



**Application No:** 143704

**Location:** Rowhedge Business Park, Fingringhoe Road, Rowhedge, Colchester, CO5 7JH

**Scale (approx):** 1:2500

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#### **7.4 Case Officer: James Ryan**

## **OTHER**

**Site:** Rowhedge Business Park, Fingringhoe Road, Rowhedge, Colchester, CO5 7JH

**Application No:** 143704

**Date Received:** 7 April 2014

**Agent:** Mrs Sharon Smith

**Applicant:** Mr Graham Rampling

**Development:** Change of use of land to plant hire business.

**Ward:** East Donyland

**Summary of Recommendation:** Conditional Approval

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Lilley on the grounds of public safety, environmental issues, noise and nuisance.

### **2.0 Synopsis**

- 2.1 The key issues explored below are the principle of development, the impact on the countryside, the impact on neighbours and the impact on the highway network. The scheme was previously discussed at the 16<sup>th</sup> of April meeting and was deferred by members to seek clarification from the Environment Agency regarding the wash down area and to seek further information from the Highway Authority regarding their recommendation of no objection.

### **3.0 Site Description and Context**

- 3.1 The site is located on the edge of Rowhedge and is accessed off of the Fingringhoe Road. It is broadly rectangular and makes up one part of the larger Rowhedge Business Centre. To the north is an agricultural field; to the east is a small area of mixed woodland with dwellings beyond. To the south is an area of unused land and beyond that is the site that is currently being used unlawfully by Ramplings Plant Hire. To the north-west is Birchbrook House which is a residential dwelling and to the west is the rest of the Business Park and the main Fingringhoe Road beyond that.
- 3.2 At the entrance to the Business Park is a car sales area which has recently been granted retrospective planning consent. Further into the site are more car based uses (eg servicing) and a plant hire compound relating to another company.

#### **4.0 Description of the Proposal**

- 4.1 The change of use of this section of the business park to a plant hire business is proposed. A number of buildings to facilitate this use are also proposed.

#### **5.0 Land Use Allocation**

- 5.1 The land is not allocated on the Council adopted Proposals Maps. It is therefore brownfield land located in the defined countryside.

#### **6.0 Relevant Planning History**

- 6.1 COL/1070/75 – Workshop and toilet to house plant hire and equipment – Colchester Plant Hire – Approved.
- 6.2 COL/217/77 – A 12000 square foot building approved for the storage of building and plant – Colchester Plant Hire – Approved.
- 6.3 COL/1548/77 – Erection of computer room and extension to offices – Colchester Plant Hire – Approved.
- 6.4 COL/1603/79 – Erection of single storey building for use as plant cover – Colchester Plant Hire – Approved.
- 6.5 COL/1402/80 – Erection of walls, cladding and doors to make machinery storage buildings secure and enclosed – Colchester Plant Hire – Approved.
- 6.6 There are also a number of historic refusals but these have no particular relevance to this scheme.
- 6.7 Therefore it is clear that plant hire has taken place on site in the past, however this appears to have stopped some years ago. Another plant hire firm uses a compound on the site for plant storage however it does not actively operate from the site.
- 6.8 The planning history of the site to the south access off of Rectory Road where the use is currently operating from is also relevant. The Council refused an application for the existing use in 2012, application reference 121389. Following this application 131756 was received which was not materially different to the 121389 scheme and the Council declined to determine.
- 6.9 Following this, application reference 144677 was received which the Council did not determine but was accepted for appeal determination by the Planning Inspectorate. This scheme (application reference: 144677 and appeal reference: APP/A1530/A/14/2221633) was dismissed at appeal.
- 6.10 That appeal decision is particularly important as it pertains to the same use that this application proposes and the application site at hand is only located a matter of metres away from the dismissed appeal site to the south. The important issues arising from the Inspector's decision will be set out in a section below.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
CE3 - Employment Zones  
UR2 - Built Design and Character  
ENV1 - Environment  
ENV2 - Rural Communities  
ER1 - Energy, Resources, Waste, Water and Recycling

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity  
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses  
DP8 Agricultural Development and Diversification  
DP9 Employment Uses in the Countryside  
DP17 Accessibility and Access  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

## **8.0 Consultations**

### Highway Authority

8.1 The access to the Business Park is a matter of fact and is used regularly by larger vehicles. As such the existing highway users in the area are aware of the traffic associated with the site. Whilst the proposal would intensify the use of the access, the original application for this proposal utilised an access onto Rectory Road which necessitated the use of the Rectory Road/Fingringhoe Road junction. It is noted that the Business Park access is provided with better visibility splays than the aforesaid junction and as such the current proposal is less likely to create safety or efficiency issues for the existing highway users. The Highway Authority raises no objection to this proposal.

