

DR/16/24

Report to: DEVELOPMENT & REGULATION 28th June 2024

Proposal: MINERALS AND WASTE DEVELOPMENT - Development of an Energy Recovery Facility, ancillary office block and associated infrastructure on land to the South of Archers Fields Close, Burnt Mills Industrial Estate, Basildon, Essex.

Ref: ESS/120/20/BAS

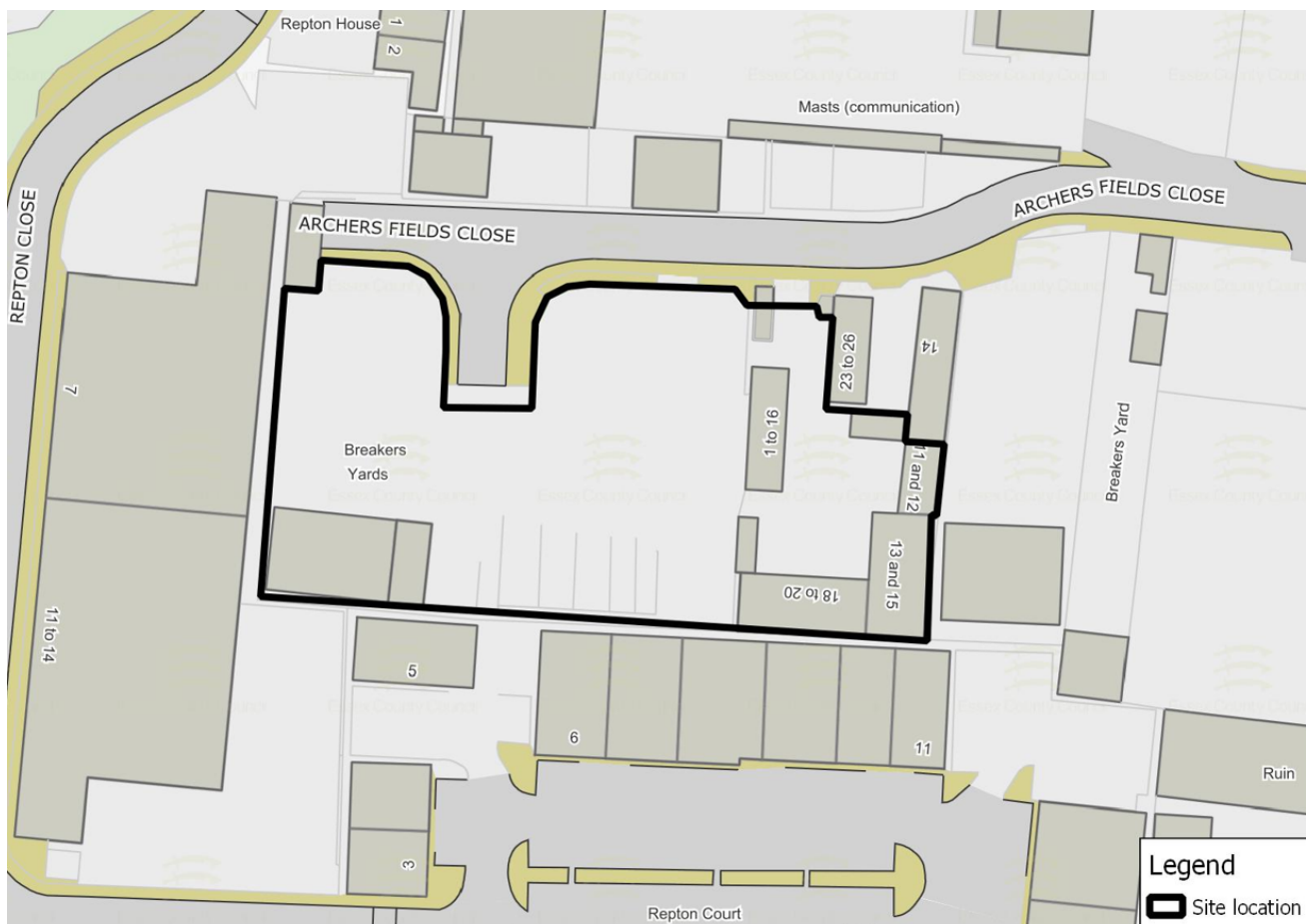
Applicant: Archers Fields Energy Recovery Ltd

Location: Land to the south of Archers Fields Close, Burnt Mills Industrial Estate, Basildon, SS13 1DN

Report author: Chief Planning Officer (County Planning and Major Development)

Enquiries to: Richard Greaves Tel: 03330 136817

The full application can be viewed at <https://planning.essex.gov.uk>



1. **BACKGROUND**

The planning application for the proposed development was considered by the Development & Regulation Committee on 26 January 2024 and 24 May 2024, respectively. The officer report and appendices can be viewed [here](#).

