

Mr David Watkins
Linklaters LLP
One Silk Street
London
EC2Y 8HQ

Our Ref: APP/Z1585/V/09/2104804

2 March 2010

Dear Mr Watkins,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77.
APPLICATION BY GENT FAIRHEAD & Co LIMITED
RIVENHALL AIRFIELD, ESSEX, C5 9DF. APPLICATION REF: ESS/37/08/BTE.**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, M P Hill BSc MSc CEng MICE FGS, who held a public local inquiry which opened on 29 September into your client's application for an Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks, at Rivenhall Airfield, Essex, C5 9DF, in accordance with application reference ESS/37/08/BTE, dated 28 August 2008.

2. It was directed on 12 May 2009, in pursuance of Section 77 of the Town and Country Planning Act 1990, that the application be referred to the Secretary of State instead of being dealt with by the relevant planning authority, Essex County Council because the proposals may conflict with national policies on important matters.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Decision Officer
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Procedural matters

4. The Secretary of State notes that the applicants wished the proposal to be considered on the basis of a revised design. Like the Inspector, the Secretary of State does not consider that any prejudice has been caused to any party by accepting these amendments, and has determined the application on this basis (IR1.5).

5. In reaching his decision, the Secretary of State has taken into account the Environmental Information which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and comprises those documents set out by the Inspector at IR1.6. The Secretary of State considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. The Secretary of State notes that the Inspector closed the inquiry in writing on 2 November, having taken into account correspondence received after the last sitting day of the inquiry from the main parties in relation to representations from the Environment Agency (IR1.10). These matters have been dealt with by the Inspector in his report, and the Secretary of State has concluded on them later in this letter. Other correspondence unrelated to this matter was also received from 8 other parties after the last sitting day of the inquiry and the Secretary of State has carefully considered this. However, he does not consider that it raises any new issues which would either affect his decision, or require him to refer back to parties prior to reaching his decision. Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

Policy Considerations

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises those documents listed at IR3.2. The Secretary of State agrees with the Inspector that the main development plan policies relevant to this application are those set out in IR3.3-3.5.

8. Other material considerations include the national planning guidance listed at IR3.8 and those other documents listed at IR3.9. Circular 11/95, *Use of Conditions in Planning Permission*, and Circular 05/2005, *Planning Obligations* are also material considerations.

9. The Secretary of State has had special regard to the desirability of preserving nearby listed buildings and their settings, or any features of special architectural or historic interest which they possess, as required by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In view of the possible impact of the proposal on the Silver End Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of this area, as required by section 72 of the same Act.

10. Since the inquiry closed the Government has published PPS4: *Planning for Sustainable Economic Growth*. The policies in this document replace, amongst other things, certain relevant policies in PPS7: *Sustainable Development in Rural Areas*. However, the Secretary of State does not consider that there has been any material change in those policies to the extent that it would affect his decision or require him to refer back to parties for further representations prior to reaching his decision.

Main Issues

11. The Secretary of State considers the main issues in this case are those set out by the Inspector at IR13.1.

Prevailing planning policy

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on prevailing planning policy as set out in IR13.2-13.11. He agrees that the proposal is broadly consistent with the policies of the development plan, although it does not comply with all policies (IR13.10). He also agrees that the proposal is generally in accord with national guidance, including that contained in PPS1, PPS7, PPS10, PPG15, PPS22 and PPS23, albeit he accepts there is some conflict (IR13.11). These issues are considered further below.

The quality of the design and sustainability implications, and impact on character and appearance of the area

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the quality of design, sustainability, and impact on the character and appearance of the area as set out in IR13.12-13.31. He agrees that the design of the proposal would be of high quality (IR13.22), including, for example, the siting of the buildings below ground level and the green roof of the main buildings which would be colonised with mosses (IR13.13). He also agrees that it would be a sustainable form of development which would enable the management of waste to be undertaken in a sustainable manner (IR13.22), including the use of solid recovered fuel in the proposed CHP plant and the export of electricity to the National Grid, which would contribute to meeting the Government's Renewable Energy targets (IR13.19). He further agrees that the proposal would have some urbanising and detrimental impact on the semi-rural character and appearance of the area, for example as a result of the proposed stack, but that with the mitigation measures proposed the overall impact on the character and appearance of the area would be limited (IR13.31).

