
99. Again, I have little information on how long restoration of the site would be likely to take. The Council has allowed two months after the removal of the waste for restoration. In my view, a three-month period after the removal of the waste would not be excessive, and will therefore allow 9 months from the date the notice takes effect for the restoration to be completed.
100. For the reasons given above I conclude that the reasonable periods of compliance would be:
- Requirement (a) (ceasing the use) one month.
 - Requirement (b) (removal of all waste material) 6 months.
 - Requirement (c) (removal of building and mobile home) 7 months.
 - Requirement (d) (restoration of the land) 9 months.

I will therefore vary the enforcement notice accordingly prior to upholding it. The appeal under ground (g) succeeds to this extent.

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Peter Frampton BSc TP MRICS MRTPI	Director, Framptons
Mr Williams	Counsel for appellant
Mr Stead MEng Dip MIOA	Senior Acoustic Consultant AECL for appellant
Mr L Temple	Acoustic Noise Expert Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Sycamore	Senior Planning Officer Essex County Council
Mr Dawson CMLI	Built Environment Manager Essex County Council
Mr S Long	Planning Enforcement Officer Essex County Council
Mr T McCarthy BSc Hons PG Dip MRTPI	Principle Planning Officer Essex County Council

INTERESTED PERSONS:

Ms Fitzgerald BA Hons DipTP MRTPI	Barker Parry on behalf of Great Chesterfield Parish Council
Mr Sadler	Ickleton Parish Council
Mr Fagg Phd	Local resident
Mrs Fagg Phd	Local resident
Cllr Gregory	Ward Councillor Uttlesford District Council
Mr Mitchell	Vice Chair Great Chesterfield Parish Council
Master Mariner Solicitor	
Ms Francis	Local resident
Mr Hall	Local resident
Mr Cheney	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground (February 2024) submitted by the Council
- 2 Inspectors Note response and submitted by the appellant
- 3 Relevant Chronology submitted by the appellant
- 4 Enforcement Notice dated 25 April 2023 submitted by the Council
- 5 HGV Map and Survey 4 September 11.15am to 12.15pm submitted by appellant
- 6 Appeal and Site Chronology submitted by the Council
- 7 Essex County Council and Southend on Sea Borough Council Waste Local Plan Appendix D submitted by the Council
- 8 Uttlesford Local Plan 2005 – National Planning Policy Framework Compatibility Assessment (July 2012) submitted by the Council
- 9 Two Plans for site visit submitted on behalf of third parties
- 10 Closing notes submitted by the appellant

DOCUMENTS SUBMITTED DURING ADJOURNMENT

- 1 Email and World Health Organisation Guidance submitted by the appellant
- 2 Statement of Common Ground and appendices (6 March 2024) submitted by
- 3 Proposed conditions submitted by appellant
- 4 Letter to agent for Great Chesterford Parish Council submitted by the appellant
- 5 Uttlesford District Council Compatibility Statement with the NPPF submitted by the appellant
- 6 Letter from the agent for Great Chesterford Parish Council



Plan A

This is the plan referred to in my decision dated: 27 August 2024

by Mrs H M Higenbottam BA(Hons) MRTPI

Land at Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden, Essex, CB10 1NU

Reference: Appeal A: APP/C1570/C/22/3306591

Scale: nts

