

SECTION C
MINERALS AND WASTE DEVELOPMENT

BACKGROUND DOCUMENTS - the deposited documents, views and representation received as referred to in the reports and included in the development proposals dossier for each case and also as might be additionally indicated

Item C1

Retrospective application for the use of land for screening, crushing and processing of aggregates, construction and demolition waste and concrete together with open storage of these materials, F M Conway Works, Rochester Way, Dartford – DA/06/417

A report by Head of Planning Applications Unit to Planning Applications Committee on 12th December 2006

Application by F M Conway Limited to seek retrospective planning permission for the use of land for screening, crushing and processing of aggregates, construction and demolition waste and concrete together with open storage of these materials, Rochester Way, Dartford

Recommendation: subject to no direction to the contrary from the Secretary of State, permission be granted subject to conditions

Local Member: Mr T Maddison

Unrestricted

Background

1. This is a retrospective planning application specifically prepared to address this Council's decision to refuse planning permission for a similar development in 2005, planning reference DA/04/787 (and subsequently referred to as the 2004 application).
2. At its March 2005 Planning Applications Committee, the Committee refused planning permission for the screening and crushing of materials on the site. The grounds for refusal were:
 - (i) given the waste sources the application had failed to satisfactorily demonstrate that the proposal represented the Best Practicable Environmental Option (BPEO) with particular regard to the proximity and self sufficiency principles;
 - (ii) The application failed to demonstrate that the development would not have an unacceptable impact upon local amenity with regards to dust; and ;
 - (iii) In view of the potential harm upon local amenity arising from dust emissions from the development, the application failed to satisfactorily demonstrate an overriding need for the development.
3. An appeal has been lodged against the Council's refusal of the 2004 application. This is to be heard at a public inquiry. The Planning Inspectorate has advised that the appeal is to be held in abeyance whilst the County Council considers the merits of the application currently before it.

4. The current application specifically seeks to address the grounds of refusal set out in para. 2 above. It should be noted that whilst the nature of development is the same as the 2004 application (i.e. a screening and crushing operation), it is not the same proposal considered by the March 2005 Planning Applications Committee. In particular, the application now before Members includes detailed mitigation measures to address the dust ground of refusal and a revised Best Practicable Environmental Option BPEO assessment. The application also includes detailed measures to address noise considerations. (In the 2004 application noise issues were addressed in principle, with details to be worked up to satisfy conditions). There are a number of key changes from the 2004 application. These include the replacement of the existing crushing plant on site with a model that encloses key elements of the crushing activity, a comprehensive dust mitigation scheme and a noise mitigation scheme which includes a 7m acoustic barrier to the northern and part of the western boundary.

Retrospective Development

5. This is a retrospective application. The development appears to have taken place in advance of the necessary planning permission as a result of the planning history on the site.
6. Prior to the receipt of the 2004 planning application, the County Council received complaints from the residents of the neighbouring housing development, Braeburn Park concerning development on the F M Conway site. Investigation established that a number of waste management developments were on site without the benefit of planning permission, although the crushing activity had the benefit of a permit under the Environmental Protection Act from Dartford BC. In accordance with our planning enforcement practice, retrospective planning applications were invited to test the planning merits of the proposals. Two applications were received, one for the aggregate crushing facility (DA/04/787) and the other for the drainage treatment plant, an aggregate washing plant and two buildings for B2/B8 (industrial and storage uses), reference DA/04/770. The County Council granted planning permission for application DA/04/770 and refused application DA/04/787.
7. Notwithstanding the submission of the 2004 and the current applications, the applicant maintains the view that the crushing activity on the site does not require planning permission from the County Council. In its view the activity falls within the use classes B2/B8 that it considers are already permitted on the site. To support this view, the applicant has submitted two applications for a Certificate of Lawfulness of Existing Use or Development (CLEUD) to Dartford BC. The first was appealed against Dartford Borough Council's failure to determine the application within the required timescale. This appeal has been co-joined with the appeal against this Council's refusal of planning permission referred to above. A second CLEUD application was refused by Dartford Borough Council.
8. The enforcement approach to address the breach of planning control on this site has been regularly reviewed by the Council's Regulation Committee. The Regulation Committee has resolved that due to the circumstances of this case and the uncertainty concerning the lawful use that the site be allowed to operate under an agreed working protocol pending the determination of the planning appeal. The protocol sets limitations concerning the way the development is carried out including restrictions on stockpile heights, dust suppression measures and the adoption of WRAP good practice on the production of aggregates from inert waste.