**8.2 As requested by Members at the 16/04/15 meeting further clarification was requested from the Highway Authority. The following email was received from Adam Garland on 9/7/15:**

“To confirm....

The Highway Authority assessment of the proposal included the following aspects:

- 1) The current site use and the trip levels associated with it;
- 2) The proposed use and the trip levels associated with it;
- 3) The access including geometry and visibility;
- 4) A comparison between this proposal and the previously proposed use of the access onto Rectory Road.

The developer provided information which showed the geometry of the road and the various conflict points meant that traffic speeds approaching the access were nowhere near the maximum 60mph limit. Associated with this are the following salient points:

- 1) The fact that the access is existing and is signed;
- 2) It already sees large vehicles using it - car transporters for example;
- 3) The Essex County Council 'traffweb' site shows no accidents in the vicinity of this access over the last five years;
- 4) The larger vehicles using the access will be visible for a greater distance over the crest of the hill;
- 5) This application would not see the larger vehicles using the junction of Rectory Road and Fingringhoe Road.

In this regard the Highway Authority is content that the proposal would not be detrimental to highway user safety.”

Essex and Suffolk Water

- 8.3 We note that the Cussen drawing number 1011/03 Rev B shows the revised building positions as a result of our response given in our email dated 30<sup>th</sup> October 2014, regarding our easement of our two Strategic Trunk Water Mains. We therefore have no objection to the change of use of the land to a plant hire business.

Environmental Protection

- 8.4 No objection subject to conditions to control the storage of oils, groundwater protection and full set of contaminated land conditions.

Natural England

- 8.5 Natural England are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites has been notified. We therefore advise your authority that these SSSI's do not represent a constraint in determining this application.

### Planning Policy

- 8.6 The team initially stated: 'The main proposal is considered in accordance with adopted national and local policies: the proposal would result in the sustainable relocation of the applicant's business from non-previously developed land (operating without planning permission) to a Business Park with existing and historic plant hire use. However, in order for the development to be policy compliant highway access should be served from Fingringhoe Road only'.
- 8.7 Following the revisions Planning Policy has now stated: 'This application sets out revisions made to the planning application which originally sought to use an existing access directly off Rectory Road. The application is now varied to utilise the existing access into the Business Park, directly off Fingringhoe Road. With the addition of the revised site access it is considered that the proposed development is consistent with national and local planning policy. On this basis, there is no planning policy objection to this application.'

### Environment Agency (EA)

- 8.8 No objection to the scheme. **Following the deferral, the EA has amended its consultation response to the following:**

"We refer to the email from LSR Solicitors and Planning Consultants, dated 24 June 2015, and the attached drawing, referenced 1011/12A, and dated May 2015, submitted in support of the above application. The information submitted has provided confirmation that the sump outlet is to be capped off. We are now satisfied that no deterioration to water bodies will occur as a result of this scheme, and are therefore able to remove our request for a condition regarding a foul water drainage scheme to be submitted."

### Health and Safety Executive

- 8.9 No particular comments to make subject to pointing the LPA towards its online advice.

### Ramblers (not a statutory consultee)

- 8.10 At present the whole site is hidden behind a bund from the adjacent Public Footpath. Will this continue? How will it look in future? I also note that a bunded fuel store is planned. Will this be regulation distance from walkers? Will it offer additional dangers?

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

- 9.1 'East Donyland Parish Council objects to this proposal on the grounds of noise pollution and increased traffic movement detrimental to the area and residential village environment.'

