



# Havering

L O N D O N B O R O U G H

## REGULATORY SERVICES COMMITTEE AGENDA

**7.30 pm**

**Thursday  
11 September 2014**

**Havering Town Hall,  
Main Road, Romford**

Members 11: Quorum 4

**COUNCILLORS:**

**Conservative  
(5)**

Robby Misir (Chairman)  
Ray Best  
Philippa Crowder  
Steven Kelly  
Michael White

**Residents'  
(4)**

Ron Ower (Vice-  
Chair)  
Linda Hawthorn  
Stephanie Nunn  
Nic Dodin

**UKIP  
(1)**

Phil Martin

**Independent  
Residents  
(1)**

Graham Williamson

**For information about the meeting please contact:  
Richard Cursons 01708 432430  
richard.cursons@onesource.co.uk**

## **AGENDA ITEMS**

### **1 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

The Chairman will announce the following:

These are the arrangements in case of fire or other events that might require the meeting room or building's evacuation. (Double doors at the entrance to the Council Chamber and door on the right hand corner (marked as an exit).

Proceed down main staircase, out the main entrance, turn left along front of building to side car park, turn left and proceed to the "Fire Assembly Point" at the corner of the rear car park. Await further instructions.

I would like to remind members of the public that Councillors have to make decisions on planning applications strictly in accordance with planning principles.

I would also like to remind members of the public that the decisions may not always be popular, but they should respect the need for Councillors to take decisions that will stand up to external scrutiny or accountability.

### **2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive.

### **3 DISCLOSURE OF PECUNIARY INTERESTS**

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.*

### **4 MINUTES (Pages 1 - 6)**

To approve as a correct record the minutes of the meeting of the Committee held on 31 July 2014 and to authorise the Chairman to sign them.

### **5 PLANNING APPLICATIONS - SEE INDEX AND REPORTS (Pages 7 - 32)**

- 6     **P1566.12 - RAINHAM LANDFILL** (Pages 33 - 158)
- 7     **P0881.14 - 230 ST MARY'S LANE, UPMINSTER** (Pages 159 - 174)
- 8     **P1010.14 - 60 STATION ROAD, UPMINSTER** (Pages 175 - 190)
- 9     **PLANNING CONTRAVENTION - 15 SOUTH STREET, ROMFORD** (Pages 191 - 196)
- 10    **URGENT BUSINESS**

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which will be specified in the minutes, that the item should be considered at the meeting as a matter of urgency

**Andrew Beesley**  
**Committee Administration**  
**Manager**

This page is intentionally left blank

**MINUTES OF A MEETING OF THE  
REGULATORY SERVICES COMMITTEE  
Havering Town Hall, Main Road, Romford  
31 July 2014 (7.30 - 8.50 pm)**

**Present:**

**COUNCILLORS:** 11

**Conservative Group** Robby Misir (in the Chair) Ray Best, Philippa Crowder, Steven Kelly and Michael White

**Residents' Group** Ron Ower (Vice-Chair), Linda Hawthorn, Nic Dodin and +Linda Van den Hende

**UKIP Group** Phil Martin

**Independent Residents Group** Graham Williamson

An apology for absence was received from Councillor Stephanie Nunn.

+Substitute member; Councillor Linda Van den Hende (for Stephanie Nunn)

Councillor Wendy Brice-Thompson was also present for part of the meeting.

10 members of the public were present.

Unless otherwise indicated all decisions were agreed with no vote against.

Through the Chairman, announcements were made regarding emergency evacuation arrangements and the decision making process followed by the Committee.

**37 MINUTES**

The minutes of the meetings held on 19 June and 26 June 2014 were agreed as a correct record and signed by the Chairman.

**38 P0447.14 - THE CHAFFORD SCHOOL, LAMBS LANE SOUTH, RAINHAM**

This item was deferred at officer's request to consider further the policy issues raised by the loss of the swimming pool.

39 **P0556.14 - 395-397 BRENTWOOD ROAD, ROMFORD**

The application before members sought planning permission for the change of use of the existing vacant A1 retail unit to an A3 restaurant use with a rear external extract duct. Internal alterations would be made to accommodate the new layout and appropriate extract equipment would be installed on the rear elevation.

Members noted that the application had been called in by Councillor Steven Kelly on the grounds that in the past Highway objections had always been overruled as far as other local area developments were concerned and therefore this particular item should be looked at in the generality of the area.

During the debate members noted that the property had been empty for approximately four and a half years. Members gave consideration to the sustainability of other retail uses to which the property could be put and noted the lack of parking provision that was afforded to other nearby businesses, with particular reference made to existing take-away operators.

Members also discussed the adjacent Tesco Express supermarket and the increased traffic flow that the store generated in the area and the hours of operation of the proposed business.

During the debate members were also mindful of the parking provision, at the site, that had previously been allocated to the residential units situated above the retail unit. Members were informed that the current parking layout required revision as it conflicted with a pre-existing and implemented planning permission.

The report recommended that planning permission be refused, however following a motion to approve planning permission, which was carried by 10 votes to 0 with 1 abstention, it was **RESOLVED** to delegate to the Head of Regulatory Services to grant planning permission subject to agreement to the revisions to plan(s) to clearly show the retention of three parking spaces for the upper floor residential units and the following conditions:

1. Standard 3 year time limit condition;
2. In accordance with plans;
3. Hours of operation – Monday-Saturday 12:00 hours to 00:00 hours, Sundays and Bank Holidays 12:00 hours to 23:00 hours;
4. Details of noise insulation;
5. Noise levels of machinery;
6. Extract equipment to be installed;
7. Submission of an anti-vibration and noise scheme for plant;
8. Submission of a waste management scheme;
9. Parking provision to be retained for upper floor flats.

The reason for the approval was that Members felt the premises was situated within a commercial area where some late night disturbance could

be expected and did not consider that there was a need for off street parking for a restaurant in this particular location.

The vote for the resolution to grant planning permission was carried by 9 votes to 0 with 2 abstentions.

Councillors White and Martin abstained from voting.

40 **P0602.14 - SHENANDOAH, BROXHILL ROAD, HAVERING-ATTE-BOWER, ROMFORD**

The application before Members sought planning permission for the demolition of the single storey rear extension and the erection of a single storey rear extension, with a depth of 4 metres, a width of 6.4 metres and a height of 3.3 metres with a crown roof.

During the debate Members sought and received clarification on the total percentage increase in size of the original property taking account of previous extensions.

Members noted that the original property had benefitted from an incremental increase of approximately 110%. Members commented that this level of increase was unacceptable in the Green Belt and would adversely affect the open nature and character of the Green Belt.

The report recommended that planning permission be granted, however following a motion to refuse the granting of planning permission which was carried by 7 votes to 3 with 1 abstention, it was **RESOLVED** that planning permission be refused for the reason that the proposed extension, in combination with previous enlargements, represented disproportionate additions to the building within the Green Belt, contrary to National Planning Policy Framework (NPPF) and Policy DC45 of the Local Development Framework.

The vote for the resolution to refuse planning permission was carried by 6 votes to 4 with 1 abstention.

Councillors Crowder, Kelly, White, Van den Hende, Martin and Williamson voted for the resolution to refuse the granting of planning permission.

Councillors Misir, Dodin, Hawthorn and Ower voted against the resolution to refuse the granting of planning permission.

Councillor Best abstained from voting.

41 **P0843.14 - C.E.M.E, MARSH WAY, RAINHAM - THE ERECTION OF A SINGLE STOREY MODULAR OFFICE ACCOMMODATION & A THREE STOREY MODULAR CLASSROOM ACCOMMODATION**

The Committee considered the report and without debate **RESOLVED** that planning permission be granted subject to the conditions as set out in the report and to include an additional condition(s) requiring the provision of refuse and cycle storage facilities in accordance with the submitted details.

42 **P0484.14 - RISE PARK INFANT SCHOOL, ANNAN WAY - INSTALLATION OF AN EXTERNAL PLAY AREA WITH THE CONSTRUCTION OF TIMBER PLAY APPARATUS SURROUNDED BY RUBBER FLOOR SURFACING**

The Committee considered the report and without debate **RESOLVED** that planning permission be granted subject to the conditions as set out in the report.

43 **P0813.14 - LAND TO THE REAR OF TESCO EXPRESS, OAKLANDS AVENUE ROMFORD**

The application before Members proposed the erection of nine 2 bedroom flats with associated amenity space, car park, landscaping, cycle parking and refuse storage.

Members noted that a late letter of representation had been received objecting to the application on the ground of lack of parking and other non-material planning issues.

During the debate Members received clarification on the height of the proposed development and discussed the merits of the proposal compared to previous applications on this site. Members agreed that a previous application, that included provision for houses, had been more in keeping with other properties in the area and that the current application was quite imposing on the streetscene.

The report recommended that planning permission be granted, however the vote for this recommendation was lost by 2 votes to 9. Following a motion to refuse planning permission which was carried by 10 votes to 1, it was **RESOLVED** that planning permission be refused on the grounds of:

1. Inappropriate bulk and mass of the proposal causing harm to the streetscene.
2. The provision of flat block nearest to No.1 Oaklands Avenue would be out of keeping with this part of the street.

The vote for the resolution to refuse the granting of planning permission was carried by 10 votes to 1.



Councillor Ower voted against the resolution to refuse planning permission.

44 **P0543.14 - FORMER COACH DEPOT, LAND SOUTH OF REGINALD ROAD HAROLD WOOD - VARY CONDITION 3 OF PLANNING PERMISSION P0151.13 - REVISION TO THE LOCATION OF THE TWO HOUSES WITHIN PLOTS 1 AND 2.**

The Committee considered the report noting that the proposed development was liable for a Mayoral CIL contribution of £8,960 and **RESOLVED** that the proposal was unacceptable as it stood but would be acceptable subject to the applicant entering into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended) to vary the legal agreement completed on 25 February 2014 in respect of planning permission P0151.13 by varying the definition of Planning Permission which shall mean either planning permission P0151.13 as originally granted or planning permission P0543.14 as proposed and set out in the report.

The Developer/Owner shall pay the Council's legal costs associated with the preparation of the Deed of Variation irrespective of whether the matter is completed.

Save for the variation set out above and any necessary consequential amendments the section 106 agreement dated 25 February 2014 all recitals, terms, covenants and obligations in the said section 106 Agreement shall remain unchanged.

That staff be authorised to enter into a Deed of Variation to secure the above and upon completion of that agreement that the Committee delegate authority to the Head of Regulatory Services to grant planning permission subject to the conditions as set out in the report.

45 **P0760.14 - VINEGAR HILL, LOWER BEDFORDS ROAD ROMFORD**

The application before the Committee related to a site within the Green Belt on the corner of Straight Road and Lower Bedfords Road which was previously woodland, but had been used for residential purposes since 2001. Temporary planning permission had expired and an enforcement notice recently served. The application sought temporary planning permission to use the site for five pitches for gypsy and traveller accommodation.

During a brief debate Members received clarification on the current enforcement action at the site and the progress of the Council's Gypsy and Traveller Local Plan. Responding to questions raised by members, officers confirmed that the approval of this application would not affect the allocation of traveller pitches under the Gypsy and Traveller Plan.

It was **RESOLVED** that planning permission be granted subject to the conditions as set out in the report.

---

**Chairman**

## Regulatory Services Committee

11 September 2014

<b>Page No.</b>	<b>Application No.</b>	<b>Ward</b>	<b>Address</b>
1-8	P1550.12	Petits	71 Main Road, Romford
9-17	P0507.14	Upminster	Fishing lake adj Bramble Farm, Bramble Lane, Upminster
18-24	P0874.14	Rainham & Wennington	Wennington Marsh , Rainham

This page is intentionally left blank

**REGULATORY SERVICES COMMITTEE**

**11th September 2014**

<b>APPLICATION NO:</b>	<b>P1550.12</b>	
<b>WARD :</b>	Pettits	<b>Date Received:</b> 12th April 2013 <b>Expiry Date:</b> 7th June 2013
<b>ADDRESS:</b>	71 Main Road Romford	
<b>PROPOSAL:</b>	Side and rear extension and conversion of existing house to form a 26 bedroom Care Home for the elderly with dementia Revised Plans received 10/07/2014	
<b>DRAWING NO(S):</b>	12-061/9 Rev a 12-061/EXISTING 12-061/2 12-061/3 Rev A	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be REFUSED</b> for the reason(s) given at the end of the report given at the end of the report.	

#### **CALL-IN**

The application has been called-in to the Committee by Councillor Frederick Thompson if recommended for refusal on the grounds that the current revision for an extension with a conventional pitched roof is an improvement on the previous mono-pitched extension and is a realistic sized and viable development for the site.

#### **BACKGROUND**

There have been a number of applications for the development of a care home on the site. Previous schemes have either been withdrawn or the application refused. The most recent refusal in April 2012 was for a two storey rear extension and loft conversion and a two-storey rear annexe linked to the main building. This was refused for three main reasons:

- \* The harmful impact of the extension on the special character of the Gidea Park Conservation Area;
- \* Overdevelopment of the site;
- \* The loss of soft landscaping would detract from the setting of the property within the Conservation Area.

The 2007 application for two substantial extensions to the existing house to create a 40-bed care home was refused and dismissed on appeal. The Inspector considered that the large extensions would subsume the original compact dwelling and would as a result detract from the character and appearance of the street particularly in Heath Drive. He considered that the existing building makes a positive contribution to the Conservation Area and the development proposed would cause this to be lost. Since this decision the scale of proposed extensions has been reduced, including a reduction in the number of bedrooms. Applications have proposed linked extensions with annexe buildings in the rear garden. The current application originally involved single storey extensions over a larger footprint than the scheme currently before the Committee. The revisions were made following representations by the Gidea Park and District Civic Society and by local residents. Re-consultation and neighbour notification was undertaken on the revisions. The application needs to be considered on the basis of the revised drawings.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**SITE DESCRIPTION**

The application site comprises a two storey, detached dwelling, located on a corner plot on the north side of Main Road at its junction with Heath Drive. The site, which amounts to 0.28ha, is situated within the Gidea Park Conservation Area. To the west the site is adjoined by a two storey, detached building, which is in use as a children's day nursery. To the east of the site is Heath Drive, which has a two storey, flat roofed commercial building (Richer Sounds) located on the opposite corner of the junction. Single storey dwellings, no.10 Heath Drive and no.1 Heath Close adjoin the rear boundary of the site. Development in Heath Drive is principally two storey.

There are two storey dwellings in Heath Drive (nos. 3-9), which face towards the eastern side boundary of the application site. Two of these are 1910/1911 exhibition houses and the others are more recent.

The dwelling on the site is a substantial, two storey red brick dwelling of distinctive design and appearance, set in a large, landscaped plot. It was constructed in the 1940's. The flank of the dwelling is clearly visible in the Heath Drive street scene. Access to the site is from Main Road, with a looped driveway arrangement around a central landscaped feature. There are a number of mature trees to the front, which includes two cedars, and along the side boundary of the site. These comprise mainly holly and conifer trees with a line of mature lime trees within the highway frontage to Heath Drive. The dwelling is set centrally within the plot well back from both the Heath Drive and Main Road frontages and from the boundary with the nursery to the west.

**DESCRIPTION OF PROPOSAL**

The application proposes the retention of the existing building on the site and the addition of two storey side and rear extensions. The extensions and alterations would facilitate the creation of a 26-bed care home for elderly dementia residents on the site. The existing double garage would be demolished.

The care home would comprise communal facilities and three bedrooms on the ground floor of the extended building; 16 bedrooms on the first floor and 7 bedrooms in the roof space.

The two storey side extension would be set back from the existing frontage and include a dormer over both floors, similar to the existing house. The side extension would measure 6.7m wide by 10.5m deep, with a gap of over four metres to the boundary with the children's nursery to the west. The rear extension would have dimensions of 11m wide by 14.4m deep. The extensions would extend over three floors under a hipped crown roof. The second floor bedrooms would have conservation roof lights. The overall height would be 9m, compared with 10.6m for the existing house. The proposed new accommodation would amount to 610sqm, compared with 340sqm in the existing dwelling.

No changes are proposed to the site access from Main Road or to the existing front garden layout. No trees are indicated to be removed as part of the development but two new parking areas are proposed on either side of the driveway providing 14 parking spaces in total.

The proposed materials and detailing would match that of the existing building, including timber framed windows, dormer, soffits and fascia boards.

**RELEVANT HISTORY**

- P0183.12 - Two storey rear extension and loft conversion to existing property linked two storey annexe to rear of property to form 31 bedroom care home  
Refuse 16-04-2012
- P1468.09 - Two storey rear extension and loft conversion to existing property linked two storey annexe to rear of property to form 31 bedroom care home

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

Withdrawn 17-11-2010

C0002.09 - Conservation Area Consent for demolition of existing house  
Withdrawn 20-03-2009

P0090.09 - Demolition of existing house and construction of 31 bed care home for the elderly  
Withdrawn 20-03-2009

P2170.07 - Two storey front, side and rear extensions and change of use to form 40 bed care home for elderly  
Refuse 13-02-2008

C0004.06 - Conservation Area Consent for proposed demolition of dwelling house and construction of 14 residential apartments (10 No. 2 bed and 4 No. 3 bed)  
Withdrawn 08-06-2006

P0308.06 - Proposed demolition of dwelling house and construction of 14 residential apartments (10 No. 2 bed and 4 No. 3 bed)

Withdrawn 08-06-2006

### **CONSULTATIONS/REPRESENTATIONS**

#### Representations:

Publicity has been given to the application through a site notice and 89 neighbour letters on the revised layout which is before the Committee for consideration. This included those previously notified and those who had made representations. There have been 16 letters of representation in response. There have been a large number of objections to the earlier layout, but these are not addressed in this report.

Many of the original objectors did not object to the principle but consider that the extended building would neither conserve nor enhance the character of the conservation area. In response to the re-consultation there have been four objection letters raising concerns about the potential impacts from noise, traffic, parking, possible loss of trees, loss of garden area, cooking odours and lack of need. The principle objection remains that the extension would be out of keeping with the conservation area.

Ten pro-forma submissions and two letters raise no objections (respondants previously objected) to the new design which is considered compatible with the character and appearance of the conservation area.

#### Consultations:

Gidea Park and District Civic Society -raises no objections to the revised proposals which are strongly supported by the Society. The contemporary style building proposed in the original application would have had a substantial impact on the Conservation Area opposite the 1911 terraced cottages in Heath Drive and the bungalow at No.10 and the much older housing in Heath Drive. Whilst the extension would be large it would extend far less into the rear garden than the original proposal. The design of the side and rear extensions are similar to the existing house and in keeping with the surrounding conservation area.

Thames Water - surface water drainage is the responsibility of the developer. Storms flows

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

should be regulated into the receiving public network. Prior consent would be required. No objections with regard to sewerage infrastructure. Thames Ware must be notified of any work within 3 metres of any public sewer.

Essex and Suffolk Water - would not affect the company's apparatus. No objections raised subject to a new connection being made to the company's network.

Metropolitan Police Crime Prevention Design Advisor - recommends a condition regarding Secured by Design and would support further conditions on lighting, CCTV, boundary treatment and landscaping.

Heritage Officer - the changes have responded to advice given and now includes material and architectural features more in keeping with the existing property. The two storey building occupies a smaller footprint than the single storey design and does not occupy the site so deeply. Although the extension would be a significant feature the building is of higher quality design more in keeping with the original house and the Conservation Area. A landscaping condition is recommended. Overall scheme is considered acceptable from a heritage perspective.

Public Protection - recommends conditions covering noise and odour control, construction hours and testing of soils.

Streetcare (Highways) - No objections subject to car and cycle parking provision and informatives.

London Fire Brigade (Water Team) - no additional fire hydrants required or affected by the development.

London Fire and Emergency Planning Authority - satisfied with the proposals.

## **RELEVANT POLICIES**

The Gidea Park Conservation Area Character Appraisal

### LDF

CP8 - Community Facilities  
DC1 - Loss of Housing  
DC26 - Location of Community Facilities  
DC27 - Provision of Community Facilities  
DC30 - Contribution of Community Facilities  
DC33 - Car Parking  
DC49 - Sustainable Design and Construction  
DC55 - Noise  
DC61 - Urban Design  
DC63 - Delivering Safer Places  
DC68 - Conservation Areas

### OTHER

LONDON PLAN - 3.17 - Health and social care facilities  
LONDON PLAN - 7.3 - Designing out crime  
LONDON PLAN - 7.4 - Local character  
LONDON PLAN - 7.6 - Architecture  
LONDON PLAN - 7.8 - Heritage assets and archaeology



## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

### **OTHER**

LONDON PLAN - 8.3 - Community infrastructure Levy

NPPF - National Planning Policy Framework

### **MAYORAL CIL IMPLICATIONS**

All new floorspace is liable for Mayoral CIL, but in assessing the liability account is taken of existing usable floorspace that has been lawfully used for at least six months within the last three years. The existing garage to be demolished has floorspace amounting to 45m<sup>2</sup> and is in lawful use as part of the existing house. The new build following demolition would amount to 610m<sup>2</sup> giving a net increase of 565m<sup>2</sup>. The CIL rate is £20 per square metre giving a CIL liability of £11,300.

### **STAFF COMMENTS**

The main issues for consideration relate to the principle of development and the impact that the proposed extensions and use have upon the streetscene and wider character of the Gidea Park Conservation Area, amenity to neighbouring occupiers, highway and parking.

### **PRINCIPLE OF DEVELOPMENT**

The proposal is for the extension of an existing dwelling and its extension to provide a 26-bed care home. The proposed use is for a community facility as defined in LDF Policy CP8. In principle the loss of a residential dwelling is considered acceptable under the terms of LDF Policy DC1. There would also be no fundamental conflict with the provisions of Policy DC26, subject to the acceptability of the detailed design and the impact of the proposal on local character, amenity and parking. Policy DC68 seeks to ensure that planning permission is only granted which would preserve or enhance the conservation area.

In terms of the NPPF new development in conservation areas should take account of the desirability of making a positive contribution to local character and distinctiveness. At paragraph 132 the NPPF advises that when considering the impact of development on a heritage asset, great weight should be given to the assets conservation. In this case the asset is the conservation area. Where proposed development would lead to substantial harm to the significance of an asset permission should normally be refused, unless public benefits would outweigh this loss.

The extension of the existing building to provide a care home is considered acceptable in principle under these policies, subject to the scale of the development and its impact on the area also being acceptable.

### **CONSERVATION AREA**

In the Gidea Park Conservation Area Appraisal 71 Main Road is described as a modest, late 1940's house but with two good mature cedars enhancing its front garden, and one of only two properties in this part of Main Road approximating closely to their original character and appearance.

The Appraisal takes the view that the principal impression throughout the part of the Conservation Area north of Main Road is of spaciousness where individual plots are generous and the backdrop of mature trees. In reaching a view as to the impact of the development on this part of the Conservation Area, Staff have had regard to the observations set out within the Gidea Park Conservation Area Appraisal.

Staff consider that the location of the application site at the junction of Main Road and Heath

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

Drive, plays a key role in the character of this part of the Conservation Area. It is a large plot, occupied by a generously sized dwelling, which sets a marker for the spacious, landscaped character of development typical of the northern part of the Conservation Area. The extent of the open rear garden and the mature landscaping along the Heath Drive boundary of the estate is therefore considered to make a fundamental contribution to this part of the Conservation Area.

**DESIGN/IMPACT ON STREET/GARDEN SCENE**

In respect of the extensions the adopted Residential Extensions and Alterations SPD states that two storey rear extensions should project no more than 3m, and in exceptional local circumstances a maximum of 4m may be acceptable, where this would be acceptable for the local area. However, staff consider that in this case given the size of the plot a deeper extension would be acceptable, subject to an acceptable quality of design. There have been a number of large extensions to buildings in this part of Gidea Park and there have also been some large replacement buildings on some plots. However, what is of particular importance for this site is the prominent side frontage. In relation to this the views of the appeal inspector in 2008 are particularly relevant. He considered that a large extension to the rear of the property would detract from the character and appearance of the street. The extension in this case would not be as deep and would be further from Heath Drive. However, a judgement is required in terms of the impact on the streetscene generally, but more importantly on the character and appearance of the Conservation Area. Whilst the extensions in this case would be smaller staff consider that there would still be a material adverse impact on the character and appearance of the Conservation Area. The extension would not present an attractive frontage to the street, and despite the existing boundary trees the side extension would have an impact that a normal domestic extension would not. Overall the extension would increase the size of the property by in the region of 200%. The increase in depth would be very similar to that of the existing dwelling giving the building a bulky and visually dominant appearance.

The impact of the development on the character and appearance of the Conservation Area when viewed from Main Road would be less significant. The Residential Extensions and Alterations SPD considers that side extensions are acceptable to full height of the original providing they appear integral to the existing dwelling. However, whilst this would be the case here it would appear out of proportion to the existing dwelling, detracting from its overall appearance. Whilst the proposal does seek to integrate design features of the existing house, these do not reflect the original house proportions.

In terms of the proximity to the boundary the extension would be much further away than the garage to be demolished so the gap between the extended building and adjoining nursery would not be diminished. Overall staff consider that the proposals would have a material adverse impact on the streetscene generally and on the character and appearance of the Conservation Area contrary to LDF policies DC61 and DC68, and the guidance in the NPPF.

**IMPACT ON AMENITY**

There would be no material impact on the amenities of adjoining dwellings. Whilst the building would be much more visible and appear closer, the size of the plot can accommodate the extended building without any significant adverse impacts. There would be no overlooking issues and given the separation the extended building would not appear overbearing from the nearest residential properties. The impact on the adjoining nursery would also not be significant. Therefore, the proposals would be in accordance with Policy DC61 in terms of impact on amenity.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**HIGHWAY/PARKING**

The existing access and parking is considered acceptable and in accordance with Policy DC33 subject to adequate bay sizes. Secure cycle parking for staff is required, but this can be addressed by condition. There are no objections from the Highway Authority.

**SECTION 106**

Whilst this application does involve development for residential purposes no additional dwellings would be created and it would not be liable for any S106 contribution towards local infrastructure provision.

**KEY ISSUES/CONCLUSIONS**

The existing property is set within a large plot on a prominent corner location and is considered to make an important contribution to the character and appearance of this part of the Gidea Park Conservation Area. There have been a number of applications for a care home development on the site. These have been rejected on grounds relating to the scale of development and the impact on the Conservation Area. In this case the development as originally submitted has been revised following consultation with the Civic Society. The application needs to be considered on its merits as revised.

Whilst the proposal would have less impact than previous proposals and has been reduced in scale staff consider as a matter of judgement that the scale together with the overall design and appearance of the extended building would have an adverse impact on the character and appearance of the Gidea Park Conservation Area and the area generally. Refusal is recommended accordingly. Notwithstanding this view, should members judge that these impacts would be acceptable then there would be a case for granting permission subject to conditions.

**RECOMMENDATION**

It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

**1. REFUSAL - Non Standard**

The proposed extensions to the existing building would, by reason of their scale and design, appear as an unacceptably dominant and visually intrusive feature in the street scene. The proposal would therefore be materially harmful to the special character of the Gidea Park Conservation Area, contrary to Policies DC61 and DC68 of the LDF Core Strategy and Development Control Policies Development Plan Document, the Residential Design and Heritage Supplementary Planning Documents and Section 12 of the National Planning Policy Framework.

---

**1 Refusal and CIL (enter amount)**

The proposal, if granted planning permission on appeal, would be liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £11,300. Further details with regard to CIL are available from the Council's website.

**2 Non Standard Informative 1**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements were required to make the proposal acceptable and suitable amendments were suggested during the course of the

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

application, in accordance with para 186-187 of the National Planning Policy Framework 2012. Modifications were undertaken but these were not considered sufficient to make the development acceptable.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

<b>APPLICATION NO:</b>	<b>P0507.14</b>	
<b>WARD :</b>	Upminster	<b>Date Received:</b> 19th June 2014 <b>Expiry Date:</b> 18th September 2014
<b>ADDRESS:</b>	Fishing lake adj Bramble Farm Bramble Lane Upminster	
<b>PROPOSAL:</b>	Landscape improvement works to existing fishing lake Revised Plans Received 22.08.2014	
<b>DRAWING NO(S):</b>	2012/01/04 Rev F	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be GRANTED</b> subject to the condition(s) given at the end of the report given at the end of the report.	

### **CALL-IN**

The application was called in by Councillor Linda van den Hende for the following reasons:

The proposal is considered to be inappropriate in terms of Green Belt policy, highway impact, and neighbouring amenity.

### **BACKGROUND**

Planning permission was granted in October 2013 for the importation of inert material and engineering operations to create safety ledge and island within an existing lake (reference P0206.13). In order to create the proposed safety ledge and island, the applicant proposed to use material dredged from the bottom of the lake, and also to import upto 1000 tonnes of material. The submitted information states that following the commencement of development it was realised that there was less material at the lake bed than originally thought, and dredging up the amount required would expose waste material from the underlying, former landfill. The applicant therefore needs to import upto a further 3000 tonnes of material to compensate for this, and seeks planning permission for this change to the previously approved scheme.

### **SITE DESCRIPTION**

The application site, which consists of a lake, is located in the Green Belt on the northern side of Bramble Lane. The application site is situated adjacent and to the west of the dwelling and various outbuildings of Bramble Farm.

The site covers an area of approximately 0.4ha and consists predominantly of a lake which has an average depth of around 3m. The lake is man-made and was originally formed by RMC Aggregates for the purposes of gravel extraction.

The site's southern boundary adjoins the public highway; the western boundary adjoins a shared, private access road, which provides access to the site; the northern boundary adjoins open agricultural land in relation to which the applicant has consent for land raising works; whilst the eastern boundary runs alongside a residential property at Bramble Farm.

### **DESCRIPTION OF PROPOSAL**

The proposed development is the same as that previously approved as part of planning

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

permission P0206.13, except to the extent that less material would be dredged from the bottom of the lake, and more material (upto 3000 tonnes more than previously approved) would need to be imported in order to create the proposed safety ledges and island. The submitted information states that 950 tonnes have been imported so far, with the activities having ceased whilst this further planning approval is sought.

As previously approved, the application proposes the importation of inert material and engineering operations to create a lake suitable for fishing. Works would include creating 2m wide safety ledges around two sides of the lake which are most suitable for use by anglers. In addition it is proposed to create a small "wildlife island" within the lake approximately 300mm above the water level to attract ducks and the other birds to the lake, and improve facilities for wildlife whilst enhancing the appearance of the lake.

The applicant proposes to import upto around 3000 tonnes of material in addition to the 950 tonnes already brought on to the site. The submitted information indicates that this would equate to approximately 160 further lorry loads. The applicant has previously limited the number of HGV deliveries to 10 per day. The drag-line excavator on site would be used to level out the average depth of the lake.

The applicant continues to state that the lake would remain a private fishing lake with limited use of up to 8 anglers at any one time, which will be restricted to immediate family and friends of the current owner. In order to provide parking for 4 vehicles the applicant is still proposing to improve the existing hard standing area on site by providing a shingle surface in keeping with the rural setting.

The existing reed bed on the northeast corner is to be retained, and the existing undergrowth and banks around the lake are to be maintained and re-landscaped with grass and shrub planting. Access to the site would be restricted by the installation of security gates to the existing access off Bramble Lane.

The submitted information states that there are upto 12 weeks worth of works required to complete the development. However, a definitive completion date cannot be given as weather conditions and other circumstances could lead to delays.

#### **RELEVANT HISTORY**

P0206.13 - Inert material importation and engineering operations to create safety ledge and island within the lake together with excavation to increase average lake depth from 3m to 3.8m - Approved.

#### **CONSULTATIONS/REPRESENTATIONS**

Notification letters were sent to 5 neighbouring properties and one letter of objection was received raising the following concerns:

- The impact on highway safety and amenity;
- The impact on residential amenity;
- The appearance of the proposal;
- Potential for odour and noise nuisance;
- Impact on the character of the area;
- The likely increase in the water level;
- Whether the importation of material can be monitored;
- Whether there is a water supply for jet washing and dust dampening;

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

- The type of material that would be brought onto the site

Comments have been received from the following consultees:

Highways - No objections.

The Environment Agency - No objections. Additional information about the nature of the material to be imported can be gathered under the Environmental Permitting Regulations.

Environmental Health - No objections. Conditions recommended such that all site derived and/or imported soils be tested for chemical contamination, and construction times be limited.

Thames Water - No objections.

Fire Brigade - No objections.

### **RELEVANT POLICIES**

The following policies of the LDF Core Strategy and Development Control Policies DPD ("the LDF") are of relevance:

DC32 - Road Network

DC45 - Appropriate Development in the Green Belt

DC61 - Urban Design

The London Plan

Policy 7.16 - Green Belt

National Planning Guidance

National Planning Policy Framework ("the NPPF")

### **STAFF COMMENTS**

The issues to be considered in this case are a) the principle of development; b) design/street scene issues; c) impact upon the Metropolitan Green Belt and d) amenity implications.

### **PRINCIPLE OF DEVELOPMENT**

In terms of what this application proposes, over and above what has previously been granted approval, and which continues to be capable of being implemented, this planning application proposes engineering operations in the Green Belt. Policy DC45 of the LDF states that planning permission will be granted for development in the Green Belt that is for given purposes. The purposes listed do not include engineering operations, however, this type of development is addressed in the National Planning Policy Framework ("the NPPF").

National planning guidance is also a material consideration in the determination of planning applications. In terms of the guidance contained in the NPPF, the preliminary assessment when considering proposals for development in the Green Belt is as follows:-

a) It must be determined whether or not the development is inappropriate development in the Green Belt. The NPPF and the LDF set out the categories of development not deemed to be inappropriate.

## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

b) If the development is considered not to be inappropriate, the application should be determined on its own merits.

c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies.

In terms of Green Belt policy and the changes that this application proposes compared to the previous application, it is engineering operations that need to be given consideration.

Paragraph 90 of the NPPF states that "certain other forms of development", that are separate from building operations, may constitute appropriate development in the Green Belt providing they preserve the openness of and do not conflict with the purposes of including land in the Green Belt. These include engineering operations.

There is an extant planning permission for the proposed operational development and creation of a private fishing lake, and the principle of development is considered to be established for the proposed use. The proposal under consideration would involve the importation of additional material, which would be used to form levels beneath the lake's water surface, apart from the approved island, which would rise above the water surface. The main difference that the proposal would result in is that less material would be removed from the bottom of the lake to form the proposed ledge and island (the dimensions of which have already been approved), meaning the lake bed would be higher than previously approved. However, this would be by a modest amount considering the amount of material being dealt with and its coverage in relation to the area of the lake.

