

Arena Essex Planning Application 25/00573/OUT

Objections of Thurrock Hammers Limited

Asbestos, Land Contamination and Waste

28 August 2026



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Purpose. This note sets out the objections to the above application on grounds of asbestos, land contamination and waste. It draws on the applicant's own Environmental Statement and ground conditions reports; on the earlier investigations of this Site by Capita Symonds (2012), RSK (2013) and Arup (2018), each of which the applicant expressly relies on; on the Type 2 Asbestos Survey of the Site carried out in 2010; and on Thurrock Council's own planning enforcement file and Freedom of Information disclosure concerning the unauthorised demolition of the Raceway Tavern in 2020.

Each objection notes the document it draws on so that the points can be checked.

1. Overarching objection

- 1.1 The Site is built over former landfills. The applicant's own investigation has found asbestos in both of the two it assesses, including blue and brown asbestos in the form of loose fibres and the applicant itself rates the resulting effect on the health of site end users as major adverse.
 - 1.2 Notwithstanding that finding, the material filed contains no asbestos risk assessment, does not establish the extent of the contamination, excludes every human receptor other than long-term end users from the documents that might have assessed them, provides a verification regime that does not test for asbestos at all and defers the method, the monitoring and the long-term management of the risk to documents that do not yet exist and that would be written, after permission had been granted, by a contractor who has not been appointed.
 - 1.3 The arrangements for remediating this Site are not adequate.
 - 1.4 This document sets out: what the applicant's own investigation found; the documented history of asbestos on and beside this Site; the fact that the applicant's own data pack contained that history; what Thurrock Council's own primary records say; what the applicant's predecessor Environmental Statement recorded and the present application has dropped; the standard both regulators agreed in 2019; the scale of the waste involved; the absence of any asbestos risk assessment; the absence of asbestos from the verification regime; the incomplete characterisation of the Site; the inadequacy of the proposed remediation method; the HSE guidance that applies to demolition and to asbestos management plans; the cover system and public access; the unauthorised demolition of the Raceway Tavern in 2020; a second building never surveyed; the absence of regulatory scrutiny; the state of the submitted documents; and what the Council should require before determining this application.
- 1.5 On the file:**
- ES Chapter 7 (Ground Conditions and Contamination, April 2025);
 - Appendix 7.3 Phase 1 Desk Study;
 - Appendix 7.4 Ground Conditions Assessment Report;
 - Appendix 7.5 Detailed Quantitative Risk Assessment;
 - Appendix 7.6 Remediation Strategy and Verification Plan;
 - Environment Agency consultation response;
 - Thurrock Environmental Protection Team memorandum.

2. What the applicant's own investigation found

- 2.1** Two former landfills are assessed as underlying the Site: the Central Landfill (THU079, inert waste, in places up to about 16 m of fill) and the Eastern Landfill (THU054, commercial and industrial waste, around 6 m deep). Both are identified by the applicant as sources of “asbestos fibres and Asbestos Containing Materials” (ES ¶7.58; Appendix 7.4).
- 2.2** In the Central Landfill, asbestos was found in four of the 33 samples tested, as loose chrysotile fibre and as amosite in board and cement fragments (ES ¶7.74).
- 2.3** In the Eastern Landfill, asbestos was found in 14 of the 38 samples tested, recorded as loose fibres of amosite, chrysotile and crocidolite - brown, white and blue asbestos - and quantified at between <0.001% and 0.099% (ES ¶7.85). Crocidolite and amosite are the two most hazardous forms of commercial asbestos.
- 2.4** The sample denominators do not reconcile and the Council should ask which is right. Appendix 7.4's own tables record the asbestos screens taken: Table 4 (Hydrock, 2021) gives Central Landfill 33, Eastern Landfill 6 and Main Site 34; Table 8 (CC Ground Investigations, 2023) gives Central Landfill 14, Eastern Landfill 10 and Main Site nil. On those figures only 16 asbestos screens were ever taken in the Eastern Landfill, of which 14 were positive - a detection rate of about 87 per cent, not the 37 per cent implied by “14 of 38”. Either way the applicant's repeated characterisation of the problem as “hotspots” is not supported by its own data.
- 2.5** The 2023 supplementary investigation carried out no asbestos screening whatever across the Main Site (Appendix 7.4, Table 8) - the area that includes the demolished Arena Essex Raceway structures, which the same report identifies as a source of “unknown hotspots”.
- 2.6** The applicant assesses contact with these soils by site end users as a “potentially significant major adverse long term impact” on human health (ES ¶7.137).
- 2.7** Its own report accepts that 18 of the 39 samples tested in the Eastern Landfill during the first phase of works were classified as hazardous waste (Appendix 7.4 §6.9) and that any material containing asbestos “will likely be classified as hazardous if disposed of off-site”.

3. The documented history of asbestos on and beside this Site

- 3.1 Documents relied on:** Capita Symonds, *Contaminated Land Desk Study, Arena Essex*, 1 June 2012; RSK Environment Ltd, *Preliminary Geo-environmental Site Assessment*, ref 26530-R01 (01), August 2013. Both are on the 18/01671/FUL file, the Capita report surviving in full as Appendix C of the RSK report, which is in turn Appendix E of the Arup risk assessment. The applicant expressly relies on the RSK report at its own Appendix 7.3.
- 3.2 Asbestos sheeting was observed lying on the ground at this Site in 2012.** Capita's site walkover recorded that "on site sources of ground contamination identified during the site walkover included ground fuel tanks; above ground heating oil storage tanks; oil staining on the ground; oil drums; a waste tyre mound; disused vehicles and caravans; asbestos sheeting; and fly-tipping" (§8.12).
- 3.3 A further asbestos-roofed structure was recorded that appears in no asbestos survey.** At §2.26 Capita recorded that "in an area of scrub land approximately 65 m to the southeast of the [vehicle maintenance area], a derelict cabin / shed is recorded. The roofing material appeared to be formed from corrugated bound asbestos sheeting." That structure is not among the premises listed in the 2010 Type 2 Asbestos Survey and no record of its survey, removal or disposal has been produced.
- 3.4 Capita rated the risk to human health as Medium to High.** Its conclusion at §8.20 was that "the preliminary qualitative risk assessment classified the risk posed to onsite receptors (human health, controlled waters and built structures) as Medium to High, based on historical and contemporary land uses at the site and surrounding area."
- 3.5 Capita's conceptual site model named an inhalation pathway and a receptor set the present application does not use.** Its Figure 4 of May 2012 identifies as a plausible pollutant linkage: "Contaminated soil (from Arena Essex Raceway / landfill)/ spoil mound posing inhalation risk to human health receptors (Residential/Commercial/trespassers/maintenance workers)". In the present application maintenance workers are expressly outside the scope of Appendices 7.4, 7.5 and 7.6 and inhalation of fibre by anyone not on the construction payroll is assessed nowhere.
- 3.6 Asbestos was identified as a contaminant of potential concern across the Site.** Capita listed asbestos among the contaminants of potential concern associated with the landfills (§6.5); identified asbestos, from the brake pads of older vehicles, at the vehicle maintenance area (§6.9); and identified asbestos as a potential contaminant of the visitor parking area (§6.10).
- 3.7 The only intrusive asbestos screening carried out before 2025 was very small and shallow and that is the point.** RSK's own account of its testing is that "chemical analyses have been performed on a total of 36 no. soil samples ... down to a maximum depth of 1.30m below existing ground level. ... 12 No. samples were also screened in the laboratory for asbestos fibres" (§6.2.1) and that "the visual inspection at the laboratory identified no materials suspected of potentially containing asbestos and the scheduled laboratory screening for asbestos found no detectable asbestos fibres within the samples of made ground" (§6.2.2). Twelve shallow screens on a Site whose landfill body was proven to at least 9.6 m and is now recorded at up to 16 m. Twelve years later a larger programme found asbestos in 18 of the 71 samples tested across the two landfills. A nil return from a twelve-sample screen is no evidence of absence; it demonstrates how completely the answer depends on sampling density - which is exactly why the applicant's admission that the Site "was not fully accessible" and requires further trial pitting (Appendix 7.4 §6.2.4) is so serious.
- 3.8 RSK expressly disclaimed any evaluation of asbestos.** Its stated limitations record that "unless otherwise expressly referred to in the introduction to this report, RSK did not seek to evaluate the presence on or off the site of asbestos, electromagnetic fields, lead paint, heavy metals, radon gas or other radioactive or hazardous materials." The applicant nonetheless lists that report among the previous reports relied upon in preparing its own Phase 1 Desk Study.
- 3.9 Taken together** with the 2010 Type 2 Asbestos Survey and the 2011 consignment note, the documentary record for this Site shows asbestos confirmed in the buildings, asbestos sheeting lying on the ground, a second asbestos-roofed structure never surveyed, asbestos listed among the contaminants of potential concern, a licensed landfill on the Site's southern edge authorised to receive broken asbestos sheeting and a recorded prosecution for sustained asbestos dumping at a landfill on the Site's western edge. This is, on the documents, a known asbestos site. It has nevertheless produced not one asbestos-specific risk assessment in the application now before the Council.