## 10.0 Representations

- 10.1 30 objections have been received. One of which was a lengthy representation that responded point-by-point to the applicant's supporting statement. It is beyond the scope of this report to replicate every point of the objector's response to the applicant's statement however the full text of that and all of the other representations are on the website.
- 10.2 In summary the representations received objected to the scheme on the following grounds:
- >The applicant has been operating on the site next door without consent for years.
  - >What are the Council doing about this unlawful development?
  - >The applicant is dragging mud all over the newly surfaced highway and mounting the verge opposite.
  - >We don't know what is in this mud or what contaminants may be present.
  - >As the site next door was unacceptable how can this one be acceptable?
  - >The scheme will cause noise and pollution to the detriment of our residential amenity.
  - >The new access will be harmful to highway safety.
  - >The applicant should be made to work from a site allocated for this kind of use.
  - >Strong enforcement action should be taken.
  - >The employment figures are incorrect and differ from previous applications.
  - >This scheme does not take into consideration the application for residential development at Rowhedge Wharf.
  - >The land does not form part of the Business Park.
  - >The site is not as well screened as the applicant states.
  - >The occupation of the current site is unlawful and the applicant is totally flouting planning regulations.
  - >The access proposed is from Rectory Road.
  - >The planning history makes no mention of the refusals that the applicant has received on the site.
  - >The fact the applicant does work for the Environment Agency is irrelevant.
  - >The site is a greenfield site.
  - >The site is near a nature reserve.
  - >The applicants suggest the Planning Department are in favour of the move to the Business Park site.
  - >The previous plant hire stopped 20 years ago and Rowhedge is a different place now.
  - >The applicant is a far bigger operation than the smaller scale plant storage use that occurs on site now.
  - >This is not the kind of rural business envisaged by the planning policies.
  - >The applicant shows no intention of promoting employment.
  - >The applicant is interpreting Council policy in a manner which suits him.
  - >This use is not small scale.
  - >There is no economic justification for this use.
  - >The applicant should be relocated to somewhere more suitable like Colchester Business Park.
  - >If this application is unsuccessful it is arguable it would actually affect the workforce.
  - >The other businesses on site are of a size and scale that are acceptable.
  - >The uses can be heard at 5.30 in the morning and even on Sundays.
  - >How can moving 0.3kms create new employment?

- >Where do the staff actually live?
- >Fingringhoe Road is narrow, hilly and twisty and therefore unsuitable, this site should be near a trunk road.
- >The site was not chosen for a specific planning reason.
- >The bus stop nearby is irrelevant.
- >The noise survey was taken at the wrong time of the day.
- >The site does not enhance the entrance to Rowhedge.
- >The owner of the skip hire company is very helpful.
- >The site is much noisier than the skip hire company.
- >Sometimes plant misses the site entrance and heads into Rowhedge with nowhere to turn around.
- >The business park access is not suitable for the proposed use.
- >There are a number of issues with the Rectory Road access including mud on the road and the churning of the verge.

10.3 A letter from Bernard Jenkin MP was also received, this was accompanied by a letter from one of his constituents. The issues raised have been included above.

10.4 In response:

The issue of the unlawful site to the south is being dealt with by the enforcement team and a prosecution is imminent.

The issues relating to the impact on highway safety and neighbouring amenity will be dealt with in the main body of the report.

The employment figures must be taken at face value. The NPPF is supportive of all economic development as long as any harmful impacts can be mitigated against and as set out in the report this is achievable.

This site is materially different to the refused scheme to the south and therefore must be assessed on its own merits. The fact that there are other sites that may be more acceptable to neighbours does not warrant a refusal of this scheme.

As will be set out in the relevant section of the report, the access has been moved from Rectory Road to the existing access on Fingringhoe Road. This will remove the issues currently experienced with this access.

The land does form part of the Business Park and will be read as such visually.

It is considered that this scheme benefits from more screening than the previously refused site to the south. It is also set well back from the road unlike the unlawful site.

The refusal mentioned relate to the site the applicant is currently operating on. This was refused by the Council and the resubmission was refused at appeal. It is important to note that the two sites although close to each other are not connected physically and are served by different accesses off of different roads.

The Highway Authority has no objection to the scheme.

This scheme will not cause material harm to nearby nature reserves.

This site is Brownfield land as it is previously developed.

The Policy Team is comfortable with the scale of the development in the context of policy.

If the site is refused it would have an impact on the workforce as the applicant has not identified an alternative site and therefore may have to move out of the Borough altogether.

The Environmental Control team is satisfied with the findings on the noise survey. The hours of working can be controlled by condition and will be restricted in line with the hours on the application form.

Following the deferral amended plans have been received detailing the wash down area. As can be seen from the Environment Agency's amended comments it is now considered that this scheme will not cause contaminants to wash off into the groundwater.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 This scheme provides ample opportunity for off-street parking which will be dealt with informally on site. It is expected that staff will park near to the office building. There is no reason that this scheme will force additional on-street parking.

## **12.0 Open Space Provisions**

- 12.1 This scheme does not have an impact on public open space nor does it generate a requirement for one.