It is considered that the proposal would preserve the openness of the Green Belt and would not be detrimental to the purposes of including land in the Green Belt. It is therefore considered that the proposal would constitute appropriate Green Belt development.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

Policy DC61 states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.

The proposed development would not result in any development above the lake's water level compared to what planning permission has already been granted for. In terms of its visual impact, it is considered that the proposal would be in accordance with Policy DC61 of the LDF and the guidance contained in the NPPF.

### **IMPACT ON AMENITY**

Policy DC61 of the LDF states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.

Staff previously acknowledged that there would be additional noise and disturbance as a result of construction work, and lorries entering and leaving the site, but recognised that this would only be during the construction phase. Conditions were recommended to limit deliveries into the site and construction hours.

In terms of how the current proposal differs from what has extant planning permission, the main way in which the proposal is likely to have an impact on neighbours is in relation to the increased number of vehicle movements and any associated noise. It is acknowledged that this might result in an increase in disturbance, however, this would only be for a temporary period for the



## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

duration of the works. A condition is recommended to limit the number of HGVs that can deliver to the site per day and in total, in accordance with a scheme of monitoring to be approved by officers. It is also recommended that planning permission be granted for a limited period of three years, to ensure that the development is completed in a reasonable amount of time.

Given the scale of the proposed additional works, the distance between the neighbouring property and the site access, and our ability to impose conditions limiting vehicle movements and construction hours, it is considered there would not be any significant adverse impacts on the amenities of neighbours.

### **HIGHWAY/PARKING**

Highways officers have raised no objections to the proposal.

As previously approved, provision will be made for 4 cars by improving the existing hard standing area by creating a shingle surfaced hard standing. The additional importation of material would result in an increased number of HGVs visiting the site for the duration of the construction works. It is estimated that this would be around 160 vehicles. The applicant has stated that HGV numbers have been limited to 10 per day.

Given the modest increase in HGV movements, required for the temporary construction period, and given that the numbers can be limited by a condition, it is considered that there would not be any significant adverse impacts on highway safety or amenity.

### **OTHER ISSUES**

The Environment Agency has raised no objection to the proposed development and has stated that any additional information that they require in relation to the proposed use of material could be dealt with under the Environmental Permit Regulations. Staff are also satisfied that materials brought onto site would be able to be monitored by means of a suitable condition which is also a request by Environmental Health.

As previously discussed, the proposal would result in the importation of more material than previously approved and therefore an increase in the level of the lake bed. This will result in a corresponding increase in the lake's water level, although the amount would be modest. The submitted information states that an outfall leading to the surrounding drainage network is located in the western bank of the lake, would prevent any potential overflow in the unlikely event that water levels were to rise to such an extent.

A neighbouring occupier has queried where the water would be sourced from to service the proposed wheel wash. The applicant has indicated that the water would be supplied from Bush Farm.

Conditions imposed on the last planning permission should be re-imposed in this case, where appropriate.

### **KEY ISSUES/CONCLUSIONS**

The proposal is considered to be acceptable having had regard to Policies DC32, DC45, and DC61 of the LDF, and all other material considerations.

### **RECOMMENDATION**

It is recommended that **planning permission be GRANTED** subject to the condition(s) given at

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

the end of the report

**1. S SC4 (Time limit) 3yrs**

The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason:-

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

**2. SC11 (Landscaping) (Pre Commencement Condition)**

All planting, seeding or turfing comprised within the plan referenced "2012/01/04 Rev F" (received 22nd August 2014) shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become 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 by the local Planning Authority.

Reason:-

In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61

**3. SC27 (Hours of use) ENTER DETAILS**

Use of the lake by anglers shall only take place between the hours of 08:00 and 21:00 on any day.

Reason:-

To enable the Local Planning Authority to retain control in the interests of amenity, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

**4. S SC32 (Accordance with plans)**

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans.

Reason:-

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

**5. SC57 (Wheel washing)**

The development shall be undertaken in accordance with the wheelwashing details approved under condition 5 of planning permission P0206.13.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**6. M SC62 (Hours of construction)**

No construction works or deliveries into the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 hours on Saturdays unless agreed in writing with the Local Planning Authority. No construction works or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason:-

To protect residential amenity, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

**7. Non Standard Condition 31**

No heaps of soil or clay shall be left on the site after the completion of the development other than those approved under this consent. Any unused spoil left at the site shall be removed within one month of the completion of the development, in accordance with the details approved as part of condition 8 of planning permission P0206.14.

Reason:

To ensure that operations take place with minimum harm to the character of the amenity of the site.

**8. Non Standard Condition 1 (Pre Commencement Condition)**

No more than 170 HGV deliveries associated with the development shall take place in total. No more than 10 HGV deliveries associated with the development shall take place per day in accordance with a scheme of vehicle monitoring to be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted within 8 weeks of the date of this planning permission. Up to date information about the total numbers of HGVs accessing the site shall be kept on record at the site at all times, and shall be made available to the local planning authority in writing within 7 days of a request being made.

Reason:

In the interests of highway safety and residential amenity.

**9. Non Standard Condition 2 (Pre Commencement Condition)**

Imported soils shall be tested for chemical contamination, and the results of this testing together with an assessment of suitability for their intended use shall be submitted and approved in writing by the Local Planning Authority.

Reason:

To ensure that the occupants of the development are not subject to any risks from soil contamination in accordance with Development Control Policies Development Plan Document Policy DC53.

**10. Non Standard Condition 32**

No waste processing or recycling activities shall take place and no waste material shall be imported to the site at any time with the exception of inert material.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**11. Non Standard Condition 5 (Pre Commencement Condition)**

The car parking spaces hereby permitted shall be provided prior to the first use of the upgraded lake and thereafter shall be kept permanently available for the parking of vehicles.

Reason:-

In the interest of amenity and highway safety.

**12. Non Standard Condition 6 (Pre Commencement Condition)**

The number of persons using the fishing lake shall be limited to 8 at any one time.

Reason:-

To enable to the Local Planning Authority to retain control over the future use of the lake, in the interests of amenity.

**13. Non Standard Condition 33**

The development hereby approved shall be completed within 3 years of the date of this planning permission.

Reason:-

To ensure that the development is completed in a timely fashion.

---

**INFORMATIVES**

**1 Fee Informative**

A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per request or £28 where the related permission was for extending or altering a dwellinghouse, is needed.

**2 Highways Informatives**

The Applicant is advised that planning approval does not constitute approval for changes to the public highway. Highway Authority approval will only be given after suitable details have been submitted, considered and agreed. Any proposals which involve building over the public highway as managed by the London Borough of Havering, will require a licence and the applicant must contact StreetCare, Traffic & Engineering on 01708 433750 to commence the Submission/ Licence Approval process.

Should this application be granted planning permission, the developer, their representatives and contractors are advised that this does not discharge the requirements under the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works) required during the construction of the development.

The developer is advised that if construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**3 Approval following revision**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

<b>APPLICATION NO:</b>	<b>P0874.14</b>	
<b>WARD :</b>	Rainham & Wennington	<b>Date Received:</b> 27th June 2014 <b>Expiry Date:</b> 26th September 2014
<b>ADDRESS:</b>	Wennington Marsh Rainham	
<b>PROPOSAL:</b>	Habitat enhancement on Wennington Marsh. Creation of a network shallow ditches 0.4m deep and 3-10m wide. Deposition of all material on adjacent areas outside the floodplain	
<b>DRAWING NO(S):</b>	Wennington Marsh Restoration Design Habitat Enhancement Works on Wennington Marsh Wennington Project Area	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be GRANTED</b> subject to the condition(s) given at the end of the report given at the end of the report.	

#### **SITE DESCRIPTION**

The application site forms part of Wennington Marsh, which is located within the Inner Thames Marshes Site of Special Scientific Interest (SSSI), and is managed by the RSPB. The SSSI is designated for its wintering and breeding bird assemblages, wetland habitats, flora, and invertebrate interests. The site's northern boundary runs alongside the Channel Tunnel Rail Link and the A13; the eastern boundary is located within the borough of Thurrock; the southern boundary adjoins the Rainham Landfill waste management facility, beyond which is the River Thames; whilst the western boundary adjoins open land that is also designated as SSSI.

The site is also designated as a Metropolitan Site of Nature Conservation Interest (SNCI), is located in the Green Belt, and includes land designated as flood zones 2 and 3.

#### **DESCRIPTION OF PROPOSAL**

This planning application proposes engineering operations that would result in the site's ground levels being modified to create around 9.5km of shallow scrapes and drains, between 3m and 10m wide, and upto around 0.5m in depth. These lowered ground areas are expected to hold water. The material removed to form the scrapes and drains, amounting to around 11,500m<sup>3</sup>, would be spread over an area of the site's south western corner, to a maximum height of approximately 0.1m.

The proposal is required in order to enhance and protect the status of the SSSI, which currently does not contain the necessary wetland habitats required under the designation and is therefore likely to place the SSSI "at risk". Natural England are funding the SSSI's enhancement, through the introduction of enhanced wetland habitat areas within the site. The proposal would improve around 63ha of grazing marsh for breeding waders.

The application site is located within Havering and Thurrock. An application has also been made to Thurrock which will be determined in due course. The development cannot be undertaken unless both authorities grant planning permission.

#### **RELEVANT HISTORY**

There are no previous planning decisions of particular relevance to this application.

## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

### **CONSULTATIONS/REPRESENTATIONS**

a notification letter was sent to 1 neighbouring property; a site notice was placed in the vicinity of the site, and advertisements have been placed in the local press. One letter of objection has been received from a neighbouring land owner stating that the proposal would exacerbate existing flooding and drainage issues.

Comments have been received from the following consultees:

Environmental Health (Contaminated Land) - No objections; conditions recommended.

Environment Agency - No objections; conditions recommended.

Natural England - No objections.

English Heritage - No objections; condition recommended.

Thurrock Council - No comments received.

Essex Wildlife Trust - No comments received.

### **RELEVANT POLICIES**

The following policies of the LDF Core Strategy and Development Control Policies DPD ("the LDF") are of relevance:

DC32 - Road Network

DC45 - Appropriate Development in the Green Belt

DC48 - Flood Risk

DC58 - Biodiversity and Geodiversity

DC61 - Urban Design

DC70 - Archaeology

The London Plan

Policy 7.16 - Green Belt

National Planning Guidance

National Planning Policy Framework ("the NPPF")

### **MAYORAL CIL IMPLICATIONS**

The proposal would not result in the construction of any new buildings and therefore would not give rise to a contribution under the Mayoral CIL regulation.

### **STAFF COMMENTS**

The main issues in this case are considered to be the principle of development, visual impact, impact on amenity, ground contamination, flood risk, ecology, and archaeology.

### **PRINCIPLE OF DEVELOPMENT**

This planning application proposes engineering operations in the Green Belt. Policy DC45 of the LDF states that planning permission will be granted for development in the Green Belt that is for given purposes. The purposes listed do not include engineering operations, however, this type of

## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

development is addressed in the National Planning Policy Framework ("the NPPF").

National planning guidance is also a material consideration in the determination of planning applications. In terms of the guidance contained in the NPPF, the preliminary assessment when considering proposals for development in the Green Belt is as follows:-

- a) It must be determined whether or not the development is inappropriate development in the Green Belt. The NPPF and the LDF set out the categories of development not deemed to be inappropriate.
- b) If the development is considered not to be inappropriate, the application should be determined on its own merits.
- c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies.

In terms of Green Belt policy, this application proposes engineering operations.

Paragraph 90 of the NPPF states that "certain other forms of development", that are separate from building operations, may also constitute appropriate development in the Green Belt providing they preserve the openness of and do not conflict with the purposes of including land in the Green Belt. These include engineering operations. As discussed, the proposal would result in the site's ground levels being modified to create around 9.5km of shallow scrapes and drains, between 3m and 10m wide, and upto around 0.5m in depth. These lowered ground areas are expected to hold water. The material removed to form the scrapes and drains would be spread over an area of the site's south western corner, to a maximum height of approximately 0.1m.

Given that the proposal would result in very modest changes in ground levels over a very extensive site area, and that the areas affected would blend in with the site's existing marshy appearance, it is considered that the proposal would not result in any noticeable impact on the openness of the Green Belt. It is considered that the proposal would not be detrimental to the openness of the Green Belt, or that it would conflict with the purposes of including land in the Green Belt. It is therefore considered that the proposal would not constitute inappropriate Green Belt development. The proposal is considered to be acceptable in principle.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

Policy DC61 states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.

The proposed development would result in modest changes to the site's ground levels, resulting in very minor increases in levels where excavated material is deposited, and the creation of water-filled scrapes and ditches. It is considered that the proposed works would complement the site's existing marshy appearance, and that the proposal would not be harmful to the visual amenities of the Green Belt or the area generally. In terms of its visual impact, it is considered that the proposal would be in accordance with Policy DC61 of the LDF and the guidance contained in the NPPF.

### **IMPACT ON AMENITY**

Policy DC61 of the LDF states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.



## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

The proposed works would not be located in close proximity to any residential properties and it is anticipated that the works would last for a period of around two months. In this regard, it is considered that the proposal would not be contrary to Policy DC61 of the LDF.

### **HIGHWAY/PARKING**

Policy DC32 of the LDF states that development will only be approved where it does not significantly harm the functioning of the road network.

The proposal would involve the movement of material within the site area, and it is considered unlikely that the proposal would have any significant effect on the public highway, and that it would be in accordance with Policy DC32 of the LDF.

### **OTHER ISSUES**

#### Ecology

Policy DC58 of the LDF states that the biodiversity and geodiversity of SSSIs and SNCIs will be protected and enhanced. The proposed development is intended to enhance the wetland habitats of the SSSI, and is supported by both Natural England and the Environment Agency, both of which have been consulted about the proposal. In light of the advice received, it is considered that the proposal is likely to have a beneficial impact on the SSSI, and therefore that the proposal is in accordance with Policy DC58 of the LDF.

### **FLOOD RISK**

Policy DC48 of the LDF states that "Development must be located, designed and laid out to ensure that the risk of death or injury to the public and damage from flooding is minimised whilst not increasing the risk of flooding elsewhere and ensuring that residual risks are safely managed." To this end, a number of criteria are established that must be satisfied in order for planning permission to be granted.

The modest land raising works would be located in areas of the site at lower risk of flooding. The design of the proposal has been prepared by the applicant in conjunction with the Environment Agency to ensure that there would be no increased risk of flooding off site. It is considered that the proposal passes the sequential test in that it does not introduce any inappropriate use or other development into an area at high risk of flooding, and as the proposed habitat enhancements are located within a SSSI, there are not other more suitable sites where they could be located. The Environment Agency has raised no objections to the proposal.

In terms of the likely impacts on flood risk and drainage arrangements, the proposal is considered to be acceptable and in accordance with Policy DC48 of the LDF.

### **LAND CONTAMINATION**

The Council's Environmental Health officers have been consulted about the proposal and raised no objections subject to the use of conditions relating to the monitoring and control of contamination.

The Environment Agency has raised no objections subject to the use of conditions intended to address any potential impacts in relation to unexploded ordnance that may be located within the site.

Subject to the use of these conditions, the proposal is considered to be acceptable in relation to

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

ground contamination.

### **ARCHAEOLOGY**

The guidance contained in the NPPF and the London Plan (Policy 7.8) emphasise that the conservation of archaeological interest is a material consideration in the planning process. Paragraph 128 of the NPPF says that applicants should be required to submit appropriate desk-based assessments, and where appropriate undertake field evaluation, to describe the significance of heritage assets and how they would be affected by the proposed development.

English Heritage have been consulted about the proposal and considers that heritage assets of archaeological interest are likely to survive at the site. A condition has been recommended to ensure that the site is properly investigated prior to the commencement of development. Subject to the use of this condition, the proposal is considered to be in accordance with Policy DC70 of the LDF, along with the guidance contained in the NPPF and London Plan.

### **KEY ISSUES/CONCLUSIONS**

It is considered that the proposal would result in significant environmental benefits and that, in all material respects, it would not result in any significant adverse impacts. The proposed development is considered to be acceptable having had regard to Policies DC32, DC45, DC48, DC58, DC61, and DC70 of the LDF, and all other material considerations.

### **RECOMMENDATION**

It is recommended that **planning permission be GRANTED** subject to the condition(s) given at the end of the report

**1. SC4 (Time limit) 3yrs**

The development to which this permission relates must be commenced not later than three years from the date of this permission.

Reason:-

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

**2. SC32 (Accordance with plans)**

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

Reason:-

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

**3. Non Standard Condition 31**

No development shall take place until the applicant (or their heirs and successors in

**REGULATORY SERVICES COMMITTEE**  
**11th September 2014**

**4. Non Standard Condition 32**

If during the detailed unexploded ordnance threat assessment or the wider works permitted by this permission contamination is identified to be present works shall cease until the following has been submitted and approved by the local authority:

1. A Site Investigation which accurately assesses the extent of the contamination;
2. A remediation strategy detailing how the contamination shall be dealt with. The remediation strategy shall then be implemented as approved;
3. A verification strategy which demonstrates how the success of remedial works will be confirmed;
4. A verification report which demonstrates that remediation of the site from the unsuspected contamination has been successful.

Reason:-

To protect the quality of the water environment by ensuring any unsuspected contamination encountered is remediated successfully. The Thames river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact of potential contamination from ordnance could cause deterioration of a quality element to a lower status class, prevent the recovery and cause deterioration of a protected area.

**5. Non Standard Condition 33**

Prior to the commencement of any works pursuant to this permission, the developer shall submit for the written approval of the Mineral Planning Authority;

a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the Mineral Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

d) Following completion of measures identified in the approved remediation scheme mentioned in 1(c) above, a "Verification Report" that demonstrates the effectiveness of the remediation carried out, any requirement for longer-term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced,

## **REGULATORY SERVICES COMMITTEE**

**11th September 2014**

### **6. Non Standard Condition 34**

a) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Mineral Planning Authority. The remediation strategy shall be implemented as approved.

b) Following completion of the remediation works as mentioned in (a) above, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

Reason:-

To ensure that any previously unidentified contamination found at the site is investigated and satisfactorily addressed in order to protect those engaged in construction and occupation of the development from potential contamination.

---

## **INFORMATIVES**

### **1 Approval - No negotiation required**

Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

### **2 Non Standard Informative 1**

Informative

Under the terms of the Water Resources Act 1991, and the Thames Byelaws 1981 prior written consent of the Environment Agency is required the works proposed by this application. The applicant should continue to liaise with us (The Environment Agency) and not commence work until Flood Defence Consent has been granted.

The written scheme of investigation will need to be prepared and implemented by a suitably qualified archaeological practice in accordance with English Heritage Greater London Archaeology guidelines. It must be approved by the planning authority before any on-site development related activity occurs.



# REGULATORY SERVICES COMMITTEE

11 September, 2014

# REPORT

**Subject Heading:**

**P1566.12 – Rainham Landfill,  
Coldharbour Lane**

**Planning application for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.**

**Report Author and contact details:**

**Simon Thelwell (Projects and Regulation Manager) 01708 432685**

**Policy context:**

**Local Development Framework  
London Plan  
National Planning Guidance**

**Financial summary:**

**None**

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

This planning application was brought before Members on 17<sup>th</sup> July, 2014 (see Appendix A.) Members resolved to defer the application to allow for additional information be gathered in relation to various matters. These issues are dealt with further on in this report.

The application relates to a 177 hectare site located on the River Thames at the most southeastern part of the Borough. The application site currently benefits from an existing consent (reference: P1275.96) to deposit refuse materials through controlled landfill amounting to the importation of 12.3 million cubic metres of waste. The current landfill consent requires the site to be restored by 2018, relying solely on river sourced waste imports from 2012.

The proposal is for the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than previously approved, which would settle over time to a lower height that is similar to what was previously approved.

The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. The proposed completion date for landfilling is now proposed for December 2024, with restoration to be completed by December 2026.

## RECOMMENDATION

That subject to the Stage 2 referral process resulting in no significant adverse comments being received or contrary direction from the Mayor of London, that the proposal is unacceptable as it stands but would be acceptable subject to the planning conditions set out in this report and subject to the applicant first entering into a Legal Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended), to secure (for the avoidance of doubt the heads of terms of the Section 106 agreement are amplified by the draft agreement attached to this report and the detailed terms of the draft annexed take precedence should there be any inconsistency between the heads of terms and the draft; further the Head of Regulatory Services is given delegated authority to insert title details, plans and draft documentation to amplify and give effect and meaning to the draft Section 106 agreement attached and to make textual changes which have substantially the same effect as the terms of the draft agreement attached ) the following:-

**Advance Routes-** Define and provide the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with the Zone Access Plan or in a position otherwise agreed with the Council in writing.

**Advance Routes Notice** - Provide for a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.

**Advance Routes Specification** - Provide the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).

**Zone Access Plan**– Provide for the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

**Insurance** - Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy (public liability insurance) and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.

**Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth:** Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property

**Aftercare** – To diligently carry out the Aftercare during the Aftercare Period and to carry out works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone, over the period of 5 years from the completion of the Restoration Works, completing the Aftercare by 31<sup>st</sup> December 2031.

**HGV Routing Plan**– to ensure that HGVs travel directly between the A13 to the site and are not routed through built up areas including Rainham Village.

**Environmental Centre** - Upon service of the Final Completion Notice and until the end of the Aftercare Period **\*Veolia\*** shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period **\*Veolia\*** shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.

**Indemnity** - Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be,) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last

day of the Aftercare Period provided as set out in the draft Section 106 attached to this report.

**The Yellow Land** - Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land until as set out in the attached Section 106 agreement.

**Public Routes** - Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and shall permit public access by foot or by bicycle.

Prior to the end of the aftercare period Veolia shall use reasonable endeavours to enter into a Deed of Rights of Access to permit public access over the relevant parts of the First Access Road and Coldharbour Lane, and permit parking by the public in the First Car Park.

**Second car park:** Veolia shall permit members of the public to park private vehicles in the Second Car Park during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time.

**Beacon Land:** Nothing in the Deed shall be interpreted as preventing or impeding the Port of London Authority from (PLA) from accessing at any time without notice with or without vehicles the Beacon Land subject to no unlawful interference with public rights of way.

**Blue Land:** The Second riverside Footpath is subject to Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders **including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority**) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.

**Until the last day of the Aftercare Period:** Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification subject to provisos as set out in the draft agreement attached.

**Bond:** Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in



the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably

On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations against the Bond

**Brown Land:** Nothing in the Deed shall interfere with the PLA from using the Pump Ashore Facility to carry dredgings across the Brown Land ~~and across Coldharbour Lane~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility

Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.

The Owners to grant options over the Brown Land in accordance with the terms set out in the draft Section 106 agreement attached.

**Car Parking Area** the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre over which the owners will procure leases to Operators subject to Schedule 2 of the draft agreement attached.

**Implementation Notice and Deed of Rights of Access** ~~Upon service (or deemed service) of the Implementation Notice and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.~~

**Public Access Coldharbour Lane:** that members of the public shall be permitted to pass and repass during daylight hours by private car along those parts of Coldharbour Lane that are within the Property subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time

**Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth:** Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property.

**Restoration Works:** Veolia shall serve:

- an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
- the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.

### **Landscape and Restoration Plan**

- Within one (1) year of the date of the New Planning Permission Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

**Phasing Sequence** the sequence in which the Restoration Works are to be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council

**Riverside Footpaths and Footpath Specification:** Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land

**Site Infrastructure Plan:** the plan labelled “Site Infrastructure” attached to this Deed at Appendix 14 and In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council

**Green Travel Plan:** Within **three (3)** months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval. The Green Travel Plan shall contain provisions demonstrating how, from the date the Council’s written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property. The Green Travel Plan shall also include provisions for the monitoring and proactive

review of opportunities to increase the use of riverborne transport for delivery of waste for disposal within the Property and shall require a written report of Veolia's findings to be submitted to the Council on an annual basis.

**Highway Contribution:** Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.

**HGV Routing Plan:** Within **one (1)** month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.

**Options:** Grant London Borough of Havering the option of a piecrust lease/s on the application site on a phased basis subject to an independent review of contamination, pollution and health risks;

**Local Labour Commitment Scheme:** A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.

**Public Access:** Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

**Ecological Method Statement:** a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.

**Restoration Works:** Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.

**Odour Mitigation Strategy:** Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.

- If an Operator is proposed by the Council between now and 31 December 2028, the Owners will use reasonable endeavours to procure the grant of lease to the Council of the following operator zones

Zone A for a Visitor Centre

Zone B for a Car Parking Area

Zone C for a Water Recreation Facility

Zone D for Recreational Facilities

Zone E for an extended Second Car Park.

- The Council has until 31 December 2021 to decide whether to call for the new car parking area in Zone B serving a Visitor Centre in Zone A, or whether instead to opt for the extension of the existing car park in Zone E. This is because, if the Zone B car park is not required, Veolia needs sufficient time to landfill that area before the landfill operation is due to end in 2024.
- If the Council requests by 31 December 2030, the Owners will procure the grant of options to the Council for leases of the various land ownership parcels, which collectively will provide a pie-crust lease which excludes the sub-soil beneath the bentonite cap over the entire landfill site. The leases must be completed simultaneously by the end of the Aftercare Period (31 December 2031).

**Council's Absolute Right to Assign or Sub-let Lease:** The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

If the Council does not request the lease options over the remainder of the landfill, long leases to the Council of any operator zones may be terminated to enable Veolia to let a long lease of the entire site to a third party.

Subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed that the obligations in First Agreement be discharged on the implementation of the planning permission under planning reference P1566.12.

**Legal and Monitoring Fees:** The Council's legal fees for preparation of the agreement shall be paid as set out in the draft Section 106 attached to the report on or prior to completion and the Council's planning obligation monitoring fees shall be paid as required by the Council.

That staff be authorised to enter into a legal agreement to secure the above, subject to any necessary changes that may arise during negotiations, and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. Accordance with Plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason:

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

2. Time Limits - Waste disposal and all other processing operations shall cease on or before 31<sup>st</sup> December, 2024 and restoration of the site shall be completed by 31<sup>st</sup> December 2026, in accordance with the scheme approved under condition 4 below. The restored area(s) shall, from the date restoration is completed in any particular zone, be subject to a period of aftercare, in accordance with the scheme approved under condition 5 below.

Reason:

To ensure that the development is restored in a timely fashion.

3. Notification - Within 7 working days of the date aftercare commences in any given phase of the site, the Local Planning Authority shall be notified in writing.

Reason:

To ensure that the approved period of aftercare is undertaken.

4. Restoration - Within 12 months of the date of this planning permission, a detailed scheme of restoration, relating to all areas of the application site, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed phasing of restoration; infilling material and soils; the method of infilling; the use and depths of soil material; final levels and contours (shown at 1 metre intervals); removal of existing buildings and structures; along with details of all planting, boundary treatment, proposed access arrangements, and drainage works. The site's restoration shall be undertaken in accordance with the approved details. Written

notification to the Local Planning Authority shall be provided within 7 days of the completion of final restoration within each phase.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to agriculture.

5. Aftercare - An aftercare scheme, detailing the steps as may be necessary to ensure the site is restored in accordance with the approved restoration scheme, shall be submitted for the written approval of the Local Planning Authority not later than 12 months following the date of this planning permission. The approved scheme shall:

- a) Provide an overall strategy for a 5 year aftercare period within each phase, including the maintenance and/or replacement where necessary, of any hedging or tree planting that may be damaged, die, or become diseased, along with the maintenance and replacement where necessary, of any boundary treatment, field drainage, or ditch systems. The submitted overall strategy shall specify the timing of the measures to be taken and shall be implemented within 7 days of final restoration in a given phase.

- b) Provide for the submission of annual management reports describing each year's aftercare programme, to be submitted in writing to the Local Planning Authority not less than 1 month before the final restoration within each phase, and then subsequently on an annual basis for the duration of the aftercare period.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to agriculture.

6. Noise - Within three months of the date of this planning permission, a noise mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To assess and minimize noise generated by the site which may impact upon nearby sensitive receptors.

7. Wheel washing – Within three months of the date of this planning permission, details of wheel scrubbing/wash down facilities to prevent mud and other material being deposited onto the public highway shall be submitted to and approved in writing by the Mineral Planning

Authority. The approved facilities shall be brought into use within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason:

In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area.

8. Highway Maintenance - All Heavy Goods Vehicles leaving the site shall have first passed through the approved wheel-wash facilities and, following this, checks shall be made to ensure that the tyres, wheels, axle, chassis, and sides of vehicles are clear of mud, debris and dirty water. Should mud or other debris be tracked from the site into the public highway, then all infilling operations shall cease until such time as the debris has been removed from the highway, in accordance with details to be approved in writing by the Mineral Planning Authority. Within three months of the date of this planning permission.

To ensure that mud, debris and dirty water is not deposited on the public highway, in the interests of the free and safe use of the highway and visual amenity.

9. Dust Mitigation - Within 3 months of the date this planning permission, a scheme of dust mitigation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To minimize the transmission of dust and particulates from the development in the interests of air quality and residential amenity.

10. Vermin - Within 3 months of the date of this planning permission, a scheme detailing the proposed means of controlling seagulls and vermin shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented within 1 month of its approval and retained for the operational life of the development.

Reason: In the interests of amenity.

11. Permitted Development - Notwithstanding the provisions of Part 4 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no change of use or provision of buildings, moveable structures, works, plant or machinery shall be undertaken other than those approved by this permission, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the further waste related development remains under the control of the Local Planning Authority, in the interests of nearby sensitive receptors included the natural environment and residential locations

12. Restoration - In the event of the cessation of extraction or infilling operations within a phased working area, for a period exceeding 12 months at any time before that working area is fully restored, a reinstatement and low level restoration and aftercare scheme shall be submitted for the written approval of the Local Planning Authority within 2 months of the end of that 12 month period. The scheme shall provide details of ground levels, soiling, and landscaping along with a proposed timescale for implementation, and shall be implemented within 1 month of the scheme being approved.

Reason:

To ensure that the site is restored in a prompt and acceptable manner.

13. Restoration - Within 2 months following the final restoration of each phase, a detailed survey of the surface levels within that working area (with contours at 1m intervals) shall be submitted to the Local Planning Authority.

Reason:

14. Restoration - Any areas of the site filled to final levels but not available for final restoration shall be temporarily seeded with grass in the first available planting season.

Reason:

To ensure that minimum harm is caused to the amenities of the area and those of local residents.

15. Soil Handling - No topsoil or subsoil to be deposited as part of the approved landform's final restoration shall be moved or deposited except in dry weather conditions and when the soils are in a correspondingly dry and friable condition. The movement of the aforementioned soils shall not take place between November and March in any year. Topsoils shall not be traversed by vehicles at any time during the course of the development, except for the purposes of stripping or final restoration. Written notification shall be submitted to the Local Planning Authority at least 7 working days in advance of topsoil deposition associated with the site's final restoration.



Reason:

To minimise damage to surface soils during stripping and re-spreading operations thereby helping improve the quality of final restoration of the site.

16. Restoration - In the event that any areas of uneven settlement occur during the aftercare period, these shall be made good with suitable imported soils to the satisfaction of the Local Planning Authority.

Reason:

In order to provide a high quality, even and stable landform.

17. Landfill Material - Only solid, non-hazardous waste materials shall be deposited at the site.

Reason:

For the purposes of environmental control and safety, particular with regard to the protection of ground water.

18. Soil Storage - Topsoil and subsoil for use in the site's final restoration shall be stored in separate stockpiles of no more than 3m in height.

Reason:

To prevent soil compaction.

19. Soil Storage - All stockpiled soils intended to remain in place for more than 6 months shall be sown with an appropriate grass seed mix and maintained (including weed control) in accordance with a scheme submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this planning permission.

Reason:

In the interested of visual amenity and dust control.

20. Leachate and Settlement Ponds - Leachate storage lagoons or settlement ponds shall not be located on previously landfilled areas without the prior written agreement of the Local Planning Authority.

Reason:

In the interests of controlling potential pollution pathway from the site into the natural environment.

21. External lighting - Within 3 months of the date of this planning permission, a scheme for the lighting of external areas of the

development, including the access roads and working areas, shall be submitted to and approved in writing by the Local Planning Authority. The scheme of lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The installation of any external lighting shall be undertaken in accordance with the approved scheme.

Reason: In the interests of highway safety, amenity, and nature conservation.

22. External Lighting - There shall be no light spill into any adjacent watercourse or river corridor habitat. To achieve this, artificial lighting shall be directional and focused with cowlings.

Reason:

In order to protect the wildlife and habitat of the river corridor and in accordance with Policy DC61 of the Development Control Policies DPD.

23. Pre and Post Settlement Levels – With the exception of any stockpiled material, which shall not exceed the highest point of the landfill, and shall not in any event exceed a height of 3m from ground level, pre-settlement levels shall not exceed those depicted on the approved plan referenced “Figure 1.4a”. The site’s final ground levels shall not exceed the post-settlement contours depicted on the approved plan referenced “Figure 1.4b”.

Reason: In the interests of visual amenity and in accordance with Policy DC61 of the Development Control Policies DPD.

### Informatives

1. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

### Planning Obligations

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

## REPORT DETAIL

1.1 The application was brought before Members on 17<sup>th</sup> July, 2014 (see Appendix A.) Members resolved to defer the application to allow for further negotiations to take place between the Council and the applicant, and for additional information to be gathered in relation to various matters. In relation to those matters that Members were seeking to be addressed, officer comments are as follows:

- *Councillors stated a preference for River borne delivery of waste to the application site.*

The applicant has stated that they are only able to import waste by river if contracts are available for them to do so. That is, if waste management authorities have the ability and the desire to export their waste by river, and wish to make use of the landfill site under consideration. Of those local authorities in London that have boundaries adjoining the River Thames and which have the facilities for exporting waste by river and make use of them, all of the municipal waste available is being sent to the Belvedere energy from waste plant in Bexley.

The most recent contract the applicant was able to enter for the importation of municipal solid waste by river, which was with Tower Hamlets, and was for 110,000 tonnes per annum, ended in 2012. The applicant states that there are no significant waste contracts now available to them that would involve the importation of municipal solid waste through their riverside Jetty. Where they have been able to import material by river they have done so, most notably involving the importation of restoration materials as opportunities occasionally arise. A recent example involved the importation of inert material from the Battersea Power Station site, which is in the process of being redeveloped.