4. The applicant's own data pack contained the whole history and the assessment does not use it

4.1 Documents relied on: Appendix 7.3, Phase 1 Desk Study Report, Part 2 - the Envirocheck/Landmark environmental data pack, order 305516822_1_1, customer reference 22348 (the applicant's consultant's own job number), site area 53.89 ha, search buffer 1,000 m, dated 6 January 2023.

4.2 This is the single most important addition to this objection. The applicant did not fail to obtain the history of this Site. It obtained it and then did not use it.

4.3 The data pack's Summary table reports, under Waste:

Dataset	On site	0-250 m	251-500 m	501-1,000 m
Historical Landfill Sites	3	3	9	2
Local Authority Recorded Landfill Sites	3	3	6	1
Registered Landfill Sites	2	1	3	1
Potentially Infilled Land (Non-Water)	3	5	-	6

4.4 The individual entries, at pages 41 to 49 of that datasheet, are these:

	Name	Licence holder	Distance	Reference
127	Arena Essex, Arterial Road	Ahern Land Reclamation Limited	0 m	179/90, THU079
128	Chalk Quarry, Bushy Bit, Aveley	E Baker Hauliers Limited	0 m	030/77, THU009
129	Chalk Quarry - Bushy Bit, North of Back Lane	E Baker Hauliers Limited	0 m	30/77, THU054
130	Chalk Quarry, Motherwell Way	Olley South Ockendon Limited	26 m	097/83, THU025
143	Motherwell Way - Cliff Batte[ring]	R T Olley, Robin Reclamation	748 m	THU025, 097/83

4.5 The same datasheet carries the licence schedule for licence 97/83 with "Broken Asbestos Sheeting" as the first entry among its Authorised Waste. And it records three prosecutions, none of which appears anywhere else in either application:

"Illegal dumping of asbestos waste - Suspended prison sentence served on waste carrier" - Dolphin Quarry, Thurrock, 313 m west; Thurrock Lakeside, 769 m south-east; Jodrell Way, Thurrock, 947 m south. Prosecution Act Epr10. Hearing date 8 February 2013 in each case. Verdict: Guilty.

4.6 So the applicant's consultant held, in a data pack it commissioned itself and paid for, all four landfills on or within 26 m of this Site, E Baker Hauliers Limited named as licence holder for two of them, a licence expressly authorising broken asbestos sheeting on the southern boundary and three convictions for illegal asbestos dumping within a kilometre - one of them 313 m away, all heard in February 2013, five years before this Site closed.

4.7 None of it reaches the assessment. "THU025", "Motherwell Way" and "foundry waste" appear only in that raw datasheet. They appear nowhere in the Phase 1 Desk Study text, the conceptual site model, ES Chapter 7, the Ground Conditions Assessment Report, the Detailed Quantitative Risk Assessment or the Remediation Strategy. The three asbestos prosecutions appear nowhere outside the datasheet either. THU009 survives into the assessment, but only as an off-site leachate source with its asbestos history stripped out. And "E Baker Hauliers Ltd" surfaces exactly once, at Appendix 7.3 §3.10.2:

"No information was provided by the local authority on this landfill. From the Envirocheck report and previous data, we know the licence holder is recorded as E Baker Hauliers Ltd and waste was deposited from December 1953 to September 1972."

4.8 The operator's name was taken from the data pack. What sat beside it on the same pages - a second landfill under the same operator, the asbestos licence 26 m away, the three convictions - was not. The Council should require the applicant to explain why the contents of its own environmental data search do not appear in its conceptual site model.

5. What Thurrock Council's own records say about these four landfills

5.1 Documents relied on:

- Appendix C to the Arup Preliminary Risk Assessment - Thurrock Council's local authority contaminated land search, commissioned from the Council's contaminated land officer in December 2017; and
- Appendix D, the Environment Agency historic landfill search.

5.2 These are the Council's own files. They are more serious than anything in the present application.

5.3 **THU079, the Central Landfill.** Recorded reclamation status: "Poorly restored". Its permission was "initially refused but allowed on appeal by Minister of State for the Environment". Condition 4 limited deposits to material "totally inert i.e. those which are non-biodegradable, water insoluble and non-putrescible and no liquids, slurries, sludges or oils shall be deposited". Condition 7 provided:

"through out the period of tipping operations and for a further 5 years thereafter, the applicants or the subsequent occupiers of the land will monitor the site and adjoining land/water for leachate and landfill gas emissions..."

5.4 Arup could find no record that this monitoring was ever carried out. Meanwhile the applicant's own consultant told the Environment Agency in writing on 29 August 2018 that boreholes within THU079 had "confirmed domestic and non-hazardous waste" - in a landfill permitted for material that was to be totally inert. The Council should ask for the Condition 7 monitoring records and should ask how a landfill permitted for inert material came to contain domestic and non-hazardous waste, crocidolite, arsenic at 1,400 mg/kg and lead at 5,500 mg/kg.

5.5 **THU054, the Eastern Landfill.** Recorded reclamation status: "Unsatisfactory restoration". The Council's file contains a site inspection note of 25 May 1959:

"there is some tipping in the area but a considerable part is being used as a slurry pit, the slurry being carried in by lorry - probably from Nine Acre Shaw. There is no attempt at reinstatement."

5.6 Its 1953 consent "asks for filling to levels with materials approved by the local planning authority. No record of any such approval." This is the landfill the applicant proposes to excavate, screen and re-use and in which it has found loose crocidolite.

5.7 **THU009.** Its planning history includes "78/00545/MIN - relief from conditional permission THU/30/76 to aid refilling of quarry using foundry waste from Fords, Dagenham". The Council's comment records the E Baker prosecution set out above and adds that "the site is monitored for leachate and landfill gas each month. Full gas extraction system in place." A landfill requiring monthly monitoring and a full gas extraction system sits on this Site's western boundary; the present application treats it as a leachate consideration only.

5.8 **THU025, Motherwell Way.** The Council records it as "Located on and offsite to south" and Arup's text lists it among the four landfills "located at least partially on the site". Motherwell Way is a road in West Thurrock, RM20 3, south of the A1306; the Environment Agency records the landfill at NGR 558400/179300 and the applicant's own 2023 data pack puts it 26 m from the Site. Its licence 97/83, issued 5 August 1983, expressly authorised "Broken Asbestos Sheeting". Its planning history records:

"Tipping permission 1725a/9/8. Planning consent THU/312/82, cliff battering to quarry faces using selected infill. THU/440/84, extension of tipping area along the northern cliff face."

5.9 The northern cliff face is the face towards Arena Essex. And the Council's file records the contemporaneous complaint, dated three weeks after that licence was issued:

"Note from a letter re: Asbestos Waste Dumping Off Motherwell Way dated 31st of August 1983, 'The overall position in the area is however most unsatisfactory due to the substantial presence of asbestos waste (estimated in the thousands of tonnes) in its various forms dumped many years ago'. Remedial action is later recommended due to its uncertain composition."

5.10 The record states that the waste was removed in 1988/89. For a deposit described in those terms, of "uncertain composition", for which remedial action was recommended, that should be tested and not assumed. The Council should produce the Motherwell Way asbestos correspondence and any record of whether the recommended remedial action was carried out.

5.11 **A discrepancy the Council should resolve.** Thurrock's search attaches COPA licence 30/77 to THU009. The Environment Agency's historic landfill record EAHL00572 attaches licence 30/77 and E Baker Hauliers Limited, to THU054 - the Eastern Landfill itself. The two datasets disagree about which landfill the licence and the convicted operator belong to. Both place them on this Site.

6.1 Documents relied on:

- Arup, *Environmental Statement Chapter 7: Ground Conditions*, Northlake, November 2018 (application 18/01671/FUL, document ref 406907) and
- the Arup *Ground Contamination Preliminary Risk Assessment*, ref AE-ARP-XX-XX-RP-YE-0001, November 2018 (document ref 407028).

Both are expressly listed among the previous reports used in preparing the applicant's own Phase 1 Desk Study. The 2018 chapter records that its named author is a Chartered Scientist and "a Qualified Person for the Definition of Waste Code of Practice". By contrast, Appendix 7.4 of the present application has no document control table and names no preparer, checker or approver; Appendix 7.6's authorisation and issue history page is blank.

6.2 Arup identified four landfills on this Site, not two. Table 7.1 lists four landfills at a distance of 0 m: THU079, THU054, THU009 and THU025. Paragraph 7.43 states in terms: "There are records of four landfills on the Site, three of which are only partially within the Proposed Development." Arup put the same finding to the Environment Agency in writing on 29 August 2018: "There are records of four landfills which are located at least partially on the site."

6.3 The two landfills the present application omits are precisely the two with recorded asbestos histories. Against THU009, whose infill is described as "Included foundry waste from Ford, Dagenham", Arup's footnote reads: "Includes disposal of '20 skips a week of asbestos for four years'." Against THU025, the footnote reads: "Includes the disposal of flue ash, kiln waste and thousands of tonnes of asbestos waste."