DA/06/417 – Aggregate screening and crushing operation, F M Conway, Dartford

Figure 1 - Site Location

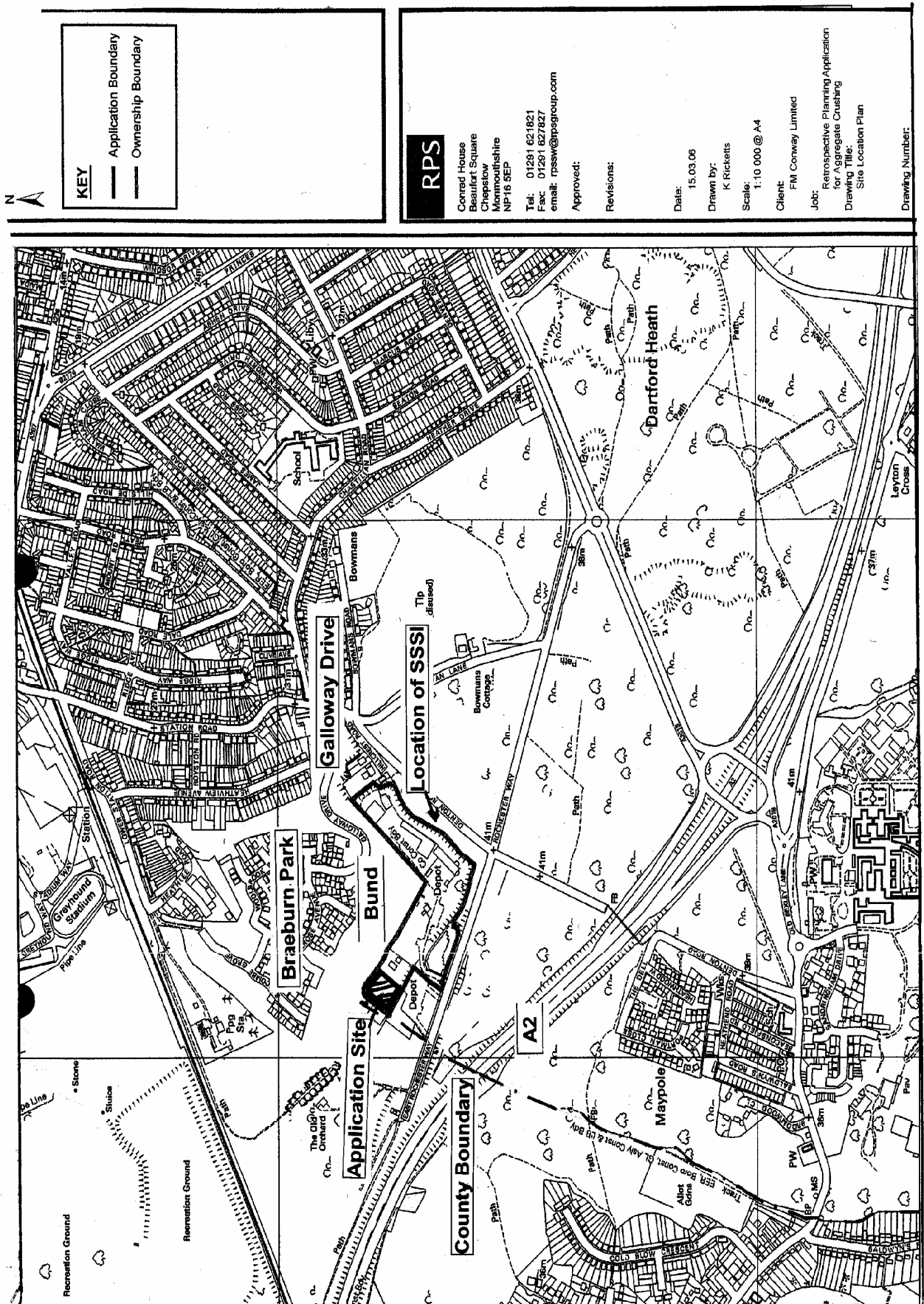


Figure 2 – Site Layout

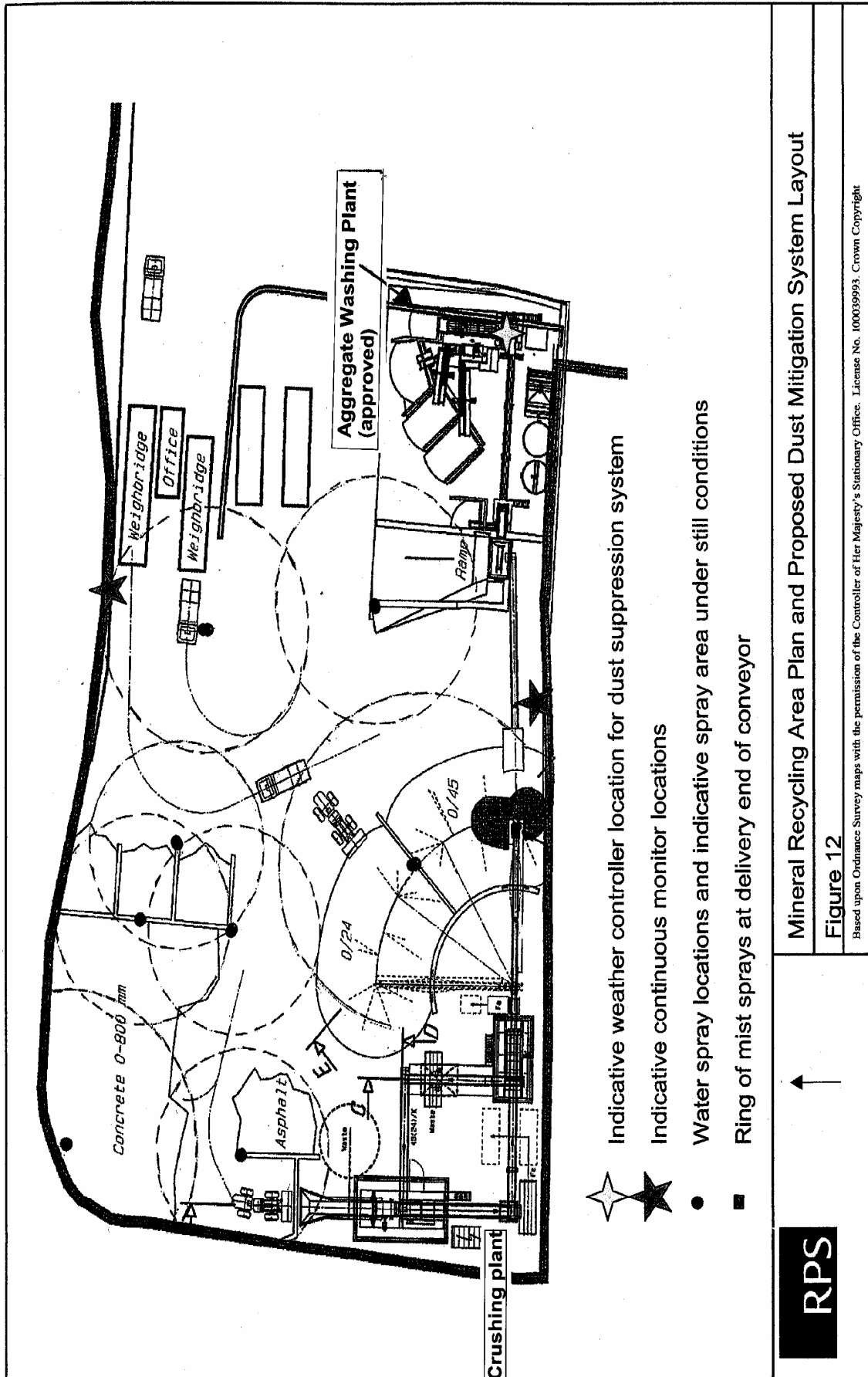


Figure 3 - Aerial photo showing the site in its wider setting



Figure 4 - Aerial photo showing a closer view of the activities at the western end of the industrial estate.



Site

9. The site lies on a long established industrial estate within the Metropolitan Green Belt and whilst falling totally within the Dartford Borough Council area, is on the boundary with the London Borough of Bexley. Prior to the development taking place, the land formed part of the applicant's civil engineering yard. The neighbouring land-uses to the south and west are industrial and waste related. To the north lies a recently constructed housing development (Braeburn Park), which is separated from the industrial estate by an earth bund. This bund was constructed as part of the housing development. A s.106 legal agreement tied to the residential planning permission requires that this bund be planted and transferred to London Wildlife Trust where it is to be managed as part of a wider nature conservation site. My understanding is that the land has yet to be transferred, but has been planted with limited success. The nearest housing on the Braeburn Park estate is located some 90m from the Conway site boundary.