The applicant draws attention to the fact that this matter was considered as part of planning application P1295.11, which Members resolved to approve in 2011. The applicant nevertheless remains committed to importing waste by river where opportunities arise, and states that no increase in road-borne traffic, over and above what already occurs, is expected

Given the apparent lack of material, which the applicant claims is available for importation by river, officers consider any insistence that importation be limited to river borne traffic could severely delay the completion of the landfill and the delivery of the Wildspace regeneration project. The present application seeks, in effect, a further

six year period for landfilling operations and it may be considered unreasonable to require all material to be imported by river. However, the proposed Section 106 agreement would include a clause requiring the applicant to provide a Green Travel Plan which includes provision to monitor and proactively review opportunities to increase the use of riverborne transport for delivery of waste for disposal within the Property, including annual monitoring.

- *Financial contribution reflecting the above comments to compensate for continued road borne waste.*

The applicant has stated that, owing to the landfill tax and the expense of meeting very strict environmental standards in the site's management, maintenance, and restoration, the operation is only marginally profitable. Landfill tax is now levied at a rate of £80 per tonne of waste landfilled, having been £7 per tonne in 1997. This has significantly reduced the amount of waste available to restore landfill facilities, given that it has become more affordable for waste management authorities to send waste to other types of facility and that this approach is in line with government policy, but also drastically reduced the profit margins of landfill operations. This is a pattern that has affected landfill operations generally.

Inert material brought into the site, which is not used for restoration, still incurs a landfill tax charge of £2.50 per tonne, which places landfill sites such as this one at a disadvantage to developments such as golf courses, which are better able to attract such waste in their direction without needing to meet the same costly environmental obligations.

The applicant also draws attention to the fact that the site's restoration and aftercare period will result in the creation of a significant area of publicly accessible open space and nature conservation as part of the Wildspace regeneration project. This scheme is supported by the Council's regeneration and economic development officers.

The concept of Wildspace envisages that following completion of the restoration and the 5 year planning aftercare period in terms of planting and seeding of the restored landfill, all of which is financed by Veolia, LBH or another environmental organisation could take control of the site through a 'pie crust' lease. The mechanisms for this will be contained within the proposed S106. Veolia would continue to be responsible for the Environmental Permit which controls aspects relating to the engineering of the landfill and long term pollution risks, gas and leachate controls for many years to come until the Permit can be handed back.

The planning conditions proposed would compel the operator to restore and subsequently maintain the site for a period of five years. This five year aftercare period might include mowing of grassy areas, maintaining shrubs, scrub, trees and other planted areas, fences,

footpaths, roads, car parks and signs as well as toilets and other visitor facilities. The site's restoration and aftercare are in addition to the operator's commitments under the Environmental Permitting regime, which will continue for many years. The funding of these activities would require a substantial amount of money. .

Officers consider the evidence submitted by the applicants to be sufficiently convincing in this case. There are significant costs involved in running the landfill in accordance with modern environmental standards, and in restoring the site and maintaining it over many years following the completion of landfilling. The submitted information indicates that, given the prevailing market conditions and the costs of running the facility, that it is expected to make a substantial loss by the end of the working period. Additional contributions cannot therefore be supported.

The proposed restoration would provide a significant area of high quality open space that would be accessible to the public, and officers consider that it would be in the interests of the local community to support the achievement of this objective.. Under the circumstances, it is considered that it would be unreasonable to require additional contributions from the operator.

- *Review of highways contributions to ensure that it adequately addresses the effects of HGV movements between the A13 and the Application Site and vice versa*

The applicant states that Veolia contributed £270,000 towards the costs of upgrading the road infrastructure in the area as part of the 1998 planning permission. It would be difficult to ascertain to what extent the applicant makes use of the public highway relative to other road users, and therefore, how much wear and tear would arise as a direct result of the proposed development. It is for this reason that the highway authority has agreed to calculate a contribution on the basis of that part of the highway, between Coldharbour Lane and the junction into Easter Park, that is almost exclusively used by the operator. On this basis, the highway authority has recommended a contribution of £25,000, which the applicant has agreed to pay as part of the legal agreement.

- *Explore confidential presentation of the viability assessment in Part 2 of the Committee.*

Staff have requested that the financial information be made available to Members on a confidential basis and further that some independent assessment of the viability be undertaken.

The applicant has stated that they are not willing to provide additional information over and above what has been supplied to officers on a

confidential basis. Landfill operations are long term ventures that involve significant costs for many years beyond their completion. A range of specialists have made forecasts about the current and future viability of the facility – in terms of income, environmental controls, maintenance, and aftercare – based on current knowledge of the market and the context that such facilities operate within. The applicant considers that it would be very difficult and time consuming for such information, based on long term trends, to be properly assessed by a third party in the same way that, for example, the viability of housing schemes is assessed. The applicant considers it unnecessary and inappropriate for such information to be made available.

The financial information provided to officers indicates that the Rainham operation as a whole, when all of the different activities are taken in to account, will, by the time the landfill is completed, make a loss of around £8.3M. The landfill operation, when considered on its own, is expected to make a loss of nearly £16M; the more profitable activities that take place at the facility reduce this loss to around £8.3M. The submitted information was reviewed by both planning officers and officers in the Council's Waste Services section who, whilst not expert in the matter of landfill viability, did not identify any unrealistic figures in the information provided.

The submitted information indicates that the facility is a loss-making operation with a significant loss anticipated by the proposed end to the working period.

- *Measures for monitoring (any movements, e.g. weighbridge/electric count) .*

The draft legal agreement, as detailed under the recommendation above, includes provisions for the agreement of a green travel plan limiting the number of vehicle movements per day. Officers consider that this could be adapted to include a proposed means of monitoring the numbers of vehicle movements into the site.

- *Measures to ensure that no HGV Movements to and from the application site are routed through built up residential areas including Rainham Village.*

The applicant has stated that the majority of vehicles delivering to the site use the A13, and then access the site via Ferry Lane and Coldharbour Lane, avoiding built up areas, except where waste might be taken directly to the site from built up areas such as Rainham. Nevertheless, they are willing to seek approval for a lorry routing scheme in accordance with the legal agreement. Such a scheme is already proposed under the recommendation.

- *Should the Council be minded to take any legal interest in the application site that indemnity against risk of liability to the Council might be explored.*

This matter is addressed as part of the proposed legal agreement, and is intended to ensure that, should the Council take an interest in the land (in the form of a pie-crust lease), indemnity would be extended by the operator in relation to all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of the restored land up until the end of the 5 year aftercare period but not over the term of any lease taken by the Council. Beyond the 5 year aftercare period, the Council would be responsible for ensuring that the surface layer (the pie-crust) is maintained in a suitable condition for use by members of the public. The operator would continue to be responsible for the subsurface aspects of the landfill, and would be responsible for any damage caused to the surface layer only to the extent that the damage to the surface was as a result of matters related to the subsoil and which did not arise from any acts or omissions or negligence on the part of the Council or third parties.

APPENDIX A



**REGULATORY  
SERVICES  
COMMITTEE**

17 July, 2014

**REPORT**

Subject Heading:

**P1566.12 – Rainham Landfill,  
Coldharbour Lane**

**Planning application for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.**

Report Author and contact details:

**Simon Thelwell (Projects and Regulation Manager) 01708 432685**

Policy context:

**Local Development Framework  
London Plan  
National Planning Guidance**

Financial summary:

**None**



Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

The application relates to a 177 hectare site located on the River Thames at the most southeastern part of the Borough. The application site currently benefits from an existing consent (reference: P1275.96) to deposit refuse materials through controlled landfill amounting to the importation of 12.3 million cubic metres of waste. The current landfill consent requires the site to be restored by 2018, relying solely on river sourced waste imports from 2012.

The current application has been submitted as the landfill is settling at a greater rate than originally anticipated. This is due to the biodegradable content of domestic waste steadily increasing over time, owing to the imposition of landfill tax and the resultant drive towards recycling which has resulted in the removal of materials such as bottles, plastics, cans, building waste, which might previously have been landfilled.

Without re-grading of the landform the site would likely suffer from poor drainage and increased pollution risks and may not be suitable for public access. The proposal is to bring in additional waste that would ensure that a landform could be achieved that is accessible and safe for public use, with incorporation into the Wildspace regeneration project.

The revisions include the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than previously approved, which would settle over time to a lower height that is similar to what was previously approved.

The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. The proposed completion date for landfilling is now proposed for December 2024, with restoration to be completed by December 2026.

The operator has previously submitted an application (Reference: U0013.08, superseded by P1295.11), which was intended to amend planning permission P1275.96. This application requested an extension of the period by which waste can be imported by road to 2018, along with a revised restoration scheme; changes to the facility's access arrangements; the importation of additional waste; and re-contouring of the site to achieve the restoration scheme. This proposal was agreed in principle by the Regulatory Services Committee in 2011, subject to the completion of a legal agreement. However, this agreement was never completed and the operator has subsequently

sought planning permission for some other changes to the approved development, which are the subject of the application under consideration.

The application under consideration proposes the following elements:

- An extension to the period of working, including landfilling and all other waste processing uses at the site, to 2024;
- Completion of restoration by 2026;
- The importation of an additional 3.6 million tonnes of waste over the proposed period of working;
- An increase in pre-settlement levels of between 3.5m and 12m across the site, including at the peaks and midslopes;
- An increase in post-settlement levels in the mid-slopes of up to a maximum of 7.5m;
- Changes to the approved restoration arrangements with previously proposed visitor facilities to be the subject of later applications;
- Changes to the site approved access so that they remain as existing, with landfill access at the north of the site from Coldharbour Lane, and recycling activities access at the southern end of the site from Coldharbour Lane.

The application under consideration is identical to planning application P1295.11 except for the proposed extension of the working and restoration period, and minor changes to the proposed site access and restoration. Officers recommend that planning permission be granted, subject to the completion of a legal agreement and the conditions detailed below.

## **RECOMMENDATION**

That subject to the Stage 2 referral process resulting in no significant adverse comments being received from the Mayor of London, that the proposal is unacceptable as it stands but would be acceptable subject to the planning conditions set out in this report and subject to the applicant first entering into a Legal Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended), to secure (for the avoidance of doubt the heads of terms of the Section 106 agreement are amplified by the draft agreement attached to this report and the detailed terms of the draft annexed take precedence should there be any inconsistency between the heads of terms and the draft; further the Head of Regulatory Services is given delegated authority to insert title details, plans and draft documentation to

amplify and give effect and meaning to the draft Section 106 agreement attached and to make textual changes which have substantially the same effect as the terms of the draft agreement attached ) the following:-

**Advance Routes-** Define and provide the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with the Zone Access Plan or in a position otherwise agreed with the Council in writing.

**Advance Routes Notice** - Provide for a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.

**Advance Routes Specification** - Provide the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).

**Zone Access Plan**– Provide for the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

**Insurance** - Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy (public liability insurance) and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.

**Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth:** Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property

**Aftercare** – To diligently carry out the Aftercare during the Aftercare Period and to carry out works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone, over the period of 5 years from the completion of the Restoration Works, completing the Aftercare by 31<sup>st</sup> December 2031.

**HGV Routing Plan**– to ensure that HGVs travel directly between the A13 to the site and are not routed through built up areas including Rainham Village.

**Environmental Centre** - Upon service of the Final Completion Notice and until the end of the Aftercare Period \*Veolia\* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period \*Veolia\* shall maintain and

repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.

**Indemnity** - Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be,) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last day of the Aftercare Period provided as set out in the draft Section 106 attached to this report.

**The Yellow Land** - Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land until as set out in the attached Section 106 agreement.

**Public Routes** - Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and shall permit public access by foot or by bicycle.

Prior to the end of the aftercare period Veolia shall use reasonable endeavours to enter into a Deed of Rights of Access to permit public access over the relevant parts of the First Access Road and Coldharbour Lane, and permit parking by the public in the First Car Park.

**Second car park:** Veolia shall permit members of the public to park private vehicles in the Second Car Park during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time.

**Beacon Land:** Nothing in the Deed shall be interpreted as preventing or impeding the Port of London Authority from (PLA) from accessing at any time without notice with or without vehicles the Beacon Land subject to no unlawful interference with public rights of way.

**Blue Land:** The Second riverside Footpath is subject to Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders **including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority**) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.

**Until the last day of the Aftercare Period:** Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification subject to provisos as set out in the draft agreement attached.

**Bond:** Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably

On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations against the Bond

**Brown Land:** Nothing in the Deed shall interfere with the PLA from using the Pump Ashore Facility to carry dredgings across the Brown Land ~~and across Coldharbour Lane~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility

Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.

The Owners to grant options over the Brown Land in accordance with the terms set out in the draft Section 106 agreement attached.

**Car Parking Area** the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre over which the owners will procure leases to Operators subject to Schedule 2 of the draft agreement attached.

**Implementation Notice and Deed of Rights of Access** ~~Upon service (or deemed service) of the Implementation Notice and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.~~

**Public Access Coldharbour Lane:** that members of the public shall be permitted to pass and repass during daylight hours by private car along those parts of Coldharbour Lane that are within the Property subject to such

reasonable restrictions as Veolia and the Council shall agree in writing from time to time

**Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth:**

Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property.

**Restoration Works:** Veolia shall serve:

- an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
- the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.

**Landscape and Restoration Plan**

- Within one (1) year of the date of the New Planning Permission Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

**Phasing Sequence** the sequence in which the Restoration Works are to be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council

**Riverside Footpaths and Footpath Specification:** Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land

**Site Infrastructure Plan:** the plan labelled “Site Infrastructure” attached to this Deed at Appendix 14 and In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council

**Green Travel Plan:** Within **three (3)** months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval. The Green Travel Plan shall contain provisions demonstrating how, from the date the Council's written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property.

**Highway Contribution:** Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.

**HGV Routing Plan:** Within **one (1)** month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.

**Options:** Grant London Borough of Havering the option of a piecemeal lease/s on the application site on a phased basis subject to an independent review of contamination, pollution and health risks;

**Local Labour Commitment Scheme:** A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.

**Public Access:** Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

**Ecological Method Statement:** a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.

**Restoration Works:** Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the

Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.

**Odour Mitigation Strategy:** Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.

- If an Operator is proposed by the Council between now and 31 December 2028, the Owners will use reasonable endeavours to procure the grant of lease to the Council of the following operator zones

Zone A for a Visitor Centre

Zone B for a Car Parking Area

Zone C for a Water Recreation Facility

Zone D for Recreational Facilities

Zone E for an extended Second Car Park.

- The Council has until 31 December 2021 to decide whether to call for the new car parking area in Zone B serving a Visitor Centre in Zone A, or whether instead to opt for the extension of the existing car park in Zone E. This is because, if the Zone B car park is not required, Veolia needs sufficient time to landfill that area before the landfill operation is due to end in 2024.
- If the Council requests by 31 December 2030, the Owners will procure the grant of options to the Council for leases of the various land ownership parcels, which collectively will provide a pie-crust lease which excludes the sub-soil beneath the bentonite cap over the entire landfill site. The leases must be completed simultaneously by the end of the Aftercare Period (31 December 2031).

**Council's Absolute Right to Assign or Sub-let Lease:** The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

If the Council does not request the lease options over the remainder of the landfill, long leases to the Council of any operator zones may be terminated to enable Veolia to let a long lease of the entire site to a third party.

Subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed that the obligations in First Agreement be discharged on the implementation of the planning permission under planning reference P1566.12.



**Legal and Monitoring Fees:** The Council's legal fees for preparation of the agreement shall be paid as set out in the draft Section 106 attached to the report on or prior to completion and the Council's planning obligation monitoring fees shall be paid as required by the Council.

That staff be authorised to enter into a legal agreement to secure the above, subject to any necessary changes that may arise during negotiations, and upon completion of that agreement, grant planning permission subject to the conditions set out below:

1. Accordance with Plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason:

The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

2. Time Limits - Waste disposal and all other processing operations shall cease on or before 31<sup>st</sup> December, 2024 and restoration of the site shall be completed by 31<sup>st</sup> December 2026, in accordance with the scheme approved under condition 4 below. The restored area(s) shall, from the date restoration is completed in any particular zone, be subject to a period of aftercare, in accordance with the scheme approved under condition 5 below.

Reason:

To ensure that the development is restored in a timely fashion.

3. Notification - Within 7 working days of the date aftercare commences in any given phase of the site, the Local Planning Authority shall be notified in writing.

Reason:

To ensure that the approved period of aftercare is undertaken.

5. Restoration - Within 12 months of the date of this planning permission, a detailed scheme of restoration, relating to all areas of the application site, shall be submitted to and approved in writing by the Local Planning

Authority. The scheme shall include details of the proposed phasing of restoration; infilling material and soils; the method of infilling; the use and depths of soil material; final levels and contours (shown at 1 metre intervals); removal of existing buildings and structures; along with details of all planting, boundary treatment, proposed access arrangements, and drainage works. The site's restoration shall be undertaken in accordance with the approved details. Written notification to the Local Planning Authority shall be provided within 7 days of the completion of final restoration within each phase.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to agriculture.

5. Aftercare - An aftercare scheme, detailing the steps as may be necessary to ensure the site is restored in accordance with the approved restoration scheme, shall be submitted for the written approval of the Local Planning Authority not later than 12 months following the date of this planning permission. The approved scheme shall:

- a) Provide an overall strategy for a 5 year aftercare period within each phase, including the maintenance and/or replacement where necessary, of any hedging or tree planting that may be damaged, die, or become diseased, along with the maintenance and replacement where necessary, of any boundary treatment, field drainage, or ditch systems. The submitted overall strategy shall specify the timing of the measures to be taken and shall be implemented within 7 days of final restoration in a given phase.

- b) Provide for the submission of annual management reports describing each year's aftercare programme, to be submitted in writing to the Local Planning Authority not less than 1 month before the final restoration within each phase, and then subsequently on an annual basis for the duration of the aftercare period.

Reason:

To ensure that operations take place in an orderly fashion with minimum harm to the amenities of the area and to ensure proper restoration of the site to agriculture.

8. Noise - Within three months of the date of this planning permission, a noise mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To assess and minimize noise generated by the site which may impact upon nearby sensitive receptors.

9. Wheel washing – Within three months of the date of this planning permission, details of wheel scrubbing/wash down facilities to prevent mud and other material being deposited onto the public highway shall be submitted to and approved in writing by the Mineral Planning Authority. The approved facilities shall be brought into use within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason:

In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area.

8. Highway Maintenance - All Heavy Goods Vehicles leaving the site shall have first passed through the approved wheel-wash facilities and, following this, checks shall be made to ensure that the tyres, wheels, axle, chassis, and sides of vehicles are clear of mud, debris and dirty water. Should mud or other debris be tracked from the site into the public highway, then all infilling operations shall cease until such time as the debris has been removed from the highway, in accordance with details to be approved in writing by the Mineral Planning Authority. Within three months of the date of this planning permission.

To ensure that mud, debris and dirty water is not deposited on the public highway, in the interests of the free and safe use of the highway and visual amenity.

11. Dust Mitigation - Within 3 months of the date this planning permission, a scheme of dust mitigation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 1 month following the Council's approval in writing, and shall be retained for the operational life of the development.

Reason: To minimize the transmission of dust and particulates from the development in the interests of air quality and residential amenity.

12. Vermin - Within 3 months of the date of this planning permission, a scheme detailing the proposed means of controlling seagulls and vermin shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented within 1 month of its approval and retained for the operational life of the development.

Reason: In the interests of amenity.

11. Permitted Development - Notwithstanding the provisions of Part 4 to

Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no change of use or provision of buildings, moveable structures, works, plant or machinery shall be undertaken other than those approved by this permission, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the further waste related development remains under the control of the Local Planning Authority, in the interests of nearby sensitive receptors included the natural environment and residential locations

13. Restoration - In the event of the cessation of extraction or infilling operations within a phased working area, for a period exceeding 12 months at any time before that working area is fully restored, a reinstatement and low level restoration and aftercare scheme shall be submitted for the written approval of the Local Planning Authority within 2 months of the end of that 12 month period. The scheme shall provide details of ground levels, soiling, and landscaping along with a proposed timescale for implementation, and shall be implemented within 1 month of the scheme being approved.

Reason:

To ensure that the site is restored in a prompt and acceptable manner.

13. Restoration - Within 2 months following the final restoration of each phase, a detailed survey of the surface levels within that working area (with contours at 1m intervals) shall be submitted to the Local Planning Authority.

Reason:

19. Restoration - Any areas of the site filled to final levels but not available for final restoration shall be temporarily seeded with grass in the first available planting season.

Reason:

To ensure that minimum harm is caused to the amenities of the area and those of local residents.

20. Soil Handling - No topsoil or subsoil to be deposited as part of the approved landform's final restoration shall be moved or deposited except in dry weather conditions and when the soils are in a correspondingly dry and friable condition. The movement of the aforementioned soils shall not take place between November and March in any year. Topsoils shall not be traversed by vehicles at any time during the course of the development, except for the purposes of stripping or final restoration. Written notification shall be submitted to

the Local Planning Authority at least 7 working days in advance of topsoil deposition associated with the site's final restoration.

Reason:

To minimise damage to surface soils during stripping and re-spreading operations thereby helping improve the quality of final restoration of the site.

21. Restoration - In the event that any areas of uneven settlement occur during the aftercare period, these shall be made good with suitable imported soils to the satisfaction of the Local Planning Authority.

Reason:

In order to provide a high quality, even and stable landform.

22. Landfill Material - Only solid, non-hazardous waste materials shall be deposited at the site.

Reason:

For the purposes of environmental control and safety, particular with regard to the protection of ground water.

23. Soil Storage - Topsoil and subsoil for use in the site's final restoration shall be stored in separate stockpiles of no more than 3m in height.

Reason:

To prevent soil compaction.

19. Soil Storage - All stockpiled soils intended to remain in place for more than 6 months shall be sown with an appropriate grass seed mix and maintained (including weed control) in accordance with a scheme submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this planning permission.

Reason:

In the interested of visual amenity and dust control.

23. Leachate and Settlement Ponds - Leachate storage lagoons or settlement ponds shall not be located on previously landfilled areas without the prior written agreement of the Local Planning Authority.

Reason:

In the interests of controlling potential pollution pathway from the site into the natural environment.

24. External lighting—Within 3 months of the date of this planning permission, a scheme for the lighting of external areas of the development, including the access roads and working areas, shall be submitted to and approved in writing by the Local Planning Authority. The scheme of lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The installation of any external lighting shall be undertaken in accordance with the approved scheme.

Reason: In the interests of highway safety, amenity, and nature conservation.

25. External Lighting - There shall be no light spill into any adjacent watercourse or river corridor habitat. To achieve this, artificial lighting shall be directional and focused with cowlings.

Reason:

In order to protect the wildlife and habitat of the river corridor and in accordance with Policy DC61 of the Development Control Policies DPD.

23. Pre and Post Settlement Levels – With the exception of any stockpiled material, which shall not exceed the highest point of the landfill, and shall not in any event exceed a height of 3m from ground level, pre-settlement levels shall not exceed those depicted on the approved plan referenced “Figure 1.4a”. The site’s final ground levels shall not exceed the post-settlement contours depicted on the approved plan referenced “Figure 1.4b”.

Reason: In the interests of visual amenity and in accordance with Policy DC61 of the Development Control Policies DPD.

### Informatives

2. Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: Improvements required to make the proposal acceptable were negotiated and submitted, in accordance with para 186-187 of the National Planning Policy Framework 2012.

### Planning Obligations

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (d) Necessary to make the development acceptable in planning terms;

- (e) Directly related to the development; and
- (f) Fairly and reasonably related in scale and kind to the development.

<b>REPORT DETAIL</b>
----------------------

## **1. Site Description**

- 1.1 The application site includes a triangular area of land approximately 177ha in the most southern point of the Borough, at Coldharbour point, Rainham and is bounded by Coldharbour Lane and the Thames.
- 1.2 The site lies within a mixed setting of open marshland, partly restored and operational landfill, and industrial uses. The Inner Thames Marshes Site of Special Scientific Interest (SSSI) lies immediately to the north. The closest residential properties are located in Rainham, approximately 1.3km to the north; Wennington, approximately 1.3km to the north east; and Purfleet, approximately 1.4km to the east. Erith lies approximately 1km to the south across the Thames. There are three industrial areas which lie north west of the site, between 400m and 1km away, and these comprise Tilda Rice, the Beam Reach industrial park, and Ferry Lane Industrial Estate. The Freightmaster Estate lies between the site and the River Thames.
- 1.3 Different areas of the site have received waste since the 1800s. Subsequently, river dredgings were pumped onto the site, and the importation of mainly river-borne domestic waste commenced in the 1960s. Permission was granted in the 1990s for landraising to be completed by 2018, to restore the site for public amenity. In addition to the landfilling works, other operations at the site include a Material Recovery Facility (MRF), composting plant, ash processing plant, a landfill gas utilization plant exporting power to national grid, and leachate treatment plant.
- 1.4 Access to the site is from Coldharbour Lane, which links to the A13 via Ferry Lane. There is an existing operational jetty linking the site to the Thames.

## **2. Description of Proposal**

- 2.1 The current application has been submitted as the landfill is settling at a greater rate than originally anticipated. This is due to the biodegradable content of domestic waste steadily increasing over time, owing to the imposition of landfill tax and the resultant drive towards

recycling which has deprived landfill sites of materials such as bottles, plastics, cans, building waste, which might previously have been landfilled.

- 2.2 As a result, the amount of settlement at this landfill site has been greater than envisaged. Consequently, without re-grading of the landform the site would likely suffer from poor drainage and increased pollution risks. Moreover, current settlement rates would mean that the landform may not be suitable for public access. The additional waste would ensure that a landform could be achieved that is accessible and safe for public use, with incorporation into the Wildspace regeneration project.
- 2.3 The applicant therefore seeks planning permission for updated settlement rates in order to create a satisfactory final landform similar to that originally envisaged. The revisions include the importation of an additional 3.6 million tonnes of non-hazardous waste over the current landform. This would achieve a higher pre-settlement restoration height than previously approved, which would settle over time to a lower height that is similar to what was previously approved. The revised landform would assist in the delivery of the site for public access, and allow for the potential delivery of various visitor facilities.
- 2.4 The importation of additional volumes of waste would require an extension in time for road-borne waste imports for the life of the landfill. The proposed completion date for landfilling is now December 31st, 2024, with restoration to be completed by 31<sup>st</sup> December 2026.
- 2.5 The original planning permission was subject to a detailed legal agreement which sought to ensure, amongst other things, adequate restoration and aftercare and to ensure public access. It is recommended that the extant clauses in the agreement are brought forward and amended as necessary with changes/additions to allow early public access to the site, local employment training, and any other matters detailed in the recommendation.
- 2.6 The application under consideration proposes the following elements:
  - An extension to the period of working, including landfilling and all other waste processing uses at the site, to 2024;
  - Completion of restoration by 2026;
  - The importation of an additional 3.6 million tonnes of waste over the proposed period of working;
  - An increase in pre-settlement levels of between 3.5m and 12m across the site, including at the peaks and midslopes;



- An increase in post-settlement levels in the mid-slopes of up to a maximum of 7.5m;
- Changes to the approved restoration arrangements with previously proposed visitor facilities to be the subject of later applications;
- Changes to the site approved access so that they remain as existing, with landfill access at the north of the site from Coldharbour Lane, and recycling activities access at the southern end of the site from Coldharbour Lane.

2.7 Although the pre-settlement contours are higher than those approved as part of the existing planning permission, this is required in order to achieve appropriate post settlement contours that would be more representative of the current permission. This occurs via a number of means through mechanical and bio-chemical processes. Wastes generally compact and shift to nearby voids and the biodegradable components of the land filled waste break down over a period of time and form landfill gas and leachate. The landfill gas is extracted as part of the process and converted to energy. The leachate is extracted and treated before being disposed of. The total volume of waste therefore steadily reduces and the restoration surface steadily settles. The rate of settlement is comparatively rapid in the early years and the rate gradually decreases with time.

2.8 The land raising would be completed on a phased basis that would see the completion of the more visually prominent areas, first along the northern fringe that will both create a visually softer landform to the adjacent marshes and to enable parts of the site for early public access and associated public facilities such as pathways, lookout points and car parking. As the site is restored, this would be the subject of a final restoration plan to detail landscaping, visitor facilities and ecological habitats to ultimately form part of the wider Wildspace project.

### **3. Relevant History**

3.1 The site is a historic municipal landfill and waste processing site. The previous decisions of most relevance to the proposal are as follows:

P0136.14 - Construction of an extended area for bales storage, water storage tank, pump house and electrical sub-station – Approved.

P0651.11 - Variation of conditions 2, 6, 9 and 11 of application P1210.05 to extend the temporary permission from 2012 to 2018; temporarily allowing for the exportation of recycled materials away from the adjacent landfill; allowing vehicle access through existing landfill entrance; allowing the site to be restored in accordance with the restoration proposals of the adjacent landfill – Under consideration.

P1295.11 - Proposed re-contouring of landfill site through controlled landfill involving continuation of road-borne waste imports until 2018 (as well as river-borne imports, as previously approved) to achieve appropriate restoration scheme and associated visitor facilities – Under consideration.

U0011.08 - Variation of condition 1 of planning permission P0835.97 to allow for the export of recycled aggregates - Approved

U0005.06 - An extension to the domestic materials recycling facility - Approved

U0002.05 - Autoclave processing facility for municipal solid waste - Approved

P1210.05 - Development of soil recycling area within the boundary of the landfill site to provide soils for restoration - Approved

P1901.03 - A plant for the in-vessel composting of bio-wastes to produce a saleable compost - Approved

P1032.00 - Improvements to unadopted Coldharbour Lane, including carriageway widening, the erection of gates and a security post - Approved

P0861.99 - Variation of Condition No.11 of planning permission P1275.96 allowing opening on 27th & 28th December 1999 and 3rd January 2000 - Approved

P1324.98 - Storage, recycling and provision of recovered electrical equipment, paper & household co-mingled recyclable materials - Approved

P1139.98 - Renewal of permission P0824.97 for the erection of open plan temporary domestic waste transfer facility - Approved

P0015.98 - To retain and use existing vacant Nissan hut for recycling trials and occasional maintenance - Approved

P0835.97 - Continued use of the waste transfer jetty - Approved

P0824.97 - Erection of open plan temporary domestic waste transfer facility -Approved

P0159.97 - Retention of road access - Approved

P0121.97 - Delete Condition 1 of permission P1058.95 to allow the continuation of delivery of waste by road to Rainham Landfill Site, Coldharbour Lane, Rainham - Approved

P1275.96 - Deposit of refuse materials through controlled landfill provision of material recovery facilities and creation of contoured landform and restoration scheme - Approved

P1058.95 - Modification of condition 10 of P1049.83 to enable supply of waste by road - Approved

P1409.95 - Renewal of P1806.86 - Approved

P0715.94 - Landfill gas powered electricity generating station - Approved

P1424.93 - Relocation and improvement of facilities ancillary to landfill site, including works hop x 2, office, site control office, mess facilities, toilets facilities, wheelspinner diesel storage and car park - Approved

P1409.91 - Renewal of temporary permission for refuse container unloading & transfer system involving the extension of the existing deep water jetty complex - Approved

P1809.86 - Refuse container unloading and transfer system involving the extension of the existing deep water jetty complex - Approved

P1806.86 - Jetty Extension - Approved

P0905.86 - Refuse container unloading and transfer system involving the extension of the existing deep water jetty complex - Approved

P0257.86 - Deposit of refuse materials to extend contoured landform - Approved

L/Hav/1049/83 - Deposit of refuse materials - Approved

L/Hav/1416/67 - Disposal of household refuse and waste materials - Approved

#### **4. Consultations/Representations**

5.1 This application was advertised by site notice and a press advertisement. Notification letters were sent to 237 local addresses. One letter of objection has been received from a local resident on the following grounds:

- a) The case for extending the working period is not convincing;
- b) The operator has previously had extensions to the working period;
- c) The proposal is harmful to the visual amenities and character of the landscape;
- d) The proposal has adverse impacts on amenity owing to traffic, noise, odour, and dust.

4.2 Councillor Jeffrey Tucker has objected on the following grounds:

- a) The continued extension of the operating period has been harmful to trade and visitor numbers in Rainham;
- b) The case for extending the working period is not convincing;
- c) The operator has previously had extensions to the working period;
- d) The proposal has adverse impacts on amenity owing to traffic, noise, odour, dust, and general danger;
- e) The landfill facility is harmful to the health and safety of local people.

Comments have also been received from the following:

Environment Agency	-	No objections.
Natural England	-	No objections.
Greater London Authority	-	No objections subject to further information.
Transport for London	-	No objections subject to further information.
Thurrock Council	-	No objections.
Port of London Authority	-	No objections;
Ministry of Defence	-	No objections;
RSPB	-	No objections. Comments made in relation to restoration scheme, which can be addressed as part of the approval of details should planning permission be granted.
Highways	-	No objections; planning obligation requested.
Environmental Health	-	No comments received.

## 5. Relevant Policies

5.1 Havering's Core Strategy and Development Control Policies DPD:

- DC19 – Locating Cultural Facilities
- DC20 – Access to Recreation and Leisure
- DC22 – Countryside Recreation
- DC33 – Car Parking

DC34 - Walking  
DC35 - Cycling  
DC40 – Waste Recycling  
DC48 – Flood Risk  
DC50 – Renewable Energy  
DC51 – Water Supply, Drainage and Quality  
DC52 – Air Quality  
DC53 - Contaminated Land  
DC55 - Noise  
DC58 – Biodiversity and Geodiversity  
DC61 – Urban Design  
DC62 - Access  
DC63 - Crime  
DC72 – Planning Obligations

Site Specific Allocations

SSA17 – London Riverside Conservation Park

In addition, the Landscaping SPD, Sustainable Design and Construction SPD, and the Planning Obligations SPD are also material considerations in this case.

5.2 The East London Joint Waste Plan (“the Waste DPD”)

W1 (Sustainable Waste Management)  
W2 (Waste Management Capacity, Apportionment and Site Allocation)  
W5 (General Considerations With Regard to Waste Proposals)

5.3 The London Plan

Policies 5.13 (sustainable drainage), Policy 5.16 (waste self-sufficiency), 5.17 (waste capacity), 5.18 (construction, excavation, and demolition waste), 5.21 (contaminated land), 6.1 (strategic transport approach), 6.3 (assessing effect on transport capacity), 6.9 (cycling), 6.10 (walking), 6.13 (parking), 6.14 (freight), 7.3 (designing out crime), 7.4 (local character), 7.8 (heritage assets and archaeology), 7.14 (improving air quality), 7.15 (reducing noise and enhancing soundscapes), 7.16 (green belt), 7.19 (biodiversity and access to nature), and 8.2 (planning obligations).

5.4 Relevant national planning guidance:

National Planning Policy Framework (“the NPPF”)

PPS10 (Planning for Sustainable Waste Management)

## **6. Staff Comments**

- 6.1 The main issues to be considered by Members in this case are the principle of development, visual impact, local amenity, and access considerations.