6.4 THU025 does not appear anywhere in the assessment. A landfill which the applicant's own predecessor Environmental Statement placed on this Site, which its own data pack placed 26 m away and which is recorded as having received asbestos waste in that quantity, has disappeared from the assessment entirely.

6.5 THU009 has been reclassified from an on-site landfill to an off-site leachate source and its asbestos history dropped. In the present application the only reference is "Leachate migration from the Thurrock Services Landfill (THU009) immediately west of the Site boundary into the lake/groundwater on-site" (ES ¶7.59). Appendix 7.4 goes further and drops THU009 between its two conceptual site models: it appears in the preliminary exposure model at Table 1 and does not appear in the updated model at Table 45.

6.6 Arup expressly identified Site neighbours and the public as receptors for airborne asbestos fibres. The present application does not. Arup's pollutant linkage table records, against "Site neighbours and public - inhalation of soil-derived dust or fibres or odours": "Yes: Potential for asbestos and other contaminants in airborne dust during construction or odours." At ¶7.64 it warned of "the potential for localised pockets of asbestos containing material or other contamination to be encountered across the Site, especially in the former landfill areas". Arup made that finding on a Site where no asbestos had then been found.

6.7 Arup applied the correct asbestos-in-soil guidance; the present application does not. Arup cited at its reference 7.26 the CL:AIRE (2016) *Control of Asbestos Regulations 2012: Interpretation for Managing and Working with Asbestos in Soil and Construction & Demolition materials: Industry guidance* (CAR-SOIL™). Neither CAR-SOIL nor the CIRIA C733 methodology is applied anywhere in the present submission. The guidance list at ES ¶7.9 contains no asbestos-in-soil guidance at all; the only CIRIA document cited there is C665, which concerns ground gases.

6.8 The 2018 scheme committed to removing asbestos before demolition and the Raceway Tavern was demolished while that very application was pending. The earthworks strategy at ¶7.58 provided: "Demolition of Existing Structures: The first activity will be the demolition of the existing stadium and buildings across the site. Hazardous materials, such as asbestos will first be removed and disposed of from site to suitable landfill sites." The Tavern was demolished in November 2020, while application 18/01671/FUL was pending and it was the pendency of that application on which the Council relied to close its enforcement case. No record of any prior asbestos removal has ever been produced.

7.1 Documents relied on: Arup Preliminary Risk Assessment §7.2, *Scheme of Investigation*; Environment Agency letter of 21 December 2018 (ref AE/2018/123583/01-L01, document ref 414184); Thurrock Council Environmental Protection Team memorandum of 1 February 2019 (document ref 423173), contaminated land section by D Blazer, Contaminated Land Officer.

7.2 This section is new and it is the answer to any suggestion that what is asked for below is unusual or disproportionate. It was agreed on this Site, by both regulators, seven years ago.

7.3 What Arup proposed. The scheme of investigation at §7.2 required the ground investigation to “delineate the extent (lateral and depth) and quality of infill material of the landfills”; to inform “topsoil cover layers in private garden and soft landscape areas”; and to provide “advice on construction related issues, such as environmental controls and ground worker health and safety”. Its strategy required a grid of trial pits and boreholes within the landfill boundary, “including delineation of the vertical and lateral extents of the landfill”, assessment for non-aqueous phase liquids and:

“chemical analysis of environmental soil and groundwater samples ... to include metals, detailed quantified asbestos analysis (two stage by initial stereo-binocular/PLM and quantitative phase contrast microscopy assessment), speciated total petroleum hydrocarbons, MTBE, speciated PAH, BTEX, VOCs and SVOCs (including cresols), phenols, cyanide, PCBs, plus various other inorganic compounds.”

7.4 The Environment Agency agreed to it. Its letter of 21 December 2018 records that it read “Chapter 7 Ground Conditions (Iceni ARUP) November 2018 and associated appendices including: Ground Contamination and PRA, ARUP, November 2018; Preliminary Geo-environmental Site Assessment, RSK, August 2013”, described the Site as “in a location of high environmental sensitivity” and stated:

“Additional intrusive investigations will be required on site and we agree with the objectives and outline ground investigation strategy set out in section 7.2 Scheme of Investigation.”

7.5 And so did Thurrock's own Contaminated Land Officer. The memorandum of 1 February 2019 reads:

“Contaminated Land - D Blazer Contaminated Land Officer. I have reviewed the submitted Chapter 7 Ground Conditions, Iceni ARUP, November 2018 and associated appendices including: • Ground Contamination and Preliminary Risk Assessment, ARUP, November 2018; and • Preliminary Geo-environmental Site Assessment, RSK, August 2013. I agree that additional intrusive investigations will be required on site and I agree with the proposed objectives and outline ground investigation strategy set out in section 7.2 Scheme of Investigation ... with regard to the identified receptors.”

7.6 Measure the present application against the standard the Council itself endorsed. The lateral and vertical extent of the Eastern Landfill is still not delineated, because “limited access was available within the eastern landfill area” (Appendix 7.4 §4.5). Asbestos screening was omitted entirely from the 2023 supplementary investigation across the Main Site. The two-stage quantification results that were obtained are compared against no criterion of any kind. Ground worker health and safety is expressly outside the scope of Appendices 7.4, 7.5 and 7.6. And the soils that will form the cover layers are validated against a suite containing no asbestos determinand.

7.7 That standard was set when no asbestos had been found on this Site. Asbestos has since been found in both landfills and less is now proposed than was agreed then.

8. Waste and contamination: the scale of what is proposed

- 8.1 Arup's 2018 chapter quantified what redevelopment of this Site entails.** The inert landfill was recorded as containing approximately 400,000 tonnes of imported material, to be "excavated down to formation and all materials screened". Approximately 300,000 m³ of soils were to be moved across the Site. Up to 100,000 tonnes of imported stone and rock fill were required to infill the northern section of the lake.
- 8.2 Almost none of it was to leave the Site.** Against those quantities, the material expected to be removed was "less than 1000t" from demolition, "less than 5000t" from landfill remediation and "no more than 1000t" of contaminated soil. The overwhelming majority of the landfill material - including whatever asbestos it contains - was to be screened, processed and retained on the Site. The present application adopts the same essential approach, anticipating that at least 38,000 m³ will be excavated from the Eastern Landfill, of which an assumed 80 per cent is to be recycled and re-used (ES ¶¶7.127 to 7.128).
- 8.3 That approach was to be regulated through an environmental permit or the DoWCoP.** The present application should be required to state whether it proposes to operate under a deployed standard rules permit or under the CL:AIRE Definition of Waste Code of Practice and how either mechanism is to be reconciled with material in which loose crocidolite and amosite fibres have been found. Material containing asbestos cannot lawfully be treated as clean site-won fill merely because it has been screened and visible fragments picked out of it.
- 8.4 The waste position has changed for the worse since 2018.** Arup could record that "asbestos was not identified in any of the Made Ground samples submitted for analysis". The applicant's own investigation has now found asbestos in 18 of the 71 samples tested across the two landfills it does assess, including loose fibres of crocidolite and amosite. The quantity of hazardous waste arising from this Site and its destination, has not been quantified anywhere in the application.
- 8.5 The applicant is therefore not a developer confronted by an unexpected problem.** Its own predecessor Environmental Statement, expressly relied upon in its Phase 1 Desk Study, identified four landfills on this Site, two of them with documented asbestos disposal histories; applied the recognised asbestos-in-soil guidance; identified neighbours and the public as receptors for airborne asbestos fibres; and committed to removing asbestos before any demolition. Its own commissioned data pack contained the licence authorising broken asbestos sheeting and three convictions for illegal asbestos dumping. Its own Council's contaminated land officer endorsed a scheme requiring detailed quantified asbestos analysis.
- 8.6** The present application has reduced four landfills to two; dropped both asbestos histories; dropped the neighbouring population as a receptor; abandoned the guidance; omitted asbestos from the verification suite; and deferred the removal obligation to a contractor yet to be appointed. The Council should require the applicant to explain each of those changes before it determines this application or, in the absence of an explanation, refuse it.