Consistency with PPS10

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on consistency with PPS10 as set out in IR13.32-13.40. He agrees that the proposal would help to deliver sustainable development by driving waste management up the waste hierarchy, and contribute towards ensuring the timely provision of sufficient waste management facilities to meet the needs of the community. He also agrees that it would help to reduce carbon emissions and would have benefits in terms of climate change (IR13.40).

Need, viability, flexibility and fallback position

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on need, viability, flexibility and the fallback position as set out in IR13.41-13.65. He agrees that the proposal would help to satisfy a substantial and demonstrable need for municipal solid waste and/or commercial and industrial waste to be dealt with in Essex and for Essex County Council to meet challenging targets set out in the East of England Plan (IR13.51). In terms of viability, he agrees that there is no reason to doubt that the MDIP would be capable of competing with a similar facility sited at a paper mill and in this respect it is a viable proposal (IR13.54). On the fallback position, the Secretary of State agrees that there was a reasonable prospect of the recycling and composting facility for which planning permission has already been granted being implemented in the event that he had refused planning permission for the proposal before him (IR13.60). As for the flexibility of the proposal, the Secretary of State agrees that its design and its multiple autonomous process lines would provide a reasonable and sufficient degree of flexibility to enable future changes in the composition of waste and the ways in which waste is managed to be accommodated (IR13.65).

The effect on the living condition of local residents, including the risks to human health

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect on the living condition of local residents, including the risks to human health as set out in IR13.66-13.95. He agrees that air quality could be adequately controlled and there would be no noticeable emissions of dust or odour, but that there would be some minor detrimental impact on living conditions with respect to noise, impact on tranquillity, increase in light, and outlook. However, he is satisfied that the detrimental impacts would be relatively minor and would not be unacceptable (IR13.85). With respect to the risks to human health, the Secretary of State agrees with the Inspector that the plant could be operated without causing any material harm to human health, and that this matter would be adequately dealt with by the Environmental Permitting regime. Like the Inspector, he accepts that the concern of local residents regarding the risk to health would remain as a detrimental impact of the development (IR13.95).

Highway safety and the free flow of traffic

17. For the reasons given in IR13.96-13.104, the Secretary of State agrees with the Inspector's conclusion that the proposed restriction on the number of HGV movements is reasonable and appropriate and that the development would not have an unacceptable impact on highway safety and the free flow of traffic on the road network (IR13.104).

Impact on the local right of way network

18. For the reasons given in IR13.105-13.107, the Secretary of State agrees with the Inspector's conclusion that the impact on the right of way network would be detrimental, (for example, in terms of visual impact) but not to an unacceptable degree (IR13.107).

Ground and surface water; loss of agricultural land; and, habitats, wildlife and protected species

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on ground and surface water; loss of agricultural land; and, habitats, wildlife and protected species, as set out in IR13.108-13.117. With regard to ground and surface water, the Secretary of State agrees that the proposal could be built and operated without causing harm to the River Blackwater or causing contamination to groundwater (IR13.109), and that any localised lowering of the water table as a result of excavations would have little impact on vegetation (IR13.110). On the loss of agricultural land, the Secretary of State agrees that the proposal would result in the loss of Grade 3a agricultural land, which represents a conflict with local and national planning policies (IR13.111). However, he also agrees that its loss is not an overriding issue (IR13.112). With respect to habitats, wildlife and protected species, the Secretary of State agrees with the Inspector that, taking into account the proposed management of existing and proposed water bodies, the creation and management of new habitats, and the planting of woodland and hedgerows, the overall bio-diversity of the area would be enhanced (IR13.117).

The impact on listed buildings and the Silver End Conservation area, and the historic value of the airfield

20. The Secretary of State agrees with the Inspector's reasoning and conclusions on the impact on listed buildings and the Silver End Conservation area, and the historic value of the airfield, as set out in IR13.118-13.125. He agrees that the scheme as a whole would preserve the settings, character and appearance of the listed buildings and of the conservation area (IR13.122 and 13.123). He also agrees that there is no justification for withholding planning permission at the site because of its historic value as an airfield (IR13.125).

Other matters and mitigation measures

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on other matters and mitigation measures, as set out in IR13.126-13.129.