## **7. Assessment**

### 7.1 Principle of development

- 7.1.1 The application seeks planning permission to import additional volumes of waste in order to restore the site for public use and nature conservation. LDF Policy SSA17 and London Plan policy 2.14 identify and support Regional and Metropolitan Park opportunities and promote this site for restoration into the London Riverside Conservation Park (Wildspace). Policy SSA17 acknowledges the extant planning permission which allows the land raising of the site through the importation of non-hazardous waste for restoration proposals to public open space and amenity in line with Wildspace objectives. However, the final soil tipping is envisaged to be complete by 2018.

- 7.1.2 Whilst the proposal would result in a delay to the site's final restoration, this needs to be weighed against the likely outcome if the proposed extension of time, and associated changes, are not permitted. A logical alternative to the proposed development would be the "do nothing" approach, which would involve filling as per the existing consent, albeit with road-borne importation of waste allowed beyond 2012. The applicant states that filling to the currently permitted levels would result in a much lower landform, which would settle at uneven rates, reducing adequate surface runoff and leading to high levels of site contamination. Ponding of surface water could breach the cap creating more leachate, and increased engineering issues within the landfill.

- 7.1.3 The applicant states that this would potentially lead to an unsafe landform not suitable for public access or nature conservation and would require further long term remediation techniques involving stripping of the restoration layer and surcharging areas which may have depressed, consistently disturbing the longer term goal of a regional open space objective and creating further environmental issues, such as leachate control, methane production, water management issues, and site management issues.

- 7.1.4 Officers have examined the submitted modeling techniques and various supporting information submitted with this application and are satisfied that the continuation of this landfill under the current permission may lead to longer term management difficulties which may adversely affect the future aspirations of the site as a public open space and amenity area within the Wildspace objectives. As discussed, these problems arise as a result of changes in waste management arrangements generally, which have resulted in less waste being

available for landfilling, and resulted in changes to the types of waste available. The end result is a requirement, for which approval is being sought as part of this application, to allow the applicant more time to import waste, and to allow more waste to be imported.

7.1.5 In addition to the landfill operations, the applicant also seeks an extension of time for the other waste processing activities at the site. Detailed financial information concerning the operation of the site has been scrutinized by officers, and it is concluded that the continuation of the other operations at the site until 2024, is justified as they provide financial support for the loss-making landfill operations, making the continued restoration of the site more financially viable, and also complement the landfill facility by producing the soils required for its continued restoration.

7.1.6 Officers therefore consider that the objectives of Policy SSA17, which concern the achievement of the Wildspace Project, are best served by allowing the applicant more time and to import more material, to properly complete the landfill development. It is considered that the long term benefits of enabling the operator to restore the site to a high standard overcome the short-term cost of delaying the completion of the scheme.

7.1.7 Policy CP11 of the LDF states that the Council is committed to increasing recycling and reducing the amount of waste being sent to landfill. Policy W1 of the Joint Waste DPD states that the East London Waste Authorities (ELWA) will encourage the reuse and recycling of materials, and the recovery of resources.

7.1.8 The Waste DPD sets out East London's waste planning strategy to 2021, identifying the levels of waste management capacity required by the area and guiding the location of facilities to address this requirement. One of the Waste DPD's main objectives is to:

"Reverse the historical trend of the ELWA area being the dumping ground for London's waste." (Paragraph 3.2)

7.1.9 Policy W2 of the Waste DPD sets out the amount of waste to be managed by the East London boroughs up to 2021, as established in the London Plan, and identifies preferred sites within the plan area that can be developed to provide the required capacity to manage this waste. The Schedule 1 sites, which include the waste recycling facilities at Rainham Landfill, are to be safeguarded. The proposed extension of working for these facilities is therefore considered to be acceptable in principle, subject to their eventual removal as part of the site's restoration. These facilities are, in any case, complementary to the landfilling works being undertaken, both in supporting the loss-making landfill operations financially, and also in terms of waste management and restoration. Therefore, if the working period of the

landfill is to be extended, it is practicable to extend the working period for these other facilities as well.

7.1.10 Paragraph 4.6 of the Waste DPD states that:

"Waste management facilities that do not count toward meeting the capacity required to manage MSW and C&I wastes include transfer stations and landfill as these options do not support recycling."

7.1.11 As the proposal includes an extension of the working period, and an increase of waste importation for, a landfill site, it is considered that the proposed landfilling works beyond the date already approved, would not contribute to meeting the capacity required by the East London boroughs to meet their waste apportionment. Paragraph 4.11 of the Waste DPD states that:

"... sites will only be approved where they are needed to contribute to meeting the London Plan apportionment figures for the ELWA boroughs, and capacity sought only where there is an identified need."

7.1.12 It is considered that the proposed landfilling operations are contrary to the objectives of the Waste DPD. However, the objectives of the DPD are long term ones. The proposal under consideration concerns an historic landfill facility, and the increase in the working period and amounts of waste to be imported would assist the final restoration of the site. It is because of the general success of recycling and recovery methods for the handling of waste that landfill facilities such as Rainham have not only experienced a decline in the amount of waste being received, but also a change in the type of waste being received.

7.1.13 As discussed earlier in this report, the end result is that the landfill's completion has been delayed and subject to levels of settlement that were not considered in the facility's original design. Given that the landfill facility is an existing one; that it has been affected by originally unforeseen circumstances; and that the proposals would not only be temporary, but would assist in completing the development for the public good, it is considered that there are material considerations that support the principle of the development in this case.

7.1.14 The proposed additional volumes of waste to be placed over the existing landform are intended to ensure that a high quality landform results for the future of the site, aiding its restoration and eventual use by the general public. The proposal is considered to be acceptable in principle, having regard to Development Plan policies and other material considerations.



## 7.2 Visual Impact

- 7.2.1 Policy DC61 of the LDF states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.
- 7.2.2 The application proposes revisions to what has previously been approved that would involve the deposition of additional volumes of waste over the current landform. This takes into consideration changes in waste management practices and increased levels of settlement.
- 7.2.3 The proposed revised pre-settlement profile would be significantly higher in parts with the highest point being approximately 9m higher than that currently approved. As the settled landform would be similar to the landform currently approved, the main visual impact would be as a result of the proposed pre-settlement contours. A visual assessment was undertaken as part of the submission and the proposal has taken into consideration the conclusions which propose to restore the landfill in phases, focusing on the deliverability of the outer areas first and central, higher areas last. The early completion of the outer areas aims to soften the visual impact from the immediate surrounding areas and ensure the success of delivering earlier restoration proposals.
- 7.2.4 It is additionally proposed that the final indicative restoration plan would involve various landscaping in key areas that would soften the appearance of the landform and neighbouring industrial uses from public vantage points on the site, including the Freightmaster estate.
- 7.2.5 The profile of the post-settlement landform remains generally the same as that previously approved except for slight amendments which have been altered to accommodate gentler slopes. The maximum proposed increase in post-settlement levels at any location on the site is within the mid-slopes of the southwest-facing valley where the increase is approximately 7.5m from the current permission, whilst a reduction in heights of approximately 5m is proposed in the mid slopes to the north.
- 7.2.6 The proposed increases in pre-settlement heights, compared to the approved landform, would be approximately 9m on the west peak, 4m to the east peak and 3.5m to the saddle. The maximum increase would relate to the mid-slopes of the southwest-facing valley, where the increase would be approximately 12m. These pre-settlement height increases are necessary to achieve the proposed final landform, which would, in relation to the highest points (the peaks), be as previously approved. A summary of the heights comparing the approved and subject applications are tabulated below.

	<b>Pre-settlement Contours (metres AOD)</b>	<b>Post-settlement Contours (metres AOD)</b>
--	---	--

Landform <sup>1</sup>	P1275.96	Proposed	P1275.96	Proposed
East Peak	36	~40	31	31
West Peak	41.2	~50	37	37
Saddle	34	37.5	27	27

7.2.7 The volumes and types of waste for each section of the landfill have been modeled to create a satisfactory post-settlement contour. It is calculated that the majority of the settlement, around 80%, would occur in the first 20 years. Settlement will continue for some 80-150 years thereafter but at significantly reduced rates. Predicting the settlement of municipal waste landforms is not an exact science, however, officers are satisfied that adequate modeling has been conducted and that the information submitted by the applicants indicate that an acceptable final landform will result from the proposed development.

7.2.8 The proposed pre-settlement contours would settle in a controlled manner to ultimately create adequate slopes that would reduce leachate through controlled surface water run-off, reduce the potential for damage to the gas extraction pipework and reduce the potential need for post restoration repairs that would ultimately create a manageable, useable, high quality, public open space and nature conservation area in line with the current Wildspace objectives, LDF and London Plan policies.

7.2.9 The proposed extension to the working period would also involve a temporary extension to the presence of the existing waste processing facilities. These facilities are relatively small scale when considered in relation to the site as a whole, and are not particularly visible to the north of the site. These facilities are visible when viewed from the south, however, their existence is generally complementary to the completion of the landfill as a whole; they are in accordance with policies supporting the recycling and recovery of waste; and the proposed extension of the working period is temporary.

7.2.10 Officers consider that the higher restoration profile would largely be a short term measure resulting in greater long term results and are satisfied that through the proposed phasing scheme and a condition requiring the approval of detailed restoration works, that the short term visual impact would be a price worth paying. In terms of the proposal's siting, scale, and design; considering that it concerns an historic landfill, which can only be dealt with where it occurs; and the identified need for the proposed changes to what was previously approved, the visual impact is considered to be acceptable and in accordance with Policy DC61 of the LDF.

### 7.3 Amenity

<sup>1</sup>Existing surrounding land lies at approximately 5m AOD

- 7.3.1 Policy DC61 states that planning permission will not be granted for proposals that would significantly diminish local and residential amenity.
- 7.3.2 Given the siting of the proposal in relation to residential properties, it is considered that it would not result in any significant adverse impacts on the amenities of residential occupiers, in terms of their outlook, privacy, and access to light. The lower sensitivity of other neighbouring uses, which are primarily of an industrial nature, is such that the proposal would not result in significant harm to other neighbouring land uses in terms of their privacy, outlook, and access to light. There are other types of impacts that the proposal may give rise to and these will be considered below.

#### *Odour*

- 7.3.3 Past operations at the site have resulted in some odour complaints from nearby residential areas. Whilst the landfill techniques utilized on site have been improved significantly to address this, the more recent complaints were as a result of techniques used at the open-air windrow compost site located adjacent the Thames. Various mitigation measures have since been employed such as deodorizers, lower compost heights, and greater turning rates which have successfully reduced this impact.
- 7.3.4 The Veolia-run community liaison group, which meets on a quarterly basis, has improved relations between the operator and neighbouring residents. An odour mitigation plan has been agreed between the operator and the Environment Agency as part of the site's Environmental Permit. These practices have since proved successful in mitigating odour levels on the site and the local planning authority is unaware of any recent complaints concerning odour-release from this facility.
- 7.3.5 The main source of odour from landfill sites is from escaping landfill gas. Management of existing landfill gas is currently controlled through a network of pipes within the landfill and flared to existing generators which generate electricity for the national grid. Due to the additional volumes of waste to be imported, gas levels are expected to be generated for a longer period of time but are not expected to increase the peak flows. Therefore the current gas extraction system is considered to be adequate in managing the level of gas likely to be produced.
- 7.3.6 The proposed re-contouring is required to ensure that the existing gas management system largely remains successfully operational. The additional volumes of waste are not expected to increase peak gas rates but rather the gas would be sustained for longer. It is anticipated that the total gas would increase by approximately 10% over the gas producing lifetime of the development. An extensive gas management

system is currently in place and would be retained throughout the lifetime and aftercare of the scheme. Existing flaring units, the subject of separate consents would remain and will continue to generate electricity for the national grid. Adequate treatment is undertaken to ensure that this does not create odour issues to nearby residential areas.

- 7.3.7 The Council's Environmental Health officers and the Environment Agency have been consulted in relation to the proposal with no objections being raised.

#### *Health Risks & Air Quality*

- 7.3.8 A detailed health risk assessment has been undertaken examining the level of particulate matter and health related gases emanating from the site on nearby sensitive receptors such as residential areas, nearby industrial sites, and the inclusion of a potential visitor centre following restoration. It was concluded that there would be no increase in current baseline air quality as a result of the proposed revisions and no further impact expected. Further consideration was given toward the principle of providing early visitor access, it was concluded that there would be minimal impact to the health of these receptors subject to various control measures being incorporated.

- 7.3.9 The submitted information concerning the proposal's impact on air quality have been considered by the Council's Environmental Health officers and the Environment Agency with no objections being raised. Conditions and obligations are recommended concerning the control of dust drift and odour, and officers are satisfied that these impacts can be properly controlled through the approval of details following the grant of planning permission. The Greater London Authority has requested additional information in relation to the potential for nitrogen and acid rain deposits at the nearby SSSI. However, both the Environment Agency and Natural England, which are, respectively, the statutory bodies for the control of air emissions and sites of ecological value, have raised no objections to the proposal. The Environment Agency is satisfied that emissions from the site can be adequately controlled as part of the Environmental Permitting regime it administers. Planning officers are therefore satisfied that the proposal would not give rise to any significant adverse impacts in relation to air quality and associated matters.

#### *Noise*

- 7.3.10 The proposed extension to the facility's working period would involve prolonging any noise impacts that it gives rise to. However, officers are not aware of any noise complaints in relation to the facility under consideration. The Council's Environmental Health officers have raised no objections to the proposal and a condition is recommended, concerning the control of noise, should planning permission be granted.

## 7.4 Transport

- 7.4.1 Waste is imported to the site via road and water. The continued vehicular access arrangements from Coldharbour Lane are considered to be sufficient to accommodate the anticipated number of vehicle movements over the extended course of the development.
- 7.4.2 Although this application seeks permission to extend road-borne waste imports until 2024, the number of heavy vehicle movements during each day will not be increased and will continue to reduce as the site nears completion. It is envisaged that as the numbers of heavy goods vehicles reduce, visitor numbers may increase and impacts would be minimal. Consideration has been made in the retention of the current landfill access and location of public facilities to ensure maximum safety. Staff are satisfied that minimal impact would occur in this regard and recommend this be included within a legal agreement to continue to monitor vehicle numbers and movements and an ongoing travel plan.
- 7.4.3 Both Transport for London and the Greater London Authority requested additional information from the applicants in relation to the nature and number of on-site parking spaces; a commitment to sustainable means of travel; and a commitment to monitoring and use of opportunities to import waste by river. The site currently has 54 off-site parking spaces serving around 100 members of staff. The submitted information states that some staff make use of a minibus service.
- 7.4.4 Given the remote location of the site, particularly in relation to public transport links, officers consider the proposed vehicle parking arrangements to be acceptable. Sustainable transport measures will be the subject of a Travel Plan to be completed as part of the proposed legal agreement. In relation to water-borne importation of waste: approximately 15% of imported waste is generally imported by river at the moment. Whilst it is preferred to import waste by water-borne methods, there is difficulty in securing the limited availability of contracts. It is considered likely that the operator will continue to seek opportunities to make use of river-borne methods of importing waste owing to the potential commercial benefits of doing so. However, in the interests of allowing the landfill to be completed as soon as possible, planning officers consider that the operator should be allowed to make use of road-hauled importation as required, subject to the conditions and obligations referred to earlier in this report.
- 7.4.5 The Council's Highways officers have raised no objections to the proposal subject to the operator paying a financial contribution £25,000 towards public highway repair and maintenance to and from the application site to the A13, given the additional wear and tear the proposed extension of working would cause. It is recommended that

this sum be sought as part of the proposed legal agreement, as detailed earlier in this report.

7.4.6 The impacts of air quality from the additional traffic movements have been described above and it is concluded that they would have minimal additional impact over and above the site's existing output.

## 7.5 Ecology

7.5.1 The application is located immediately adjacent to the Rainham, Wennington, and Aveley Marshes SSSI and Borough SINCs that lie immediately to the north and east of the site. The site's southern boundary lies adjacent to the Thames River frontage which is part of the River Thames Metropolitan SINC.

7.5.2 The proposed future use of the landfill site is for nature conservation and public recreation, which is to be managed by Havering Council and other stakeholders and combined with the existing surrounding marshes would be incorporated into the London Riverside Conservation Park, or Wildspace.

7.5.3 The proposed importation of additional waste to the site would impact parts of the site's established biodiversity in the short term, whilst the existing final layer is removed and surcharged with additional volumes of waste. However, this impact is expected in the short term and, subject to stringent ecological mitigation and management plans, the site's timely restoration will generate significant nature conservation benefits.

7.5.4 Natural England have been consulted about the proposal and have raised no objections in relation to its impact on the neighbouring SSSI. The RSPB have also been consulted, with comments being raised in relation to the site's eventual restoration and how this might impact on the neighbouring wildlife reserve. Comments are also made in relation to the proposal's potential to prolong or increase pest nuisance. In answer to these concerns, officers recommend that the RSPB be consulted and involved in the completion of the detailed restoration scheme, which is required by condition. A condition has also been recommended requiring the approval of details in relation to the control of vermin and other pests.

7.5.5 Officers are satisfied that the long term biodiversity gains would outweigh the short term impacts arising from the importation of additional volumes of waste to the site and that subject to various conditions imposed to secure mitigation and adequate restoration habitats that there would be minimal adverse long term ecological impacts as a result of these proposals.

## 7.6 Flood Risk and Drainage Considerations

7.6.1 The proposal to revise the pre-settlement contours is intended to ensure that the final landform would be of adequate angle and gradient to promote surface water run-off and reduce drainage issues on the site, which would otherwise lead to ponding and greater associated environmental risk. The additional pre-settlement contours have taken into account the potential increased rate of surface water runoff and have been designed to ensure no impacts on surface water and flood risk is to occur. The proposal has been considered by the Environment Agency with no objections being raised in relation to flood risk or impacts on drainage arrangements.

## 7.7 Public Access and After Use

7.7.1 The proposed revisions would allow the site to be adequately restored to be included within the Wildspace regeneration project. The phased regeneration approach is proposed to allow the site to be available for public use at an earlier opportunity than was previously approved. In addition to achieving a manageable site, the restored landfill is to be opened in stages for public use.

7.7.1 These can be divided into two core themes and would include:

- Public access including:
  - Provision and maintenance of footpaths and cycle paths over the landform including two new viewpoints;
  - Maintenance of the existing Rainham to Purfleet path;
  - Access to and provision of serviced sites for a new car park, and potentially for recreational facilities and a visitor centre;
  - Increased access to the Thames and to existing walking and cycle routes;
- Creation of new habitat and active management of these that would achieve a large amount of London's targets for biodiversity for flora and fauna.

7.7.2 In addition to the above, the applicant has also examined various alternate public facility possibilities that may be achievable and compatible with the restored landfill, the Thames, and areas of the SSSI. These included such themes as an adventure playground, water sports facilities and general open space. Although not forming part of this application, these facilities could come forward at a future date subject to further design and subsequent planning consent and would be discussed in detail with various stakeholders.

7.7.3 Additional work was carried out by the applicant to ensure that through allowing early public access to parts of the site that this would be compatible to the operation of the landfill. Officers are satisfied that safe access can be achieved and is protected by condition and legal agreement.

7.7.4 Officers are satisfied that the applicant has recognised the future aspirations for the site's after-use, and is assisting the Council in working to achieve the longer term goals and aspirations for the site and wider area.

## 7.8 Conclusion

7.8.1 It is considered that the proposal is acceptable in principle, considering the originally unforeseen circumstances affecting the site's completion; the need to ensure that the site is restored to a high standard on environmental grounds; and to permit public access in future as part of a wider regeneration scheme; and having had regard to the policies contained in the Waste DPD, LDF, and other relevant planning policies and guidance. It is considered that the proposal would not result in significant adverse impacts on visual or local and residential amenity, over and above what has previously been approved. The environmental and highways impacts of the proposal are considered to be acceptable.

7.8.2 In light of the foregoing, officers are recommending that the proposed development be granted planning permission, subject to no significant adverse comments being received from the Mayor during the application's Stage 2 referral, along with the completion of a legal agreement and subject to the aforementioned conditions. The proposal is considered to be acceptable having regard to the provisions of the Development Plan, and all other material considerations.

## **IMPLICATIONS AND RISKS**

## 8 Financial implications

8.1 In approving this application, the permission would be subject to the applicant entering into a legal agreement to secure various measures as detailed in this report. It is the intention that the London Borough of Havering would exercise an option to actively manage the site either via a 'pie crust' leasehold arrangement with the various landowners or to take up an option to become landowners. An additional option to take up ownership of the 'Saltings' is also offered. If the Council decides to take up these options, responsibility will be taken for the upkeep of the site under the arrangements of the lease or otherwise for the period following the completion of the aftercare period required to be fulfilled by the developer and in the case of the 'Saltings' ,in regard to general land management.

8.2 The Council would need to extend its public liability insurance in allowing public access once this option is exercised. It is recommended by officers that the Council does not agree to the leasehold or



ownership until such time as an independent review is carried out on the site as it is progressively restored and allowed 'open' for public access. Reasonable costs should be met by the applicant and the option to take the leasehold to be agreed subject to the conclusions and recommendations of such a report. There are ongoing financial costs in securing the extension to the public indemnity insurance and longer term park management.

## 9 Legal Implications

- 9.1.1 Officer time would be associated with the creation and monitoring of the legal agreement and in determining to take up any options offered in regard to public access, leaseholds and land ownership.

### **BACKGROUND PAPERS**

Application form

All information submitted in support of planning application P1566.12.

This page is intentionally left blank

**20112014**

Deed

made pursuant to section 106 and section 106A of the Town and Country Planning Act 1990 (as amended) relating to land at Rainham Landfill Site, Coldharbour Lane, Rainham, Essex

London Borough of Havering<sup>(1)</sup>  
Veolia ES Cleanaway (UK) Limited<sup>(2)</sup>  
Port of London Authority<sup>(3)</sup>  
Oldrealm Limited<sup>(4)</sup>  
National Westminster Bank Plc<sup>(5)</sup>

## CONTENTS

Clause	Page
1 Definitions and Interpretation .....	3
2 Legal Basis .....	11
3 Conditionality .....	11
4 Provisions for Release .....	11
5 Discharge of First Agreement .....	11
6 Covenants by Veolia .....	12
7 Covenants by the Owners .....	12
8 Covenants by the Council .....	12
9 Provisions Relating to the Council .....	12
10 Provisions Relating to Veolia.....	12
11 Provisions relating to the PLA .....	12
12 Mortgagee's consent .....	13
13 Successors in Title .....	13
14 Registration.....	13
15 Third Party Rights.....	13
16 Dispute Resolution .....	13
17 Variations .....	14
18 Service of Notices.....	14
19 Legal and other Professional Costs .....	14
20 VAT .....	14
21 Interest.....	14
Schedule 1.....	16
Schedule 2.....	<b>19</b> <del>20</del>
Schedule 3.....	<b>21</b> <del>22</del>
Schedule 4.....	<b>27</b> <del>28</del>
Schedule 5.....	<b>37</b>
<b>Appendix 1 .....</b>	<b>39</b>
<b>Appendix 2 .....</b>	<b>40</b>
<b>Appendix 3.....</b>	<b>41</b> <del>42</del>
<b>Appendix 4 .....</b>	<b>42</b>
Appendix <del>52</del> .....	43
Appendix <del>63</del> .....	44
Appendix <del>74</del> .....	45
Appendix <del>85</del> .....	46
Appendix <del>96</del> .....	47
Appendix <del>107</del> .....	48
Appendix <del>118</del> .....	49
<b>Appendix 9.....</b>	<b>50</b>
<b>Appendix 10.....</b>	<b>51</b>
<b>Appendix 11.....</b>	<b>52</b>
1 Definitions and interpretation.....	<b>155</b>
2 Grant.....	<b>256</b>
3 No Dedication and Conditions.....	<b>357</b>
Appendix 12.....	<b>559</b>
Appendix 13.....	<b>862</b>
Appendix 14.....	<b>963</b>
<b>Appendix 15.....</b>	<b>63</b>
<b>Appendix 16.....</b>	<b>65</b>
<b>Appendix 17.....</b>	<b>66</b>



**DATED****2014****PARTIES**

- (1) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (2) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at 8<sup>th</sup> Floor, 210 Pentonville Road, London, England N1 9JY (**Veolia**).
- (3) PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent DA12 2BG (**PLA**).
- (4) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobald Street, Borehamwood, Hertfordshire WD6 4PJ (**Oldrealm**).
- (5) NATIONAL WESTMINSTER BANK PLC (company number 929027) whose registered office is situated at 135 Bishopsgate, London, EC2M 3UR (**Mortgagee**).

**BACKGROUND**

- (A) Veolia ES Landfill Limited operates the landfill on part of the Property and submitted the Application to the London Thames Gateway Development Corporation (**Corporation**) who resolved to grant planning permission for the Development subject to the completion of an agreement under Section 106 of the 1990 Act.
- (B) By virtue of the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2011 the Corporation ceased to exercise planning functions in, and the Council resumed responsibility as the local planning authority for, the London Borough of Havering which is the area within which the Property is situated.
- (C) The Council is the local planning authority for the area within which the Property is situated and is the appropriate statutory body to enforce this Deed for the purposes of section 106 of the 1990 Act.
- (D) The Owners are registered at the Land Registry as the freehold owners of the Property.
- (E) The Mortgagee is proprietor of a registered charge on the freehold title of the Blue Land and part of the Green Land [dated 24 November ~~2005~~ 2005].
- (F) The Council considers it expedient in the interests of the proper planning of its area and having regard to all other material considerations that provision should be made for discharging the First Agreement in accordance with Section 106A of the 1990 Act and regulating the Development pursuant to section 106 of the 1990 Act in the manner set out in this Deed.
- (G) The Parties subject to the Council at its absolute discretion being satisfied that the obligation in the First Agreement having been satisfied or replicated in this Deed have agreed to discharge the First Agreement under Section 106A of the 1990 Act and to enter into this Deed, accepting that the obligations that it contains fall properly to be considered as material to the determination of the Application.
- (H) In accordance with section 25 of the Highways Act 1980 the Owners have agreed to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as public footpaths upon or prior to the expiry of the Aftercare Period and the Council ~~shall enter into~~ enters into this Deed as the highway authority for the area in which the Development is situated and the Council agrees to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath following their dedication.
- (I) Following dedication, the Owners and the Council have agreed to permit the use of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as cycleways and the Owners have agreed to co-operate with the Council to formalise their use as cycleways as may be necessary.
- (J) The Council has resolved to grant the New Planning Permission pursuant to the Application subject to the conditions set out in the New Planning Permission and subject to the covenants, undertakings and restrictions herein contained.

NOW THIS DEED WITNESSETH as follows:

**OPERATIVE TERMS**

**1 Definitions and Interpretation**

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

<b>1990 Act</b>	the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force.
<b>Advance Routes</b>	the routes of footpaths, cycleways or highways within the Orange Land and the Brown Land to be made temporarily available for use by members of the public substantially in accordance with the Zone Access Plan or in a position otherwise agreed with the Council in writing.
<b>Advance Routes Notice</b>	a written notice, in respect of each of Zone 1 and Zone 2, given by or on behalf of Veolia to the Council confirming that the Advance Routes within each of Zone 1 or Zone 2 (as the case may be) have been constructed, and served in accordance with paragraph 4.2 of Schedule 3.
<b>Advance Route Specification</b>	the specification set out on Plan 6, Plan 7 and Plan 8 to which the Advance Routes shall be constructed (unless otherwise agreed in writing with the Council).
<b>Aftercare</b>	works of aftercare for each Zone comprising works of good husbandry to be undertaken in full compliance with Condition 5 of the New Planning Permission following completion of the Restoration Works in respect of each Zone.
<b>Aftercare Period</b>	the period of 5 years from completion of the Restoration Works in respect of each of Zone 1, Zone 2 and Zone 3 (and the last day of the Aftercare Period shall be construed as the last day of the period of 5 years from completion of the Restoration Works in respect of the last of Zone 1, Zone 2 or Zone 3 to which works of Aftercare are undertaken).
<b>Application</b>	Full planning application (reference P1566.12) for the continuation of waste inputs and operation of other waste management facilities (materials recycling facility, waste transfer station, open air composting site and associated soil plant, gas engines, leachate treatment plant, and incinerator bottom ash processing) until 2024 and re-profiling of final contours.
<b>Beacon Land</b>	the freehold land used for a navigation light beacon the freehold title of which is registered at the Land Registry under title number EGL 397953
<b>Blue Land</b>	the freehold land and buildings at Coldharbour Point, Rainham registered at the Land Registry and forming part of title number EGL 182072 and shown coloured blue on Plan 1.

<b>Bond</b>	a bond for the sum of £1,071,242 (ONE MILLION AND SEVENTY ONE THOUSAND, TWO HUNDRED AND FORTY TWO POUNDS) which shall be substantially in the form annexed at Appendix 12 and shall be provided by a bank or other financial institution first approved by the Council acting reasonably
<b>Brown Land</b>	the freehold land on the south west side of Coldharbour Lane, Rainham registered at the Land Registry <del>under</del> <b><u>and forming part of</u></b> title number EGL 510484 subject to the Licence and shown coloured brown on Plan 1.
<b>Car Parking Area</b>	the visitor car parking area and the transport hub receiving public transport as may be constructed and operated by the Operator at Zone B or the extended Second Car Park intended to serve the Visitor Centre.
<b><u>Call Date</u></b>	<b><u>the seventh anniversary of the first request made by the Council in accordance with paragraph 1.3 of Schedule 4 or the 31 December 2030 whichever is earlier</u></b>
<b>CIL or Local Tariff</b>	a tax, tariff or charge introduced by the Council as planning authority and/ or highway authority pursuant to regulations enabled by Part 11 of the Planning Act 2008 or any subsequent legislation or instrument of similar effect to fund the delivery of infrastructure by a system known as the "community infrastructure levy" or the "local tariff" (or known by any other name) which for the avoidance of doubt does not include Mayoral Community Infrastructure Levy.
<b>Coldharbour Lane</b>	<del>that the unadopted</del> part of Coldharbour Lane <b><u>as shown between points A, B and C, shown for the purposes of identification only</u></b> by black dashed lines on Plan 2.
<b>Deed of Rights of Access</b>	a deed granting rights of access containing the terms identified at paragraph 6.3 of Schedule 3 and <b><u>substantially</u></b> in the <del>substantial</del> form annexed at Appendix 11.
<b>Development</b>	the development of the Property in accordance with the New Planning Permission.
<b>Ecological Method Statement</b>	a statement to be submitted to the Council in accordance with paragraph 9.1 of Schedule 1 which shall be complementary to the Landscape and Restoration Plan and shall include methods and responsibilities for future management of existing and newly created habitats and methods of monitoring habitats and species including targeting and protecting priority Biodiversity Action Plan species and habitats.
<b>Environmental Permit</b>	<del>the variation,* number</del> <del>EPR/EP 3136GK/V002,</del> <del>*to</del> environmental permit number EPR/EP 3136GK <b><u>as varied by variation notice*</u></b> <del>number</del> EPR/EP 3136GK/V002, <del>*issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at</del>



	the Property.
<b>Existing Car Parks</b>	the First Car Park and the Second Car Park.
<b>Existing Planning Permission</b>	the planning permission granted by the Council under reference P1275.96 for deposit of refuse materials through controlled landfill provision of material recovery facilities and creation of contoured landform and restoration scheme and dated 6 February 1998.
<b>Expert</b>	<p>such expert as may from time to time be appointed for the purposes of resolving a relevant dispute as follows:</p> <p>a) if the dispute relates to transport or highway works, engineering, demolition, or construction works, a chartered civil engineer being a member of the Institution of Civil Engineers (having not less than 10 years' relevant experience in the public or private sector) agreed by the parties to the dispute but in default of agreement appointed at the request of any of the parties by or on behalf of the President from time to time of the Institution of Civil Engineers;</p> <p>b) if the dispute relates to any building within the Development or any similar matter, a chartered surveyor (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors;</p> <p>c) if the dispute relates to financial matters or matters of accounting usually and properly within the knowledge of a chartered accountant, a chartered accountant (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institute of Chartered Accountants in England and Wales; and</p> <p>d) if the parties to the dispute shall fail to agree upon the nature or difference in question then it should be referred to a solicitor or barrister of at least 15 years' standing agreed by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Law Society.</p>
<b>Final Completion Notice</b>	a written notice given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in respect of the final Phase of the Phasing Sequence were completed.
<b>First Access Road</b>	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
<b>First Agreement</b>	an agreement entered into by the Council, Oldrealm, the PLA, Veolia and Norwich Union Mortgage Finance Limited and Norwich Union Life and Pensions Limited

	as a deed made under section 106 of the 1990 Act and dated 6 February 1998.
<b>First Car Park</b>	the car park situated on the Brown Land shown coloured red on Plan 2.
<b>First Riverside Footpath</b>	the riverside footpath shown by blue dashed lines on Plan 2.
<b>Footpath</b>	the footpath from the First Car Park to the First Riverside Footpath shown with dashed brown lines on Plan 2.
<b>Gatehouse</b>	the security building situated on Coldharbour Lane at the location indicated on Plan 3.
<b>Green Land</b>	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number <u>EGL</u> 182072 subject to the Lease and shown coloured green on Plan 1.
<b>Green Travel Plan</b>	the Green Travel Plan to be submitted in accordance with paragraph 8 of Schedule 1.
<b>Grounds <del>of</del> Refusal</b>	<del>Veolia</del> <u>the proposed landlord</u> , acting reasonably <del>does not consider</del> , <u>considers</u> that the <del>Operator</del> <u>proposed tenant</u> is <u>not</u> of sufficient financial standing to enable <del>it</del> <u>the proposed tenant</u> to comply with the tenant covenants in the proposed lease.
<b>Group Company</b>	any company of which the Owner is a subsidiary or which has the same holding company as the Owner or a company formed as a joint venture company owned by the Owner or a subsidiary and one or more parties or a subsidiary of such joint venture company where subsidiary and holding company have the meanings given to them by section 1159 Companies Act 2006.
<b>HGV Movements</b>	the ingress and egress of heavy goods vehicles and one HGV Movement shall <u>include</u> <del>mean</del> the ingress and egress of one heavy goods vehicle.
<b>HGV Routing Plan</b>	the HGV Routing Plan to be submitted in accordance with paragraph 15 of Schedule 1.
<b>Highway Contribution</b>	Sum of £25,000 to be paid by Veolia to the Council on or prior to the date of the completion of the Section 106 agreement (Deed) to be spent on the repair and maintenance of the highway between the A13 and the Property.
<b>Implementation</b>	the implementation of the Development in accordance with the New Planning Permission by the carrying out of any material operation within the meaning of sections 56(2) and (4) of the 1990 Act Provided That and for the avoidance of doubt the carrying out of archaeological investigations demolition, site clearance, site preparation and surveys shall be deemed not to constitute a material operation.