- 9.1 Despite the major adverse finding, no risk assessment of asbestos in soil has been undertaken.** There are no site-specific assessment criteria for asbestos anywhere in the submission, no assessment of fibre release and no activity-based air monitoring data. The Stage 2 quantification results are reported as bare numbers and compared against nothing.
- 9.2 The only detailed quantitative risk assessment on the file is a controlled waters model and it says so.** Appendix 7.5 §2.5 states: “Risk to human health receptors have been dealt with and addressed separately in previous reporting and have not been considered further in this report.” Its receptors are “potable groundwater abstraction well & underlying Chalk Aquifer” (§4.2) and it records that “the model assesses the risks from dissolved contaminants only” (§4.6). The words asbestos, ACM, crocidolite, amosite, chrysotile, fibre and inhalation do not appear in either part of it. Asbestos is not water-soluble; a dissolved-phase model cannot capture it.
- 9.3 The “previous reporting” relied on for human health is not relevant to this scheme on the applicant’s own case.** It is the Hydrock work of 2021, commissioned “for a proposed mixed use residential development of up to 2,500 dwellings”, of which Appendix 7.4 §3.11 says: “the conclusions made are not relevant to this scheme.”
- 9.4 Construction workers and maintenance workers are expressly excluded from three documents.** Appendix 7.4 §3.12.2 and Appendix 7.6 §1.1 both state: “Consideration of occupational health and safety in relation to construction work is beyond the scope of this report. Health and safety risks to site development contractors and maintenance workers have not therefore been assessed as part of this study and will need to be considered separately.” Appendix 7.6 §7.3 adds: “This Remediation Strategy considered only chronic (long-term) risks to human health. There may exist a potential for acute (short-term) impacts on construction workers and adjacent land users. Furthermore, the following outline advice does not constitute an Occupational Health Risk Assessment.”
- 9.5 Neighbours are dealt with in three sentences by reference to workers’ protective equipment.** ES ¶7.122 accepts that “there remains a risk to adjacent Site neighbours from potential generation and release of contaminated dusts associated with construction works within both the Eastern and Central Landfills” and then concludes that “these potential impacts will be mitigated by use of standard HS&E measures outlined and therefore no impact is anticipated”. The measures referred to are risk assessments, personal protective equipment, welfare facilities and toolbox talks. They are controls on workers. They do not control the release of fibre across a boundary. No dust or fibre monitoring, no boundary criterion and no action level is offered for neighbours anywhere in Chapter 7.
- 9.6 The result is visible in the Schedule of Mitigation.** Appendix 12.1 contains five ground conditions rows. The two construction phase rows protect chalk groundwater. The two human health rows are operational and concern “Site end users”. There is no mitigation entry anywhere in the schedule for human health during construction - not for workers, not for neighbours, not for anyone. The word asbestos does not appear in the Schedule of Mitigation at all.
- 9.7 The recognised guidance is cited once and not applied.** CIRIA C733, *Asbestos in Soil and Made Ground: A Guide to Understanding and Managing the Risks*, appears in the submission once, at Appendix 7.6 §6.4, cited by title without its number and only as guidance from which a future contractor “should” seek assistance. Its methodology has not been applied to the site data. The Council is being asked to accept that a major adverse risk to human health will be reduced “to negligible levels” (ES ¶7.150) on assertion rather than assessment.

10. The verification regime does not test for asbestos

- 10.1 Documents relied on:** Appendix 7.6, Remediation Strategy and Verification Plan, §5.2.5, §9.2 and Appendices E and G.
- 10.2** This objection is new and, in our submission, decisive on its own.
- 10.3** The soils excavated from the two landfills are to be processed, screened, stockpiled and in large part put back. Appendix E of the Remediation Strategy sets the criteria that decide whether they may stay:
- “The following testing suite and assessment criteria are to be adopted when testing processed soils from the Central and Western Landfills, that are to remain in-situ.”*
- 10.4** The suite that follows lists arsenic, chromium III, mercury, nickel, zinc, anthracene, benzo(a)pyrene, naphthalene, benzene, toluene, ethylbenzene, xylenes, aliphatic and aromatic hydrocarbon bands, 1,2-dichloroethene, vinyl chloride, ammonium and free cyanide, with a testing rate of one sample per 500 m³. Asbestos is not among them. The word does not appear in Appendix E at all.
- 10.5** The only asbestos acceptance criterion anywhere in the Remediation Strategy applies to clean topsoil being brought on to the Site. Appendix G requires that “no visual or olfactory contamination is permitted (i.e. fragments of asbestos ...)”, with table entries “Asbestos ID ... None permitted (as fibres or fragments)”.
- 10.6** So the imported clean soil must be asbestos-free, while the crocidolite-bearing landfill waste that is dug up, screened and re-buried is validated against a suite that never looks for it.
- 10.7** The verification schedule at §9.2 lists the contents of the Enabling Works Verification Report: dig depths, topographic surveys, material classes and volumes, WRAP documentation, waste transfer paperwork, NAPL volumes, subgrade validation, hotspot test results, in-situ remediation results, gas and vapour monitoring, groundwater monitoring, a photographic record and capping extents. Not one of those items concerns asbestos. There is no requirement to report how much asbestos was found, how much was removed, what any air monitoring showed or whether the Asbestos Risk Management Plan was implemented at all.
- 10.8** Nor can the hotspot procedure catch it: hotspots are defined at §5.2.5.2 by exceedance of “soil RTV’s” and there is no asbestos remedial target value.
- 10.9** The contrast within the same document is instructive. For gas membranes, §9.3.2 specifies a seven-point verification content list including who installed the measures, who verified them, their qualifications, defects and corrective actions and copies of regulatory sign-off. The applicant’s consultants plainly know how to write a rigorous verification specification. They did not write one for asbestos.
- 10.10 A further defect on the face of that appendix.** Appendix E refers throughout to “the Central and Western Landfills”. There is no Western Landfill in this application; the two on-site landfills are the Central and the Eastern. The document that decides what may be left in the ground misidentifies the ground.

11. The Site has not been characterised yet the works would be authorised now

- 11.1 The applicant's own ground conditions report states** that "as the site was not fully accessible, future characterisation should be carried out using trial pitting to characterise the material" (Appendix 7.4 §6.2.4). The reason is given at §4.5: "limited access was available within the eastern landfill area, due to the layout of the go-karting facility and its operational hours." The extent, depth and distribution of asbestos within the Eastern Landfill is therefore unknown on the applicant's own case.
- 11.2 The same report concedes more.** "No boreholes could be drilled to the south so it cannot be discounted that a plume extends southwards" (§6.3); "this assessment is based on limited deep boreholes"; "No PFAS testing has been undertaken from the Eastern Landfill (due to access restrictions)" (Appendix 7.6 §3.2.3); and "based on the current evidence base, it is unknown whether ex-situ remediation of the landfill soils and any impacted subgrade will be adequate, or whether deeper in-situ treatment of soils and potentially groundwater will be required" (§6.10).
- 11.3 Against which the same report's Recommendations section asserts the opposite:** "The ground conditions across the site are well characterised, notwithstanding there may be areas that need further investigation after the final layout and design rationale have been decided" (§9). That section runs to five bullet points, all geotechnical or investigative. It does not mention asbestos once and it does not recommend an Asbestos Management Plan, a remediation strategy or a detailed quantitative risk assessment - all of which the body of the same report says are required.
- 11.4 Both regulators agree the evidence base is incomplete.** The Environment Agency: "We agree further investigation of the Eastern Landfill is required"; "We note PFAS testing was not undertaken on the Eastern Landfill site"; "Detail needs to be provided on how perched groundwater will be removed /managed and remedial targets met." Thurrock's own officer: "I agree with the recommendation that further data assessment is required particularly for the former landfills on site."
- 11.5 Despite all of that, it is the full - not the outline - part of this hybrid application that seeks permission for "demolition of existing buildings and structures, preparatory earthworks including remediation and levelling".** Those are precisely the operations that would disturb the asbestos. A permission would authorise the excavation of an uncharacterised asbestos-bearing landfill before anyone knows what is in it.
- 11.6 The Environment Agency expressly leaves the timing to the Council:** "The Local Planning Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission." Where the contaminant is asbestos, the extent is admittedly unknown and the disturbing works are authorised at full application stage, that information should be obtained before determination.

12. "Handpicking" and on-site processing are not an adequate remediation strategy

- 12.1 The stated method of dealing with asbestos is purely visual.** "If the material is to be re-used then handpicking to remove any visible asbestos will likely be required" (Appendix 7.4 §6.2.4); "any incidental visible asbestos-containing materials will also be removed during the processing stage" (Appendix 7.6 §6.2); "Blue, brown and white asbestos detected within the landfill area, typically in the form of loose fibres, will need to be handpicked" (Appendix 7.4 Table 45).
- 12.2 Three words in the second of those quotations bear the weight of the whole strategy.** "Incidental" - treating as an unexpected by-product something the same author records as a principal source of contamination in both landfills. "Visible" - where the applicant's own finding is that the material is predominantly loose fibres, which are not visible and cannot be picked. "During the processing stage" - that is, after excavation, loading, haulage, stockpiling and mechanical screening, which is to say after every step at which fibre would be released.
- 12.3 Handpicking can remove visible fragments of asbestos cement and board. It cannot remove loose fibres** and loose fibres are the form in which the amosite, chrysotile and crocidolite at this Site were principally recorded. A visual method is not capable of remediating the contamination that has actually been found and material returned to the Site as engineered fill would continue to contain asbestos fibres.
- 12.4 The plan that would govern the works does not exist.** Appendix 7.6 §6.4 provides that "an Asbestos Risk Management Plan (ARMP) should be prepared by the Specialist Remediation Contractor and included with their Contractors Method Statement ... The requirement for air monitoring or similar shall be considered by ARMP." So the plan should be prepared, by a contractor who has not been appointed, after permission has been granted, as part of a document not before the Council; and air monitoring is not committed to at all - the obligation is to *consider* it and the body doing the considering is the contractor's own plan. The phrase "air monitoring" occurs once in the entire Remediation Strategy, in that sentence. No trigger level, no action level, no clearance criterion, no perimeter or receptor monitoring and no reference to any off-site receptor appears in §6.4.
- 12.5 The only asbestos provision addressed to buildings is equally deferred:** "Existing buildings and structures on site will require demolition by a specialist contractor. Ahead of demolition, appropriate asbestos surveys should be undertaken and any asbestos-containing materials removed and disposed of in accordance with current legislation" (§5.2.4). No survey type is specified; HSG264 is not cited. And the Phase 1 Desk Study has already excluded the question from its own scope: "Unless specifically referred to in the text of this report, it does not cover; above ground hazards (e.g., asbestos in buildings or overhead services)".