Conditions and obligations

22. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations, as set out in IR13.131-13.162. On the specific matter of the Secretary of State's view on whether a taller stack would be acceptable, he agrees with the Inspector's opinion at IR13.159 that until a more thorough assessment is undertaken and the views of all those who may be affected by such a change in the proposal have been thoroughly canvassed, no firm conclusions can be reached, and that with regard to the existing proposals, condition 56 is appropriate.

23. The Secretary of State is satisfied that the recommended conditions are reasonable and necessary and meet the tests of Circular 11/95. He also considers that the s106 agreement is relevant to the proposal and would meet the tests contained Circular 05/2005.

Overall conclusion

24. As set out above, the Secretary of State has identified some conflict with development plan policies, such as those brought about by the impact on the character and appearance of the area, impact on living conditions, and loss of Grade 3a agricultural land. However, he also considers that mitigation measures proposed would reduce this impact, and that they are not of such a magnitude as to refuse planning permission.

25. Those factors in favour of the proposal include that it would meet a need for the sustainable management of waste in line with PPS10, and would help to reduce carbon emissions. The proposal would also operate without causing any material harm to human health.

26. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development outweigh its shortcomings and overcome the limited conflicts with the development plan which he has identified. Therefore he does not consider that there are any material considerations of sufficient weight which would justify refusing planning permission.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for an Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks, in accordance with application number ESS/37/08/BTE dated 26 August 2008 (as amended) subject to the conditions listed in Annex A.

28. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

30. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

32. A copy of this letter has been sent to Essex County Council and all parties who appeared at the inquiry.

Yours sincerely

Michael Taylor
Authorised by Secretary of State to sign in that behalf

Annex A – Planning Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Not less than 30 days prior notification of commencement of the development shall be given in writing to the Waste Planning Authority.

2. The development hereby permitted shall only be carried out in accordance with drawing numbers:

1-1: Land Ownership & Proposed Site Plan

1-2: Proposed Planning Application Area

1-4: Access Road Details

1-5A: Typical Arrangement and Architectural Features of the eRCF

1-8: Schematic Arrangement of Woodhouse Farm

1-9: eRCF Simplified Process Flow

1-10: eRCF Integrated Process Flow

3-3: Site Plan Layout

3-8C: eRCF General Arrangement

3-12C: eRCF Detailed Cross-Sections

3-14A: eRCF Upper Lagoon & Wetland Shelf

3-16: Services Plan

3-19B: eRCF General Arrangement

8-6: Landscape Mitigation Measures

IT569/SK/06: Proposed Improvements to Site Access Road Junction with Church Road

IT569/SK/07: Proposed Improvements to Site Access Road Junction with Ash Lane

19-2B: Tree Survey

19-3B: The Constraints and Protection Plan

19-5: eRCF Base Plan Woodhouse Farm

3. The total number of Heavy Goods Vehicle (HGV¹) movements associated with the excavation of materials (i.e. overburden, sand, gravel, and boulder clay) and import and/or export of materials associated with the operation of the completed Integrated Waste Management Facility (IWMF²) hereby permitted shall not exceed the following limits:

404 movements 202 in and 202 out per day (Monday to Friday);

202 movements 101 in and 101 out per day (Saturdays);

and shall not take place on Sundays, Public or Bank Holidays, except for clearances from Household Waste Recycling Centres between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority. No HGV movements shall take place outside the hours of operation authorised in Conditions 34 & 36 of this permission.

¹An HGV shall be defined as having a gross vehicle weight of 7.5 tonnes or more.

² IWMF shall be defined as the buildings, structures and associated plant and equipment for the treatment of waste at the site.

4. The total number of HGV vehicle movements associated with the construction of the IWMF (including deliveries of building materials) when combined with the maximum permitted vehicle movements under Condition 3 shall not exceed the following limits:

404 movements 202 in and 202 out per day (Monday to Sunday).

No HGV movements shall take place outside the hours of operation authorised in Condition 35 of this permission.

5. A written record of daily HGV movements into and out of the site shall be maintained by the operator from commencement of the development and kept for the previous 2 years and shall be supplied to the Waste Planning Authority within 14 days of a written request. The details for each vehicle shall include the identity of the vehicle operator, the type and size of the vehicle, the vehicle registration number, and an indication of whether the vehicle is empty or loaded.