At the May meeting, the Committee resolved to refuse the application for the development of an Energy Recovery Facility, ancillary office block and associated infrastructure on land to the South of Archers Fields Close, Burnt Mills Industrial Estate, Basildon, Essex. The reasons for refusal were:

1. Overdevelopment and industrialisation of the locality, resulting in it being an unsuitable location for the proposed development.
2. The impact the proposed development would have on the mental and physical wellbeing of residents. This included that there was insufficient evidence that the proposed development would cause no harm to Public Health.
3. The impact the proposed development would have on the biodiversity of the locality.
4. The inadequate consultation on the greater area surrounding the site.

In accordance with the [Committee Protocol](#), a formal decision on the application was deferred until a later meeting of the Committee. The deferral was to allow officers to provide an appropriate and reasonable recommendation, based on planning policy, setting out the reasons for refusal in full. This report sets out that detail.

2. **SITE**

Burnt Mills Industrial Estate itself forms one of a number of land parcels situated either side of the north/south orientated A132 Basildon to Wickford link road. The A132 forms the industrial estates western boundary and allows the estates businesses access to the wider public highway network. Courtauld Road forms the northern estates boundary and links onto the A132 via the East Mayne roundabout, whilst Burnt Mills Road comprises the southern boundary. There is only pedestrian/cycle access from the industrial estate to Burnt Mills Road.

The application footprint comprises some 0.50 Hectares of industrial estate land presently used for the storage and maintenance of Waste-A-Way vehicles and equipment. Within the footprint, which forms a rough rectangular shape, a workshop building/office is situated within the south-western corner. There are a number of smaller individual business units, on short-term rolling rent, accommodated within the eastern third of the footprint. The rest of the land comprises open hard surfaced ground.

Immediately to the north of the application land is Archers Field Close a dead-end road with a number of businesses operating off it that leads onto Archers Field Road the main spine road within this part of the estate. A telecommunications mast of some 30 metres high is situated to the north-east.

To the east and situated along Archers Field Road are a number of waste businesses including those operated by Veolia who operate a large facility on the eastern perimeter of this part of the BMIE. Immediately to the south of the Veolia parcel are two additional plots of land, owned and operated by part of the applicant company (to this present report) business interests: Clearaway Recycling Ltd. The Clearaway locations are identified for providing the feedstock from their present bulk processing activities for the Energy Recovery Facility.

Abutting the application land to the south is Repton Close, a collection of smaller industrial/office units with separate access onto Burnt Mills Road.

3. APPRAISAL

1. Overdevelopment and industrialisation of the locality, resulting in it being an unsuitable location for the proposed development.

The proposed development lies within an 'Area of Search' (AoS) as allocated in the Essex and Southend Waste Local Plan 2017 (WLP). Policy 4 of the WLP identifies 'Burnt Mills Central' as an AoS generally considered suitable for waste management development. Nonetheless, the supporting text of Policy 4 states that 'proposals with the Areas of Search will normally require planning permission and will be considered against other relevant policies in the WLP, including Policy 10 -Development Management, and the wider development plan as a whole.

Policy 10 - Development Management Criteria states, inter-alia, that "*proposals for waste management development will be permitted where it can be demonstrated that the development would not have an unacceptable on:*

- a) *local amenity including noise levels, odour, air quality, dust, litter, light pollution and vibration, and;*
- n) *the character and quality of the area, in which the development is situated, through poor design."*

Policy BAS E7 (Alternative Uses of Industrial Premises) Basildon District Local Plan (BDLP) saved policies document (2007) requires, inter-alia, that:

"The development of land or buildings, allocated or in use for business, general industry, and storage or distribution purposes (Use Classes B1-B8) for a use falling within any other use class, may be permitted provided the following criteria are met:-
iv. there is no adverse impact upon the amenities of the area...."