13. The applicable HSE guidance and what this application does not commit to

13.1 Documents relied on: HSE, *Asbestos: The survey guide*, HSG264, 2nd edition 2012 (ISBN 9780717665020); HSE, *Managing and working with asbestos: Control of Asbestos Regulations 2012, Approved Code of Practice and guidance*, L143, 2nd edition 2013 (ISBN 9780717666188); HSE, *Asbestos management plan guidance*, template and worked example.

13.2 A necessary distinction first. Two separate bodies of guidance are engaged on this Site and the application applies neither. Asbestos in soil and made ground is governed by CIRIA C733 and the CL:AIRE CAR-SOIL industry guidance, which are dealt with at Sections 6 and 9 above. Asbestos in buildings and structures and work that disturbs it, is governed by the Control of Asbestos Regulations 2012, L143 and HSG264. This application proposes both the demolition of remaining structures and the excavation of asbestos-bearing landfill. The second body of guidance is therefore engaged in its own right and the application's treatment of it is as thin as its treatment of the first.

13.3 HSG264 specifies the survey type. The application does not commit to it. HSG264 distinguishes two classes of survey. A management survey "is the standard survey. Its purpose is to locate, as far as reasonably practicable, the presence and extent of any suspect ACMs in the building which could be damaged or disturbed during normal occupancy, including foreseeable maintenance and installation and to assess their condition" (¶43). By contrast:

"A refurbishment and demolition survey is needed before any refurbishment or demolition work is carried out. This type of survey is used to locate and describe, as far as reasonably practicable, all ACMs in the area where the refurbishment work will take place or in the whole building if demolition is planned." (HSG264 ¶51)

"The survey will be fully intrusive and involve destructive inspection, as necessary, to gain access to all areas, including those that may be difficult to reach." (HSG264 ¶51)

Such surveys "should only be conducted in unoccupied areas to minimise risks to the public or employees on the premises." (HSG264 ¶53)

13.4 Against that, the only provision in this application addressed to asbestos in buildings is Appendix 7.6 §5.2.4: "Ahead of demolition, appropriate asbestos surveys should be undertaken and any asbestos-containing materials removed and disposed of in accordance with current legislation." No survey type is specified. HSG264 is not cited anywhere in the submission. "Appropriate" is left to the same unappointed contractor who is to decide whether to monitor the air.

13.5 HSG264 also sets a competence standard. Surveyors carrying out refurbishment and demolition surveys "need to be competent to do all the relevant work and tasks in this class of surveys" and "will need some knowledge of construction, be able to carry out the work safely and without risk to health, have the correct equipment to do the work and have the appropriate insurance" (¶57). Nothing in the application identifies who will carry out these surveys or to what standard.

13.6 L143 makes the assessment a legal precondition of the work, not a later step. Regulation 5 provides that an employer must not undertake work in demolition, maintenance or other work which exposes or is liable to expose employees to asbestos:

"unless either - (a) that employer has carried out a suitable and sufficient assessment as to whether asbestos ... is present or is liable to be present in those premises; or (b) if there is doubt as to whether asbestos is present ... that employer - (i) assumes that asbestos is present."

13.7 The accompanying guidance is explicit as to timing: "before carrying out any work involving the potential disturbance of asbestos, employers should find out if the part of the building likely to be disturbed contains asbestos and, if so, the type and condition." And the guidance to regulation 4, the duty to manage, states that "a management survey should be carried out to identify the asbestos for normal day-to-day occupation and maintenance of the building and a refurbishment and demolition survey should refurbishment or demolition work be planned."

13.8 This is directly relevant to what happened here in 2020 and to what is proposed now. The 2010 Hughes and Associates report was a Type 2 survey under the older MDHS 100 terminology - a management survey in HSG264 terms and by HSG264's own definition addressed to "normal occupancy", not demolition. That is precisely why it recommended obtaining what it called a Type 3 survey before any major alteration to a pre-1999 building. In current terminology that is a refurbishment and demolition survey which HSG264 says is "needed before any ... demolition work is carried out". The Raceway Tavern was demolished in 2020 without one. The application now before the Council proposes further demolition and does not commit to one either.

- 13.9 The Asbestos Risk Management Plan is deferred and the application does not specify a single one of the elements HSE requires it to contain.** HSE's guidance states that an asbestos management plan should include:

"who is responsible for managing asbestos including deputies"; "your asbestos register, including the site plan showing the location of asbestos-containing materials (ACMs) and areas not inspected"; "the schedule for monitoring the condition of ACMs"; "how you will share your asbestos register with workers or contractors doing maintenance work"; "control arrangements to ensure that ACMs are not disturbed"; and "emergency procedures if ACMs are disturbed."

- 13.10** HSE adds that the plan must be site-specific, that it should be reviewed "as a minimum ... every 12 months" and that "only a licensed asbestos contractor will be used for" removal work. Appendix 7.6 §6.4 requires none of this. It provides only that an ARMP "should be prepared by the Specialist Remediation Contractor and included with their Contractors Method Statement", that it "shall comply with the Control of Asbestos at Work Regulations (2012)" and that "the requirement for air monitoring or similar shall be considered" by it.

- 13.11 The second of HSE's required elements is the one this Site cannot presently satisfy** and it illustrates the whole problem. A compliant plan must show, on a site plan, both the location of asbestos-containing materials and the areas not inspected. On this Site the areas not inspected include: the Eastern Landfill, where "limited access was available ... due to the layout of the go karting facility and its operational hours"; the whole of the Main Site so far as asbestos screening in 2023 is concerned, where none was carried out; the ground where the Raceway Tavern stood, never investigated as a demolition-affected area; the residential property excluded from the 2010 survey; and, in the 2010 survey itself, the ceiling and wall voids which "are suspected and have NOT been examined", the confined spaces "identified and not examined" and the "cinder / aggregate paved areas" of which "no samples were taken for analysis". A plan properly drawn against HSE's own template would show a Site substantially uninspected.

- 13.12 What should follow.** Before determination the Council should require a refurbishment and demolition survey compliant with HSG264 for every structure to be demolished, including the residential property identified in the CEMP; the identification of the surveying organisation and its accreditation; and an Asbestos Management Plan in the form HSE specifies, containing all six required elements, submitted for approval rather than promised. These are not onerous requirements. They are the ordinary statutory minimum for demolishing a pre-1999 building and HSE publishes a free template for the last of them.

- 14.1 Risk to human health has been assessed against Generic Assessment Criteria for “Commercial” end use**, on the basis that this is “relevant for employment land such as this” (ES ¶7.118) and Appendix 7.4 §6.2.1 confirms “a Tier 2 assessment using soil screening values applicable to the commercial / industrial CLEA land use scenario”. The phrase “public open space” returns no hits in Appendices 7.4 or 7.6.
- 14.2 But this scheme is not wholly employment land.** The description of development expressly includes “habitat creation and open space enhancements including the provision of a mountain bike track, pedestrian and cycle linkages to the Mar Dyke Local Wildlife Site and Lakeside, as well as associated access and public realm works” and the Design and Access Statement confirms “publicly accessible open space, including new mountain bike tracks and pedestrian footpaths and cycle linkages”. Commercial criteria assume an adult workforce operating largely on hardstanding. They are not the appropriate criteria for recreational land to which the public, including children, would have access.
- 14.3 The applicant’s own conceptual site model has not caught up with its own scheme.** Appendix 7.4 §3.12.2 states, in the filed 2025 document, that receptors were identified “based on the proposed development of the site for residential purposes” - an uncorrected artefact of the abandoned 2,500-dwelling scheme. The report’s stated receptor basis and the criteria it actually applies are inconsistent with each other and neither matches the scheme now before the Council.
- 14.4 The cover system is specified only in part and the specification does not work.** For the Eastern Landfill, “the clean cover system will comprise a total thickness of 600mm ... [with] a high visibility marker/seperator layer” (Appendix 7.6 §5.3.1.1). But the same section states that finished levels will be approximately 450mm above enabling works level: a 600 mm cover does not fit in a 450 mm envelope and the document resolves this by permitting removal of the low-permeability enabling works cap, so that the two barriers are partly mutually exclusive. Tree pits are excluded: “tree pits (if any) will not have a marker layer” - and tree pits are exactly where landscape maintenance digs. The highway embankments are not capped at all: “it is not proposed to extend this cover down the adjacent highway banks where access will not be provided for site operatives” - although §4.2 records that landfill material extends onto the embankment. The justification concerns site operatives and says nothing about highway maintenance crews, vegetation clearance, trespass or wind erosion. And the Central Landfill specification reads “comprising a minimum of 500m of clean capping material” (§5.3.2.2) - an uncorrected units error in the document that defines the barrier between the public and the waste.
- 14.5 A mountain bike track is by its nature a use that erodes, churns and exposes the ground surface.** No thickness, no marker layer, no design and no maintenance regime has been provided for the cap in any area to which the public would have access.
- 14.6 There is no long-term management regime for any of it.** Appendix 7.6 states the cap’s purpose - “to provide long-term separation of residual waste materials from the end site users and the environment” (§4.3.1.4) - and then provides no inspection frequency, no repair protocol, no responsible party, no funding mechanism and no legal mechanism. The applicant concedes the residual risk: “there will remain a residual risk of contact for any future site maintenance workers who may have need to undertake excavations through the capping layer” (ES ¶7.154). Appendix 12.1 secures every ground conditions measure “via suitably worded planning condition”. Nothing is secured by section 106.