<b>Implementation Notice</b>	a written notice given by or on behalf of Veolia to the Council stating the date of Implementation of the Development to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS and stating the application reference number P1295.11, and a notice will be deemed to have been given if Implementation has occurred for the purposes of this Deed and no written notice has been given.
<b>Insurance Policy</b>	a policy of insurance obtained by Veolia covering public liability risks arising from access over, or use of, or the proposed use of such part of Coldharbour Lane that lies within the Property, or the Property, or within Zone 1 or Zone 2 as the case may be, by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) and which shall include an indemnity to principals clause Provided That the policy of insurance shall not be obtained in respect of dedicated rights of way within the Property save in respect of public liability risks arising directly out of Veolia's negligent act or default.
<b>Interest</b>	interest at three (3) % per cent above the base lending rate of the National Westminster Bank Plc from time to time.
<b>Interim Completion Notice</b>	a written notice, in respect of each Phase, given by or on behalf of Veolia to the Council and copied to the PLA and Oldrealm which states the date when the Restoration Works in relation to that Phase were completed and to be addressed to The Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3LS.
<b>Jetty</b>	the jetty shown coloured pink on Plan 1.
<b>Landfill Entrance</b>	the landfill entrance shown marked on Plan 2 or such other entrance to the landfill as is agreed in writing with the Council from time to time.
<b>Landscape and Restoration Plan</b>	a masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
<b>Local Labour Commitment Scheme</b>	A scheme to be submitted to the Council for its approval to promote employment of residents living within the administrative area of the Council.
<b>Lease</b>	two leases of the Green Land made between Oldrealm and Cleanaway Limited both dated 2 April 1998.
<b>Licence</b>	a waste disposal licence made between the PLA, Veolia and Cleanaway Holdings Limited dated 6 February 1998 as subsequently varied on 6 June 2003 by supplemental agreement and on 16 February 2005 by supplemental waste disposal licence.

<b>New Planning Permission</b>	the planning permission to be granted pursuant to the Application for the Development in the form annexed at Appendix 10 to this Deed.
<b>Odour Mitigation Strategy</b>	a strategy to be submitted to the Council in accordance with paragraph 11.1 of Schedule 1 setting out the measures proposed by Veolia to minimise odour impact on residential amenity as a result of the Development.
<b>Operator</b>	the proposed operator or operators (approved by Veolia following the procedure referred to at Paragraph 5 of Schedule 5) of the Car Parking Area, the Recreational Facilities, the Visitor Centre and/or the Water Sports Facility as the case may be.
<b>Orange Land</b>	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
<b>Owner</b>	Any or all of (as the case may be) Oldrealm, the PLA and Veolia (together the "Owners").
<b>Parties</b>	the parties to this Deed.
<b>Phase</b>	an area of land forming part of the Property shown as marked Phase A to Phase J (inclusive) on Plan 5, and references to a Phase shall be construed accordingly.
<b>Phasing Sequence</b>	the sequence in which the Restoration Works may be undertaken, beginning with Phase A on Plan 5 and ending with Phase J on Plan 5 or such other phasing sequence for the Restoration Works agreed between Veolia and the Council <del>to accord with that approved by the Council pursuant to condition 25 of the New Planning Permission.</del>
<b>Plan 1</b>	the plan marked Plan 1 attached to this Deed at Appendix 1.
<b>Plan 2</b>	the plan marked Plan 2 attached to this Deed at Appendix 2.
<b>Plan 3</b>	the illustrative drawing marked Plan 3 attached to this Deed at Appendix 3.
<b>Plan 4</b>	the plan marked Plan 4 attached to this Deed at Appendix 4.
<b>Plan 5</b>	the plan marked Plan 5 attached to this Deed at Appendix 5.
<b>Plan 6</b>	the plan marked Plan 6 attached to this Deed at Appendix 6.
<b>Plan 7</b>	the plan marked Plan 7 attached to this Deed at Appendix 7.
<b>Plan 8</b>	the plan marked Plan 8 attached to this Deed at Appendix 8.

<b>Property</b>	the Orange Land, the Green Land, and the Brown Land together known as <del>land at</del> Rainham Landfill Site, Coldharbour Lane, Rainham and which is situated within the area shown edged red on Plan 1.
<b>Public Routes</b>	the routes of footpaths and cycleways within the Property (other than Coldharbour Lane, the First Access Road, the First Riverside Footpath, the Footpath, the Second Riverside Footpath and the Third Riverside Footpath), to be made available for use by members of the public in accordance with the Landscape and Restoration Plan.
<b>Public Routes Notice</b>	a written notice given by or on behalf of Veolia to the Council confirming that the Public Routes have been constructed, and served in accordance with paragraph 5.2 of Schedule 3.
<b><u>Pump Ashore Facility</u></b>	<b><u>means the pipeline and pipebridge which carry dredgings across the Brown Land and Coldharbour Lane respectively as shown coloured pink on Plan 2.</u></b>
<b>Recreational Facilities</b>	such facilities for recreation as may be constructed and operated by the Operator at Zone C and Zone D.
<b>Restoration Concept</b>	the drawing marked Plan 3 and attached at Appendix 3 to this Deed.
<b>Restoration Works</b>	those works to restore the Property or any part of the Property in accordance with the New Planning Permission, the Phasing Sequence and the Landscape and Restoration Plan.
<b>Riverside Footpaths and Footpath Specification</b>	the specification for maintenance of the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath set out at Appendix 9.
<b>Riverworks Licence</b>	the licence granted to Veolia by the PLA on 31 July 1984 to place and retain the Jetty at Coldharbour Point.
<b>Second Car Park</b>	the car park situated on the Orange Land shown coloured purple on Plan 2.
<b>Second Riverside Footpath</b>	the riverside footpath constructed between Coldharbour Point and Aveley Bay and shown by green dashed lines on Plan 2.
<b>Services</b>	pipes cables or wires as the case may be providing a supply of water and electricity (not exceeding 160 amps for the Visitor Centre or 100 amps for the Recreational Facilities) and in relation to the Visitor Centre and Water Sports Facility provision of a service duct to enable a connection to be made to the telephone network.
<b>Site Infrastructure Plan</b>	the plan labelled "Site Infrastructure" attached to this

	Deed at Appendix 14.
<b>Third Riverside Footpath</b>	[the <u>two sections of</u> riverside footpath constructed between the First Access Road and the Second Car Park and shown by amber dashed lines on Plan 2.]
<b>Visitor Centre</b>	such visitor centre facilities as may be constructed and operated by the Operator at Zone A.
<b>Water Sports Facility</b>	such water sports facilities as may be constructed and operated by the Operator at Zone C.
<b>Yellow Land</b>	the land at Wennington Marshes over which a caution has been lodged at the Land Registry in favour of Veolia under title number EGL 250928 and shown coloured yellow on Plan 1.
<b>Zone 1</b>	the area of land marked as Zone 1 on Plan 4.
<b>Zone 2</b>	the area of land marked as Zone 2 on Plan 4.
<b>Zone 3</b>	the area of land marked as Zone 3 on Plan 4.
<b>Zone A</b>	the area of land (excluding the subsoil of the land but including the air above it) circled in orange and labelled A on the Restoration Concept.
<b>Zone B</b>	the area of land (excluding the subsoil of the land but including the air above it) coloured light blue and labelled B on the Restoration Concept.
<b>Zone C</b>	the area of land (excluding the subsoil of the land but including the air above it) edged in dark blue and labelled C on the Restoration Concept or such alternative area within the Property identified for the Water Sports Facility in the Landscape and Restoration Plan.
<b>Zone D</b>	the area of land (excluding the subsoil of the land but including the air above it) hatched purple and labelled D on the Restoration Concept.
<b>Zone E</b>	the area of land on which the Second Car Park is situated (excluding the subsoil but including the air above it).
<b>Zone Access Plan</b>	the indicative locations in which Advance Routes will temporarily be made available to members of the public starting with Zone 1 on Plan 4 and ending with Zone 2 on Plan 4.

- 1.2 In this Deed, unless the context requires otherwise:
- 1.2.1 the headings appearing in this Deed are for ease of reference only and will not affect the construction of this Deed;
- 1.2.2 unless the context requires otherwise references in this Deed to clauses, sub-clauses, paragraphs, recitals, sub-paragraphs, annexures, appendices and schedules are references to those contained in this Deed and references to plans and drawings are references to plans and drawings annexed to this Deed;

- 1.2.3 the word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;
- 1.2.4 references in this Deed to statutes, bye-laws, regulations, orders and delegated legislation shall include any statute, bye-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same;
- 1.2.5 in this Deed words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders;
- 1.2.6 in this Deed the expressions "Owner", "Veolia", "PLA", "Oldrealm", "Council" and "Mortgagee" shall include their respective statutory successors in respect of the functions to which this Deed relates and/or successors in title and assigns to the Property, the Blue Land or the Yellow Land or the relevant part of the Property, the Blue Land or the Yellow Land as the case may be;
- 1.2.7 any covenant by the Owners or each one of them not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person acting for them or any of them and under their respective control;
- 1.2.8 any covenant by Veolia shall be deemed to include a covenant that Veolia shall procure that any operator of the landfill situated on the Property shall comply with the obligations, undertakings and restrictions on the part of Veolia contained herein;
- 1.2.9 in the event of any conflict between the provisions of this Deed and any document annexed hereto as referred to herein save for the avoidance of doubt the New Planning Permission, the terms, conditions and provisions of this Deed will prevail; and
- 1.2.10 where any approval, consent, agreement or the like is required to be given pursuant to the terms of this Deed it shall be in writing and no party shall unreasonably withhold or delay any such approval, consent, agreement or the like provided that nothing herein shall fetter the statutory rights, powers or duties of the Council and/ or the PLA.

## **2 Legal Basis**

- 2.1 This Deed is made pursuant to section 106 and section 106A of the 1990 Act, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and section 111 of the Local Government Act 1972 and the obligations herein constitute planning obligations for the purposes of the 1990 Act and are enforceable by the Council as the local planning authority.
- 2.2 ~~It is agreed that the~~The Owners and the Mortgagee enter this Deed ~~with the effect of so as to bind~~ the planning obligations binding on their respective interests in the Property, the Blue Land and the Yellow Land.

## **3 Conditionality**

- 3.1 Clause 6, clause 7 and clause 8 and the planning obligations in Schedule 1, Schedule 2, Schedule 3, and Schedule 4 are conditional upon:
  - 3.1.1 the grant of the New Planning Permission; and
  - 3.1.2 the Implementation Notice being given or deemed to have been given (or as the context so prescribes).
- 3.2 The covenants and obligations contained in paragraph 4, paragraph 5, paragraph 6, paragraph 7, paragraph 8 and paragraph 9 of Schedule 3 are conditional upon the Environment Agency's approval of the public being permitted access in the manner proposed and this having been reflected in the Environmental Permit accordingly.
- 3.3 All obligations relating to options are subject to Veolia providing the Council with a timely independent written report on contamination risk by an expert in contaminated land addressing the pollution and health risks relating to the relevant part of the Property.

#### **4 Provisions for Release**

- 4.1 Save for the effect of clause 19 of this Deed, it is agreed that this Deed will determine if the New Planning Permission or the Environmental Permit is quashed, cancelled, revoked or expires prior to Implementation or is otherwise rendered void.
- 4.2 Upon reasonable request from the Owners (or any one of them) and subject to payment of the Council's reasonable and proper professional costs and charges, which shall be met by Veolia, the Council shall certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed.

#### **5 Discharge of First Agreement**

In consideration of entering into this Deed the Parties hereto agree, that upon the Implementation Notice being given or deemed to be given, they shall forthwith release and be released from all covenants and their respective obligations contained in the First Agreement and the Parties agree and declare that the First Agreement shall hereby immediately be discharged in accordance with Section 106A of the 1990 Act.

#### **6 Covenants by Veolia**

Veolia covenant with the Council to carry out and comply with the obligations contained in Schedule 1.

#### **7 Covenants by the Owners**

~~The~~Each Owners covenants with the Council and with each other to carry out and comply with their respective obligations contained in Schedule 2, Schedule 3 and Schedule 4.

#### **8 Covenants by the Council**

The Council covenants with the Owners and with each of them to carry out and comply with the obligations contained in Schedule 5.

#### **9 Provisions Relating to the Council**

Nothing in this Deed in any way fetters the statutory rights, powers and duties of the Council as local planning authority or highway authority.

#### **10 Provisions Relating to Veolia**

- 10.1 Nothing in this Deed shall be construed to prevent or impede Veolia (or interfere with Veolia), its operator of the landfill site, or its independent contractors from carrying out any tests, placing any apparatus or undertaking any works on the Property or carrying out any duties:

10.1.1 in accordance with the Environmental Permit; or

10.1.2 otherwise approved by the Environment Agency or by any other statutory authority; or

10.1.3 properly required in the interests of health and safety or security of any waste disposal activities or environmental controls in relation to the Property.

PROVIDED always that Veolia, its operator of the landfill site, or its independent contractors shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

#### **11 Provisions relating to the PLA**

- 11.1 Nothing in this Deed shall be construed to prevent or impede the PLA (or interfere with the PLA) or its independent contractors:

11.1.1 from carrying out duties or undertaking any works on the Property as navigation or port authority; or

11.1.2 ~~carrying from using the Pump Ashore Facility to carry~~ dredgings across the Brown Land ~~by pipeline~~ and across Coldharbour Lane ~~by a pipe bridge~~ to any land adjoining Coldharbour Lane, or maintaining a river jetty and entering the Brown Land from time to time with or without vehicles for the



purposes of cleaning out and turning pipes and inspecting, maintaining, replacing, or renewing any of the structures including those comprising the Pump Ashore Facility or any part of them; or

- 11.1.3 from accessing at any time without notice with or without vehicles the Beacon Land.

PROVIDED always that the PLA shall not at any time unlawfully obstruct or otherwise interfere with the public's right to pass and repass over the First Riverside Footpath and following their respective dedication the Footpath, the Second Riverside Footpath and the Third Riverside Footpath.

## **12 Mortgagee's consent**

The Mortgagee consents to Oldrealm entering into this Deed and acknowledges that the Blue Land and the Green Land will be bound by the terms and obligations contained in this Deed and if the Mortgagee becomes a mortgagee in possession of the whole or any part of the Property the Mortgagee will not carry out or procure the Development or any part thereof without performing and observing the terms and obligations contained in this Deed.

## **13 Successors in Title**

The Parties agree that this Deed will be binding upon their respective interests in the Property, the Blue Land and the Yellow Land and will be enforceable against the relevant Owners and the Mortgagee (when in possession in accordance with clause 12) and their successors in title and assigns and those deriving title under them in respect of their respective interests in the Property, the Blue Land and the Yellow Land as provided in section 106(3) of the 1990 Act but in accordance with section 106(4) of the 1990 Act it is the intention of the Parties that none of the Owners or the Mortgagee or their respective successors in title or those deriving title under them will have any further liability under this Deed (but without prejudice to any rights of the Council in respect of any antecedent breach) in respect of any period after which the relevant party has parted with their interest in all or the relevant part of the Property, the Blue Land or the Yellow Land on which the breach occurs.

## **14 Registration**

- 14.1 It is agreed between the Parties that this Deed will be registered as a Local Land Charge and ~~that upon the discharge of~~ the First Agreement in accordance with clause 5, the First Agreement will be removed from the register as a Local Land Charge for the purposes of the Local Land Charges Act 1975.
- 14.2 Upon the written request of the Owners or any of them in respect of the Brown Land, or the Blue Land, or the Green Land, or the Orange Land or the Yellow Land and upon the Council's satisfaction that the obligations, covenants or undertakings contained in this Deed in each case have been discharged or fully complied with the Council shall place a note to that effect on the Local Land Charges register relating to the land in question.

## **15 Third Party Rights**

A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

## **16 Dispute Resolution**

- 16.1 In the event of any dispute or difference between the Parties or any of them arising out of this Deed (other than a dispute or difference relating to a question of law or in relation to the interpretation of this Deed) it is hereby agreed that the matter in dispute will on the application of either of the Parties be referred to the Expert and it is further agreed that:
- 16.1.1 the determination of the Expert will be final and binding on the parties save in the case of manifest error;
- 16.1.2 the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs;
- 16.1.3 the Expert's costs will be borne in such proportions as he/she may direct failing which the parties will each bear their own costs of the reference and

determination and the Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and

16.1.4 the Expert may be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee will be appointed in the same manner as the Expert.

## **17 Variations**

No variation to this Deed will be effective unless made by Deed between the Council as local planning authority and all the parties against whom the obligations in this Deed are enforceable at the time or pursuant to the determination of an application made under section 106A of the 1990 Act subject to Section 106A (4).

## **18 Service of Notices**

18.1 All notices, requests, demands or other written communications to or upon the respective parties pursuant to this Deed will be deemed to have been properly given or made if despatched by first class letter to the party to which such notice, request, demand or other written communication is to be given or made under this Deed and addressed as follows:

18.1.1 if to the Council for the attention of Head of Development and Building Control, Mercury House, Mercury Gardens, Romford RM1 3BD;

18.1.2 if to Veolia to the address set out above for the attention of ●;

18.1.3 if to the PLA to the address set out above for the attention of the Secretary;

18.1.4 if to Oldrealm to the address set out above for the attention of [Michael Young]; and

18.1.5 if to the Mortgagee to the address set out above for the attention of ●.

## **19 Legal and other Professional Costs**

Veolia agrees that upon completion of this Deed it will pay the Council's reasonable professional costs including the costs of legal fees in preparation of this Deed including any VAT thereon and disbursements properly incurred in the negotiation and completion of this Deed in the sum of two thousand and five hundred pounds (£6,000).

## **20 VAT**

If VAT becomes payable on payments made under this Deed the Parties agree that VAT will be additional to the sums required, provided that the Owners (or each one of them) will be entitled to valid VAT receipts in respect of any vatable supplies properly incurred under this Deed.

## **21 Interest**

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

## **22 Community infrastructure levy/Local tariff**

22.1 If after the date of this Deed, a CIL or Local Tariff is introduced that is applicable to the Development then the Parties to this Deed shall each use reasonable endeavours to agree variations to this Deed with the intent that:

22.1.1 The planning obligations secured by this Deed ~~should~~ continue to be secured and delivered by the Parties in accordance with this Deed; and

22.1.2 Veolia, the PLA, the Council and Oldrealms ~~should~~ to fully co-operate with the Council to ensure that the Council is not be in a financially worse position because of CIL or Local Tariff in respect of the obligations contained in the Schedules than they would be if the Owners had performed the obligations in this Deed and no CIL or Local Tariff had been introduced.

**IN WITNESS** whereof this Deed has been executed by the Parties and is intended to be and is delivered on the date first above written



## Schedule 1

### Covenants by Veolia

#### 1 Implementation

- 1.1 Veolia shall serve the Implementation Notice on the Council at least five (5) working days prior to the anticipated Implementation of the Development.

#### 2 Restoration Works

- 2.1 Veolia shall serve:
- 2.1.1 an Interim Completion Notice within fifteen (15) working days following the completion of the Restoration Works in respect of each Phase; and
  - 2.1.2 the Final Completion Notice within fifteen (15) working days following completion of the Restoration Works in respect of the final Phase in the Phasing Sequence.
- 2.2 Veolia shall keep the settlement of waste within the landfill area of the Property under review and within two (2) calendar months of serving or having been deemed to serve the Implementation Notice and upon serving any Interim Completion Notice shall report in writing to the Council as to whether the pattern of settlement conforms to what was predicted in support of the Application for the following Phase(s) and to the extent that it does not shall set out the measures which shall be taken to deliver the long term post settlement contours as predicted in support of the Application (and shown in approved drawing number 3) within a timeframe to be agreed in writing with the Council.
- 2.3 Veolia shall complete the Restoration Works on or before 31 December 2026.

#### 3 Aftercare

- 3.1 Veolia shall commence and use reasonable endeavours:
- 3.1.1 ~~to~~ diligently to undertake the Aftercare ~~for~~during the Aftercare Period; and
  - 3.1.2 to complete the Aftercare on or before 31 December 2031.

#### 4 Operation

- 4.1 ~~Prior to completion of the Restoration Works,~~ Veolia shall maintain records of all waste delivered for disposal within the Property and on receipt of reasonable prior written notice from the Council will permit the Council to inspect the said records.
- 4.2 Veolia shall issue a formal written warning to the driver and the owner of any vehicle carrying waste by road where, ~~upon entering~~when it enters the Property, waste carried within the vehicle is uncovered (an "offence") and if a second offence is committed by that driver Veolia shall take such steps as may be reasonably necessary to ensure that the driver is not permitted to enter the Property if the vehicle driven by him is carrying uncovered waste.

#### 5 Extension of Second Car Park

- 5.1 In the event that the Council serves a written notice upon Veolia on or before 31 December 2021 (**End Date**) which:
- 5.1.1 includes an irrevocable undertaking that the Council will not procure, in accordance with paragraph 1.1.2 of Schedule 2, ~~either~~ a lease of either the whole or any part of Zone B; and
  - 5.1.2 requests Veolia to increase the size of the Second Car Park to one which will accommodate at least 24 private vehicles (**Council's Car Park Extension Notice**)

Veolia shall use best endeavours to obtain all necessary consents to increase the footprint of the Second Car Park to accommodate at least 24 private vehicles (**Necessary Consents**) and, once obtained, shall use best endeavours to construct the said extension within twelve (12) calendar months of the date of issue of the last of the Necessary Consents.

- 5.2 Veolia shall give the Council at least twelve (12) calendar months' prior written notice of the End Date approaching (**Veolia's Prior Notice**) and in the event that Veolia does not do so the End Date shall be extended for a period ending twelve (12) calendar months from the date of service of Veolia's Prior Notice.

## **6 Insurance**

- 6.1 Prior to service of the Advance Routes Notice Veolia shall, at its own cost, obtain the Insurance Policy and thereafter maintain the Insurance Policy until the last day of the Aftercare Period.
- 6.2 Within twenty eight (28) days of written request from the Council, the PLA or Oldream, Veolia shall provide to the Council, the PLA ~~and/or~~ Oldream as the case may be written evidence of the Insurance Policy then in force.

## **7 Indemnity**

- 7.1 Veolia shall indemnify and keep indemnified the other Owners against all expenses, losses, damage, liability and claims whatsoever arising from access over, or use of, or the proposed use of the Property (including such part of Coldharbour Lane that lies within the Property, ~~or the Property, or within Zone 1 or Zone 2 as the case may be,~~) by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan (or the Zone Access Plan as the case may be) until and including the last day of the Aftercare Period Provided Always that the other Owners or any of them shall:

- 7.1.1 Notify Veolia of any claim or circumstances of which the relevant Owner is aware which may give rise to a claim by the Owners under the provisions of paragraph 7.1 of this Schedule 1 (including all particulars of such claim or circumstance);
- 7.1.2 At all times keep Veolia fully informed of any discussions, correspondence, negotiations and progress in connection with the claim or circumstance;
- 7.1.3 Not knowingly make any admission of liability to, or reach any agreement or compromise with any person, body or authority in relation to any such claim or circumstance without the prior written agreement of Veolia and for the purposes of this paragraph 7.1.3 that agreement may be refused if:
- (a) it is reasonable to believe that the claim or circumstance is without merit; or
  - (b) it is reasonable to believe that the claim or circumstance could be compromised or agreed at a figure lower than that proposed to be compromised or agreed by the other Owners;

AND FURTHER PROVIDED THAT this indemnity shall not apply if the expense, loss, damage, liability or claim:

- (i) arises in respect of access over or use of dedicatedpublically adopted rights of way within the Property, save in the event that it arises as a direct result of Veolia's negligent act or default
- (ii) is covered by the Insurance Policy or would otherwise have been covered by the Insurance Policy but for the fact that the Owners have acted (or have omitted to act) so as to vitiate, render void or otherwise limit the effect of the Insurance Policy.

## **8 Green Travel Plan**

- 8.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Green Travel Plan to the Council for its approval.
- 8.2 The Green Travel Plan shall contain provisions demonstrating how, from the date the Council's written approval of the Green Travel Plan, Veolia proposes to limit the number of HGV Movements which enter the Property via the Landfill Entrance for the purpose of delivering waste for disposal within the Property, to no more than 300 HGV Movements per day, and shall contain a programme to be reviewed annually to reduce HGV Movements from 300 HGV Movements per day to the Property.

- 8.3 The Green Travel Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor and proactively review opportunities to increase the use of riverborne transport for delivery of waste for disposal within the Property and shall require a written report of Veolia's findings to be submitted to the Council on an annual basis.
- 8.4 The Green Travel Plan shall contain a programme for its implementation including the appointment of a Green Travel Plan co-ordinator if appropriate and a programme for monitoring and reviewing the Green Travel Plan annually or more frequently as required by the Council.
- 8.5 Once approved, the Green Travel Plan shall be implemented in accordance with the programme contained therein.
- 8.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved Green Travel Plan.

## **9 Ecological Method Statement**

- 9.1 Veolia shall submit the Ecological Method Statement to the Council for the Council's approval within two (2) years of Implementation.
- 9.2 Once approved the Ecological Method Statement shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

## **10 Landscape and Restoration Plan**

- 10.1 Within one (1) years of Implementation Veolia shall submit the Landscape and Restoration Plan for approval by the Council.
- 10.2 Once approved the Landscape and Restoration Plan shall be implemented in full and carried out in accordance with its terms unless otherwise agreed in writing by the Council.

## **11 Odour Mitigation Strategy**

- 11.1 Within three (3) months of the date upon which the New Planning Permission is issued Veolia shall submit the Odour Mitigation Strategy for approval by the Council.
- 11.2 The development shall be implemented and carried out in accordance with the approved Odour Mitigation Strategy unless otherwise agreed in writing by the Council.

## **12 Provision of Bond**

- 12.1 Within two (2) months of the date of this Deed Veolia shall obtain and deliver to the Council the Bond upon which the Council shall be entitled to call in accordance with the provisions set out at paragraph 2 of Schedule 5.

## **13 \*Environmental Centre\***

- 13.1 \*\*Upon service of the Final Completion Notice and until the end of the Aftercare Period \*Veolia\* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period \*Veolia\* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.\*

## **14 Highway Contribution**

- 14.1 On or prior to the date of this Deed Veolia shall pay to the Council the sum of £25,000 (twenty five thousand pounds) which for the avoidance of doubt will be subject to Interest on late payment towards the future repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 resulting from the impact of the increased HGV movements to and from the Property on the highway over the extended operation of the landfill facility permitted by the New planning Permission.

- 14.2 the Highway Contribution shall be spent by the Council in whole or part on the repair and maintenance of the highway to be used in accordance with the Lorry Routing Plan between the Property and the A13 within ten (10) years of the end of the Aftercare Period.

## **15. HGV Routing Plan**

- 15.1 Within one (1) month of the date upon which the New Planning Permission is issued Veolia shall submit the HGV Routing Plan to the Council for its approval which requires that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.2 The HGV Routing Plan shall contain provisions demonstrating how, from the date the Council's written approval of the HGV Routing Plan, Veolia proposes to restrict all HGV Movements between the Property and the A13 to ensure that no HGV movements between the Property and the A13 are made through Rainham Village or other built up residential area.
- 15.3 The HGV Routing Plan shall contain a commitment by Veolia, prior to completion of the Restoration Works, to monitor the routing of HGV movements between the Property and the A13 and to ensure that it is a contractual term of service between Veolia and each and every HGV operator complies with the requirements of the approved HGV Routing Plan and that failure to comply will result in the contract being terminated.
- 15.4 The HGV Routing Plan shall contain a programme for its implementation including the appointment and a programme for monitoring and reviewing annually or more frequently as required by the Council.
- 15.5 Once approved, the HGV Routing Plan shall be implemented in accordance with the programme contained therein.
- 15.6 Except as otherwise agreed in writing by the Council, the Development shall not be carried out otherwise than in accordance with the approved HGV Routing Plan.

## **16. Local Labour and Contractors**

- 16.1 Veolia will not Implement the New Planning Permissions unless and until Veolia has submitted to the Head of Regulatory Services at the Council (or equivalent officer) the Local Labour Commitment Scheme which relates to the operation of the Development (save in respect of paragraph 16.3(a)) and the Council has approved it.
- 16.2 In preparing the Local Labour Commitment Scheme Veolia will consult with the Council.
- 16.3 The Local Labour Commitment Scheme will require or contain (as the case may be):
- (a) Veolia to provide statements of its staff/employment requirements to the Head of Regulatory Services at the council (or equivalent officer) before undertaking any other advertisements of any such requirement;
  - (b) establishment of suitable training opportunities for those recruited by Veolia;
  - (c) on-going notification of vacancies (particularly relating to the operation of the Development) to the unemployed and others being targeted in the Local Labour Commitment Scheme before undertaking any other advertisements of any such requirement;
  - (d) a procedure setting out criteria for initial screening of candidates for employment, and for matching of candidates to the vacancies;

- (e) a procedure for notifying the Head of Regulatory Services at the Council (or equivalent officer) of supply chain operation contracts to enable the Council to disseminate the information to appropriate local businesses;
- (f) a procedure for monitoring of the Local Labour Commitment Scheme and reporting to the Head of Regulatory Services at the council (or equivalent officer) in such a way as to comply with all relevant legislation including the Data Protection Act 1998 and which set out such detail as the Head of Regulatory Services at the Council (or equivalent officer) may reasonably require including (which for the avoidance of doubt, the submission of the following categories of information will not uniquely identify and individual):

- (i) full postcode
- (ii) gender
- (ii) age group (16-24, 25-49, 50-55 and over 55)
- (iv) length of residency in the Council's area in the following categories: (i) less than 6 months; (ii) 6-12 months; (iii) 1-5 years; (iv) 5-10 years and (v) 10 years plus
- (v) job title
- (vi) full-time or part-time
- (vii) ethnicity (using census categories)
- (viii) disability
- (ix) previous employment status (including length of previous unemployment where relevant in the following categories: (i) less than 6 months; (ii) 6-12 months and (iii) 12 months plus
- (x) sexuality

and the Council acknowledges that the provision of such data by individuals is on a voluntary basis;

- (g) a timetable for the implementation of the Local Labour Commitment Scheme; and
- (h) provisions for review

16.4 Veolia will implement the Local Labour Commitment Scheme in accordance with the timetable contained within the approved Local Labour Commitment Scheme

16.5 Veolia will carry out the Development in accordance with the approved Local Labour Commitment Scheme



- 16.6 Veolia will work with its contractors, tenants and purchasers of the Non-Residential Units to promote the Local Labour Commitment Scheme (in particular during the operation of the Development) and promote local employment (which is defined as being residents living within the Council's administrative area) during the operation of the Development and increase the percentage of the total workforce of the Development to be resident in the Council's administrative area during the end use of the Development.
- 16.7 Veolia will appoint and identify to the Head of Regulatory Services at the Council (or equivalent officer) an employment liaison officer who will be responsible for implementation of the Local Labour Commitment Scheme and to be the principal point of contact for the Head of Regulatory Services at the Council (or equivalent officer).
- 16.8 Veolia will use reasonable endeavours to procure that Veolia and contractors engaged in the operation of the Development interview and, if appropriate, recruit suitably qualified applicants put forward by the Head of Regulatory Services at the Council (or equivalent officer)
- 16.9 Veolia will provide such other reasonable assistance as the Head of Regulatory Services at the Council (or equivalent officer) from time to time reasonably considers appropriate to support Local Labour Commitment Scheme

**17. Public Access**

- 17.1 Within twelve (12) months of the date of this Deed Veolia shall provide the Council with a realistic timeframe for achieving phased public access to the Property.

**18. Council's Absolute Right to Assign or Sub-let Lease**

- 18.1 The Council at its absolute discretion should it accept the grant of any lease of the Property (excluding subsoil beneath the bentonite cap) may assign or sub-let that lease. This clause takes precedence over any contrary provision in this Deed.

## Schedule2

Provisions relating to Zone A, Zone B, Zone C, Zone D and Zone E – Operator Leases

### 1 Procurement of the grant of leases

- 15.7 Upon the proposal of the Operator by the Council under paragraph 5 of Schedule 5 (occurring prior to any lease of the Owners' respective interests in Zone A, Zone B, Zone C, Zone D and/or Zone E to the Council in accordance with any options entered into under Schedule 4 of this Deed) and subject to Clause 10 and paragraph 1.3 of this Schedule 2, the Owners will use reasonable endeavours to procure the grant of leases (where these relate to land within their respective ownerships) on terms acceptable to the relevant Owners (acting reasonably) of:
- 15.7.1 Zone A to the Operator of the Visitor Centre and for the avoidance of doubt Veolia shall not be required to lease the land at Zone A in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix ~~15~~;
- 15.7.2 Zone B to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and for the avoidance of doubt Veolia shall meet the costs of any necessary works in Zone B to let it at such standard and the lease shall require the Operator to keep the land at that standard) Provided That the relevant Owners shall not be required to lease the land at Zone B:
- 15.7.3 Zone E to the Operator of the Car Parking Area which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as a car park (and the lease shall require the Operator to keep the land at that standard) Provided That Veolia shall only be required to lease Zone E in the event that the Council has served the Council's Car Park Extension Notice in accordance with paragraph 5 of Schedule 1.
- 15.7.4 Such right, title or interest as is held by the relevant Owners in Zone C to the Operator of the Water Sports Facility and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone C in any better state and condition than it is in at the date of this Deed ~~as~~ indicated on the photographic schedule of condition attached at Appendix ~~16~~; and
- 15.7.5 Zone D to the Operator of the Recreational Facilities ~~which shall be let at a standard which Veolia (acting reasonably) considers to be acceptable for use as recreational facilities in accordance with the Landscape and Restoration Masterplan~~ and for the avoidance of doubt the relevant Owners shall not be required to lease the land at Zone D in any better state and condition than it is in at the date of this Deed as indicated on the photographic schedule of condition attached at Appendix 17 Provided That Veolia will not be required to procure the same prior to completion of the Restoration Works in respect of Zone D.
- 15.8 And Further Provided That nothing in this Deed shall require the relevant Owners:
- 15.8.1 to develop, construct or ~~to~~ undertake any preparatory works to enable the construction or development of the Visitor Centre, the Water Sports Facility or the Recreational Facilities; or
- 15.8.2 to grant any lease to any Operator for a term which expires after 31 December 2031.
- 15.9 Paragraph 1.1 of this Schedule 2 is subject to:
- 15.9.1 the relevant Owners' approval (acting reasonably) of the Operator following the Council carrying out the procedure referred to at paragraph 5 of Schedule 5; and
- 15.9.2 the respective uses and locations of Zone A, Zone B, Zone C, Zone D or Zone E (as the case may be) identified at paragraph 1.1 of this Schedule being consistent with the uses and locations of the recreational or related facilities identified in the Landscape and Restoration Plan.