Policy BAS E10 (General Employment Policy) of the BDLP– states, inter-alia, that: "*Proposals for industrial, business and office development (Use Classes B1 to B8) will be considered with regard to the following criteria:-*

vi. The design, form, scale, and materials of the development will be expected to be appropriate and sympathetic to neighbouring developments, particularly adjacent to residential areas; and

The proposed facility comprising two buildings together would be significant in scale (100 metres in length x up to 35 metres wide and 20 metres high) and the proposed stacks would be approximately 50m in height. Beyond the industrial estate lies a mixture of agricultural fields and residential dwellings to the east and north (beyond the A127), Herons Gate trading estate to the west and residential properties to the south the nearest being off Sherbourne Drive at 126 metres and Eynsham Way at 158 metres. A homeless shelter (former nursery) has also been established in Nevendon Place approximately 50m to the south of the site.

The County Landscape Officer (CLO) had previously concluded on the Landscape and Visual Impact Assessment (LVIA) that, inter-alia, *“the stacks and plumes will be visible from long distanced views, such as those from the north (VP 7 and 12) [around Borwick Lane] and will be a new feature on the skyline. Consideration has also been given to effects on residential visual amenity relating to some of the nearer residential properties to the south at Felmore and where these include apartment type properties with main habitable rooms above ground floor level.”*

Whilst the CLO did not conclude that the development would be unacceptable in this respect, it is considered that the development would introduce much larger scale development within the industrial area than currently exists, in an area proximate to a residential area to the south, and in this respect would cause harm to the character and quality of the industrial area and adjacent residential locality. As such the proposal would conflict with Policy 10 of the WLP and Policies BAS E7 and BAS E10 of the BDLP.

2. The impact the proposed development would have on the mental and physical wellbeing of residents. This included that there was insufficient evidence that the proposed development would cause no harm to Public Health.

A Health Impact Assessment (HIA) has been carried out using methodologies recommended by the South Essex Head of Public Health. The HIA also takes into account the results of a Human Health Risk Assessment (HHRA) carried out to support HIA and also the potential health and wellbeing effects identified within the Noise Assessment, Air Quality Assessment, and several other technical chapters of the Environmental Statement. The report also notes that *“The socio-economics effects of the Proposed Development, such as Education, Employment, Poverty and Qualifications, which may in turn affect the health and wellbeing of the population, are considered”*.

The Human Health and Wellbeing chapter of the Environmental Statement (ES) *“considered determinants of health and wellbeing not already considered in the ES, such as Crime, Social Cohesion, Supporting Community Participation and Neighbourhoods”*.

The HIA at a basic level, *“considers the potential positive and negative health and well-being impacts of the Proposed Development on a range of receptors, highlighting any potential effects on vulnerable groups within the population, and*

describing embedded and residual mitigation measures to reduce potential adverse effects and maximise positive ones”.

“The scope of the assessment of health and wellbeing criteria to be assessed against the Proposed Development has been guided by the relevant sections of the Scoping Opinion response from ECC; consultee comments from Public Health England (PHE) and ECC’s Head of Wellbeing and Public Health; feedback from stakeholders during the consultation process with the public undertaken by the applicant; and Enzygo’s understanding of the elements of the Proposed Development which may give rise to potential health impacts, based on our professional experience”.

The assessment “has sought to define the development effects from which health impacts can arise in the context of the current local environmental, social/cultural and economic context. This has examined and provided clear conclusions on potential health impacts arising from the construction and operation of the Proposed Development , which are negligible or insignificant following mitigation actions recommended and incorporated in the proposals.

The HIA recognises that perceptions of impacts can have implications for Health and the vulnerability of local communities to change brought by new developments should be considered. The HIA therefore recommends that the applicant’s proposals include measures to provide transparency about the facility’s operations, for example through live emissions data made available online and to the local Environmental Health Officers. It also recommends that the applicant seeks to form an on-going liaison group with the local community in order to build dialogue and understanding about the Proposed Development during its construction and operation. This will foster greater co-operation to address any matters which may arise”.

The assessment notes that through aspects such as the liaison group, “engagement with the local community, particularly around issues such as energy, waste and recycling, has the potential to instil behaviour changes and interest in these issues, resulting in the potential for further benefits over the long-term”.

The NPPF seeks to mitigate, through appropriate planning decisions, the potential for noise and other adverse impacts including air quality, arising from a development on health and quality of life.