6. No development shall commence until full details of the extended access road and the layout of the cross-over points (both temporary and permanent) where the access road, both existing and proposed, crosses public footpaths, as shown on the Definitive Map and Statement of Public Rights of Way have been submitted to and approved in writing by the Waste Planning Authority. The extended access road and cross-over points shall be implemented in accordance with the approved details.

7. No works on the construction of the IWMF shall commence until the access road extension and widening and all footpath cross-over points have been constructed.

8. No vehicles shall access or egress the site except via the access onto the Coggeshall Road (A120 trunk road) junction as shown on application drawing Figure 1-2.

9. No vehicles shall park on the haul road between the A120 and Ash Lane.

10. No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation and recording has been submitted to and approved in writing by the Waste Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented prior to the commencement of the development hereby permitted or any preliminary groundworks.

11. No airfield buildings and/or structures shall be demolished until the Level 3 survey in accordance with the 2006 English Heritage Guidance entitled "Understanding Historic Buildings: A Guide to Good Recording Practice" of the airfield buildings and/or structures has been completed.

12. No ecological management works affecting the moat adjacent to Woodhouse Farm shall commence until details of the proposed works and proposed water supply for the moat and a timescale for its implementation have been submitted to and approved in writing by the Waste Planning Authority. The works to the moat and water supply arrangements shall be implemented in accordance with the details approved.

13. No development shall commence until details of signage, telecommunications equipment and lighting within the Woodhouse Farm complex (comprising Woodhouse Farmhouse, the Bakehouse, and the listed pump together with the adjoining land outlined in green on Plan 1 (which can be found in the S106 agreement)) have been submitted to and approved in writing by the Waste Planning Authority. The signage, telecommunications equipment and lighting shall be implemented in accordance with the details approved.

14. No development shall commence until details of the design of the stack serving the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The details to be submitted shall include:

- (a) elevations, sections and plan views to appropriate scales and construction details;
- (b) samples of the finish of the stack to provide a mirrored reflective surface; and

(c) information on the effect of weathering on the proposed stack material or how the effect of weathering is to be assessed by, for example the location on the site of examples of proposed materials which will be exposed to the elements and details of how the stack would be maintained to retain the quality of the surface of these materials.

The stack shall be constructed and maintained in accordance with the details approved

15. No development shall commence until design details and samples of the external construction materials, colours and finishes of the external cladding of the IWMF buildings and structures, and design and operation of the vehicle entry and exit doors, have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the details and samples approved.

16. Not used

17. No development shall commence until a management plan for the CHP plant to ensure there is no visible plume from the stack has been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved plan.

18. No construction of the IWMF shall commence until details of the green roofs proposed for the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The green roofs shall be implemented in accordance with the details approved.

19. No works to install process equipment or plant within the IWMF shall commence until details of the IWMF process layout and configuration have been submitted to and approved in writing by the Waste Planning Authority. The development shall be implemented in accordance with the approved details.

20. No development shall commence until details of the construction compounds and parking of all vehicles and plant and equipment associated with the extraction of materials and the construction of the IWMF have been submitted to and approved in writing with the Waste Planning Authority. The details shall include location, means of enclosure and surfacing. The compounds and parking shall be implemented in accordance with the approved details.

21. No beneficial occupation of the IWMF shall commence until details of the provision to be made for and the marking out of parking spaces for cars, HGVs and any other vehicles that may use the IWMF have been submitted to and approved in writing by the Waste Planning Authority. The parking provision and marking out shall be implemented in accordance with the approved details. The parking areas shall be retained and maintained permanently for manoeuvring and parking. No HGVs shall park in the parking area adjacent to Woodhouse Farm complex except in relation to deliveries for the uses at Woodhouse Farm complex.

22. No development shall commence until a detailed scheme for foul water management, including details of the design and operation of the foul water system for the IWMF and Woodhouse Farm complex has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the details approved prior to the commencement of operation of the IWMF.

23. No development shall commence until a detailed scheme for surface water drainage and ground water management, including details of water flows between the Upper Lagoon and the New Field Lagoon has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented in accordance with the approved details.