## **16 Services**

- 16.4 Veolia shall use reasonable endeavours to lay the Services up to the boundary of Zone A and Zone C (to which the relevant Owners<sup>2</sup> hereby consent) and the relevant Owners shall consent to a reasonable request for connection to the Services by a tenant of Zone A or Zone C.

### Schedule 3

#### Covenants by Veolia and the other Owners

#### 1 Works to the Property

16.5 Subject to Clause 10, the Owners shall not undertake any works on the Property that would adversely affect the integrity and/ or effectiveness of the bentonite wall, the basal clay, the capping and restoration layer, the leachate control and drainage system and the gas control and extraction system constructed under the Existing Planning Permission, the New Planning Permission and/or in accordance with the Environmental Permit.

#### 17 Yellow Land

17.4 Veolia and Oldrealm shall make the Yellow Land available to the Council (but without any cost to Veolia (save for all legal cost transfer of the Yellow Land to the Council) and/or Oldrealm) for the purposes of nature conservation PROVIDED THAT Veolia and Oldrealm shall only make the Yellow Land available to the extent that they have any interest in the Yellow Land and shall only do so until whichever is the earlier of:

17.4.1 The end of the Aftercare Period; or

17.4.2 the date any transfer of the Yellow Land is completed pursuant to the option in respect of the Yellow Land in accordance with the provisions of Schedule 4 paragraph 1.2.3.

#### 18 Green Land

18.4 Save in respect of the use and operation of the facilities shown on the Site Infrastructure Plan and for use as part of a landfill site on the land outside of those facilities, Veolia and Oldrealm shall not permit the Green Land to be used for any commercial purpose unless otherwise agreed in writing with the Council.

18.5 In accordance with Condition 7 of the Existing Permission Veolia shall remove the facilities shown on the Site Infrastructure Plan, which shall be removed on or before 31 December 2024 unless otherwise agreed in writing with the Council.

#### 19 Advance Routes

19.4 Within three (3) months following completion of the Restoration Works within each of Zone 1 and Zone 2 respectively Veolia shall commence construction of the Advance Routes for each of Zone 1 and Zone 2 respectively and shall thereafter diligently carry out construction of the same in accordance with the Advance Route Specification.

19.5 Within one (1) calendar month of completion of the construction of the Advance Routes in each of Zone 1 and Zone 2 respectively Veolia shall serve an Advance Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public temporary access over that route(s) on the terms set out at paragraph 4.3 of this Schedule 3.

19.6 For the period or periods starting from service of the Advance Routes Notice until Service of the Public Routes Notice, Veolia shall maintain the Advance Routes to the standard constructed (save for fair wear and tear) and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public ~~to~~ temporarily to access on foot over and along the line of the route(s) referred to in the relevant Advance Routes Notice subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:

- 19.6.1 The temporary access permitted over and along the Advance Route(s) shall be subject to:

Provided Further That in the event of a permanent closure which is not intended to be replaced by the creation of a route which may be notified as falling within the Public Routes, Veolia shall provide an alternative route which connects with the remaining permissive access routes and which shall be constructed in accordance with the Advance Route Specification.

- 19.7 In the event that the Advance Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 4.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

## 20 Public Routes

- 20.4 Veolia shall use reasonable endeavours to ensure that the Public Routes are constructed as soon as reasonably practicable in accordance with a programme and standard to be specified in the Landscape and Restoration Plan.
- 20.5 Within one (1) calendar month of completion of the construction of the Public Routes Veolia shall serve a Public Routes Notice confirming the line of the route(s) constructed and such Notice shall immediately take effect upon service so as to permit the public access over those routes on the terms set out at paragraph 5.3 of this Schedule 3.
- 20.6 Until the last day of the Aftercare Period, Veolia shall maintain the Public Routes and the Owners shall permit (by way of non-exclusive and revocable licence only) members of the public access on foot and by bicycle over and along the Public Routes subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:
- 20.6.1 the access permitted shall be subject to:
- 20.7 In the event that the Public Routes (or any one of them) are varied, diverted or closed in accordance with paragraph 5.3.1 (b) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency, the variation, diversion or closure made, and its likely duration, as soon as is reasonably practicable following the said emergency having arisen.

## 21 Coldharbour Lane, the First Access Road and the First Car Park

- 21.4 Upon service (or deemed service) of the Implementation Notice ~~(or deemed service)~~ and until the Deed of Rights of Access has been entered into, the Owners shall, on the terms and provisos set out at paragraph 6.3 of this Schedule 3, permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane as are within their respective ownerships and shall permit members of the public to park private vehicles in the First Car Park.
- 21.5 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period, the Owners shall use reasonable endeavours to enter into the Deed of Rights of Access, upon the terms and provisos set out at paragraph 6.3 of this Schedule 3, to permit members of the public access over and along those parts of the First Access Road and Coldharbour Lane that are within their respective ownerships, and to permit members of the public to park private vehicles in the First Car Park.
- 21.6 The terms and provisos referred to at paragraph 6.1 of this Schedule 3 and the terms of the Deed of Rights of Access referred to at paragraph 6.2 of this Schedule 3 shall be as follows:
- 21.6.1 that members of the public shall be permitted to pass and repass during daylight hours by private car, bicycle or on foot along the First Access Road and to park private vehicles in the First Car Park subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time;

- 21.6.2 that members of the public shall be permitted to pass and repass during daylight hours by private car ~~or bicycle~~ along those parts of Coldharbour Lane that are within the Property subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time; and
- 21.6.3 that the access permitted shall be subject to:
- 21.7 in the event that Veolia temporarily or permanently close the Second Car Park in accordance with paragraph 7.2.1 of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent closure as soon as is reasonably practicable following the said emergency having arisen.

**22 Maintenance of Coldharbour Lane, the First Access Road, the First Car Park and the Second Car Park, and Control of Vegetation Growth**

- 22.4 Following service of the Advance Routes Notice and until (and including) the last day of the Aftercare Period, Veolia shall, to a standard suitable and reasonable for use by the public to gain access to the Property:
- 22.4.1 maintain that part of Coldharbour Lane which falls within the Orange Land; and
- 22.4.2 use reasonable endeavours to procure the maintenance of those parts of Coldharbour Lane which fall within those parts of the Property of which the PLA and Oldrealm are the registered freehold proprietors.
- 22.5 Veolia shall maintain, and the PLA hereby consent to Veolia maintaining, that part of the First Access Road and the First Car Park which is situated within the Brown Land until (and including) the last day of the Aftercare Period to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6 Veolia shall maintain the Second Car Park until (and including) the last day of the Aftercare Period or, if earlier, until either:
- 22.6.1 Zone E has been let to the Operator in accordance with the provisions of the Second Schedule; or
- 22.6.2 the Zone A and Car Parking Lease (as defined in the Fourth Schedule) has been let to the Council in accordance with the provisions of the Fourth Schedule and such maintenance shall be carried out to a standard suitable and reasonable for use by the public to gain access to the Property.
- 22.6.3 Veolia shall undertake all necessary works to control vegetation growth which is adjacent to the First Riverside Footpath, the Second Riverside Footpath, the Third Riverside Footpath, the Footpath and the Existing Car Parks until and including the last day of the Aftercare Period Provided That nothing in this paragraph 8.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land.

**22.6.4**

**23 Dedication of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath**

- 23.4 ~~Upon~~On or ~~prior to~~before the last day of the Aftercare Period and subject always to paragraph 9.2 of this Schedule the Owners ~~covenant to~~shall enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to dedicate their respective interests in the Footpath, the Second Riverside Footpath and the Third Riverside Footpath as a public footpath and, following such dedication, the Owners shall permit use of the same as cycleways and shall co-operate with the Council to formalise use of the same as cycleways as may be necessary.

- 23.5 The dedication of the Second Riverside Footpath shall be subject to:
- 23.5.1 the existing right of the PLA to access ~~["by foot, bicycle or vehicle\*,"]~~ **the lighthouse the Beacon Land** over the Second Riverside Footpath ~~\*by foot, bicycle or vehicle\*~~; and
- 23.5.2 Oldrealm retaining the right at all times (subject to obtaining any necessary consents and orders including, for the avoidance of any doubt, any necessary consent or licence from the PLA as navigation authority) to construct at its own cost across the Second Riverside Footpath an access for all purposes to the river from the Blue Land PROVIDED THAT such access to the river shall be exercised in a manner that does not obstruct the public right of way dedicated over the Second Riverside Footpath.
- 23.6 Veolia covenants at its own expense to procure that a notice of the dedication of the Footpath is recorded on the title to the Brown Land at the Land Registry and the dedication of the Second Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Blue Land at the Land Registry and dedication of the Third Riverside Footpath is recorded on the title to the Orange Land, the Green Land and the Brown Land at the Land Registry as soon as reasonably practicable after completion of ~~thea~~ public path creation agreement relating to the same and Oldrealm and the PLA hereby consent to the same and will provide all reasonable assistance in connection with the application to register any notices.
- 23.7 Until the last day of the Aftercare Period:
- 23.7.1 Veolia shall maintain the Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with the Riverside Footpaths and Footpath Specification Provided That nothing in this paragraph 9.4 shall require Veolia to undertake any works which cannot be performed within the Property and the other Owners and the Council hereby consent to Veolia undertaking such works within the Brown Land, the Blue Land and the Green Land; and
- 23.7.2 the Owners shall permit members of the public access on foot and by bicycle over and along those parts of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath that are within their respective ownerships during daylight hours and subject to such reasonable restrictions as Veolia and the Council shall agree in writing from time to time Provided That:
- i. in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same; and
  - ii. Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same if previously agreed with the Council in writing.
- 23.8 In the event that Veolia temporarily or permanently, vary, divert or close the Footpath, the Second Riverside Footpath or the Third Riverside Footpath in accordance with paragraph 9.4.2 (b) (i) of this Schedule 3, Veolia shall notify the Council in writing of the nature of the emergency and the details of any temporary or permanent variation, diversion or closure as soon as is reasonably practicable following the said emergency having arisen.

**10 — \*Environmental Centre\***

- 10.1** ~~\*Upon service of the Final Completion Notice and until the end of the Aftercare Period \*the Owners\* shall make available to the Council, for use as an environmental centre, the Gatehouse (or any alternative building of a similar specification suitable for use as an environmental centre) and during this period \*the Owners\* shall maintain and repair the Gatehouse (or such alternative building) so as to be fit for purpose Provided That this shall not require the repair of any damage in excess of fair wear and tear caused by the Council, its employees or visitors.\*~~

**15 ~~44~~-Disposal or creation of interests in the Property**

15.1 ~~44.1~~ The Owners covenant that prior to the last day of the Aftercare Period, the Owners shall not:

15.1.1 ~~44.1.1~~ dispose of any part of the Owners' respective interests in the Property, save for:

15.1.2 ~~44.1.2~~ create or allow to be created any interests in land or occupational interests or charges over their respective interest in the Property that would materially affect any intended use of that part of the Property to be used as public open space or for uses ancillary to public open space following the last day of the Aftercare Period Provided That the interests to be created in accordance with this Deed shall not be taken to be inconsistent with this obligation.

**16 ~~42~~-Duty to co-operate**

16.1 ~~42.1~~ Upon the Council's request each Owner shall use reasonable endeavours to facilitate any Party in fulfilling their respective obligations under this Deed including without limitation allowing access without charge or cost onto any of the Owners' respective interests in the Property to enable such obligations to be performed.

16.2 ~~42.2~~ Each Owner hereby covenants with the others and accepts the resulting requirements and restrictions so far as the Council is concerned, that where details of any works or plans are to be provided or consents are required to be obtained by the Owners under this Deed, then those details may be agreed or consents sought by, and only by, either:

16.2.1 ~~42.2.1~~ the holder of the Environmental Permit; or

16.2.2 ~~42.2.2~~ all of the relevant Owners.



## Schedule 4

### Provisions relating to the option agreements

#### 1 Definitions

##### 1.1 In this Schedule 4, the following expressions shall have the following meanings:

#### **Brown Lease**

a lease of the Brown Land to be made between PLA as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Brown Land below a depth from the surface to be specified by Veolia (in consultation agreement with the PLA and the Council) but to include the air above the Brown Land;
- b) to exclude any part or parts of the Brown Land which at the time of completion of the lease is or are being used for the PLA's statutory functions;
- c) to exclude any boreholes, wells and monitoring and control equipment situated on the Brown Land;
- d) to be for a term of 150 years commencing on the date the lease is entered into;
- e) to be granted for a rent of one peppercorn per annum (if demanded);
- f) to be for use only as public open space ~~as more particularly and strictly in accordance with the use~~ identified in the Landscape and Restoration Plan for the Brown Land;
- g) to be granted subject to the Licence (as defined in clause 1.1 of this Deed) in so far as the same is still subsisting;
- h) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Brown Land to the extent so demised;
- i) to be granted subject to any leases granted pursuant to Schedule 2;
- j)** to be granted subject to ~~a right of way over the Brown Land along Coldharbour Lane and the route dashed black on Plan 1\*~~ in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)\* and for services; the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Brown Land and serving or capable of serving the Orange Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Brown Land and to connect into such conduits together also with the right to enter upon the Brown Land to inspect repair maintain or install any such conduits
- k)** to be granted subject to rights of way over the Brown Land along the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and subject to a right to park in the First Car Park, such rights\* in favour of the Beacon Land, the Blue Land, the Green Land and the Orange Land (with or without heavy goods vehicles)\*;
- l)** ~~k)~~ to reserve to Veolia vehicular rights of access from and to the

Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black on Plan 1 between points C and D on Plan 1 that lie within the Brown Land (with or without heavy goods vehicles);

- m)** ~~l)~~ to reserve to Veolia vehicular rights of access over the Brown Land along ~~Coldharbour Lane and~~ the First Access Road, that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Brown Land, and the right to park in the First Car Park (with or without heavy goods vehicles);
- n)** ~~m)~~ to reserve to Veolia a right of entry through the premises so demised on reasonable prior notice (and without notice in the case of emergency) to the subsoil or any adjoining premises including the Orange Land or the Green Land for the purposes of complying with any statutory requirement; ~~and~~
- o)** ~~n)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry; ~~and~~
- p)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to or enjoyed by the Brown Land and the right to deal with any such property as it may think fit.
- q)** ~~o)~~ to reserve the following rights to the PLA:
- i) rights for vehicular access to and egress from that part of Coldharbour Lane that lies within the Brown Land for the benefit of the Beacon Land to enable the PLA to carry out its statutory functions or inspect or maintain any equipment therein or from that part of Coldharbour Lane that lies within the Brown Land along the First Access Road to the sea wall to carry out its statutory functions or inspect or maintain any equipment, piers, pipelines, pipebridges or other works under in or over the Brown Land;
  - ii) the right to retain any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works under in or over the Brown Land at the date of the lease and used by the PLA for any of its statutory functions;
  - iii) rights to retain, use, inspect, cleanse, maintain, repair and replace any service media serving land used for the PLA's statutory functions and any equipment, piers, pipelines, pipebridges (including the Pump Ashore Facility) or other works and rights to lay new service media along such reasonable routes as the parties shall agree (both parties acting reasonably); and
  - iv) such other rights as the PLA shall reserve at the date of completion of the lease for the benefit of and which are necessary for the reasonable enjoyment of the Beacon Land Provided That such reservations do not prejudice the future use of the Brown Land as public open space (except

such reservations as are necessary to enable the PLA to carry out its statutory functions as navigation or port authority which shall be permitted notwithstanding any such prejudice).

r) ~~p)~~ to be granted subject to:

- i) the grant to the Environment Agency of rights to be exercised in the future relating to the common sewer and sluice near the north ~~eastern~~western boundary of the Brown Land and vehicular rights of way along the First Access Road to the common sewer and sluice and the river wall together with any rights for service media;
- ii) the Environmental Permit granted to Veolia or any amendment or variation of the same;
- iii) implementation of the New Planning Permission and any amendment or variation of the same;
- iv) any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by the PLA to the Council;
- v) any other interests created before completion of the lease that do not materially affect the Brown Land's intended use as public open space following the last day of the Aftercare Period (and the PLA shall notify Veolia and the Council of any such interests ~~so~~-created which are within the PLA's actual knowledge); and
- vi) the provisions of this Deed.

s) ~~q)~~ to contain all such reciprocal rights and reservations ~~overin~~ favour of the Orange Land and the Green Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;

t) ~~r)~~ to contain a covenant on the part of the Council not to breach the provisions of this Deed, the Licence, or any planning permission, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of this Deed, the Licence, any planning permissions, and/or permits authorising the use of such land for waste disposal and to indemnify Veolia and the PLA (save in respect of any negligent acts or omissions of Veolia ~~and~~ or the PLA) against any such breach;

u) ~~s)~~ to contain a covenant on the part of the Council that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;

v) ~~t)~~ to contain such other reasonable and appropriate covenants as the PLA requires to protect any land, equipment, lighthouses, piers, pipelines including the Pump Ashore Facility or other works of the PLA used for its statutory functions under in or over the Brown Land or on land excluded from the Brown Land Provided That the same does not materially affect the Brown Land's intended use as public open space;

w) ~~u)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the

restored landfill;

- x) ~~v)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which the PLA's interest shall be endorsed;
- y) ~~w)~~ to contain an indemnity from the Council to the PLA against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of the PLA ~~and~~ or Veolia) arising from the proposed use of the Brown Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against the PLA's liability for any breach of the obligations for which the PLA will remain bound after completion of the lease, as well as a covenant ~~for on the part of~~ the Council to observe and perform such obligations;
- z) ~~x)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- aa) ~~y)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Orange Lease mutatis mutandis.

### Green Lease

a lease of the Green Land to be made between Oldrealm as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Green Land below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above the Green Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Green Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);
- e) to be for use only as public open space ~~or for~~ and strictly in accordance with the uses identified in the Landscape and Restoration Plan for the Green Land;
- f) to be granted subject to the Lease (as defined in clause 1.1 of this Deed in so far as the same is still subsisting);
- g) to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Green Land;
- h) to be granted subject to any interests in land and occupational interests existing at the date of this Deed, details of which in so far as they are known shall be disclosed by Oldrealm to the Council;
- i) to be granted subject to any leases granted pursuant to Schedule 2;

- i)** to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Green Land and serving or capable of serving the Orange Land, the Brown Land or the Blue Land together with the right to lay any new conduits in on under or over the Green Land and to connect into such conduits together also with the right to enter upon the Green Land to inspect repair maintain or install any such conduits;
- j)** to be granted subject to a right of way over the Green Land along that part of Coldharbour Lane and that part of the route shown dashed black between points C and D on Plan 1 that lie within the Green Land in favour of the Beacon Land, the Blue Land, the Brown Land and the Orange Land (with or without heavy goods vehicles) ~~and for services~~;
- k)** to be granted subject to any other interests created before completion of the lease that do not materially affect the Green Land's intended use as public open space following the last day of the Aftercare Period (and Oldrealm shall notify ~~the~~ Veolia and the Council of any such interests ~~so~~ created which are within Oldrealm's actual knowledge);
- l)** to reserve to Veolia vehicular rights of access from and to the Jetty through the premises so demised along that part of Coldharbour Lane and that part of the route shown dashed black ~~on Plan 1~~ between points C and D on Plan 1 (with or without heavy goods vehicles) that lie within the Green Land;
- m)** to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Orange Land or the Brown Land for the purposes of complying with any statutory requirement;
- n)** to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;
- o)** to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Green Land and the right to deal with any such property as it may think fit.
- p)** to contain all such reciprocal rights and reservations ~~overin~~ favour of the Orange Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- q)** to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, the Lease, or any planning permission or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of ~~the planning permission,~~ this Deed, the Lease, any planning permissions,

and/or ~~the permit~~permits authorising the use of such land for waste disposal and to indemnify Veolia and Oldrealm (save in respect of any negligent acts or omissions of Veolia ~~and/~~ or Oldrealm) against any such breach;

- s) ~~q)~~ to contain a covenant that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- t) ~~r)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- u) ~~s)~~ to contain a covenant on the part of the Council to obtain and maintain on foot a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Green Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Oldrealm's interest shall be endorsed;
- v) ~~t)~~ to contain an indemnity from the Council to Oldrealm against all expenses, losses, damage, liability and claims whatsoever (save in respect of any negligent acts or omissions of Oldrealm ~~and/~~ or Veolia) arising from the proposed use of the Green Land for the avoidance of doubt limited to the extent of the leasehold demise by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Oldrealm's liability for any breach of the obligations for which Oldrealm will remain bound after completion of the lease, as well as a covenant ~~for~~on the part of the Council to observe and perform such obligations;
- w) ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and
- x) ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Brown Lease and the Orange Lease mutatis mutandis.

#### **Jetty Licence**

the riverworks licence in respect of the Jetty granted to Veolia by the PLA on 14 December 1983

#### **Orange Lease**

a lease of the Orange Land to be made between Veolia as landlord (1) and the Council as tenant (2) on the following terms:

- a) to exclude the subsoil beneath the Orange Land below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above the Orange Land;
- b) to exclude any boreholes, wells and monitoring and control equipment situated on the Orange Land;
- c) to be for a term of 150 years commencing on the date the lease is entered into;
- d) to be granted for a rent of one peppercorn per annum (if demanded);

- e) to be for use only as public open space ~~or for~~ **and strictly in accordance with** the uses identified in the Landscape and Restoration Plan for the Orange Land;
- f) to be granted subject to any interests in land and occupational interests existing at **the date of** this Deed, details of which in so far as they are known shall be disclosed by Veolia to the Council;
- g) to be granted subject to any leases granted pursuant to Schedule 2;
- h) to be granted subject to the right of free and uninterrupted passage and running of water soil gas electricity and all other services or supplies through such conduits as are now or may hereafter be in on or under the Orange Land and serving or capable of serving the the Brown Land, the Green Land or the Blue Land together with the right to lay any new conduits in on under or over the Orange Land and to connect into such conduits together also with the right to enter upon the Orange Land to inspect repair maintain or install any such conduits**
- i) ~~h)~~ to be granted subject to a right of way over the Orange Land along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land in favour of the Beacon Land, the Blue Land, the Green Land and the Brown Land (with or without heavy goods vehicles) ~~and for services~~;**
- i) ~~i)~~ to be granted subject to and with the benefit of all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Orange Land;**
- k) ~~j)~~ to be granted subject to any other interests created before completion of the lease that do not materially affect the Orange Land's intended use as public open space following the last day of the Aftercare Period (and Veolia shall notify the Council of any such interests ~~so~~ created which are within Veolia's actual knowledge);**
- l) ~~k)~~ to reserve to Veolia vehicular access rights from and to the Jetty through the premises so demised along that part of Coldharbour Lane ~~and the route dashed black on Plan 1~~ that lies within the Orange Land (with or without heavy goods vehicles);**
- m) ~~l)~~ to reserve to Veolia a right of entry through the premises so demised to the subsoil or any adjoining premises including the Green Land or the Brown Land for the purposes of complying with any statutory requirement;**
- n) ~~m)~~ to reserve to Veolia a right of entry on to the premises so demised on reasonable prior notice (and without notice in the case of emergency) for Veolia to undertake any works necessary to comply with its duties or obligations under the New Planning Permission or Environmental Permit Provided That any damage is promptly made good by Veolia to the standard and condition of the premises immediately prior to entry;**
- o) to reserve to Veolia the right to erect or alter or to consent to the erection or alteration of any building for the time being on any adjoining land or the carrying out of any works or the making of any alterations to the adjoining land notwithstanding that such erection or alteration may diminish the access of light and air to and enjoyed by the Orange Land and the right to deal with any such property as it may think fit.**

- p) ~~n)~~ to contain all such reciprocal rights and reservations ~~over in~~ **favour of** the Green Land and the Brown Land as the parties consider reasonably necessary and which do not materially affect the Property's intended use as public open space;
- q) ~~e)~~ to contain a covenant on the part of the Council not to breach the provisions of any planning permission, this Deed, or environmental permits subsisting in respect of the land so demised and a covenant that the Council will enter into a deed of covenant with Veolia or its successors in title to comply with the terms of the planning permission, this Deed, and/or the permit authorising the use of such land for waste disposal and to indemnify Veolia (save in respect of any negligent acts or omissions of Veolia) against any such breach;
- r) ~~p)~~ to contain a covenant **on the part of the Council** that the Council will not act, suffer or permit a third party to act in a way which would adversely affect the integrity of any engineering, capping, cut off walls, restoration, monitoring or control equipment;
- s) ~~q)~~ to contain a covenant on the part of the Council to maintain warning signs on the river frontage as to the presence of the river as a hazard and such other warning signs as are reasonably required by Veolia relating to restrictions on use of the land as public open space due to the presence of the restored landfill;
- t) ~~r)~~ to contain a covenant on the **part of the** Council to obtain **and maintain on foot** a policy of insurance to be paid for by Veolia covering public liability risks arising from access over, or use of, or the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and on which Veolia's interest shall be endorsed;
- u) ~~s)~~ to contain a covenant on the part of the landlord to procure a policy of insurance covering potential pollution and environmental risks associated with the waste deposited by Veolia underneath the land to be demised to the tenant under the Brown Lease, the Green Lease and the Orange Lease as well as for public liability arising from any such pollution or environmental risks, **such covenant to be expressed to be for the benefit of and enforceable by the owner(s) for the time being of the Brown Land and the Green Land as envisaged by the Contracts (Rights of Third Parties) Act 1999;**
- v) ~~t)~~ to contain an indemnity from the Council to Veolia against all expenses, losses, damage, liability and claims whatsoever for the avoidance of doubt limited to the extent of the leasehold demise (save in respect of any negligent acts or omissions of Veolia) arising from the proposed use of the Orange Land by members of the public in accordance with the terms of this Deed and the Landscape and Restoration Plan and against Veolia's liability for any breach of the obligations for which Veolia will remain bound after completion of the lease, as well as a covenant ~~for~~ **on the part of** the Council to observe and perform such obligations;
- w) ~~u)~~ to contain a covenant on the part of the landlord not ~~to~~ unreasonably **to** withhold or delay consent for underletting of part to any operator of recreational or related facilities identified in the Landscape and Restoration Plan; and



- ~~x)~~ ~~v)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably and on the same terms as set out in the definition of the Green Lease and the Brown Lease mutatis mutandis.

**Zone A and Car Parking Lease**

a lease of Zone A and either Zone B or Zone E (as the case may be) made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone A and either Zone B or Zone E (as the case may be) below a depth from the surface to be specified by Veolia (in consultation with Oldrealm and the Council) but to include the air above Zone A and either Zone B or Zone E (as the case may be);
- (b) ~~contains~~ to contain a right for the relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone A and Car Parking Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry of such notice the Zone A and Car Parking Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use in Zone A as a visitor centre and in Zone B or Zone E as a car park to serve the visitor centre in Zone A;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Green Lease and the Orange Lease, or the definition of the Orange Lease as the case may be;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

**Zone C Lease**

a lease of Zone C made between the relevant Owner as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone C below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone C;
- (b) contains a right for relevant Owner in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date (as defined at paragraph 1.4 of this Schedule), to determine the Zone C Lease on service by the relevant Owner of not less than one month's notice on the Council and providing that on expiry

of such notice the Zone C Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;

- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as water sports facilities and recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed between the parties acting reasonably.

#### **Zone D Lease**

a lease of Zone D made between Veolia as landlord (1) and the Council as tenant (2) to be made on the following terms:

- (a) to exclude the subsoil beneath Zone D below a depth from the surface to be specified by Veolia (in consultation with the Council) but to include the air above Zone D;
- (b) ~~contains to contain~~ a right for Veolia, in the event that the Council does not subsequently enter into the Brown Lease, the Green Lease and the Orange Lease on or before the Call Date **(as defined at paragraph 1.4 of this Schedule)**, to determine the Zone D Lease on service by Veolia of not less than one month's notice on the Council and providing that on expiry of such notice the Zone D Lease shall determine and cease to be of effect subject to any subsisting rights or liabilities and also subject to any subsisting interests created prior to 31 December 2031;
- (c) to be for a term of 150 years commencing on the date such lease is entered into;
- (d) to be granted for a rent of one peppercorn per annum (if demanded);
- (e) to be for a permitted use as recreational facilities;
- (f) to be granted subject to any leases granted pursuant to Schedule 2;
- (g) to contain a covenant on the part of the landlord not ~~to~~ unreasonably to withhold or delay consent for underletting of the whole to any operator of recreational or related facilities identified in the Landscape and Restoration Plan;
- (h) where not inconsistent with paragraphs (a) to (g) above, to contain the same terms as set out in the definition of the Orange Lease;** and
- (i)** ~~(h)~~ otherwise to be on such standard commercial terms as are relevant for this type of lease and which shall be agreed

between the parties acting reasonably.

1.2 Subject to paragraph 1.4 of this Schedule 4, upon the Council so requesting the Owners by written notice on or before 31 December 2030:

1.2.1 the Owners will ~~procure the grant of~~ option agreements to the Council on the following terms for the Brown Lease, the Green Lease and the Orange Lease:

- i) Veolia shall at its own cost and following completion of the Restoration Works commission an independent review, the scope of which shall first be agreed in writing by the Council and Veolia, of the effectiveness of the Restoration Works and Veolia shall provide the said review to the Council on or before 30 June 2031;
- ii) the Council's exercise of the options shall be entirely at the Council's discretion;
- iii) the options shall, if exercised, only be exercisable simultaneously and shall only be exercised on or before 31 October 2031;
- iv) the options shall each contain a term requiring completion of the relevant lease pursuant to the option on or before the end of the Aftercare Period, after which the exercise of the option shall be of no effect;
- v) the consideration for entering into each option shall not exceed one pound (£1.00) in each case;
- vi) there shall be annexed to the option agreements draft forms of the Brown Lease, the Green Lease and the Orange Lease and on the exercise of the options the Brown Lease, the Green Lease and the Orange Lease shall be completed ~~in accordance~~ substantially in the form of the drafts annexed to the option agreements;
- vii) the leases shall be completed simultaneously and only on or before the end of the Aftercare Period, after which the exercise of the options shall be of no effect; and
- viii) all other terms shall be agreed between the parties acting reasonably and in good faith towards each other.

1.2.2 Veolia will use reasonable endeavours up to the last day of the Aftercare Period to assist the Council in securing a Riverworks Licence to use the Jetty (subject to Veolia's Jetty Licence to use the Jetty for waste management purposes) and, so far as it lawfully may, the PLA undertakes that upon the Council's application to acquire the Jetty it will not unreasonably refuse to grant a Riverworks Licence.

1.2.3 Veolia and Oldrealm will use reasonable endeavours to procure the grant of an option for the transfer of such interest (if any) as may be held by Veolia and/or Oldrealm in the Yellow Land by Veolia and/or Oldrealm as transferor to the Council as transferee on the following terms:

- i) the Council shall be permitted to assign the benefit of the option subject to Veolia's and Oldrealm's prior written consent, such consent not to be unreasonably withheld or delayed;
- ii) the option shall only be exercised on or before 31 October 2031 and shall contain a term requiring completion of the transfer pursuant to the option on or before the end of the Aftercare Period, after which the purported exercise of the option shall be of no effect;
- iii) the consideration for entering into the option and completing the transfer shall not exceed one pound (£1.00) in each case;
- iv) the transfer shall contain a covenant that the Yellow Land shall not be used otherwise than as public open space for the purpose of nature conservation; and

- v) the Council shall raise no requisition or objection in respect of the lack of documentary title to the Yellow Land and no covenants for title shall be requested by or provided to the Council in respect of the Yellow Land.
- 1.3 Upon the Council so requesting the relevant Owners by written notice on or before 31 December 2030, the relevant Owners will use reasonable endeavours to procure the grant of leases to the Council for the Zone A and Car Parking Lease; and/ or the Zone ~~BC~~ Lease; and/ or the Zone D Lease (as the case may be) Provided That the said leases shall be completed on or before the end of the Aftercare Period.
- 1.4 In the event that the Council enters into the lease(s) referred to at paragraph 1.3 of this Schedule 4, the Council shall only be entitled to request the Owners to procure the grant of option agreements to the Council for the Brown Lease, the Green Lease and the Orange Lease ~~within seven (7) years of the first request made in accordance with paragraph 1.3 of this Schedule 4 or by 31 December 2022 if earlier (Call Date) by the Call Date~~ Provided That, in the event that it would otherwise have fallen earlier, Veolia shall have absolute discretion to extend the Call Date up to 31 December 2030 which may be so extended by written notice served upon the Council.
- 1.5 In the event that the Council does not enter into the Brown Lease, the Green Lease and the Orange Lease on or before the end of the Aftercare Period, Veolia shall be entitled to call upon the PLA and Oldrealm to procure the grant of the Brown Lease and the Green Lease respectively to a tenant not being the Council, whereupon the PLA, Oldrealm and Veolia shall use reasonable endeavours to procure the simultaneous grant of the Brown Lease, the Green Lease and the Orange Lease to such a tenant and for the avoidance of doubt the PLA and/or Oldrealm shall be entitled to refuse to grant the same but only on the Grounds for Refusal.**
- 1.6 Veolia shall meet the reasonable and proper legal fees of the PLA and Oldrealm incurred in entering into the options and leases required by this Schedule 4.**

## Schedule 5

### Covenants by the Council

#### 1 Issue of New Planning Permission

- 1.1 The Council shall issue the New Planning Permission to Veolia within 7 days of the date hereof.

#### 2 Enforcement of Obligations

- 2.1 The Subject to paragraph 2.4 below the Council shall not enforce the planning obligations on the part of the Owners (or any of them) contained in this Deed otherwise than as set out below:

2.1.1 in relation to any planning obligation restricting the use of the Property and made pursuant to section 106(1)(a) of the Act, the Council shall be entitled, at any time, to take such legal proceedings enforcement action or to seek an injunction in relation to any breach or non-compliance with any such planning obligation pursuant to section 106(5) of the Act against the Owner of the respective interest in the Property to which the breach or non-compliance applies; and

2.1.2 in relation to any planning obligation made pursuant to section 106(1)(b) and (c) of the Act the Council shall first seek to enforce such obligations against Veolia.

- 2.2 If the Council are unable to enforce any planning obligation as provided for in paragraph 2.1 of this Schedule 5 then the Council may at its discretion use its powers of entry under section 106(6) of the Act to enter on to the relevant part of the Owners' Property to carry out the relevant specified operation or activity or to enable the land to be used in the specified way and shall seek to recover its costs of so doing directly from Veolia.