## **13.0 Air Quality**

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

## 15.0 Report

### Background

- 15.1 At the time of the last Planning Committee meeting Rampling's Plant Hire was operating unlawfully from the site to the south using an access on Rectory Road. An application was made to regularise the use on site which was refused. An enforcement notice was served but the applicant did not comply nor did they appeal. A resubmission was then submitted which was dismissed at appeal. The enforcement notice on the site is therefore still extant and the prosecution process had been commenced as the applicant has not complied with the enforcement notice at that point. It is noted that the trial for failure to comply with the enforcement notice is scheduled for the 3<sup>rd</sup> August 2015.
- 15.2 The key material change in circumstance since the deferral is that Rampling's Plant Hire has now vacated the site to the south which uses the access on Rectory Road and is operating from the site that is the subject of this application.

### Principle of the use.

- 15.3 Whilst officers did not support the scheme in its previous unlawful position, the principle of the same use relocated to this site at the rear of the Rowhedge Business Park is acceptable in principle. This area is already used for a number of industrial activities and has been for many years as set out in the planning history section of this report. Another company that owns HGVs and other plant already has a plant storage compound on site. There is no objection from the Policy Team in this instance.
- 15.4 The existing lawful use of the application site is unclear. It does appear to have been used for plant hire purposes in the past, however that use ceased some years ago – representations state this was 20 years ago. Much of what falls into the application site has been used in the more recent past for informal industrial uses such as the parking of HGVs and external storage of materials. The Council's GIS aerial photographs from 2000, 2006 and 2009 all show much of the land in question as being used for what looks like informal storage. HGVs, cars and the external storage of materials can all be seen. If anything, the external storage use appears to be more intensive in the 2009 photo than in 2000.
- 15.5 Whilst it is clear that this site has been subject to a degree of activity up to, and possibly beyond, 2009, it is important to note that the site does *not* however benefit from a Lawful Use Certificate for any particular use on the site and therefore this scheme must be assessed on its own merits.
- 15.6 Being situated within the Business Park the land is considered previously developed and an extensive planning history confirms this. National and local policy is supportive of the principle of reusing previously developed land. A core planning principle of the NPPF is to: 'encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value...'

- 15.7 In a similar vein, the Council's Core Strategy in policy CE1 states: 'The Council will promote employment generating developments through the regeneration and intensification of previously developed land... at sustainable locations.' The Council's adopted policies DP9 and ENV2 promote employment development schemes where they contribute to the local area and the benefits of the scheme outweigh any negative implications that may be a consequence of the development. DP9 states: 'Employment development proposals within the countryside outside of designated local employment zones must contribute to the local rural economy and help sustain rural communities'
- 15.8 Policy ENV2 states that the Council will favourably consider schemes outside of settlement boundaries that:  
'...are appropriate to local employment needs, minimise negative environmental impacts and harmonise with the local character and surrounding natural environment.'
- 15.9 DP9 and ENV2 both ensure that the positive and negative impacts of development must be assessed locally so that those who are negatively impacted by development also enjoy the benefits brought about by development. For this reason the applicant must evidence the employment benefits to the local community if a proper balance is to be determined. It is submitted that the site's operations employ 14-20 people with additional temporary employment of a further 30 people if demand dictates. Employees are considered to be from 'Colchester and the surrounding villages' which does not necessarily mean they are employed 'locally' in respect of DP9, however it is accepted that employees are transitory in nature and this must therefore be viewed in general terms.

Points to note from the Inspector's decision

- 15.10 As this scheme is very close to the site that was dismissed at appeal it has a great deal in common with it and therefore the Inspector's decision is an important material consideration.
- 15.11 The Inspector considered that the site to the south was unacceptable as it constituted unsustainable development on Greenfield land and the wide access point onto Rectory Road afforded views of the starkly industrial appearance. The Inspector did not consider that the appeal site related to the Business Park but related far more to the countryside.
- 15.12 This application proposal actually forms part of the Rowhedge Business Park and therefore visually reads as part of it. It is previously developed land and is therefore classed as Brownfield. It uses the existing access on Fingringhoe Road and will not afford the direct views to the site due to the long access-way through to the rear of the site.
- 15.13 The Inspector noted neighbouring representations that objected to the scheme in terms of noise and disturbance, but did not consider these issues to warrant a refusal of the scheme in their own right. This is a key point as, due to its proximity, the scheme currently before Members would have a very similar impact in terms of noise and disturbance to neighbours.