24. No excavation shall commence until a scheme of ground water monitoring for the site has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall identify the locations for the installation of boreholes to monitor groundwater and the frequency of monitoring. The scheme shall be implemented in accordance with the details approved prior to the commencement of excavations on the site.

25. No development shall commence until an investigation to identify whether the site is contaminated has been carried out and details of the findings including any land remediation and mitigation measures necessary should contamination be identified. The development shall be implemented in accordance with the approved details including any remediation and mitigation identified.

26. The market de-inked paper pulp plant shall only source its heat steam and energy from the IWMF with the exception of periods of start-up and maintenance and repair of the IWMF.

27. No waste, except pre-sorted waste paper and card and Solid Recovered Fuel, shall be brought on to the site other than that arising from within the administrative area of Essex and Southend-on-Sea. Records indicating the origin of all waste consignments and tonnages brought to the site shall be kept and made available for inspection by the Waste Planning Authority for at least 2 years after receipt of the waste. The records shall be made available to the Waste Planning Authority within 14 days of a written request.

28. (i) SRF shall be sourced internally from the IWMF or within the administrative boundaries of Essex and Southend-on-Sea.

(ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source SRF from these sources and there remains capacity within the IWMF, then SRF arising from elsewhere within the East of England may be used up to the available capacity for a period up to three years from the date of the agreement of the Waste Planning Authority.

(iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved.

29. No waste other than those waste materials defined in the application shall enter the site for processing or treatment in the IWMF plant. No more than 853,000tpa of Municipal Solid Waste and/or Commercial and Industrial Waste shall be imported to the site.

30. (i) No more than 50% of the imported waste paper and card (based on a nominal imported tonnage of pre-sorted waste paper and card of 360,000 tpa) shall be sourced from outside the administrative boundaries of the East of England Region.

(ii) If the Waste Planning Authority is satisfied that the operator has used its reasonable endeavours to source 50% of the imported pre-sorted waste paper and card from within the East of England region, then the imported pre-sorted waste paper and card may be sourced from outside the East of England Region for a period of up to 5 years from the date of written agreement of the Waste Planning Authority.

(iii) No development shall commence until a scheme giving effect to the requirement of clause (i) above of this condition is submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented as approved.

31. No waste brought onto the site shall be deposited, handled, stored, composted or otherwise processed outside the IWMF buildings and structures.

32. All waste materials shall be imported and exported from the site in enclosed, containerised or sheeted vehicles.

33. No vehicle shall leave the IWMF site without first having been cleansed of all loose residual mineral or waste materials from the vehicle's body and chassis.

34. No removal of soils or excavation of overburden, boulder clay, sand and gravel shall be carried out other than between the following hours:

07:00-18:30 hours Monday to Friday; and,

07:00 -13:00 hours Saturdays;

and shall not take place on Sundays, Bank and Public Holidays

except for water pumping, environmental monitoring and occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

35. The construction works (including deliveries of building materials) for the development hereby permitted shall only be carried out between 07:00-19:00 hours Monday to Sunday and not on Bank and Public Holidays except for occasional maintenance of machinery, unless temporary changes are otherwise approved in writing by the Waste Planning Authority.

36. No waste or processed materials shall be imported or exported from any part of the IWMF other than between the following hours:

07:00 and 18:30 hours Monday to Friday; and,

07:00 and 13:00 hours on Saturdays, and not on Sundays, Public or Bank Holidays

except for clearances from Household Waste Recycling Centres on Sundays and Bank and Public Holidays between 10:00 and 16:00 hours as required by the Waste Disposal Authority and previously approved in writing by the Waste Planning Authority.

37. No development shall commence until visible, legible and durable British Standard signs have been erected on both sides of the access road at the point where footpaths as shown on the Definitive Map, cross the access road to warn pedestrians and vehicles of the intersection. The signs shall read: 'CAUTION: PEDESTRIANS CROSSING' and 'CAUTION: VEHICLES CROSSING' and shall be maintained for the duration of the development.