- 15.1 Documents relied on:** Hughes and Associates, Chartered Surveyors, *Type 2 Asbestos Survey and Report*, Arena Essex Raceway, May 2010 (ref HA03/14); Asbestos Collection Services consignment note NQY971H0285S, 28 January 2011; Thurrock Council planning enforcement case 20/00442/AUNWKS; Thurrock Council Freedom of Information response FOI 12173 (31 August 2022) and appendices A to G; ES Chapter 2 ¶2.3; ES Chapter 3 ¶3.73; ES ¶¶7.74 and 7.116; Sport and Active Recreation Statement (ref 1119171). Also: the emails of 10 and 11 November 2020 to Thurrock Council; the Council's planning enforcement letter of 10 November 2020; its site notes, closure notes and site photographs of 11 November 2020; and its letter of 16 August 2022.
- 15.2 Asbestos on this Site was documented, not merely suspected.** A Type 2 Asbestos Survey of Arena Essex Raceway was carried out on 12 May 2010 by Hughes and Associates, Chartered Surveyors, with samples analysed by SCOPES Asbestos Analysis Services Limited. The premises surveyed comprised the main pavilion and offices, the external toilet facilities, the 1st Aid centre, the ticket office, the grounds maintenance garage and rest rooms and the main stand. Chrysotile was confirmed in the cement profile sheet roofing to the Main Stand (east and west), extending to some 680 sq.m on each stand and to the East Toilet Block. Asbestos-containing material was additionally recorded as presumed present in "Ground debris in the Maintenance Compound".
- 15.3 That survey gave an express instruction which the 2020 demolition disregarded.** Among its recommendations were: "Before any major alterations to buildings constructed before 1999, obtain a Type 3 Asbestos survey" and "Before any excavations carry out a soil condition survey and report by accredited specialist". A Type 2 survey is a management survey under the MDHS 100 terminology then in use; it is not and does not purport to be, sufficient for demolition. HSG264 is explicit that "a refurbishment and demolition survey is needed before any refurbishment or demolition work is carried out" and that it "will be fully intrusive and involve destructive inspection" (¶51) - see Section 13 above. The Raceway Tavern - recorded in the applicant's own Sport and Active Recreation Statement as the "Raceway Tavern offices, shops and bar complex", built during the late 1980s and 1990s - was self-evidently a building constructed before 1999 and demolition is the most drastic "major alteration" there is. There is no evidence anywhere on this application file or in the Council's disclosure that a Type 3 refurbishment and demolition survey was ever obtained.
- 15.4 The survey was also heavily caveated as to what it had not seen.** It expressly excluded "portacabins, containers, caravans, trailers and temporary timber structures adjacent to the main building and the residential bungalow", the ground floor storage area, the basement plant room, the interiors of plant, areas behind fixed panels and beneath fixed floor coverings. It records that ceiling and wall voids "are suspected and have NOT been examined", that "there are additional concealed areas not accessed by the surveyor", that confined spaces were "identified and not examined" and that "a visual inspection of the cinder / aggregate paved areas was made, but no suspected material was identified, no samples were taken for analysis". Six samples were taken across the entire Site.
- 15.5 The Site's own history shows what compliance looks like and 2020 does not resemble it.** The 2010 survey recommended that the asbestos cement sheet roofing to the toilet block be encapsulated or removed. That recommendation was acted upon: consignment note NQY971H0285S of 28 January 2011 records the removal of 12 asbestos cement sheets - 120 kg of chrysotile, EWC 17 06 05, hazard code H7, UN 2590, double bagged - from "Arena Essex Raceway, A1306 Arterial Road, Thurrock" by a licensed carrier, received at a permitted facility the same day. A complete and auditable paper trail exists for a modest roof strip in 2011. No record of any kind exists for the demolition of an entire building in 2020.
- 15.6 The Tavern was demolished in or shortly before November 2020, without planning permission.** The Council did not detect the demolition. It was reported to the Council by a member of the public at 11:34 on 10 November 2020, in an email enclosing a photograph then circulating online and recording that "I have not been able to find consent for demolition". Eighty minutes later the Council's Major Applications Manager replied: "I asked the owners of the site what is happening and have checked our records with no current permission for demolition so this is likely to be investigated further". The same day the Council opened planning enforcement case 20/00442/AUNWKS. Its letter of that date from the Planning Enforcement Officer gives the location as "Arena Essex Arterial Road Purfleet-on-Thames" and the nature of complaint as "Unauthorised demolition", confirms that "a potential breach of planning control has been identified and the case has been passed to me for formal investigation" and undertakes: "I aim to keep you updated as the case progresses and of any formal action taken."



The Raceway Tavern under demolition, Arena Essex, November 2020. This is the photograph, then circulating online, which was sent to Thurrock Council on 10 November 2020 and which prompted planning enforcement case 20/00442/AUNWKS.

15.7 The Council's own site notes of its inspection on 11 November 2020, disclosed under FOI 12173, record that the site security guard "confirmed that there has been one building in total that has demolished from the site" and that he "was advised that although a planning application had been submitted for the demolition, planning permission had not been granted".

15.8 The Council photographed what the demolition had left on the ground. Its site notes are annotated "Photos Taken" (sic) and three of those photographs were disclosed under FOI 12173 as appendices D, E and F. They show a large heap of broken timber and board material and beyond it a further expanse of light-coloured crushed material, lying on the surface of the Site. Nothing anywhere in the Council's file records what that material was, whether any of it was tested, or where it went.

15.9 The asbestos risk was expressly drawn to the Council's attention at the time and was never investigated. On 11 November 2020 the Council was written to in these terms: "In addition to the possibility of unauthorised demolition at Arena Essex, it has been suggested to us that there may be asbestos on site. If so The Control of Asbestos Regulations 2012 should apply." The Council was asked to confirm that its investigation would address regulation 5 (identification of the presence of asbestos), regulation 7 (plans of work, which contains a separate section for demolition), regulation 16 (duty to prevent or reduce the spread of asbestos) and regulation 24 (storage, distribution and labelling of asbestos waste). That was not a speculative concern: a professional asbestos survey of this very Site had existed since 2010. Neither the Council's site notes nor its closure notes mention asbestos at all.

15.10 The case was closed without action, on grounds that had nothing to do with asbestos or public health. The closure notes recommend that "the case should be closed and not expedient to take any further action" because of "the demolition of the building in a location which does not cause any harm to the surrounding area and the pending planning application submitted for the demolition". The only planning justification relied upon was the pending application 18/01671/FUL - an application withdrawn on 5 September 2023 and never granted. The basis on which the Council declined to act has since disappeared. The demolition was and remains, unauthorised. The same note records that "the site owners have been advised that any works undertaken without the benefit of planning permission is at their own risk": the Council's own file therefore proceeds throughout on the footing that the works were unauthorised.

15.11 The undertaking to keep the complainant informed was not honoured and nothing was heard for twenty-one months. No further communication followed the letter of 10 November 2020. On 20 July 2022 the matter was put to the Council's Director of Public Realm in these terms: "Nothing has been seen or heard on this subject in the 21 months since." On 16 August 2022 the Council's Interim Strategic Lead for Development Services replied, setting out for the first time the reasoning on which the case had been closed and added: "I have also noted that you have not received any update since 2020. Thank you for

bringing this to our attention and please accept my apologies on behalf of the team for this and the frustration this will have caused. I will be taking this up with the team to remind officer of the importance of keeping complaints updated when decisions are made on investigations.” The decision to close the file was therefore taken and the case shut, without the person who had reported the breach being told and without any opportunity for the asbestos point to be pressed again.

15.12 The Council confirmed in 2022 that it holds no asbestos record for the demolished buildings. The same letter records the inquiry the Council made in response to the concern: “I have asked the Council’s Building Control and Environmental Health (Contaminate Land) teams if they had received any information on this, or records in relation to asbestos in the former buildings, which they have confirmed they have not.” That is the Council’s own confirmation, on its own inquiry of the two services which would hold such a record, that no asbestos record for the former buildings on this Site exists. It is the clearest statement available that the asbestos baseline of this Site cannot now be recovered from the regulatory record.