10. Land to the west of the site within Bexley forms part of the Old Orchard (The Gun Club) Site of Borough Importance for Nature Conservation. The extent of this site is currently being reviewed and consultations are to take place with a view to extending the area to include all the open land around the Braeburn Park housing. This would include the bund immediately adjacent to the application site. The Wansunt Pit SSSI (2 sites) lie in close proximity to the site. Site 1 is located to the east of the site and extends to 0.5 ha. The second extends to 1.44 ha and is located to the north of the site. Both are protected for their geological importance.
11. The site extends to 0.42 ha. Details of the site and the surrounding area are shown on Figures 1 and 2. Members of the Planning Applications Committee visited the site and the adjoining housing development on the 20th June 2006. At the site visit, Members requested that the officer report to the Planning Applications Committee include an aerial photograph showing the industrial estate in its wider setting together with a description of other activities taking place. Aerial views of the site are attached at Figures 3 and 4. Bexley Council officer's informally advise that the land within the industrial estate to the west of the F M Conway site within the Bexley area is used for a variety of storage purposes. The site does not have the benefit of planning permission although there is a long-standing history of activity (use class B8 - storage and distribution) on the site as part of the previous Gun Club operations. Bexley Council is currently in discussions concerning a potential application for a Certificate of Lawful Use Development (CLEUD) on this land.
12. A note of the 2006 Members' site visit is attached as Appendix 1.

The Proposal

13. Permission is sought to stockpile, screen and crush construction and demolition waste from the applicant's highway maintenance and civil engineering operations and to store, the material prior to its use as a feedstock to the (approved) aggregate washing plant on site or as a sub-base material. The site would provide an annual capacity of 200,000 tonnes. The operation would utilise two excavators and processed material would be transferred by wheeled loader to stockpile or the adjoining aggregate washing plant.
14. The proposal along with the approved waste management facilities on site would provide an integrated waste management process, ultimately enabling the

applicant to recycle 100% of recovered materials arising from the applicant's civil engineering business in London and North Kent. Approximately 75% of the material processed by the crushing plant would be transferred to the aggregate washing plant for further processing. The remaining 25% would be used to produce varying grades of sub-base or foamway, a cold lay bituminous macadam suitable for highway and footway construction. Once the material is screened and crushed it can be used for a variety of applications ie sub-base in pavement construction (Type 1-4), capping material and as a drainage medium.