In line with the aims determined in the NPPF, the Noise Policy Statement for England (NPSE) determines three aims:

- Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.*
- Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.*

- Where possible, contribute to the improvement of health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

Public Health England (PHE) previously responded to updated application information and stated, inter alia, that *“PHE understand that this consultation pertains to additional documentation submitted by the applicant to Essex County Council (ECC). Updated documentation pertinent to public health is considered to include the following:*

- *‘Response to Consultee Comments – Public Health England’, letter dated 18 June 2021;*
- *‘ES Chapter 9 – Air Quality’, report dated September 2020;*
- *‘ES Chapter 11 – Geo Environmental’, report dated March 2021; and*
- *‘ES Chapter 12 – Human Health and Wellbeing’, report dated June 2021.*

PHE note both the Air Quality and Geo Environmental reports pre-date our previous consultation response (March 2021). PHE have reviewed the applicant’s letter response to our consultation response and have the following comments:

1. It is understood that the adjacent concrete block production facility does not require any planning changes to facilitate the proposed waste incineration process and therefore, does not require inclusion in the subject ES. On this basis, PHE have no further comment; however, recommend that ECC ensure they are satisfied that changes are not required to this existing permission to facilitate the proposed waste incinerator.

2. It is unclear how there will be ‘no change to the overall throughput’; but conversely ‘an increase in recycling rates would technically lead to a larger volumes of recyclables being exported from the existing facility’. Whilst these increases are reported to be accommodated within existing excess capacity of existing vehicles, PHE note that the increased processing of materials can in turn result in increased emissions from the site operations. PHE recommend that ECC ensure they are satisfied the increased waste processing at the site is appropriately clarified and assessed within the ES.

3. The applicant notes that the closest sensitive human receptor is a residential property off Nevendon Road positioned 278m from the stack. PHE noted in our consultation response additional sensitive receptors which were identified by the applicant including ‘Partyman World of Play indoor play centre and Twizzle Tops Day Nursery is located approximately 90m from the site’ (now the homeless centre). It is unclear why these receptors have not been included in the ES and PHE recommend that ECC with their knowledge of the local area ensure they are satisfied that appropriate receptors have been included in the ES.

4. PHE are satisfied with the applicant’s comments.

5. PHE understand that major accidents and disasters was not included in the scoping opinion and that the applicant is requesting further clarity on this point from ECC as the regulator. Noting the nature of the application, PHE may be

consulted by the Environment Agency on the site's permit application and can comment on the finalised accident management plan at this stage.

6. The applicant has noted 'where a site was identified due to an anticipated cumulative impact...the site was cumulatively reviewed'. As per our previous response, it is recommended that a rationale behind the inclusion or exclusion of cumulative developments is presented, so that the applicant's judgement on if an application is relevant can be reviewed. PHE recommend that in the absence of any rationale, ECC as the local expert should ensure they are satisfied the applicant has included relevant cumulative schemes.

7. The applicant notes in their response that the site will achieve Best Available Techniques Associated Emission Levels and that monitoring will be undertaken to demonstrate compliance. PHE may be consulted by the Environment Agency on the site's permit application and can comment on emission levels and proposed monitoring if consulted at this stage.

PHE note that 'Chapter 11 – Geo-Environmental Rev B' included on the planning portal is dated March 2021 (i.e. the same time as PHE's previous consultation response). PHE recommend that ECC ensure they are satisfied that any inconsistencies have been appropriately addressed and included within the ES. Furthermore, PHE recommend that ECC ensure they are satisfied in the ES noting the absence of any quantitative site information.

PHE as an advisory body have provided professional, scientific expertise and advice to ECC for the proposed planning application. PHE recommends that ECC as local experts and as the regulator ensure they are satisfied with the applicant's Environmental Statement. Owing to the nature of the application, PHE may be consulted by the Environment Agency on any permit associated with the facility and if consulted will provide relevant expertise at this time".

In 2014 the Department for Environment, Food and Rural Affairs (DEFRA) produced a paper [Energy from waste A guide to the debate](#) February 2014 (revised edition). In that paper the health impacts of emissions is considered, stating (paragraph 130 onwards):

"Health issues are always a major focus of the debate around energy from waste and the importance placed on minimising any health risks is reflected in the tight regulations surrounding emissions. It is also reflected in the high priority given to the ongoing process of conducting, evaluating and disseminating high quality science.

The Government is advised by the Public Health England (PHE) on the impact of health of emissions to air from energy from waste plants. PHE has reviewed research undertaken to examine the suggested links between emissions from municipal waste incinerators and effects on health. It notes that modern, well managed incinerators make only a small contribution to local concentrations of air pollutants. The PHE's view is that while it is possible that such small additions could have an impact on health, such effects, if they exist, are likely to be very small and not detectable.