15.13 The Council referred the asbestos question to the Health and Safety Executive, where it has never been considered. The same letter continues: “ultimately this is a matter for the Health and Safety Executive (HSE), who are the appropriate investigation and enforcement body for this”. The HSE has been consulted twice on the present application. On both occasions its advice was confined to the hazardous substances pipeline crossing the Site and it stated in terms that its land use planning advice “is intended to advise on the risk to people at the development from a major accident involving hazardous chemicals” - see Section 17 below. The word “asbestos” appears in neither response. The question the Council referred to the Health and Safety Executive in 2022 has not been examined by the Health and Safety Executive, by the Council, or by anyone else.

15.14 No demolition notification was given either. In August 2022 the Council’s Building Control service was asked internally whether it had been notified. The reply was: “No not that I can see on the system unfortunately. It doesn’t look like they ever submitted one”, followed on 11 August 2022 by “I cannot find any evidence to suggest we were notified of demolition in 2020 or 2022.” Demolition of a building of this kind requires notice under section 80 of the Building Act 1984 and it is by that route that an authority can impose requirements as to the manner of demolition and the protection of the public. That opportunity was lost.

15.15 The Council’s Environmental Protection team was not involved. Its internal position was that “illegal demolition of buildings is solely a planning issue and I can find no complaints to EP regarding this.” The demolition of a pre-1999 building on a Site with a known asbestos survey therefore fell between two Council services and was examined by neither.

15.16 The consequence is that the Council does not know and can no longer establish, the asbestos baseline of the Site it is being asked to permit development on. There is no Type 3 refurbishment and demolition survey for the Raceway Tavern, no demolition work statement, no record of licensed removal, no consignment notes and no verification report. The one professional survey that does exist called for precisely the Type 3 survey and the soil condition survey that were never carried out. The ground where the building stood has never been investigated as a demolition affected area and it is not identified as one in any of the ground investigation reports now before the Council. It is also the area in which the 2023 investigation carried out no asbestos screening at all.

15.17 That is not an abstract concern. The 2010 survey already presumed asbestos-containing material to be present in ground debris on this Site and required a soil condition survey before any excavation. Fifteen years later the applicant’s own investigation found amosite in board and cement fragments within the Central Landfill (ES ¶7.74) - building-derived asbestos containing material in the ground, exactly as the 2010 survey anticipated. With no record whatever of where the Tavern’s demolition arisings went, there is no basis on which the Council can exclude the possibility that further asbestos-containing demolition material was left on, or buried within, the Site in 2020.

15.18 It bears directly on the weight the Council may properly give to the assurances in this application. The whole of the applicant’s asbestos case rests on deferred compliance: an undertaking that works will accord with the Control of Asbestos Regulations 2012 (ES ¶7.116), under an Asbestos Risk Management Plan and an Asbestos Discovery Plan that a contractor will write after permission has been granted. On this Site there already existed a professional survey requiring a Type 3 survey before any pre-1999 building was altered; a building was nevertheless demolished without that survey, without planning permission, without notice to Building Control and with the asbestos question raised by a third party and then left unanswered. A regime of deferred and self-certified compliance has failed here already. It is not a sound foundation for a permission that defers every substantive asbestos control to a later stage.

16. A second building on this Site, never surveyed and now scheduled for demolition

16.1 A residential property on this Site appears three times in the record and is reconciled nowhere;

- **2012.** Capita's inventory of structures on the Arena Leisure land includes "a two storey club house and offices; Arena Lodge (residential property); race pits; vehicle maintenance compound; spectator galleries; visitor parking areas ..." (§8.9).
- **2010.** The Type 2 Asbestos Survey expressly excluded it: "the residential bungalow was not included in the survey".
- **2025.** The Outline Construction Environmental Management Plan schedules, among its demolition quantities, "Demolition of residential property at the site entrance". No such property appears anywhere in ES Chapter 3, which is the chapter describing the demolition.
- A pre-1999 dwelling on a contaminated Site, expressly excluded from the only asbestos survey ever carried out there, now scheduled for demolition in a document that the Environmental Statement does not match. The Council should establish what this building is, whether any asbestos survey covers it and why it appears in the CEMP and not in the Environmental Statement.

17. No regulator has assessed the asbestos risk

- 17.1 The Environment Agency's remit and its own stated reason, are confined to controlled waters.** The reason given for its contaminated land conditions is "to protect and prevent the pollution of the water environment". It hands human health to the Council in terms: "the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, for example human health."
- 17.2 Thurrock's own Environmental Protection Team reviewed only the Phase 1 Desk Study.** Its entire contaminated land response reads: "I have reviewed the above submitted report and I agree with the recommendation that further data assessment is required particularly for the former landfills on site. I note that the Environment Agency have recommended conditions in respect of these recommendations. I agree with the conditions, in regard to contaminated land, requested by the Environment Agency and these should be implemented." It has not reported on the Ground Conditions Assessment Report, the Detailed Quantitative Risk Assessment, the Remediation Strategy or ES Chapter 7 and has recommended no condition directed at asbestos or at human health. Its updated response of 14 November 2025 is expressly limited to "Air Quality and Lighting. All other comments remain unchanged."
- 17.3 The Council scrutinised this Site far harder in 2019, when there was less to find.** As set out at Section 7, in February 2019 its own Contaminated Land Officer read the ES chapter, the preliminary risk assessment and the underlying ground investigation report and engaged with the proposed scheme of investigation receptor by receptor. In 2025, on a Site where asbestos has since been found in both landfills, the same team read the desk study alone and adopted the Environment Agency's water conditions.
- 17.4 Thurrock Public Health returned a nil response.** On 23 July 2026: "Having reviewed the updated documentation we have no further comments to make from a Public Health perspective. Our concerns noted in our original response on 17th July 2025 still stand." That original response of 17 July 2025 is not in the document set, so the concerns said to stand cannot be read.
- 17.5 The Health and Safety Executive's remit here is a gas pipeline,** not contamination: "HSE's LUP advice to a planning authority is intended to advise on the risk to people at the development from a major accident involving hazardous chemicals."
- 17.6 The word "asbestos" does not appear in any of the consultee responses on this application.** Thirteen consultee documents were searched in full - the Environment Agency (twice), the HSE (twice), Thurrock Environmental Protection and Environmental Health (three times), Thurrock Public Health, Historic England, GeoEssex (four documents) and the applicant's own response to GeoEssex. It appears in none of them.
- 17.7 The consequence is that the most hazardous substance identified on this Site has not been examined by any regulator and no condition currently before the Council addresses it.**

18.1 These points are individually minor and collectively material, because the Council is being asked to determine a major EIA application on this material.

- **Appendix 7.6, pages 12 to 45** - that is, the whole of the risk assessment, the remedial options appraisal, the remedial strategy, soils management, the asbestos section, the watching brief, the foundation works risk assessment and the verification plan - carry the running header "Project Beech ... Red Engineering", a different project name and a different company from the report's own cover. Appendices E, F and G carry the same header. Its cover reference is 22348-JUBB-XX-XX-RP-G-0004; every page footer says 22348-JCE-XX-XX-RP-G-0004. Its authorisation and issue history page is blank.
- **Appendix 7.4 is dated February 2024** on its cover but describes a desk study "updated in January 2025" and groundwater sampling carried out on 27 November 2024. It is internally inconsistent on how many exploratory holes exist: §4.1 gives 30 machine-excavated trial pits, §4.2.2 gives thirty-eight.
- **Appendix 7.3 dates the RSK report as August 2018** in its contents page and section heading and August 2013 in its source lists - a five-year discrepancy about its oldest data source.
- **Excavation volumes are irreconcilable.** ES Chapter 3 ¶3.41 gives approximately 171,000 m³ cut, 182,000 m³ fill and 11,000 m³ imported. The Outline CEMP gives approximately 210,000 m³ cut, 197,000 m³ fill and 13,000 m³ surplus. The same illustrative masterplan; the opposite material balance.
- **Demolition areas are irreconcilable.** ES ¶3.40 gives the "Green" area as 15,600 sqm, identical to the "Cyan" figure; the CEMP gives Green as 1,300 sqm. The ES calls the Red area "the former Arena Essex track"; the CEMP calls it "the former greyhound track".
- **The CEMP relies on an asbestos survey that is not in the application.** Among its demolition quantities it schedules "Removal of contaminated spoil heaps as identified in asbestos survey". No asbestos survey is submitted with this application and none is identified anywhere in it. The next bullet reads "Removal of numerous areas of fly tipped waste and rubbish - contamination currently unknown."
- **Appendix 12.1, the Schedule of Mitigation, was submitted incomplete:** the construction air quality row reads "(to complete when Appendix 4.2 is received)".
- **Appendix 7.4 is filed on the portal as Parts 1 to 9 and Part 11. There is no Part 10.**
- **Two documents are truncated on the portal as served.** Appendix 7.3 Part 2 and Appendix 7.4 Part 4 each end mid-object with no trailer and no cross-reference table and cannot be opened. Appendix 7.3 Part 2 is the Envirocheck datasheet - the one document in the entire submission that carries the historic landfill records, the asbestos licence and the asbestos prosecutions. A member of the public working from the served set cannot open it at all. Clean copies were obtained only by re-requesting them from the portal.
- **The Outline Waste Management Strategy is a generic corporate template.** It retains "Client Name's" and "Subject/Project Name" placeholders, an untitled "Table x", American spellings and units and a reference to a "VIHB-registered waste collector" - the Netherlands transporter register. It does not mention the Central or Eastern Landfill, the 38,000 m³, or any excavated soil at all and its single asbestos provision sits in the operational waste section, governing the data centre's operating life rather than the demolition and earthworks.
- **The July 2026 ES Addendum disposes of this entire subject in one line:** "No amendments to Chapter 7 are considered to be required as part of this ES Addendum (July 2026)." It contains no mention of asbestos, contamination, landfill, dust or hazardous waste.