15. The noise and dust mitigation schemes as first submitted were significantly revised during the planning application process. In September 2006, the County Council received details of a different crushing plant for the site that would be provided in a fixed location in the south-west quadrant of the site. The grading plant currently on site would be incorporated within the new crushing plant so that it would not operate independently. This design change proposes 3 cladded housing units enclosing key components of the crushing plant linked by covered conveyors. The housing to the crushing and screening plant measures 98m² and would be 8.9m in height above existing ground levels. The unit to the crushing plant would be 53m² and have a height of 8.9m. The third housing unit would measure 5m² and would be 5m in height.
16. The application is accompanied by a quality control protocol to which the plant would operate and has been prepared by WRAP (Waste and Resources Action Programme) in conjunction with the Quarry Products Association and the Highways Agency. This sets out a formalised quality control procedure for the production of aggregates from recycled inert waste.
17. The source of waste is via the applicant's highway maintenance contracts. Based upon contracts from previous years and potential future contracts, the waste sources for the facility are anticipated to be from Kent - Dartford Gravesend, Northfleet and Swanley and Medway Towns, London Boroughs south of the Thames - Bexley, Bromley, Greenwich, Lewisham, Merton, Sutton, Southwark and Hammersmith and Fulham) and London Boroughs north of the Thames (City of London, City of Westminster, Newham and Harrow. The applicant's main markets are local authorities.

Hours of Working

18. These would be 0700 hours to 1800 hours Monday to Friday, excluding bank holidays and from 0700 hours to 1300 hours on Saturdays for maintenance. Vehicles would have 24 hour access 7 days per week, however waste management operations would not take place outside the stated hours. The application advises that the applicant has contracts that can require weekend and night- time working. These are however planned and except in emergencies (i.e emergency road re-surfacing following an accident) the applicant advises that the work can be scheduled so that there is no requirement to load or unload outside the 'normal' hours. It is noted that the applicant currently has unlimited access to the site 24 hours a day in connection with the civil engineering activities on site.

Access

19. Access would be via Rochester Way and then to the strategic road network – A2 and M25. The application forecasts that the overall increase in traffic associated with the development is likely to 70 vehicles per day.

Mitigation Measures

20. A number of measures are included to mitigate the impact of the development. These relate principally to dust, odour, noise and visual impact. The newer crushing plant submitted in September 2006 was submitted to address noise concerns raised during the planning process. The solution however also has some benefit in terms of dust mitigation.

Noise

21. The proposal includes a number of measures designed to ensure that noise levels arising from the crusher, reversing alarms and road sweeper are within acceptable limits as defined by BS4142. These measures are:

Crusher

- Replacement of existing crushing and screening plant with new plant that encloses key components of the processing operation and is linked by covered conveyors.
- Fixing the location of the crushing plant to the south west quadrant of the yard to ensure acceptable levels can be maintained at Braeburn Park;
- Rubber curtain on the conveyor to reduce noise

Reversing Alarms

- Replacement of conventional reversing alarms for all site based vehicles with 'Smart Alarm' or by radar activated alarms which are silent but act by detecting obstacles behind the vehicle;
- Layout of the site to minimise number of reversing actions;
- Long term strategy for replacement fleet vehicles to have white noise (smart) reversing beepers
- Look to encourage third party hauliers (approx 20% of fleet) to fit white noise beepers.

22. Following receipt of the Bexley Officer recommendation to its Planning Applications Committee in November 2006 and the earlier views of KCC's advisor on noise, the application was revised to incorporate an acoustic barrier of 7m in height along the northern and part of the western boundaries of the site (ie the boundary which adjoins the Braeburn Park estate)

Dust

23. The application includes a number of mitigation measures to ensure that dust emissions are kept within acceptable limits. These measures differ from the earlier application refused by this Council and include:

Controls for the crusher

- Enclosure of the crusher and screener and its conveyor belts to reduce sources of dust;
- Rubber curtain on the conveyor to minimise dust escape and wind pick-up;
- Specifically to target dust generated from the end conveyor when it leaves the enclosed system - a foam based suppression system fitted to the crusher to augment the current water based dust control system and the inclusion of a mist bar on the end of the output conveyor to dampen any material prior to falling to the ground.