38. Except for temporary operations, as defined in Condition 42, between the hours of 07:00 and 19:00 the free field Equivalent Continuous Noise Level (LAeq 1 hour) at noise sensitive properties adjoining the Site, due to operations in the Site, shall not exceed the LAeq 1 hour levels set out in the following table:

Noise Sensitive Properties

Location Criterion

dB L A eq 1 hour

Herring's Farm	45
Deeks Cottage	45
Haywards	45
Allshot's Farm	47
The Lodge	49
Sheepcotes Farm	45
Greenpastures Bungalow	45
Goslings Cottage	47
Goslings Farm	47

Goslings Barn	47
Bumby Hall	45
Parkgate Farm Cottages	45

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

39. The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 42 dB(A) LAeq 1hour between the hours of 19:00 and 23:00, as measured or predicted at noise sensitive properties, listed in Condition 38, adjoining the site. Measurements shall be made no closer than 3.5m to the façade of properties or any other reflective surface facing the site and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

40. The free field Equivalent Continuous Noise Level (LAeq 1 hour) shall not exceed 40 dB(A) LAeq 5min between the hours of 23:00 and 07:00, as measured and/or predicted at 1 metre from the façade facing the site at noise sensitive properties, listed in Condition 38, adjoining the site.

41. Noise levels shall be monitored at three monthly intervals at up to five of the locations, listed in Condition 38, as agreed with the Waste Planning Authority. The results of the monitoring shall include the LA90 and LAeq noise levels, the prevailing weather conditions, details of the measurement equipment used and its calibration and comments on the sources of noise which control the noise climate. The survey shall be for four separate 15 minute periods, two during the working day 0700 and 1830, and two during the evening/night time 18:30 to 07:00 hours, the results shall be kept by the operating company during the life of the permitted operations and a copy shall be supplied to the Waste Planning Authority. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Waste Planning Authority.

42. For temporary operations at the site in relation to the excavation of materials, the free field noise level at sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70dB LAeq 1 hour, due to operations on the site. Temporary operations shall not exceed a total of eight weeks in any continuous 12 month period for work affecting any noise sensitive property. Not less than 5 days written notice shall be given to the Waste Planning Authority in advance of the commencement of any temporary operation. Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration, and other temporary activity as may be agreed, in advance of works taking place, with the Waste Planning Authority.

43. No lighting for use during excavation of materials or construction of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details with respect to excavation of materials shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The lighting details with respect to construction of the IWMF shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1900 Monday to Sunday and at no time on, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

44. No lighting for use during operation of the IWMF within the site shall be erected or installed until details of the location, height, design, sensors, times and luminance have been submitted to and approved in writing by the Waste Planning Authority. The lighting details shall be such that no lighting shall exceed 5 lux maintained average luminance. The lighting details shall be such that the lighting shall not be illuminated outside the hours of 0700 and 1830 Monday to Friday and 0700 and 1300 Saturday and at no time on Sundays, Bank or Public Holidays except for security and safety lighting activated by sensors. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage from the boundaries of the site. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

45. No development shall commence until a detailed phasing scheme for the construction of the access road for the creation of the retaining wall around the site of the IWMF and extraction of the minerals from the site has been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

46. No development shall commence until details of soil handling, soil storage and machine movements and the end use of soils have been submitted to and approved in writing by the Waste Planning Authority. The development shall be carried out in accordance with the details approved.

47. Unless otherwise agreed in writing by the Waste Planning Authority, no topsoil, subsoil and/or soil making material shall be stripped or handled unless it is in a dry and friable condition³ and no movement of soils shall take place:

During the months November to March (inclusive);

(a) When the upper 50 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS1377:1977, 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or

(b) When there are pools of water on the soil surface.

³ The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.

48. No minerals processing other than dry screening of excavated sand and gravel or in the reformation of levels using Boulder or London Clays shall take place within the site.

49. Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development.

50. Prior to the commencement of development, details of any temporary or permanent site perimeter fencing shall be submitted to and approved in writing by the Waste Planning Authority. The fencing shall be erected in accordance with the details approved.

51. (a) No development shall take place until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include the suppression of dust caused by the moving, processing and storage of soil, overburden, stone and other materials within the

site during excavation of materials and construction of the IWMF

(b) No beneficial occupation of the IWMF shall commence until a scheme and programme of measures for the suppression of dust, have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include:

- (i) ; The suppression of dust caused by handling, storage and processing of waste; and
- (ii) Dust suppression on haul roads, including speed limits.

In relation each scheme provision for monitoring and review.

The development shall be implemented in accordance with the approved schemes and programme for the duration of the development hereby permitted.