PHE will continue to review any new research findings on the health effects of incinerators published in peer reviewed journals and update its advice as necessary. It is good practice to regularly review the relevant published research to ensure the evidence underpinning regulation and advice is as strong and up-to-date as possible. The conduct and publishing of new research is a key part of an accepted ongoing scientific process to increase the evidence base, and doing so does not necessarily indicate that the level of risk has changed, that the associated advice should be altered, or a more precautionary approach taken.

Following this paper the results of a [major study on modern municipal waste incinerators](#) (MWIs) were been published by the Small Area Health Statistics Unit (SAHSU) at Imperial College London.

The 2 papers - published respectively in November 2018 and May 2019 - found no evidence of an increased risk of infant mortality for children living close to MWIs.

A final paper, published in June 2019, found no evidence of increased risk of congenital anomalies from exposure to MWI chimney emissions, but a small potential increase in risk of congenital anomalies for children born within ten kilometres of MWIs.

In that study [Professor Mireille Toledano](#), Chair in Perinatal and Paediatric Environmental Epidemiology at Imperial, said: *"In these studies we found a small increase in risk for children living within 10 km of an MWI being born with a heart defect, or a genital anomaly affecting boys, but did not find an association with the very low levels of particulates emitted. "This increase with proximity to an incinerator may not be related directly to emissions from the MWIs. It is important to consider other potential factors such as the increased pollution from industrial traffic in the areas around MWIs or the specific population mix that lives in those areas."*

Following the Committee's decision to defer the application in January 2024, the applicant submitted further clarification on the emissions from the proposed facility:

"The applicant provides this additional detail based on the air quality assessment ("the AQA") undertaken by Isopleth (Ref. Report Ref: 01.0009.021 (v2) dated October 2020) which considered the impacts of stack emissions in the vicinity of the site.

The applicant concluded that "the largest emitted substance's impacts are well below the required standard at any location throughout the assessment extents. It can be seen that there is no potential for a breach of the air quality objectives at any location."

Nonetheless, whilst the guidance and evidence submitted with the application reveals that emissions would be within the required limits, there is still continued concern that such emissions could impact on the health and wellbeing of the local community.

Paragraph 191 of the National Planning Policy Framework states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.”*

[National Waste Planning Guidance](#)¹ requires that *“Local planning authorities can ensure that waste is handled in a manner which protects human health and the environment through testing the suitability of proposed sites, both in developing their Local Plans and in considering individual planning applications, against the policies in paragraphs 4 to 7 and the factors in Appendix B of National planning policy for waste. Other ways in which they can deal with this include:*

- *putting in place suitable planning conditions, and adequate enforcement and monitoring*
- *working closely with Environmental Health colleagues*
- *consultation with Public Health England and the Environment Agency (which is mandatory in certain cases) for advice on public health matters and pollution control*

Strategic Objective 8 of the WLP is *“to ensure waste facilities and their proposed locations are sustainably designed, constructed and operated to reduce potential adverse effects on human health, amenity and the natural and historic environment.”*

Furthermore the supporting text of the WLP (at paragraph 9.21) states that *“Local amenity impact” is usually understood to mean the effect of the proposed development on the existing visual and aural characteristics of the immediate neighbourhood, including the impact on any residential and non-residential uses in the vicinity. Impacts on amenity can cover a range of potential pollution and disturbance from, for example, light, noise, dust, and odour as well as concerns of the possible effects on human health from the development.”*

Policy 10 of the WLP requires, inter-alia, that: Proposals for waste management development will be permitted where it can be demonstrated that the development would not have an unacceptable impact on:

- b. local amenity (including noise levels, odour, air quality, dust, litter, light pollution and vibration)

Policy BAS E7 requires, inter-alia that
iv. there is no adverse impact upon the amenities of the area....”

Policy BAS E10 requires, inter-alia, that:
vii. Adequate controls should be installed to limit the emission of noise, pollutants, discharge and smells which could be associated with the proposed use”.

¹ Paragraph: 005 Reference ID: 28-005-20141016 Revision date: 16 10 2014

In this respect it is considered that it has not been fully proven that there would be no detrimental impact on the health and wellbeing of local residents, caused by the operation of the facility, and therefore the proposal is not considered to comply with Policy 10 of the WLP, Policies E7 and E10 of the BDLP, the NPPW and NPPF.