### The evolution of the scheme.

- 15.14 As originally submitted, the scheme before Members used the existing unlawful access on Rectory Road, passed through the site which is the subject of the enforcement notice and entered the site in its south eastern corner. Officers highlighted that this would not overcome the issues of countryside impact that the Inspector put significant weight on as it would not enable the removal of the extremely industrial access point needed for the large and slow moving plant that the applicant deals with. Retaining this access would also afford views right up the access-way and would inevitably be used for the short-term parking of plant as it manoeuvres.
- 15.15 Following the dismissed appeal, the application scheme was amended to take access via the existing business park access point. This means access will be taken from the main Fingringhoe Road which will remove the need for large and slow moving HGVs to turn down Rectory Road and then into the site.
- 15.16 The positions of the buildings on site have also been amended on two separate occasions. This is due to an Essex and Suffolk mains water easement that runs across that section of the site. As Essex and Suffolk Water does not allow buildings to be sited over the mains pipe or within the easement it was necessary to re-jig the layout to get the buildings into positions that were away from the easements and also away from trees on the boundary.

### Design and Layout

- 15.17 The proposed buildings comprise a covered workshop of 14.5 metres by 8 metres by 5.5 metres to the ridge and a covered store measuring 15 metres by 7 metres by 4 metres to the ridge. The office, pipe store, parts store and the bunded diesel store are all metal shipping containers and are those that are already situated on the appeal site to the south. A wash-down area is also proposed for the cleaning of plant. The rest of the site will be used for plant storage and parking on an ad-hoc basis depending on which plant is off-site at the time.

### Scale, Height and Massing

- 15.18 The proposed buildings are acceptable in terms of scale height and massing. Where one container sits on top of another they are no higher than five metres. The buildings will be visible from the Public Right of Way to the north however in the context of the other structures on the Rowhedge Business Park they are considered to be acceptable in design terms the visual impact the scheme will have is not considered to be demonstrably harmful to the point that warrant a refusal, especially as the site is already used for a number of industrial uses.

### Impact on the Surrounding Area

- 15.19 As the scale, height and massing are considered to be acceptable and as the scheme now proposes to use the existing Rowhedge Business Park access, it is not considered that this scheme will have a materially harmful impact on the surrounding area. Relocating the access away from Rectory Road is considered to be a significant improvement for the surrounding area as it will remove the need for HGVs to use the Fringringhoe Road and Rectory Road junction and will also remove the issue of HGVs pulling out across Rectory Road as they currently do. The previous situation was so poor that when heading out of Rowhedge as they do in the main, the large low loaders exited the unlawful access, crossed both carriageways, mounted the highway verge as they swung out and then straightened up. This has resulted in a churned up verge and a great deal of mud on the highway. Removing this issue will be beneficial to the surrounding area. Notwithstanding the comments of the Parish, it is considered that this scheme will not have a materially harmful impact on the village as there will be no need for vehicles to turn into the village in the overwhelming majority of cases.
- 15.20 Following the deferral of this item at the 16<sup>th</sup> of April meeting, the Highway Authority have provided additional commentary which can be seen in full in the relevant section above.

### Impacts on Neighbouring Properties

- 15.21 Policy DP9 refers to the avoidance of detrimental effects of development such as noise. A number of residential dwellings are located beyond the woodland buffer to the east. In particular, the dwellings that front onto Rectory Road and some in Ashurst Close have gardens that back onto this woodland. The scheme is also adjacent to the boundary of the dwelling at Birchbrook House but this dwelling enjoys a large garden and strong boundary planting.
- 15.22 This scheme has the potential to generate noise from the movement of plant around the site and from the pressure washing of vehicles. The scheme has come with a noise survey that demonstrates that the noise generated by this scheme will not be materially harmful to neighbouring amenity as it will be below background levels, subject to the installation of an acoustic fence (two metres in height) on the eastern boundary. The details of this will be secured by condition.
- 15.23 The Environmental Control team has not objected to this scheme but requires conditions which will be imposed. On that basis the scheme is not considered to have a materially harmful impact on neighbouring amenity.
- 15.24 The application form sets out the use will operate from 7am to 6pm Monday to Friday and 7am to 1pm on Saturdays with no working on Sundays or Bank Holidays. This is considered to be acceptable and will be conditioned accordingly.

### Impact on the Public Right of Way

- 15.25 This scheme will not have a material impact upon, nor will modify the definitive route of the PRow to the north. The scheme will not change the bund that the Ramblers mention in their response. The fuel store that they mention will not encroach upon the PRow either as it sits within the site.