52. (a) No development shall commence until details of measures to control any fugitive odour from the excavation of materials and construction of the IWMF have been submitted to and approved in writing by the Waste Planning Authority the measures shall be implemented as approved.

(b) No beneficial occupation of the IWMF shall commence until details of equipment required to control any fugitive odour from the handling/storage/processing of waste have been submitted to and approved in writing by the Waste Planning Authority. The details shall be implemented as approved.

53. Prior to the commencement of development a further ecological survey of the Site shall be carried out to update the information contained within the Environmental Statement and the impact of the development assessed and if required mitigation measures as set out within the Environmental Statement updated and amended to mitigate any impacts. Prior to the commencement of development, the ecological survey assessment of impact and any updated and amended mitigation shall be submitted to and approved in writing by the Waste Planning Authority. Any updated or amended mitigation shall be carried out in accordance with the approved details.

54. No development shall commence until a habitat management plan including details of the proposed management and mitigation measures described in the Environmental Statement (amended) has been submitted to and approved in writing by the Waste Planning Authority. The plan shall include:

- (i) Description and evaluation of the features to be managed;
- (ii) Ecological trends and constraints on site that may influence management;
- (iii) Aims and objectives of management;
- (iv) Appropriate management options for achieving aims and objectives;
- (v) Prescriptions for management actions;
- (vi) Preparation of a work schedule (including a 5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually);
- (vii) Personnel responsible for implementation of the plan; and,
- (viii) Monitoring and remedial/contingencies measures triggered by monitoring.

The development shall be implemented in accordance with the approved plan.

55. No demolition, excavation works or removal of hedgerows or trees shall be undertaken on the site during the bird nesting season [1 March to 30 September inclusive] except where a suitably qualified ecological consultant has confirmed that such construction etc should not affect any nesting birds. Details of such written confirmations shall be sent to the Waste Planning Authority 14 days prior to commencement of the works.

56. Only one stack shall be erected on the site to service all elements of the IWMF. The height of the stack shall not exceed 85 m Above Ordnance Datum.

57. No development shall commence until details and a timetable for implementation for all

bunding and planting have been submitted to and approved in writing by the Waste Planning Authority. The planting details shall include species, sizes, spacing and protection measures. The bunding details shall include shape and angles of slope and depth of soils. The scheme shall be implemented within the first available planting season (October to March inclusive) following commencement of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with Condition 58 of this permission. The bunding and planting details and timetable for implementation shall be implemented in accordance with the approved details.

58. Any tree or shrub forming part of the retained existing vegetation or the planting scheme approved in connection with the development that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of construction of the IW MF, shall be replaced during the next available planting season (October-March inclusive) with a tree or shrub to be agreed in advance in writing by the Waste Planning Authority.

59. No development shall commence until details of tree retention and protection measures have been submitted to and approved in writing by the Waste Planning Authority. The details shall include indications of all existing trees, shrubs and hedgerows on the site and on the immediate adjoining land together with measures for their protection and the approved scheme shall be implemented in accordance with the details approved.

60. No development shall commence until a scheme for the management and watering of trees adjacent to the retaining wall surrounding the IW MF for the period of the excavation of materials and construction of the IW MF, and throughout the first growing season after completion of construction where necessary, has been submitted to and approved in writing by the Waste Planning Authority. The management and watering of trees shall be carried out in accordance with the scheme approved.

61. No beneficial use of Woodhouse Farm shall commence until details of the layout of the adjacent parking area including hard and soft landscaping and lighting have been submitted to and approved in writing by the Waste Planning Authority. The parking area shall be provided in accordance with the details approved prior to beneficial use of Woodhouse Farm.

62. Prior to commencement of development, details of traffic calming measures designed to reduce the speed of traffic using the access road in the vicinity of the River Blackwater so as to protect potential crossing places for otters and voles, shall be submitted to and approved in writing by the Waste Planning Authority. The traffic calming measures shall be provided in accordance with the details approved.

63. Prior to commencement of development, details of the lining and signing of the crossing points of the access road with Church Road and Ash Lane shall be submitted to and approved in writing with the Waste Planning Authority. The lining and signing shall require users of the access road to "Stop" rather than "Give Way". The details shall be implemented as approved.