- 2.3 On or before the last day of the Aftercare Period, the Council shall be entitled to recover any expenses reasonably incurred by it in enforcing planning obligations in accordance with paragraphs 2.1 and 2.2 of this Schedule 5 by calling upon the Bond with written evidence of its costs so incurred, save in respect of those planning obligations in this Deed which relate to the restoration of the Property in accordance with the Environmental Permit (including, but not exhaustively, monitoring of restoration measures, maintaining and monitoring of extraction of gas and leachate, and engineering works for installing the capping and restoration layer with associated landscaping works) Provided That the same are fully discharged in accordance with the requirements of the Environment Agency or any successor body carrying out its principal functions.

- 2.4 The Notwithstanding paragraphs 2.1, 2.2 and 2.3 above the Council shall not be entitled, in any circumstances whatsoever, to seek to recover costs from the PLA or Oldrealm in relation to any non-compliance with the obligations in this Agreement with respect to operations or activities carried out or to the use enabled, on the Property.

#### 3 Owner Assistance

- 3.1 Subject to clause 9 of this Deed, the Council covenants and undertakes with the Owners:

3.1.1 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to assist any Owner in ensuring that all Owners comply with the covenants, obligations and restrictions on the part of the Owners contained in this Deed; and

3.1.2 Upon written request, and subject to being indemnified in relation to any costs, expenses or liabilities incurred by the Council (acting reasonably) as a direct consequence, to use such statutory or other powers as it may have to assist the Owners in carrying out the covenants, obligations and restrictions on the part of the Owners contained in this Deed.

#### 4 Certification for Creation of Interests

- 4.1 The Council shall on any written request from the Owners, or any one of them, certify whether or not they believe the creation of an interest in land or occupational interest or charge would materially affect any intended use of that part of the Property over which the creation of an interest in land or occupational interest or charge is proposed as public open space or for uses ancillary to public open space following the last day of the Aftercare Period and, if such a certificate is given that there would be no such material effect, that shall be conclusive for the purposes of this Deed and in particular for determining that the creation of the interest in land or occupational interest or charge has not resulted in a breach of the provisions of paragraph 9 of Schedule 3 to this Deed.

## **5 Approval of Operator**

- 5.1 The Council shall propose the Operator to Veolia by providing the following matters (or such other matters as requested by Veolia) to Veolia in writing for Veolia's approval (which approval, for the avoidance of doubt, Veolia shall be entitled to refuse but only on the Grounds for Refusal):
- 5.1.1 evidence of the Operator's financial standing, including their audited annual accounts for the last three years;
  - 5.1.2 at least one reference confirming the Operator's acceptability as a tenant of the nature proposed and, where applicable, such reference shall be provided by a person or body who is a current landlord of the tenant; and
  - 5.1.3 details of the Operator's proposals for the design, construction and operation of the Car Parking Area, the Recreational Facilities, the Visitor Centre or the Water Sports Facility as the case may be.

## **6 Maintenance of the Footpath, the Second Riverside Footpath and the Third Riverside Footpath**

- 6.1 Provided that Veolia has substantially complied with its covenant to maintain the Footpath, the Second Riverside Footpath and the Third Riverside Footpath in accordance with paragraph 9.4.1 of Schedule 3 of this Deed, the Council covenants to enter into a public path creation agreement pursuant to section 25 of the Highways Act 1980 (substantially in the ~~substantial~~ form of the agreement annexed at Appendix 13) to accept the Owners' dedication of the same as public footpaths and to covenant to the Owners that the Council shall maintain the same and, following such dedication, the Council shall permit their use as cycleways and shall co-operate with the Owners to formalise their use as cycleways as may be necessary.

**Appendix 1**  
**Plan 1 – The Property**

**Appendix 2**

**Plan 2 – First Access Road, First Car Park, First Riverside Footpath, Footpath, Second Riverside Footpath, Coldharbour Lane and Second Car Park**



**Appendix 3**  
**Plan 3 – Restoration Concept**

**Appendix4**  
**Plan 4 – Zone Access Plan**

**Appendix 5**  
**Plan 5 – Phasing Sequence**

**Appendix6**

**Plan 6 – Advance Routes Specification (Kissing Gate Specification)**

**Appendix7**

**Plan 7 – Advance Routes Specification (Footpath Specification)**

**Appendix8**  
**Plan 8 – Advance Routes Specification (Fence Specification)**

## **Appendix9**

### **Riverside Footpaths and Footpath Specification**

In this specification the term “major damage” shall be taken to mean that the condition of the path would present a health or safety risk to members of the public using the path or would cause the path to be inaccessible to wheelchair users.

The Footpath, the First Riverside Footpath, the Second Riverside Footpath and the Third Riverside Footpath shall be maintained in accordance with the principles and objectives set out below:

#### **1 Mowing**

Mowing of the verges to a width of 1m at each side of the footpaths shall be carried out at regular intervals during the growing season to ensure that an even grass covering is maintained and reeds, brambles and shrubs etc are not allowed to encroach onto the path.

#### **2 Inspections and Weed Control**

Visual inspections shall be carried out at the time of mowing to determine if weeds etc. are growing in the footpath or through the macadam surface. Where such growth is identified, spraying with appropriate weed killer shall be carried out to prevent further deterioration.

#### **3 Repairs to major damage to the Footpath and the First Riverside Footpath**

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the damaged area reconstructed with 100mm of Type 1 sub-base and a 40mm macadam wearing course.

#### **4 Repairs to major damage to the Second and the Third Riverside Footpaths**

Where major damage to these footpaths occurs, the path shall be closed if deemed a hazard to pedestrians and the footpath reconstructed with a minimum of 200mm Type 6F2 (if the stabilised layer is damaged), 100mm of Type 1 sub-base and a 40mm macadam wearing course.

**Appendix10**  
**New Planning Permission**



**Appendix11**  
**Form of Deed of Grant**

**20112014[ ]**

Deed of Grant

of rights of access relating to land at Rainham, Essex

Oldrealm Limited <sup>(1)</sup>

London Borough of Havering <sup>(2)</sup>

The Port of London Authority <sup>(3)</sup>

Veolia ES Cleanaway (UK) Limited <sup>(4)</sup>

DRAFT

## CONTENTS

Clause	Page
1 Definitions and interpretation.....	1
2 Grant.....	3
3 No Dedication and Conditions.....	3

DRAFT

**DATED**

**20142014[ ]**

**PARTIES**

- (1) OLDREALM LIMITED (company number 1960419) whose registered office is situated at Kinetic Centre, Theobold Street, Borehamwood, Hertfordshire, WD6 4PJ (**Oldrealm**).
- (2) THE MAYOR & BURGESSES of the LONDON BOROUGH OF HAVERING of Town Hall, Main Road, Romford, Essex, RM1 3BB (**Council**).
- (3) THE PORT OF LONDON AUTHORITY whose principal office is situated at London River House, Royal Pier Road, Gravesend, Kent, DA12 2BG (**PLA**).
- (4) VEOLIA ES CLEANAWAY (UK) LIMITED (company number 806128) whose registered office is situated at Veolia House, 154A Pentonville Road, London, N1 9PE (**Veolia**).

**BACKGROUND**

- (A) This Deed is made pursuant to the S.106 Agreement.
- (B) The Council is, and enters into this Deed as, the local planning authority for the area in which the Development is situated.
- (C) The Council has granted the Planning Permission for the Development.
- (D) Oldrealm is the freehold owner of the Green Land.
- (E) The PLA is the freehold owner of the Brown Land.
- (F) Veolia is the freehold owner of the Orange Land and has a leasehold interest in the Green Land and an interest in the Brown Land as licensee.
- (G) The Grantors have agreed to allow the public access to the Public Routes owned by the Grantors as set out below.
- (H) This Deed is made pursuant to Section 106 of the Town and Country Planning Act 1990 and shall bind those elements of the Property upon which the Public Routes are from time to time provided and the obligations shall be enforceable by the Council as local planning authority for the area.
- (I) References to “the Grantors” in Clause 2 are references to Veolia and either Oldrealm or the PLA as the case may be being the person who is the freeholder of the land referred to in the relevant sub-clause of Clause 3.

**NOW THIS DEED WITNESSETH** as follows:

**1 Definitions and interpretation**

1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

**Brown Land** the freehold land on the south west side of Coldharbour Lane, Rainham forming part of the land registered at the Land Registry under title number EGL 510484 and shown coloured brown on Plan 1.

**Coldharbour Lane** ~~that the unadopted~~ part of Coldharbour Lane ~~as shown by~~ between points A, B and C, shown for the purposes of identification only by black dashed ~~black~~ lines on Plan 2.

**Council** ~~the Mayor and Burgesses of the London Borough of Havering of Town Hall, Main Road, Romford, Essex RM1 3BB~~

**Development** the development of the Property in accordance with the Planning Permission.

<b>Environmental Permit</b>	<del>the variation, number EPR/EP 3136GK/V 002,</del> to environmental permit number EPR/EP 3136GK <u>as varied by variation notice number EPR/EP 3136GK/V002,</u> issued to Veolia by the Environment Agency permitting the recontouring of the landfill site at the Property.
<b>First Access Road</b>	the access road from Coldharbour Lane to the First Car Park shown by red dashed lines on Plan 2.
<b>First Car Park</b>	the car park situated on the Brown Land shown coloured red on Plan 2.
<b>Grantors</b>	Oldrealm, PLA and Veolia.
<b>Green Land</b>	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry comprising the whole of title number EGL 111270 and part of title number EGL 182072 and shown coloured green on Plan 1.
<b>Landscape and Restoration Plan</b>	the masterplan to be submitted to the Council to establish the landscape and restoration outcomes as part of the Development.
<b>Orange Land</b>	the freehold land at Coldharbour Lane, Rainham registered at the Land Registry under title number EGL 232704 shown coloured orange on Plan 1.
<b>Plan 1</b>	the plan marked Plan 1 and annexed to this Deed at Appendix 1.
<b>Plan 2</b>	the plan marked Plan 2 and annexed to this Deed at Appendix 2.
<b>Planning Permission</b>	a Planning Permission dated [        ] reference number [        ].
<b>Property</b>	the Orange Land, the Green Land and the Brown Land together known as land at Rainham Landfill Site, Coldharbour Lane, Rainham shown for the purposes of identification only edged red on Plan 1.
<b>Restoration Works</b>	<del>these</del> works to restore the Property in accordance with the Planning Permission and the Landscape and Restoration Plan.
<b>Section 106 Agreement</b>	a Section 106 Agreement between the Council, Veolia, the PLA, Oldrealm and the National Westminster Bank Plc dated [        ].

## 2 Grant

2.1 Subject always to Clause 3, the Grantors hereby grant the following rights in perpetuity:

- 2.1.1 to the public to pass and repass during daylight hours by private car, bicycle or on foot along those parts of the First Access Road that are within their respective ownerships and to park private vehicles in the First Car Park subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time; and

2.1.2 to the public to pass and repass during daylight hours by ~~private car or bicycle~~ along those parts of Coldharbour Lane that are within their respective ownerships subject to such restrictions as ~~Veolia~~ the Grantors and the Council shall agree in writing from time to time.

### **3 No Dedication and Conditions**

3.1 The Grantors hereby declare that this Deed is not a dedication of any right of way and that the access permitted hereunder shall be subject to:

3.1.1 in the case of emergency in connection with Veolia's use or operation of the Development or with Veolia's duties to be undertaken in accordance with the Environmental Permit, Veolia's right ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof; and

3.1.2 Veolia's ability ~~to~~ temporarily or permanently, to vary, divert or close the same or any part thereof if previously agreed with the Council in writing.

3.2 The Grantors hereby give notice pursuant to the Highways Act 1980 Section 31(5) that the First Access Road, the First Car Park and Coldharbour Lane have not been dedicated to the public, nor is their use with permission to be taken in any way as an indication of an intention by the Grantors to dedicate the same to the public. The Grantors ~~shall be entitled~~ reserve the right to erect a notice to ~~such that~~ effect.

3.3 The permission and rights contained in this Deed shall only be exercised and are only made available for the use by members of the public for the purposes of recreation and the enjoyment of open space.

Any use of the First Access Road, the First Car Park or Coldharbour Lane hereby permitted shall only be allowed to the extent that such use is in accordance with the Landscape and Restoration Plan.

**THE COMMON SEAL** of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF HAVERING** was hereunto affixed in the presence of: )  
)  
)  
)

Authorised Person

Authorised Person

**THE COMMON SEAL** of **OLDREALM LIMITED** was hereunto affixed in the presence of: )  
)  
)  
)

Authorised Person

Authorised Person

**EXECUTED AS A DEED BY VEOLIA ES CLEANAWAY (UK) LIMITED** acting by 2 Directors or a director/its secretary )  
)  
)

Director

Director/Secretary

**THE COMMON SEAL** of **PORT OF LONDON AUTHORITY** was hereunto affixed in the presence of: )  
)  
)  
)

Authorised Person

Authorised Person

**Appendix12**  
**Form of Bond**





**THE COMMON SEAL** of  
**{SURETY}**  
was hereunto affixed in the  
presence of:

)  
)

Authorised Person

Authorised Person

**EXECUTED AS A DEED BY VEOLIA ES**  
**CLEANAWAY (UK) LIMITED** acting by  
two Directors or a director/its secretary

)  
)  
)

Director

Director/Secretary

The Common Seal of **THE**  
**MAYOR AND BURGESSES**  
**OF THE LONDON BOROUGH**  
**OF HAVERING** was hereunto  
Affixed in the presence of:

Authorised person

Authorised person

**Appendix13**  
**{Form of Public Path Creation Agreement}**



**Appendix 15**  
**Schedule of Condition – Zone A**

**APPENDIX 16**  
**Schedule of Condition – Zone C**

**APPENDIX 17**  
**Schedule of Condition – Zone D**

**THE COMMON SEAL of THE MAYOR AND  
BURGESSES OF THE LONDON BOROUGH  
OF HAVERING** was hereunto affixed in the  
presence of: )  
)  
)  
)

Authorised Person

Authorised Person

**EXECUTED AS A DEED BYVEOLIA ES  
CLEANAWAY (UK) LIMITED** acting by )  
two Directors or a director/its secretary )  
)

Director

Director/Secretary

**THE COMMON SEAL of THE PORT OF  
LONDON AUTHORITY** was hereunto affixed )  
in the presence of: )  
)

Authorised Person

Authorised Person

**THE COMMON SEAL of OLDREALM  
LIMITED** was hereunto affixed in the )  
presence of: )  
)

Authorised Person



Authorised Person

**THE COMMON SEAL** of  
**NATIONAL WESTMINSTER BANK PLC**  
was hereunto affixed in the  
presence of:

)  
)

Authorised Person

Authorised Person

Input:	
Document 1 ID	interwovenSite://DMSBRI1/4A-BRISTOL/3137653/42
Description	#3137653v42<4A-BRISTOL> - Draft s106 Agreement
Document 2 ID	interwovenSite://DMSBRI1/4A-BRISTOL/3137653/49
Description	#3137653v49<4A-BRISTOL> - Draft s106 Agreement
Rendering set	BP2 - Basic - colour

Legend:	
<u>Insertion</u>	
<b>Deletion</b>	
*Moved from*	
*Moved to*	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	261
Deletions	237
Moved from	7
Moved to	7
Style change	0
Format changed	0
Total changes	512

**REGULATORY  
SERVICES  
COMMITTEE**

**REPORT**

11 September 2014

**Subject Heading:**

P0811.14 230 St Mary's Lane, Upminster

Demolition of existing mixed use building with re-development of site to create nine new dwellings comprising 1 one-bedroom and 8 two-bedroom units with basement parking. (application received 04.07.14)

**Report Author and contact details:**

Suzanne Terry 01708 4322755  
[Suzanne.terry@havering.gov.uk](mailto:Suzanne.terry@havering.gov.uk)

**Policy context:**

Local Development Framework  
Development Control Policies  
Development Plan Document  
  
National Planning Policy Framework  
  
London Plan

**Financial summary:**

Not relevant

**The subject matter of this report deals with the following Council Objectives**

- Ensuring a clean, safe and green borough [x]
- Championing education and learning for all [ ]
- Providing economic, social and cultural activity in thriving towns and villages [x]
- Value and enhance the life of our residents [x]
- Delivering high customer satisfaction and a stable council tax [ ]

## SUMMARY

This application is for the demolition of an existing single storey building currently in mixed-use as an office and for residential. The building lies to the rear of the site adjacent to Clockhouse Gardens. The listed Clockhouse lies nearby. The application proposes nine flats over three floors with basement car parking. The proposed building is of modern design similar to the adjoining building. The site lies in a mainly residential area where such redevelopment would be acceptable in principle. The main issues are the impact on the streetscene and character of the area, including the listed building and gardens. On balance the scheme is considered to be acceptable and permission is recommended accordingly subject to the prior completion of a S106 obligation.

## RECOMMENDATIONS

1. That the Committee notes that the development proposed is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee would be £12,820 subject to indexation. This is based on the creation of 641m<sup>2</sup> of new gross internal floor space.
2. That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure the following:
  - A financial contribution of £48,000 to be used towards infrastructure costs in accordance with the Policy DC72 of the LDF Core Strategy and Development Control Policies Development Plan Document and the Planning Obligations Supplementary Planning Document.
  - All contribution sums shall include interest to the due date of expenditure and all contribution sums to be subject to indexation from the date of completion of the Section 106 agreement to the date of receipt by the Council.
  - The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.
  - Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

That Staff be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant planning permission subject to the conditions set out below.

1. *Time limit* - The development to which this permission relates must be commenced not later than three years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. *Accordance with plans* - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

**Reason:** The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

3. *Car parking* - No building shall be occupied or use commenced until the car/vehicle parking area shown on the approved plans has been completed, and thereafter, the area shall be kept free of obstruction and available for the parking of vehicles associated with the development

**Reason:** To ensure that there are adequate parking facilities to serve the development in the interests of highway safety and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC33.

4. *Materials* - The development hereby permitted shall not be commenced until samples of all materials to be used in the external construction of the buildings and hard landscaped areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed with the approved materials.

**Reason:** To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

5. *Refuse and recycling* - Prior to the first occupation of the development hereby permitted provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority.

**Reason:** In the interests of amenity of occupiers of the development and also the visual amenity of the development and the locality generally, and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

6. *Cycle storage* - Prior to completion of the development hereby permitted cycle storage of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority shall be provided and permanently retained thereafter.

**Reason:** In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC36.

7. *Secured by Design* - The development hereby permitted shall not be commenced until details of the measures to be incorporated into the development demonstrating how the principles and practices of the Secured by Design scheme have been included have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until written confirmation of compliance with the agreed details has been submitted to and approved in writing by the LPA.

**Reason:** In the interest of creating safer, sustainable communities, reflecting guidance set out in the National Planning Policy Framework, Policy 7.3 of the London Plan, and Policies CP17 and DC63 of the LDF Development Control Policies Development Plan Document.

8. *External and internal lighting* - The development hereby permitted shall not be commenced until a scheme for the lighting of external areas of the development, including any access roads and for the basement car parking has been submitted to and approved in writing by the local planning authority. The scheme of lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The approved scheme shall then be implemented in strict accordance with the agreed details prior to the first occupation of that phase of the development and retained thereafter.

**Reason:** In the interests of highway safety and amenity. Also in order that the development accords with Policies DC32 and DC61 of the LDF Development Control Policies Development Plan Document.

9. *Hours of construction* - All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.

**Reason:** To protect residential amenity, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

10. *Wheel washing* - The development hereby permitted shall not be commenced until details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during the construction works has been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be

permanently retained and used at relevant entrances to the site throughout the course of construction works.

**Reason:** In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area.

11. *Construction methodology* - The development hereby permitted shall not be commenced until a scheme has been submitted to and approved in writing by the local planning authority making provision for a Construction Method Statement to control the adverse impact of the development on that phase on the amenity of the public and nearby occupiers. The Construction Method statement shall include details of:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls
- d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the local planning authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the local planning authority; siting and design of temporary buildings;
- g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- h) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement.

**Reason:** To protect residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

12. *Land contamination* - The development hereby permitted shall not be commenced until the developer has submitted for the written approval of the Local Planning Authority (the Phase I Report having already been submitted to the Local Planning Authority):

a) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the site ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

b) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

Part A - Remediation Scheme which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

c) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals, then revised contamination proposals shall be submitted to the LPA; and

d) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'

**Reason:** To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

13. *Pedestrian visibility splays*- Pedestrian visibility splays shall be provided on either side of the access onto Howard Road of 2.1 by 2.1 metre back to the boundary of the public footway. There should be no obstruction or object higher than 0.6 metres within the visibility splay.

**Reason:** In the interests of highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC32.

14. *Landscaping* - No works shall take place in relation to any of the development hereby approved until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become 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 by the local Planning Authority.



**Reason:** In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

15. *Archaeology* - a) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme for investigation which has been submitted to and approved in writing by the Local Planning Authority.

b) No development or demolition shall take place other than in accordance with the Written Scheme of Investigation approved under Part a).

c) Each phase of the Development shall not be occupied until the site investigation and post investigation assessment has been completed for that phase in accordance with the programme set out in the Written Scheme of Investigation approved under Part a) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

**Reason:** Heritage assets of archaeological interest survive on the site. The planning authority wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development (including historic building recording) in accordance with the recommendations given by the Borough and in the NPPF.

16. *Obscure-glazing* - The proposed screening panels to the first and second floor balconies as shown on the approved drawings, shall be a minimum of 1.7 metre high and shall be permanently glazed with obscure glass to a minimum of level 3.

**Reason:** In the interests of privacy, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

### **Informatives**

1. *DMO Statement* - Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

2. *Mayoral CIL* - The proposal is liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £12,820 (subject to indexation). CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.

3. *Planning obligation* - The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community

Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

4. *Temporary use of the highway* - If any construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a licence is required and Streetcare should be contacted on 01708 434343 to make the necessary arrangements.

5. *Secured by Design* - In promoting the delivery of safer, stronger, sustainable places the Local Planning Authority fully supports the adoption of the principles and practices of the Secured by Design Award Scheme and Designing against Crime. Your attention is drawn to the free professional service provided by the Metropolitan Police Designing Out Crime Officers for North East London, whose can be contacted via [DOCOMailbox.NE@met.police.uk](mailto:DOCOMailbox.NE@met.police.uk) or 0208 217 3813 . They are able to provide qualified advice on incorporating crime prevention measures into new developments.

## REPORT DETAIL

### 1. Site Description

- 1.1 The application site, which amounts to 0.079 hectare, lies on the south side of St Mary's Lane to the east of the designated town centre. It comprises a single storey detached building that is set to the rear of the plot with a car parking area to the front. The rooms to the front are in use as an office with a two-bed flat in the rear part of the building. The building was formerly used as a NHS clinic. To the rear of the building is Clockhouse Gardens which is a public park.
- 1.2 To the east of the site is a recent three storey flatted development set forward on the plot with basement car parking. The building is constructed mainly in red brick with wooden facing panels, mainly on the third floor. The third floor is set back from the main elevations. To the west is a two-storey former residential property that has been extended up to the boundary and is used as a care home. Opposite the site is two-storey semi-detached housing.
- 1.3 The character of this part of St Marys Lane is varied. To the west of the site there are two-storey properties, which are mainly residential, but include a GP surgery. There is also a vacant site formerly occupied by a police station. Further to the west is the town centre which includes a mix of retail and residential. Beyond the Clockhouse to the east the character is suburban with mainly two-storey semi-detached properties.
- 1.4 The listed Clockhouse lies to the east of the new flats and is set back from the road frontage with car parking in front. There is an access to Clockhouse Gardens through the site. Clockhouse is a two-storey and includes a clock

tower. It is in residential use. There are a number of well-established trees in front of the Clockhouse and 228 St Marys Lane with some recent landscape planting in front of the new flats. There are no trees within the application site.

- 1.5 The site lies within PTAL Zone 3-4 (suburban) which indicates that the site has good access to public transport, including Upminster railway station and is in close proximity to the town centre.

## **2. Description of proposal**

- 2.1 This is a full application for the redevelopment of the site following demolition of the existing detached building. The new building would provide eight x two-bed and one one-bed self-contained flats. The building would be three-storey with basement car parking. There would be a single access point from St Marys Lane.

- 2.2 The building would be set forward on the plot with a stepped façade to reflect the building lines of adjoining properties and which also helps to break up the mass of the building. The building would be constructed mainly in brick and render, with metal cladding on the top floor. The materials and colours proposed would reflect those of adjoining buildings. The building would be of contemporary design with a flat roof, similar in height to the adjoining buildings. Projecting above the roof would be a lift shaft and glass panels enclosing a roof terrace for one of the third floor flats. There would be a glazed section in the centre splitting it into two elements

- 2.3 Amenity space would be provided through balconies at first and second floor level, a roof terrace and a rear communal garden area. The basement would provide parking for nine cars with a disabled space at surface level to the front of the building. The basement would also provide secure spaces for nine bicycles. To the front of the building would be a landscaped area behind a low wall. The rear gardens would also be landscaped. Bins stores would also be provided to the front of the building.

## **3. Relevant History**

- 3.1 P1508.10 - Change of use from D1 to mixed use B1 and residential (C3 (a)) ( 2-bedroom flat). Approved 18/03/2011

## **4. Consultations/Representations**

- 4.1 45 neighbour notification letters have been sent to local addresses. Two letters of representation have been received in response raising issues related to parking and impact of construction/demolition on nearby properties. There should be two parking spaces per flat.
- 4.2 Thames Water has no comments.
- 4.3 London Fire Brigade (Water Team) is satisfied with the proposals.

- 4.4 Public Protection requests a conditions covering ground contaminated, sound insulation and construction method statement.
- 4.5 Essex and Suffolk Water has no objections to the development. New metered water connections should be provided.
- 4.6 London fire and Emergency Planning Authority state that the development should comply with the relevant sections of the Building Regulations.
- 4.7 Metropolitan Police Crime Prevention Design Advisor advises that the applicant appears to have considered crime prevention measures in the design of the development. Recommends conditions to address secured by design issues including lighting for car parking areas and security measures for the store.
- 4.8 Streetcare (Highway Authority) has no objections but request conditions and informatives covering works to the public highway and temporary use during construction.
- 4.9 Heritage Officer advises that the key heritage consideration is the impact on the setting of the Grade II listed Clockhouse. The main points are: i) the replacement building is of a higher design and build quality compared to the existing; ii) account has been taken in the design to improve the setting of the listed building, especially the opening up of the space at the rear of the site. This opens up the eastern elevation of the Clockhouse; iii) the use of brick and render on the first two floors is in keeping with the character of the area, but the use of metal cladding at the rear would be inappropriate. This should be limited to render and brick.
- 4.10 English Heritage (Archaeology) advises the site lies over the post mediaeval New Place and remains are likely to survive beneath. A condition requiring a programme of archaeological evaluation prior to development, other than demolition is requested.
- 4.11 Streetcare (Refuse) considers that there needs to be clear access to the bin sheds.

## 5. **Relevant Policies**

- 5.1 Policies CP1 (Housing Supply); CP9 (Reducing the need to travel); CP10 (Sustainable Transport); CP15 (Environmental management); CP17 (Design); CP18 (Heritage); DC2 (Housing Mix and Density); DC3 (Housing Design and Layout); DC7 (Lifetime Homes and Mobility Housing); DC33 (Car Parking); DC34 (Walking); DC35 (Cycling); DC40 (Waste Recycling); DC49 (Sustainable Design and Construction); DC50 (Renewable Energy); DC53 (Contaminated Land); DC61 (Urban Design); DC62 (Access); DC63 (Delivering Safer Places); DC72 (Planning obligations) of the Local Development Framework (LDF) Core Strategy and Development Control Policies Development Plan Document (DPD) are material considerations.

- 5.2 In addition, the Planning Obligations SPD, Residential Design Supplementary Planning Document (SPD), Designing Safer Places SPD, and Sustainable Design and Construction SPD are also material considerations.
- 5.3 Policies 3.3 (increasing housing supply), 3.4 (optimising housing potential); 3.5 (quality and design of housing developments) and 8.2 (planning obligations) of the London Plan are material considerations.
- 5.4 The provisions of the National Planning Policy Framework (paragraphs 131-134) and the National Planning Policy Guidance are also material considerations. The guidance at paragraph 132 of the NPPF is that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The significance of an asset can be harmed by development within its setting or by its destruction.

## 6. **Staff Comments**

### Principle of the development

- 6.1 The site lies within the existing urban area of Upminster just outside of the designated town centre. Policy CP1 of the LDF Core Strategy and Development Control Policies DPD states that in order to provide land for new residential development outside town centres and the Green Belt, non-designated land should be prioritised for housing. The site is on land which is not designated land in the LDF; therefore, its use for housing would be acceptable in principle. The site is also considered to be previously developed (brownfield) land and the re-use of such land would meet one of the core sustainability principles of the NPPF. The residential redevelopment of the site would make a positive contribution to meeting the Borough's housing targets.
- 6.2 The NPPF also states that housing applications should be considered in the context of the presumption in favour of sustainable development. The relevant policies for the supply of housing set out in the LDF and the London Plan are considered to be up to date and the application should, therefore, be determined in accordance with the relevant policies of the development plan.
- 6.3 The site is considered to be in a sustainable location in terms of access to services, including public transport. However, an important element of sustainable development is securing good design that contributes positively to the area. In accordance with the guidance in the NPPF planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. This is reinforced by the core principles of the NPPF which include seeking a high quality of design and a good standard of amenity for existing and future occupants. The main issues are whether the new building would be acceptable in terms of the character and appearance of the area, have an acceptable impact on nearby residential properties, not have a significant adverse impact on the setting of the listed Clockhouse and be acceptable in terms of parking and highways issues.

## Density/layout

- 6.4 The density of the residential element would be 114 units per hectare or 329 habitable rooms per hectare. The London Plan Housing SPG and LDF Policy DC2 set out densities for new residential development. The site lies within PTAL Zone 3-4 as defined in policy DC2 of the LDF Core Strategy and Development Control Policies DPD. This gives an indicative density of 50-80 units per hectare or 200-250 habitable rooms per hectare for flatted development. The Housing SPG gives a higher density range for PTAL 4 and the applicant has assessed the site as having this value of 4. Whilst the proposal is above the levels under DC2 it would fall at the higher end of the SPG and Table 3.2 of the London Plan. The development also has a similar density to the adjoining flatted development that was considered acceptable against similar criteria. The flat sizes would also meet the minimum space standards set out in the London Plan, Table 3.3.
- 6.5 An additional consideration is that the type and size of new housing needed to meet housing should make efficient use of brownfield land. To achieve this there should be a design led approach to determining densities so that residential developments achieve densities appropriate to their accessibility to public transport, and the local context with regard to the principles of good design. This accords with the principles set out in the NPPF. The provision of one and two-bed units would help meet housing need within the Borough.
- 6.6 However, whilst meeting these layout parameters indicates that the development would be broadly acceptable, account also needs to be taken of the character of the local area and whether the scale of the development is appropriate in terms of its appearance in the local context. Account also needs to be taken of any adverse impact on the amenity of nearby occupiers.

## Design/Impact on the streetscene

- 6.7 The site lies outside of the town centre where a majority of the buildings are of a smaller suburban scale compared with those to the west. The main exceptions being the Clockhouse and adjoining flatted development. It is important that the new development achieves a satisfactory transition between the two scales, in particular the relationship with adjoining buildings. In this part of St Marys Lane there is an important transition between the commercial development within the town centre and the smaller scale suburban development to the east. This is only interrupted by the Clockhouse and the adjoining flatted development. The properties to the west and opposite the site have a smaller domestic scale compared with these buildings.
- 6.8 The proposed development is considered to take account to the height and scale of the adjoining buildings. The roof height is the same as the flats to the east and the care home to the west. The frontage is also staggered to address the building line. No. 228 is set further back and the staggering provides a stepped transition between the adjoining buildings. Accordingly, staff consider, as a matter of judgement that the proposal would achieve a satisfactory

transition that is not harmful to the streetscene. The existing building does not contribute positively to local character given its scale and set back behind the main building line. It is also dominated by the adjoining buildings.

- 6.9 The National Planning Practice Guidance states that good quality design is an integral part of sustainable development. The guidance in the NPPF is that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. LDF Policy DC61 requires that new buildings complement or improve the character of the area and respect the scale, massing and height of the surrounding physical context.
- 6.10 The proposed building is considered to be acceptable in the streetscene and improve the overall character and appearance of the area. There would be an acceptable transition between the remaining detached residential (or former residential properties) on the south side of St Marys Lane and the larger Clockhouse and adjoining flatted development. This impact will be a matter for members to judge in relation to the guidance in the NPPF and the LDF Development Control Policies. Should members judge that the proposal would be harmful to the streetscene and character of the area this could amount to a material objection to the application.

#### Impact on amenity

- 6.11 The proposed development would have some limited adverse impact on adjoining properties as it would extend beyond their rear walls. However, there would be no flank windows in the new building and the nearest edges to the adjoining properties would be within the 45° line of sight from the nearest windows. The balconies would have obscured glazed screens along the relevant edges. As a result it is considered that there would be no significant adverse impact on adjoining residents, including those in the care home.

#### Parking and Highway Issues

- 6.12 The proposed access is in a similar location to the existing and no objections have been raised by the highway authority (Streetcare) for the level of use proposed. There would be 10 parking spaces (9 in the basement and one disabled at ground level). For residential development both the London Plan indicates that less than one space per unit would be acceptable for one/two-bed properties. The density matrix in LDF Policy DC2 indicates that 1.5-1 spaces per unit would be acceptable. The development would meet these standards. No objections are raised by the Highway Authority to the proposed parking provision. Given the accessibility of the site to local services and public transport staff consider that the site is in a sustainable location and the proposed level of car parking would be acceptable.

## Heritage Issues

- 6.13 The site lies close to the Grade II Listed Clockhouse which is the former stable block to New Place (now demolished) and the Clockhouse Gardens which occupy the site of the former gardens. The site lies over the post mediaeval New Place and remains are likely to survive beneath. English Heritage recommends an archaeological condition to ensure that an evaluation is carried out. Subject to an evaluation prior to development there would be no material harm to any heritage assets under the surface.
- 6.14 Given the proximity of the listed building there is the potential for any new built development to have an adverse impact on its setting. The guidance in the NPPF at paragraph 132 is that great weight should be given to the significance of a designated heritage asset. Any harm needs to be clearly justified. In this case the demolition of the existing building and the siting of the new building closer to the street would open up views of the listed building, especially from Clockhouse Gardens. There is existing flatted development between the proposed development and the listed building so there would be no immediate impact on its setting. Subject to agreement over the use of materials in the rear elevation, it is considered that there would be no adverse impact on setting.
- 6.15 In determining applications it is desirable the new development in proximity of a listed buildings makes a positive contribution to local character and distinctiveness. In this case it is considered the development would make a positive contribution and overall there would not be any material harm to heritage assets. The development would, therefore be in accordance with LDF Policies DC67 and DC70, London Plan Policy 7.8 and the guidance in the NPPF (paragraphs 131-134).

