



Havering
LONDON BOROUGH

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:

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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 17th 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 31st 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 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 31st December, 2024 and restoration of the site shall be completed by 31st 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 17th 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 31st 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 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 31st December, 2024 and restoration of the site shall be completed by 31st 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.

REPORT DETAIL

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 31st 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.

	Pre-settlement Contours (metres AOD)	Post-settlement Contours (metres AOD)
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Landform¹	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

¹Existing 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.