## Highway Issues

- 15.26 The Highway Authority has assessed the scheme and has no objections. The internal turning area is workable and the existing access is also acceptable in highway terms mindful of the size and low speed of the types of vehicles that will be using the access.
- 15.27 Objectors have stated that this access is not appropriate for the types of vehicle movements that this use generates. As the Highway Authority has no objection to the scheme, a refusal on that basis would not be reasonable. An additional statement has been provided by the Highway Authority that clarifies their stance as set out in the relevant section above.

## Other Matters

- 15.28 Policy ENV2 refers to the environmental impacts and considerations caused by development. In respect of environmental impacts, the ecological and aboriginal assessments of the land have demonstrated that no significant harm will be caused by the development. Where identified, the ecological report makes appropriate recommendations for the protection of wildlife during development works. This concluded that the site was of limited ecological potential and did not require any further surveys. In this instance, considering the disturbed nature of the site, on balance it is acceptable.
- 15.29 The application also included a tree survey, but this only deals with the previously proposed new access track through the old site which has been removed from the scheme. The buildings on site have been moved to pull them away from any sensitive trees. The trees on the north and east boundaries will need to be protected during the construction phase and the precise details of the methodology pertaining to this will be secured by condition.

## **16.0 Conclusion**

- 16.1 This item was deferred at the 16<sup>th</sup> April meeting in order to deal with issues raised by the Environment Agency and to seek clarification from the Highway Authority as to the stance they have taken. The Environment Agency are happy with the wash down area and have no objection to the scheme. The Highway Authority also has no objection to the scheme and has set out more detail as to why this is the case. The scheme is therefore acceptable and an approval is warranted.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions

### **1 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 1011/03 Rev C, 1011/06 and 1011/12A.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

## 2 - Non-Standard Condition/Reason

The site and buildings on it shall be used for the storage of plant and for plant hire purposes only as defined in the Use Class Order and for no other purpose. Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

## 3 - \*Restriction of Hours of Operation

The use hereby permitted shall not OPERATE - including moving of plant, running of engines and washing down of plant - outside of the following times:

Weekdays: 7.00hrs to 18.00hrs

Saturdays: 7.00hrs to 13.00hrs

Sundays and Public Holidays: No working.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

## 4 - Non-Standard Condition/Reason

Within two months of the date of this permission, a two-metre high acoustic screen boundary treatment that shall have previously have been approved, in writing, by the Local Planning Authority, shall be erected along the boundary to the east as set out in the acoustic report. The screen boundary treatment shall thereafter be retained as approved.

Reason: To protect the amenities and privacy of occupiers of the adjoining property as set out in the acoustic report.

## 5 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

## 6 - Tree and Natural Feature Protection: Entire Site

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

#### 7 -Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained, unless shown to be removed on the approved drawing. All trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, by the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

#### 8 - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

Reason: To adequately safeguard the continuity of amenity afforded by existing trees.

#### 9 - Non-Standard Condition/Reason

Within two months of the date of this permission, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dBA above the background levels determined at all boundaries near to noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

#### 10 - External Light Fixtures TBA

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution

## 11 - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## 12 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 13 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 14 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### 15 - Non-Standard Condition/Reason

There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways. This shall be achieved via the construction of the approved wash down area as set out on plan 1011/12A which shall have a capped sump outlet.

Reason: To ensure satisfactory arrangements are made for the disposal of foul and surface water drainage in order to prevent pollution of the water environment and to protect the groundwater quality in the area in the interests of Health and Safety.

### 16 - \*Protecting Public Rights of Way

The public's rights and ease of passage over PUBLIC FOOTPATH 29 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

## 17 - Non-Standard Condition/Reason

Within two months of the date of this permission details of a wheel washing facility within the site and adjacent to the egress onto the highway must be submitted to and approved, in writing, by the Local Planning Authority. The wheel washing facility shall be provided prior to any use taking place and shall be maintained at all times thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety.

## 18 - Storage of Oils etc.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls where the volume of the bund compound shall be at least equivalent to 110% of the capacity of the tank. If there is a multiple tankage, the compound volume shall be at least equivalent to 110% of the capacity of the largest tank or 110% of the combined capacity of any interconnected tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses shall be located within the bund and the drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent unnecessary pollution of the groundwater or nearby water courses.

## 19.0 Informatives

(1) **ZT0 – Advisory Note on Construction & Demolition** The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**  
PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

## 20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.