Stockpile Controls

- Installation of a system of water sprinkler heads to be mounted around the perimeter walls and dividing walls between the aggregate storage bays.

- The location of spray heads to cover the majority of all the stockpiles in the processing yard.
- Water sprays located to serve the north of the processing area with a spray located to cover the material stored there with a further spray at the site entrance to dampen the stockyard and one on the ramp to the aggregate washing plant.

Roadway Dust Suppression

- Installation of impact sprays located on the entrance roadway;
- Use of a road sweeper twice a day

Control Systems

- The proposed dust suppression scheme would be fully automated based on wind-speed levels and/or pre-set timings allowing the system to operate during the night and at weekends when no-one is on site.

Other Mitigation Measures

- containing raw materials stockpiles on the southern perimeter below 6m above existing ground levels; All other materials to be stored within sleeper walled bays with the maximum height at least 0.5m below top of the wall;
- Orientation of bays and sleeper walls to be optimised such that prevailing wind will not mobilise dust from stockpiles.
- Minimising drop distances and number of times material is handled;
- Crushing operations to be suspended during periods of extreme winds when monitoring indicates that a nuisance could occur at neighbouring properties
- Minimise the time material is left out to dry by putting it into storage bays or the washing plant;
- Sheeting of trucks accessing and leaving site and imposition of 5mph speed limit within the application site;
- Wheel cleaning facilities and 5mph speed restriction;

Monitoring

- The application includes a monitoring scheme which involves the provision of dust monitors which would provide instantaneous results either directly or remotely.
- Daily environmental logs recorded by the applicant

Odour

24. The type of material involved is not considered to create an odour problem. Therefore, no mitigation measures are proposed.

Planning Policy Considerations

25. The key policies considerations are set out below. For further details see Appendix 2.

National Planning Policy – the most relevant are set out in Waste Strategy 2000 (as amended in July 2005), PPS10 and its Companion Guide (Planning for Sustainable Waste Management), PPG2 (Green Belts), PPG24 (Planning and Noise), PPS1 (Delivering Sustainable Development) and the recently published MPS1 (Planning and Minerals). Guidance on good practice for handling dust emissions is also set out in MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction). Nationally, Government recognises that due to the high amounts of waste generated by construction activity (32%), sustainable waste

management for construction waste is a priority that needs to be addressed. Defra has therefore recently concluded a public consultation on a 20 year draft strategy.

Regional Planning Policy

The most relevant policies are set out in the Adopted Regional Spatial Strategy (RPG9) - policy E3 (green belts) and policy INF3 (waste). Proposed changes to the Regional Guidance (RPG9) – Waste and Minerals dated August 2005 are also relevant. These relate to policies W3 and W4 (regional and sub-regional self sufficiency), policies W5 and W6 (diversion from landfill and recycling targets), policy W7 (waste management capacity requirements), policy W17 (location of facilities) and policies M1, M2 and M3 (recycled and secondary aggregates). These policies have largely been carried forward in the draft South East Plan, which is to be the subject of an Examination in Public late 2006.

Kent and Medway Structure Plan: (Adopted July 2006)

The most relevant policies are SP1 (conserving and enhancing Kent's environment), SS2 (Green Belt), EN3 (protection and enhancement of countryside character) EN7 (County and local wildlife designations), QL1 (quality of development and design), TP15, (development traffic and HGVs), NR1 (development and the prudent use of resources), NR5 (pollution impacts), NR8 (water quality), WM1 (integrated waste management), WM2 (assessment criteria for waste proposals), WM3 (securing waste reduction) MN1 (sources of minerals supply) and MN2 (Use of secondary/recycled materials).