19. Conclusion and what the Council should require

- 19.1** The submitted material does not make adequate arrangements to remediate this Site. It identifies blue, brown and white asbestos in both landfills; it concedes a major adverse effect on human health; and it then defers the assessment, the remediation method, the monitoring and the long-term management of that risk to plans that do not exist. That is not a remediation strategy. It is a suggestion to decide later.
- 19.2** Three matters put beyond argument that this is a Site whose history was available and was not used.
- 19.3 First**, the applicant's own commissioned data pack of 6 January 2023 contained all four landfills on or within 26 m of the Site, named the same operator on two of them, carried the licence authorising broken asbestos sheeting and listed three convictions for illegal asbestos dumping within a kilometre.
- 19.4 Second**, the applicant's own predecessor's Environmental Statement recorded four landfills, footnoted two of them with asbestos disposal histories running to thousands of tonnes, applied CAR-SOIL and identified neighbours and the public as receptors for airborne fibre. Third, the Environment Agency and this Council's own Contaminated Land Officer both endorsed, in December 2018 and February 2019, a scheme of investigation requiring detailed quantified two-stage asbestos analysis and the delineation of the lateral and vertical extent of the landfills - at a time when no asbestos had been found here at all.
- 19.5** National policy requires the Council to be satisfied, before permission is granted, that the Site is suitable for its proposed use taking account of ground conditions and contamination; that adequate site investigation information prepared by a competent person is available; and that after remediation the land would not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990 - the very test the applicant invokes at ES ¶7.150.
- 19.6 On the information before it, the Council cannot be satisfied. The application should be refused.**
- 19.7** If the Council is nevertheless minded to entertain it, determination should be deferred until the following have been submitted, consulted upon and independently reviewed:
- **a full intrusive investigation of both landfills**, including the areas that were previously inaccessible, sufficient to establish the extent, depth and distribution of asbestos and meeting the standard the Environment Agency and the Council's own Contaminated Land Officer endorsed in 2018 to 2019, including detailed quantified two-stage asbestos analysis;
 - **an asbestos risk assessment carried out in accordance with CIRIA C733**, with site-specific assessment criteria and activity-based fibre monitoring, for construction workers, for site neighbours and the public, for end users and separately for those parts of the Site intended for public access;
 - **a remediation strategy** that does not rely on visual handpicking to deal with loose fibres; that specifies the cover system, its thickness, its marker layer, its verification and its long-term maintenance for every area to which the public would have access; and that commits to air monitoring during the works rather than leaving it to a contractor's discretion;
 - **an amended verification regime** that includes asbestos as a determinand for all soils to remain in situ, with a remedial target value, a sampling frequency and a requirement to report asbestos findings, removals and air monitoring results in the verification report;
 - **a refurbishment and demolition survey compliant with HSG264** for every structure proposed to be demolished, including the residential property scheduled for demolition in the CEMP, together with the identity and accreditation of the surveying organisation; and an Asbestos Management Plan in the form HSE specifies, containing all six required elements including a site plan showing both the location of asbestos-containing materials and the areas not inspected, submitted for approval before permission rather than promised afterwards;
 - **a long-term monitoring, maintenance and contingency regime** for the cover system, secured by planning obligation and not by an unenforceable management plan;
 - **an explanation from the applicant** of why the four landfills, the asbestos licence at Motherwell Way and the three asbestos-dumping convictions returned by its own environmental data search do not appear in its conceptual site model;
 - **the Council's own Motherwell Way asbestos file**, including the letter of 31 August 1983 and any record of whether the remedial action then recommended was carried out; the Condition 7 monitoring records for THU079; and resolution of the conflict between the Council's and the Environment Agency's records as to which landfill licence 30/77 belongs to;
 - **a substantive report from Thurrock's Environmental Protection Team** and where appropriate the Health and Safety Executive, on that material; and
 - **the complete enforcement file in case 20/00442/AUNWKS**; confirmation whether the Type 3 refurbishment and demolition survey and the soil condition survey required by the 2010 Hughes and

19. Conclusion and what the Council should require

Associates asbestos survey were ever obtained; any demolition work statement, licensed removal and consignment records for the Raceway Tavern; intrusive investigation of the ground where it stood and of the former Maintenance Compound; and identification of the residential property scheduled for demolition in the CEMP.

Application 25/00573/OUT. ES Chapter 3, Proposed Development, Demolition, Construction and Alternatives, ref 1113560 · ES Chapter 7, Ground Conditions and Contamination, April 2025, ref 1113564 · ES Chapter 12, ref 1113569 · Appendix 3.2 Outline CEMP, ref 1113578 · Appendix 3.3 Outline Waste Management Strategy, ref 1113579 · Appendix 7.1 Glossary, ref 1113602 · Appendix 7.2 Legislative and Policy Review, ref 1113603 · Appendix 7.3 Phase 1 Desk Study Report, Parts 1 to 10, refs 1113777 and 1113605 to 1113613, including at Part 2 the Envirocheck/Landmark data pack, order 305516822_1_1 of 6 January 2023 · Appendix 7.4 Ground Conditions Assessment Report, refs 1113783 and 1113615 to 1113624 · Appendix 7.5 Detailed Quantitative Risk Assessment, refs 1113827 and 1113626 · Appendix 7.6 Remediation Strategy and Verification Plan, refs 1113836, 1113628 and 1113629 · Appendix 12.1 Schedule of Mitigation, ref 1113648 · Design and Access Statement, April 2025, ref 1113547 · Sport and Active Recreation Statement, ref 1119171 · ES Addendum, July 2026, ref 1236104 · Environment Agency, 16 July 2025, ref 1132501 and 29 October 2025, ref 1162411 · Thurrock Environmental Protection, refs 1135436 and 1136042 and Environmental Health, 14 November 2025, ref 1167149 · Thurrock Public Health, 23 July 2026, ref 1240692 · Health and Safety Executive, refs 1126781 and 1161009.

Application 18/01671/FUL (withdrawn 5 September 2023). Arup, *Environmental Statement Chapter 7: Ground Conditions*, November 2018, ref 406907 · Arup, *Ground contamination preliminary risk assessment*, AE-ARP-XX-XX-RP-YE-0001 Rev A, 14 November 2018, ref 407028, together with its Appendix C, Thurrock Council local authority search; Appendix D, Environment Agency historic landfill search; and Appendix E, the RSK 2013 report in full, which itself reproduces the Capita Symonds Contaminated Land Desk Study of 1 June 2012 · Technical Appendix 7.1, Methodology and Assessment Criteria, ref 407027 · Technical Appendix 7.3, Environment Agency Correspondence, ref 407035 · Environment Agency, 21 December 2018, ref 414184 · Thurrock Environmental Protection Team, 1 February 2019, ref 423173 · Thurrock Environmental Protection Team, 3 March 2022, ref 786868 · Thurrock Public Health, 31 January 2019, ref 424785 · Iceni, Planning Statement Addendum, June 2021, ref 716427.

HSE guidance. HSE, *Asbestos: The survey guide*, HSG264, 2nd edition 2012 · HSE, *Managing and working with asbestos: Control of Asbestos Regulations 2012, Approved Code of Practice and guidance*, L143, 2nd edition 2013 · HSE, *Asbestos management plan guidance*, worked example and blank template.

Historic and Council records. Hughes and Associates, Chartered Surveyors, *Type 2 Asbestos Survey and Report*, Arena Essex Raceway, May 2010, ref HA03/14; survey 12 May 2010, analysis by SCOPES Asbestos Analysis Services Ltd, 14 May 2010 · Asbestos Collection Services hazardous waste consignment note NQY971H0285S, 28 January 2011 · Capita Symonds, *Contaminated Land Desk Study, Arena Essex*, 1 June 2012 (ALE53) · RSK Environment Ltd, *Preliminary Geo-environmental Site Assessment*, ref 26530-R01 (01), August 2013 (ALE15) · Thurrock Council planning enforcement case 20/00442/AUNWKS, opened 10 November 2020 · Thurrock Council FOI 12173 response of 31 August 2022 and appendices A to G.

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