3. The impact the proposed development would have on the biodiversity of the locality.

Policy C1 (Protected Areas) of the BDLP states that

“The Council will not permit development which may have an adverse material effect on a Site of Special Scientific Interest (SSSI). When considering planning applications affecting Sites of Importance for Nature Conservation (SINC) or other important wildlife habitats, the Council will have full regard to the nature conservation value of the site. The criteria which the Council will take into account in dealing with planning applications affecting SSSIs, SINC and other important habitats will be:-

- i. effects on significant nature conservation or scientific features of the site;*
- ii. the importance of the site and of any nature conservation or scientific features affected; and*
- iii. any benefits of the proposed development.”*

Policy 10 of the WLP provides support for waste management development where such development does not have an unacceptable impact on a list of issues, including the natural environment

Whilst an industrial estate setting is not inherently acknowledged as providing favourable siting to accommodating ecological/biodiversity interests, there is a watercourse that crosses the estate. The ecological assessment comprised site survey and the results found limited ecological interest on the application footprint. What was found related mostly to nesting birds and the findings that appropriate measures being taken during construction to avoid the breeding season where possible.

A wider ecological assessment did not find that residual effects would arise to off-site statutory designated features having ecological interest. The supporting Air Quality Assessment had concluded “that no significant impacts/effects to ecological receptors are likely in this regard.”

The findings of the assessment were that the proposal could demonstrate through provision of suitable nesting facilities that overall, given the limited ecological value already on the land there would be potential biodiversity gain.

The County Ecology Officer has sought ecological enhancement measures and practical enhancements arising at the application land are limited, including landscaping as discussed previously. Following discussion, the provision of nesting boxes within the footprint could be achievable and offer a valuable addition to those birds that have adapted their presence to urban environments.

Nonetheless, from an ecological aspect, the development would be much larger than currently exists and would produce emissions that could have a detrimental impact on airborne species especially, such as birds and insects. It is therefore considered that it has not been proven that the development would not have a detrimental impact on biodiversity and accordingly the proposal is considered to conflict with Policy C1 of the BDLP, Policy 10 of the WLP and the NPPF.

4. The inadequate consultation on the greater area surrounding the site.

A detailed outline of the applicant's process for publicising the planning application has been set out in previous officer reports.

It is not mandatory for an applicant to carry out application publicity and the means and methods of doing so is not controlled by a planning authority. However, such processes are encouraged for applications of this nature and ECC's adopted "[Statement of Community Involvement](#)" (SCI) encourages applicants to prepare a Public Involvement Programme.

The application was advertised and consulted upon in line with ECC's adopted policy; the Statement of Community Involvement as well as the relevant planning legislation.

Nonetheless, the Committee has determined that inadequate consultation has taken place and that consultation should have been carried out over a wider area – especially given the nature of the proposal being considered. Whilst the advance community engagement process has been a matter for the applicant, it is considered that more advance engagement should have been carried out. This position is supported by Government guidance that states that pre-application engagement with the community is encouraged where it will add value to the process and the outcome².

RECOMMENDATION

That planning permission for application ESS/120/20/BAS be refused for the following reasons:

1. The proposed development, by reason of its scale and form, would cause and over-development and industrialisation of the location causing harm to the visual amenity neighbouring residential areas and therefore contrary to Policies EN7 and EN10 of the Basildon District Local Plan (2007) and Policy 10 of the Essex and Southend Waste Local Plan (2017), National Planning Policy for Waste (NPPW) and the National Planning Policy Framework (NPPF).
2. There is inadequate information to demonstrate the development would not harm the physical and mental wellbeing of residents living within the vicinity of the site, contrary to Policies EN7 and EN10 of the Basildon District Local Plan (2007) and Policy 10 of the Essex and Southend Waste Local Plan (2017), the National Planning Policy for Waste (NPPW) and the National Planning Policy Framework (NPPF).

² <https://www.gov.uk/guidance/before-submitting-an-application>

3. There is inadequate information to demonstrate the development would not harm biodiversity, including from airborne emissions, and is therefore contrary to Policy C1 of the Basildon District Local Plan (2007) and Policy 10 of the Essex and Southend Waste Local Plan (2017), the National Planning Policy for Waste (NPPW) and the National Planning Policy Framework (NPPF), and:
4. That inadequate pre-application engagement has taken place and should have been carried out over a wider area, given the nature of the proposal.

BACKGROUND PAPERS

Previous office reports from January 2024 and May 2024
Planning application and supporting information
Consultation replies
Representations
Energy from Waste A guide to the debate February 2014 (revised edition)
NPPF
NPPW

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (AS AMENDED)

The proposed development would not be located adjacent to/within distance to a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

EQUALITIES IMPACT ASSESSMENT

This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

In determining this planning application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL MEMBER NOTIFICATION

BASILDON – PITSEA