## Secured by Design

- 6.16 LDF Policy DC 63 seeks to ensure that new developments are designed to discourage crime and adopt the principles and practices of the 'Secured by Design' award scheme. A condition is recommended to address 'Secured by Design' issues and the lighting of car parking areas.

## Section 106 Planning Obligations

- 6.17 The dwellings would result in additional local infrastructure demand such that a financial contribution is needed in accordance with Policy DC72 and the SPD on Planning Obligations. There would be a net addition of eight units and at £6,000 per new dwelling the charge would be £48,000 which would need to be secured through a S106 Planning Obligation

## 7. **Mayor's Community Infrastructure Levy (CIL)**

- 7.1 All new floorspace is liable for Mayoral CIL, but in assessing the liability account is taken of existing usable floorspace that has been lawfully used for at least six months within the last three years. The existing floorspace amounts to 371m<sup>2</sup> and is in lawful use as an office and flat. The new build following demolition



would amount to 1,012m<sup>2</sup> giving a net increase of 641m<sup>2</sup>. The CIL rate is £20 per square metre giving a CIL liability of £12,820.

## 8. **Conclusions**

- 8.1 The site lies within the existing urban area of Upminster just outside of the designated town centre. The site is not designated for any other purpose in the LDF and residential redevelopment is considered acceptable in principle. The provision of eight additional one and two-bed units would help to meet Havering's housing needs. The proposal would bring development of the site forward on the site and it would have greater prominence in the streetscene. Staff consider that, as a matter of judgement the proposed new building would achieve a satisfactory transition between the adjoining buildings and the scale of development to the west and east of the site. The new building would also have an acceptable impact on the character and appearance of the area. There would be no adverse impacts on nearby listed building or other heritage matters, subject to conditions. The grant of planning permission is recommended accordingly subject to the prior completion of a S106 legal agreement to secure a financial contribution towards local infrastructure costs and appropriate conditions.
- 8.2 However, should members consider that the building would be visually dominant and materially harmful to the character and appearance of the area by reason of its design and scale then there would be a case for refusal.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

None

### **Legal implications and risks:**

Legal resources will be required to prepare and complete the S 106 legal agreement.

### **Human Resources implications and risks:**

None

### **Equalities implications and risks:**

The Council's planning policies are implemented with regard to equality and diversity.

## **BACKGROUND PAPERS**

1. Application form and plans received 04 July 2014.

# REGULATORY SERVICES COMMITTEE

# REPORT

4 September 2014

**Subject Heading:**

P1010.14 58-60 Station Road , Upminster

Demolition of existing building and construction of new mixed use building with retail use on the ground floor with a cycle store and two bin stores and 6 residential units on the upper floors. (application received 14.7.14)

**Report Author and contact details:**

Suzanne Terry 01708 4322755  
[Suzanne.terry@havering.gov.uk](mailto:Suzanne.terry@havering.gov.uk)

**Policy context:**

Local Development Framework  
Development Control Policies  
Development Plan Document  
  
National Planning Policy Framework  
  
London Plan

**Financial summary:**

Not relevant

**The subject matter of this report deals with the following Council Objectives**

- Ensuring a clean, safe and green borough [x]
- Championing education and learning for all [ ]
- Providing economic, social and cultural activity in thriving towns and villages [x]
- Value and enhance the life of our residents [x]
- Delivering high customer satisfaction and a stable council tax [ ]

## SUMMARY

This application was deferred at the meeting of the Committee on 4<sup>th</sup> September and has been updated to include two late representations.

This application follows the refusal by the committee in June 2014 of a similar proposal for the demolition of the building and the redevelopment of the site for mixed use. That application proposed seven flats above retail and was refused on the grounds that the development would appear dominant and visually intrusive in the streetscene that would be harmful to the character and appearance of the area. This application proposes a reduced height and some design changes. On balance the scheme is now considered to be acceptable. Councillor Linda Van Den Hende has requested that the application is brought before the committee. She raises concerns regarding the bulk and unsuitability in the street scene, parking for residents and for the shops.

## RECOMMENDATIONS

1. That the Committee notes that the development proposed is liable for the Mayor's Community Infrastructure Levy (CIL) in accordance with London Plan Policy 8.3 and that the applicable fee would be £6,600 subject to indexation. This is based on the creation of 330m<sup>2</sup> of new gross internal floor space.

2. That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Legal Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), to secure the following:

- A financial contribution of £36,000 to be used towards infrastructure costs in accordance with the Policy DC72 of the LDF Core Strategy and Development Control Policies Development Plan Document and the Planning Obligations Supplementary Planning Document.
- All contribution sums shall include interest to the due date of expenditure and all contribution sums to be subject to indexation from the date of completion of the Section 106 agreement to the date of receipt by the Council.
- The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.
- Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

That Staff be authorised to enter into a legal agreement to secure the above and upon

completion of that agreement, grant planning permission subject to the conditions set out below.

1. *Time limit* - The development to which this permission relates must be commenced not later than three years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. *Accordance with plans* - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).

**Reason:** The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

3. *Car parking* - No building shall be occupied or use commenced until the car/vehicle parking area shown on the approved plans has been completed, and thereafter, the area shall be kept free of obstruction and available for the parking of vehicles associated with the development

**Reason:** To ensure that there are adequate parking facilities to serve the development in the interests of highway safety and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC33.

4. *Materials* - The development hereby permitted shall not be commenced until samples of all materials to be used in the external construction of the buildings and hard landscaped areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed with the approved materials.

**Reason:** To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

5. *Refuse and recycling* - Prior to the first occupation of the development hereby permitted provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority.

**Reason:** In the interests of amenity of occupiers of the development and also the visual amenity of the development and the locality generally, and in order that the

development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

6. *Cycle storage* - Prior to completion of the development hereby permitted cycle storage of a type and in a location previously submitted to and agreed in writing by the Local Planning Authority shall be provided and permanently retained thereafter.

**Reason:** In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC36.

7. *Secured by Design* - The development hereby permitted shall not be commenced until details of the measures to be incorporated into the development demonstrating how the principles and practices of the Secured by Design scheme have been included have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until written confirmation of compliance with the agreed details has been submitted to and approved in writing by the LPA.

**Reason:** In the interest of creating safer, sustainable communities, reflecting guidance set out in the National Planning Policy Framework, Policy 7.3 of the London Plan, and Policies CP17 and DC63 of the LDF Development Control Policies Development Plan Document.

8. *External lighting* - The development hereby permitted shall not be commenced until a scheme for the lighting of external areas of the development, including any access roads, has been submitted to and approved in writing by the local planning authority. The scheme of lighting shall include details of the extent of illumination together with precise details of the height, location and design of the lights. The approved scheme shall then be implemented in strict accordance with the agreed details prior to the first occupation of that phase of the development and retained thereafter.

**Reason:** In the interests of highway safety and amenity. Also in order that the development accords with Policies DC32 and DC61 of the LDF Development Control Policies Development Plan Document.

12. *Hours of construction* - All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.

**Reason:** To protect residential amenity, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

13. *Wheel washing* - The development hereby permitted shall not be commenced until details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during the construction works has been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be permanently retained and used at relevant entrances to the site throughout the course of construction works.

**Reason:** In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area.

14. *Construction methodology* - The development hereby permitted shall not be commenced until a scheme has been submitted to and approved in writing by the local planning authority making provision for a Construction Method Statement to control the adverse impact of the development on that phase on the amenity of the public and nearby occupiers. The Construction Method statement shall include details of:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls
- d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the local planning authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the local planning authority; siting and design of temporary buildings;
- g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- h) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement.

**Reason:** To protect residential amenity and in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC61.

15. *Land contamination* - The development hereby permitted shall not be commenced until the developer has submitted for the written approval of the Local Planning Authority (the Phase I Report having already been submitted to the Local Planning Authority):

- a) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the site ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.

b) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

Part A - Remediation Scheme which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

c) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals, then revised contamination proposals shall be submitted to the LPA; and

d) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'

**Reason:** To protect those engaged in construction and occupation of the development from potential contamination. Also in order that the development accords with the LDF Development Control Policies Development Plan Document Policy DC53.

16. *Pedestrian visibility splays*- Pedestrian visibility splays shall be provided on either side of the access onto Howard Road of 2.1 by 2.1 metre back to the boundary of the public footway. There should be no obstruction or object higher than 0.6 metres within the visibility splay.

**Reason:** In the interests of highway safety, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC32.

17. *Restriction of use* - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) Order 1995 (as amended) the ground floor use hereby permitted shall be A1 only and shall be used for no other purpose(s) whatsoever including any other use as set out in Schedule 2, Part 3 of the Order.

**Reason:** To restrict the use of the premises to one compatible with the surrounding area and to enable the Local Planning Authority to exercise control over any future use



not forming part of this application, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

18. *Landscaping* - No works shall take place in relation to any of the development hereby approved until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become 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 by the local Planning Authority.

**Reason:** In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development, and that the development accords with the Development Control Policies Development Plan Document Policy DC61.

### **Informatives**

1. *DMO Statement* - Statement Required by Article 31 (cc) of the Town and Country Planning (Development Management) Order 2010: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

2. *Mayoral CIL* - The proposal is liable for the Mayor of London Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the CIL payable would be £6,600 (subject to indexation). CIL is payable within 60 days of commencement of development. A Liability Notice will be sent to the applicant (or anyone else who has assumed liability) shortly and you are required to notify the Council of the commencement of the development before works begin. Further details with regard to CIL are available from the Council's website.

3. *Planning obligation* - The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

4. *Temporary use of the highway* - If any construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a licence is required and Streetcare should be contacted on 01708 434343 to make the necessary arrangements.

5. *Secured by Design* - In promoting the delivery of safer, stronger, sustainable places the Local Planning Authority fully supports the adoption of the principles and practices of the Secured by Design Award Scheme and Designing against Crime. Your attention is drawn to the free professional service provided by the Metropolitan Police Designing Out Crime Officers for North East London, whose can be contacted via [DOCOMailbox.NE@met.police.uk](mailto:DOCOMailbox.NE@met.police.uk) or 0208 217 3813 . They are able to provide qualified advice on incorporating crime prevention measures into new developments.

## REPORT DETAIL

### 1. Call In

Councillor Linda Van Den Hende has requested that the application is brought before the committee. She raises concerns regarding the bulk and unsuitability in the street scene, parking for residents and for the shops.

### 2. Site Description

- 2.1 The application site lies within the retail core of Upminster Town Centre. It comprises a three storey building at the end of a parade with mainly retail units on the ground floor and residential and some offices above. The building continues at three storeys around the corner into Howard Road. Along the Howard Road frontage toward the back of the site is a single storey white rendered building occupied by a D1 use beyond which are residential properties. There is access to the rear of the buildings from Howard Road and parking space for 8-10 cars. On-street parking along Howard Road adjacent to the single storey building is restricted to 2 hours, elsewhere it is restricted during morning peaks. On the north side of the site is a three storey rear extension to no. 62 Station Road which is in office use and which shares the same access.
- 2.2 The existing Station Road frontage is constructed in red brick with two bay windows at first floor level with a second storey window in the centre. This elevation has an ornamental parapet in the centre above the second storey window. There is also a parapet along the Howard Road frontage. The rear elevations are in yellow brick. The total site area is 0.05 hectares.
- 2.3 On the southern corner of Howard Road is a three/four storey building with A1 and A2 uses on the ground floor with offices above. On the opposite (western) side of Station Road on the corner with Branfill Road are two more recent mixed use developments (Marks and Spencer and Alder Court) which are both four storey with retail on the ground floor with flats above. On the other corner of Branfill Road is Roomes department store which is three- storey. Most of the reminder of the retail frontage in Station Road is two or three storey.

### 3. **Description of proposal**

- 3.1 This is a full application for the redevelopment of the site following demolition of the existing end of terrace building and the single storey building to the rear. The new building would provide increased retail floorspace and six residential units over two floors.
- 3.2 The new building would be in two main sections in contrasting red and yellow bricks. Both sections would be three-storeys, but the red brick section that fronts onto Station Road and wraps around the corner into Howard Road would be higher. This is because the accommodation would have higher room heights to reflect the scale of the adjoining properties in Station Road. The front section would have a flat roof behind a parapet wall and detailing on the Station Road elevation that reflects the existing building.
- 3.3 The ground floor would comprise the main retail floorspace and would provide a retail frontage to both elevations. There would be four flats on the floors above this section of the building; two on each floor.
- 3.4 The rear section would be three-storey in yellow brick and would run along most of the remainder of the Howard Road frontage. It would be significantly lower than the front section. A visual break would be provided between the two sections by use of a contrasting brick colour that reflects the rear facades of existing buildings and a setback of 0.6 metres from the site boundary. This rear section would reduce to single-storey on the northern side, adjacent to the boundary with no. 62 Station Road. This would allow some of the flats a dual aspect. This part of the development would have retail on the ground floor with two flats above, one on each floor.
- 3.5 There would be six flats altogether all of which would be two-bed. Four car parking spaces and a delivery bay would be provided to the rear taking access from Howard Road via the existing access point. The ground floor would comprise a single retail unit to replace the A1 and D1 units with the entrance from Station Road. The entrance to the flats would also be from Howard Road which would also provide access to secure cycle storage. There would be direct access to the bin storage area from Howard Road. There would be a small landscaping strip along the Howard Road frontage. One of the other flats on the first floor would also have a balcony overlooking Howard Road. There would be no other amenity space provision.
- 3.6 The new building would replicate detailing features from the existing building, particularly from the front elevation. The building would be constructed in a similar coloured brick and provide similar bay windows to the first floor. The ornamental parapet feature would be replicated in the centre.
- 3.7 The rear three-storey section would also have a tiled mansard style roof along the three-storey extent and a flat roof on the single storey element.

#### 4. **Relevant History**

- 4.1 P0744.13 - The demolition of existing building and construction of new mixed use building with retail use on the ground floor with a cycle store and two bin stores and 7 residential flats on the upper floors. Refused 20/06/2014

#### 5. **Consultations/Representations**

- 5.1 The application has been advertised on site and 61 neighbour notification letters have been sent to local addresses. Two letters of representation have been received in response. The following matters are raised:
- There no material difference between this and the previously refused scheme. The previous reasons for refusal have not been adequately addressed and no material change to the design has been made;
  - There would still be a substantial reduction in the amount of natural light received in adjoining first floor offices and other premises;
  - Overdevelopment of the site, especially rear section which would be disproportionate and unattractive;
  - No space for loading and unloading for shop which would block access for other users;
  - Inadequate car parking;
- 5.2 Thames Water has no comments.
- 5.3 London Fire Brigade (Water Team) is satisfied with the proposals.
- 5.4 Public Protection requests a conditions covering ground contaminated, sound insulation and construction method statement.
- 5.5 Essex and Suffolk Water has no objections to the development. New metered water connections should be provided.
- 5.6 London fire and Emergency Planning Authority is satisfied with the proposals.
- 5.7 Metropolitan Police Crime Prevention Design Advisor is unable to comment on applications below 10 units but previously advised (2013 application) that the applicant appears to have considered crime prevention measures in the design of the development. Recommends conditions to address secured by design issues including lighting for car parking areas and security measures for the store.
- 5.8 Streetcare (Highway Authority) has no objections (2013 application). Site has a PTAL score of 5 indicating good access to transport facilities so 4 parking spaces acceptable. Identifies requirements for cycle storage, pedestrian visibility splays and use of the highway during construction.

## 6. Relevant Policies

- 6.1 Policies CP1 (Housing Supply); CP4 (Town Centres); CP9 (Reducing the need to travel); CP10 (Sustainable Transport); CP15 (Environmental management); CP17 (Design); CP18 (Heritage); DC2 (Housing Mix and Density); DC3 (Housing Design and Layout); DC7 (Lifetime Homes and Mobility Housing); DC33 (Car Parking); DC34 (Walking); DC35 (Cycling); DC36 (Servicing); DC40 (Waste Recycling); DC49 (Sustainable Design and Construction); DC50 (Renewable Energy); DC53 (Contaminated Land); DC61 (Urban Design); DC62 (Access); DC63 (Delivering Safer Places); DC72 (Planning obligations) of the Local Development Framework (LDF) Core Strategy and Development Control Policies Development Plan Document (DPD) are material considerations.
- 6.2 In addition, the Planning Obligations SPD, Residential Design Supplementary Planning Document (SPD), Designing Safer Places SPD, and Sustainable Design and Construction SPD are also material considerations.
- 6.3 Policies 2.15 (Town Centres) 3.3 (increasing housing supply), 3.4 (optimising housing potential); 3.5 (quality and design of housing developments), 4.7 (Retail and Town Centre Development; and 8.2 (planning obligations) of the London Plan are material considerations.
- 6.4 The provisions of the National Planning Policy Framework and the National Planning Policy Guidance are also material considerations.

## 7. Staff Comments

- 7.1 The site lies within Upminster Town Centre where the redevelopment of land for mixed use would normally be considered acceptable. The main issues for consideration are the layout and form of development, the impact on the character and appearance of the streetscene, impact on amenity, highway and car parking issues.

Principle of the development

- 7.2 The application site lies within an existing town centre within the defined retail core where the redevelopment of a site for retail and residential purposes would be acceptable in principle in accordance with Policy CP1 of the LDF Core Strategy and Development Control Policies DPD and the guidance in the National Planning Policy Framework (NPPF).
- 7.3 The site is in a sustainable location with very good access to public transport given the proximity of Upminster station and local bus services that pass along Station Road. The site is very close to local amenities, including shops, schools, library and public parks. Therefore, subject to an acceptable impact on the character and appearance of the area, the streetscene and the amenities of adjoining occupiers the development can be considered acceptable.

## Density/Site Layout

- 7.4 The density of the residential element would be 120 units per hectare or 360 habitable rooms per hectare. The London Plan Housing SPG and LDF Policy DC2 set out densities for new residential development. The densities proposed would be in accordance with the policy and guidance. Therefore, for a town centre development the density proposed is considered acceptable. The SPG also sets minimum floorspace standards for all housing types. The proposed units would meet these standards. However, whilst meeting these layout parameters indicates that the development would be broadly acceptable, account also needs to be taken of the character of the local area and whether the scale of the development is appropriate in terms of its appearance in the local context. Account also needs to be taken of any adverse impact on the amenity of nearby occupiers.

## Design/Impact on the streetscene

- 7.5 The application site is in a prominent corner position within Upminster Town Centre and the main building currently makes a positive contribution to the character and appearance of the area. The single storey building along Howard Road is considered to have a neutral effect on the streetscene. There is a contrast in scale between the buildings that make up the retail frontage and the mainly two storey dwellings behind the frontage. The single storey building marks a transition between the taller town centre buildings and those of residential scale to the east.
- 7.6 The buildings in Station Road have a mix of architectural styles, including more recent developments such as those on the west side of the road opposite the application site. The higher buildings also extend behind the main frontage into mainly residential streets, such as Howard Road and Branfill Road. The National Planning Practice Guidance states that good quality design is an integral part of sustainable development. The guidance in the NPPF is that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. LDF Policy DC61 requires that new buildings complement or improve the character of the area and respect the scale, massing and height of the surrounding physical context. In refusing planning permission for the earlier application members had regard to this guidance and judged that the four-storey elements of the proposal were excessive and would have an adverse impact on the area.
- 7.7 The changes made reduce the scale and height of the new building and the design changes improve the overall appearance of the building. The existing first floor features are replicated in a manner which would make the appearance of the new building acceptable in the streetscene. Again this will be a matter for members to judge in relation to the guidance in the NPPF and the LDF Development Control Policies. Should members again judge that the proposal would still be harmful, notwithstanding the changes, this could amount to a material objection to the application

7.8 The Howard Road elevations would again be generally acceptable even with the overall increase in the bulk of the building as it would be similar to the situation elsewhere on the edge of the town centre. Whilst the appearance of this part of the building would be similar to the refused scheme it has been reduced in height by 1.2 metre and the lift tower has been removed. This reduces the impact on this part of Howard Road and would increase that amount of natural daylight received by properties to the north to some extent. There would also be an adequate gap between the new building and the nearest houses. Overall staff consider as a matter of judgement that the proposed new building would be acceptable and not have a materially adverse impact on the character and appearance of the area.

#### Impact on amenity

7.9 The proposed development would have some adverse impact on adjoining properties mainly as a result of a loss of daylight and sunlight. This loss would arise through the additional two storeys along the Howard Road frontage in place of the existing single storey building. Most of the rooms affected are in commercial use but some to the rear of no.62 Station Road are in residential use. Policy 61 of the LDF states that planning permission will not be granted where development results in an unacceptable overshadowing or loss of sunlight/daylight. There is no national guidance on loss of light, although 'rights to light' are set out in law. The submission details include a daylight and sunlight report based upon guidance issued by the Building Research Establishment (BRE) in 2011. The guidance states that in residential properties only habitable rooms should be assessed and in non-domestic buildings on rooms where there is an expectation of daylight. The assessment has had regard to the location of the annexe to the rear of no.62 which is close to the boundary of the development site. The assessment concluded that whilst there would be a loss of daylight and sunlight to existing windows, these either served non-habitable rooms, already had restricted light or were very close to the site boundary. The assessment concluded that the development would meet the terms of the guidance.

7.10 However, the assessment does not specifically address the issue of impact on amenity. Nevertheless there would be no overshadowing of garden or external amenity areas and the additional impact on windows to existing residential properties, where natural light is already restricted, is not considered to be significant. Overall staff consider that there would be no significant impact to the amenities of the occupiers of 62 and 62a Station Road or to houses to the east of the site in Howard Road which are further from the site.

7.11 Windows in the proposed development would look northward towards those of 62 Station Road. However, these serve non-habitable rooms or corridors and the windows only face those of offices or other non-residential accommodation. None of the windows would overlook rear gardens or communal amenity areas.

7.12 There would be some loss of light to commercial premises, but the impact on amenity is not considered to be significant. Overall there would be some loss of light to adjoining properties but not to an extent that it would amount to an

overriding objection. There would be no overlooking or interlooking issues arising.

#### Parking and Highway Issues

- 7.13 The proposed redevelopment would increase the building footprint compared with the current buildings on site, thereby reducing the area available for car parking. The application details do not indicate whether the four spaces to be provided would be for future residents, the new retail unit or shared between the two. For the residential element both the London Plan SPG on housing and the density matrix in LDF Policy DC2 indicate that less than one space per unit would be acceptable given the high public transport accessibility level (PTAL) of 5. The maximum standard for a non-food shop would be between four and five spaces. This would provide parking mainly for staff. Upminster has other public parking areas for shoppers, including short-term on street parking. No objections are raised by the Highway Authority to the proposed parking provision. Given the accessibility of the site to local services and public transport staff consider that the site is in a sustainable location and the proposed level of car parking would be acceptable. The proposed level of parking is the same as for the refused application and the level of parking was not one of the reasons for refusal.

#### Other Issues

- 7.14 Of the six flats proposed only one would have some form of amenity area. LDF policies are not prescriptive in terms of the amount of amenity space that should be provided in residential developments. The amenity space that is provided should be usable and of sufficient quality. The balcony proposed would provide satisfactory usable amenity space appropriate in a town centre location. In town centres it may not always be possible to provide amenity areas for flatted development, especially given the relatively high densities achieved and the constraints posed by redevelopment sites. For this scheme additional amenity space could not be easily accommodated which would meet the criteria for usable space. There are public parks and open spaces reasonably close to the site and staff consider that the provision proposed is acceptable.

#### Secured by Design

- 7.15 LDF Policy DC 63 seeks to ensure that new developments are designed to discourage crime and adopt the principles and practices of the 'Secured by Design' award scheme. The previous comments of the Crime Prevention Design Advisor are that the proposed development has taken these into account and that subject to conditions to cover lighting and security measures the development would be acceptable.

#### Section 106 Planning Obligations

- 7.16 The dwellings would result in additional local infrastructure demand such that a financial contribution is needed in accordance with Policy DC72 and the SPD on Planning Obligations. There would be six new units and at £6,000 per new



dwelling the charge would be £36,000 which would need to be secured through a S106 Planning Obligation

## 8. **Mayor's Community Infrastructure Levy (CIL)**

8.1 All new floorspace is liable for Mayoral CIL, but in assessing the liability account is taken of existing usable floorspace that has been lawfully used for at least six months within the last three years. The existing floorspace amounts to 459 m<sup>2</sup> and is in lawful use as a shop with offices above and as a beauty clinic. The new build following demolition would amount to 789 m<sup>2</sup> giving a net increase of 330m<sup>2</sup>. The CIL rate is £20 per square metre giving a CIL liability of £6,600.

## 9. **Conclusions**

9.1 The site lies with the retail core area of Upminster Town Centre where the redevelopment of the site for mixed use with retail on the ground floor is considered acceptable in principle. The main issues relate to the design and scale of the building and its impact on the character and appearance of the area. The site is in a prominent end of terrace street corner location and staff consider that, as a matter of judgement and in view of the changes made, the proposed new building would not be materially harmful to the character and appearance of the area. The grant of planning permission is recommended accordingly subject to the prior completion of a S106 legal agreement to secure a financial contribution towards local infrastructure costs and appropriate conditions.

9.2 However, should members consider that, notwithstanding the changes made the building would still be visually dominant and materially harmful to the character and appearance of the area then there would be a case for refusal.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

None

### **Legal implications and risks:**

Legal resources will be required to prepare and complete the S 106 legal agreement.

### **Human Resources implications and risks:**

None

### **Equalities implications and risks:**

The Council's planning policies are implemented with regard to equality and diversity.

## **BACKGROUND PAPERS**

1. Application form and plans received 14 July 2014.

# REGULATORY SERVICES COMMITTEE

# REPORT

11 September 2014

**Subject Heading:**

Planning Contravention  
Cash Generator  
15 South Street. Romford

**Report Author and contact details:**

Simon Thelwell  
Projects and Regulation Manager  
01708 432685  
[simon.thelwell@havering.gov.uk](mailto:simon.thelwell@havering.gov.uk)

**Policy context:**

Local Development Framework

**Financial summary:**

Enforcement action and a defence of the Council's case in any appeal will have financial implications.

**The subject matter of this report deals with the following Council Objectives**

- Ensuring a clean, safe and green borough
- Championing education and learning for all
- Providing economic, social and cultural activity in thriving towns and villages
- Value and enhance the life of our residents
- Delivering high customer satisfaction and a stable council tax

**SUMMARY**

15 South Street Romford is a retail shop within the Romford Conservation Area. The shop owner has covered the first floor windows with uPVC cladding without planning permission. The cladding was put in place following the removal of a number of unauthorised advertisements that also covered these windows. Further the owner of the premises has erected without planning permission unauthorised box roller-shutters. Despite protracted negotiations with the owner it has not been possible to reach a solution on this matter by either the removal of the cladding and the box roller shutter or the submission of a retrospective planning application to

seek retention of it, however as the uPVC cladding and box roller-shutter are contrary to planning policy in the development plan retrospective consent is unlikely to be forthcoming.

## RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, within 3 months:

1. Remove from the land the unauthorised uPVC cladding covering the windows at first floor level
2. Restore the windows to their condition prior to the cladding and the previously removed unauthorised advertisements being installed
3. Remove the unauthorised boxed roller-shutter to the ground floor front of the Shop premises from the land.

Time for compliance: 3 months from the effective date of this

In the event of non-compliance and if it is deemed expedient; that legal proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

## REPORT DETAIL

### 1. **Site Description**

This property is at the northern end of South Street and sits within the Romford Conservation Area and it outlined black on the plan attached.

The accepted use of this shop is for A1 retail purposes.

### 2. **Relevant Planning and Enforcement History**

P1231.12 – Retention of External Roller Shutters - Refused

No known previous Enforcement or Appeal history.

### 3. **The Alleged Planning Contravention**

In 2012 the Planning Enforcement service received complaints regarding the premises in that a number of unauthorised advertisements had been put into place and the shop-front altered by the placement of a new external roller shutter. Initial negotiations with the company operating the shop were successful in that the

unauthorised advertisements were removed however the windows at the first floor level were subsequently covered by uPVC cladding. Despite protracted negotiations with the company it has not been possible to secure the removal of this cladding which makes this property look out of place alongside the adjacent properties. The unauthorised roller-shutters have not been removed despite requests to do so.

#### 4. **Policy and Other Material Considerations**

The uPVC cladding is regarded as visually intrusive in the streetscene given the prominence and location of the property. The alterations made detract from the appearance of the property itself as well as the character of the conservation area.

Policies DC61 and DC68 of the LDF apply as do the Heritage SPD and NPPF.

Consideration has been made as to whether a planning application would be granted but it has been concluded that planning conditions would not overcome the harm identified.

The unauthorised roller-shutter was erected without planning permission to the ground floor front of the shop premises at 15 South Street Romford. The installation of the boxed roller-shutter in question was substantially completed less than four years ago. The site lies within the Romford Conservation Area. The roller-shutter with its associated box appears as a dominant addition to the shop-front that is visually intrusive in the street-scene and fails to enhance or preserve the character of the Conservation Area. It is contrary to development plan policies and harmful to the visual amenities of the area. The Council do not consider that planning permission should be given, because planning conditions could not overcome these problems.

In making its decision to issue this Notice the Council considered that the unauthorised use is contrary to the following policies of the Local Development Framework: policies DC61, DC68 and the Havering Shopfront Design SPD 2013.

#### 5. **Recommendation for action**

Given the location of this shop and the harm to the character and appearance of the area identified it is considered that formal enforcement action by the service of an Enforcement Notice would be expedient to overcome these breaches of planning control.

Authorisation for the service of an Enforcement Notice is therefore requested.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

Enforcement action may have financial implications for the Council.

### **Legal implications and risks:**

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

### **Human Resources implications and risks:**

No implications identified.

### **Equalities implications and risks:**

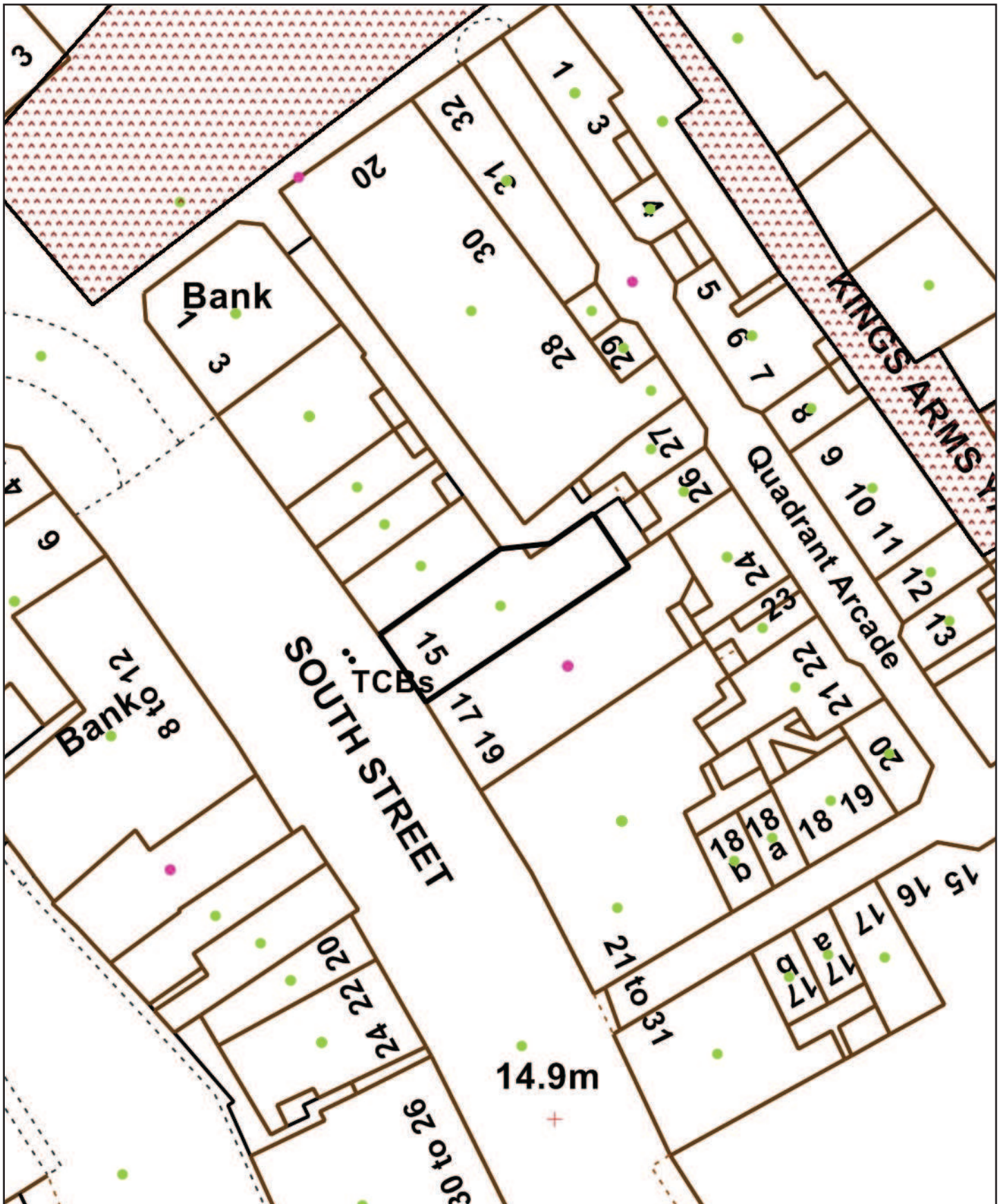
Section 149 of the Equality Act 2010 (EA) came in to force on 1<sup>st</sup> April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race Relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.


The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.




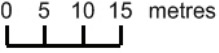
Having considered the above duty and the Human Rights Act 1998 there are no equality or discrimination implications raised.

## BACKGROUND PAPERS

- 1. Non-exempt notes and correspondence on case file*
- 2. Aerial Photographs*
- 3. Relevant Planning History*



Cash Generator 15 South Street Romford	
--	---

  	<p>Scale: 1:500</p> <p>Date: 15 July 2014</p> <div style="text-align: right;">  </div>
---	---

This page is intentionally left blank