Kent Waste Local Plan (1998)

The most relevant policies are W1 (waste processing provision/waste hierarchy), W2 (protection of environmental resources), W3 (locational criteria for processing and transfer), W4 (green belt), W6 (consideration of need /harm), W7 (locational criteria to prepare material for re-use), W18 (noise, dust and odour), W19 (water resources), W21 (geological and habitat features), W22 and W23 (access), W25 (layout) and W26 (hours).

The Council's **Minerals and Waste Development Scheme (MWDS)** April 2006 prepared as part of the emerging Waste Development Framework saves the above Kent Waste Local Plan policies for use in the transitional stage before the new Development Plan Document is adopted.

Draft London Plan 2004 (including Alterations 2005)

The main objective of the Strategy is to provide a framework for the capital for moving the management of waste up the hierarchy through the timely provision of facilities. Policy 4A.1 (regional self sufficiency), policy 4A.2 (spatial policies), policy 4A.3 (site selection criteria), policy 4A.5 (better use of aggregates) and policy 5 (support for construction and demolition facilities). Site investigation work for the recycling and recovery facilities in London undertaken for the Greater London Authority in July 2005 is also relevant.

In addition, the **Draft London Best Practice Guide – The control of dust and emissions from construction and demolition, 2005** is relevant. This document was produced in partnership by the Greater London Authority, London Boroughs and the Association of London Government.

Bexley Unitary Plan

The most relevant policies are G26 (conservation and enhancement of the environment), G27 (protection of open land), ENV24 (habitat protection), G32 (BPEO

considerations), G34 (pollution) and G39 (Built Environment).

Consultations

26. Consultations have been undertaken on the application as made and on the supplementary information that was received in September 2006 which included the revised crushing plant. I have received the following comments on the application:

27. **Dartford Borough Council** – Comment awaited.

28. **Bexley Council (as neighbouring authority)** – Bexley Council has considered the application on 2 separate occasions. It considered the **application as submitted at its June Planning Control** meeting. The Committee resolved in respect of the proposed development to inform Kent CC:

- (i) Bexley Council OBJECTS to the application and recommends that it be REFUSED because the application does not provide sufficient information to enable the impact on the amenity of Bexley residents to be properly assessed;
- (ii) Request that Kent County Council does not grant planning permission, if such information is provided by the applicants, before Bexley Council has had the opportunity to assess the impact on residential amenity of nearby occupiers;
- (iii) In the event that Kent CC is minded to grant planning permission the crushing process and associated storage be fully enclosed, in the interests of protecting the amenities of nearby residents from the outbreak of noise and dust, and that Bexley Council be re-consulted on any proposals received to this effect.

Following receipt of Bexley Council's views, further discussions with my officers and Bexley Council officers resulted in the revised crushing plant and mitigation scheme. **Bexley Council considered these revised details** (excluding the provision of the acoustic barrier) **at its Planning Committee on 23rd November**. The Council resolved to advise the County Council that: it

1. *OBJECTED, in the absence of a suitable noise barrier*
2. *Should Kent County Council be minded to grant planning permission that the following matters be addressed by way of suitably worded conditions. (These are set out in full in Appendix 3).*

29. **South East England Regional Assembly (SEERA)** - Subject to the County Council being satisfied on the soundness of the BPEO assessment and the conclusions reached in relation to the consideration of alternatives in terms of the proximity and whether there is a need for the facility in this location in light of alternative sites, the proposed development would not materially conflict or prejudice the implementation of the regional spatial strategy (RPG9 and Alterations), the Government Proposed Changes to the Regional Waste and Minerals Strategy or the draft South East Plan (March 2006). SEERA did not comment on the September 2006 information.

30. **Greater London Authority** – No views received. Consulted 13 April 2006 and 21 September 2006.

31. **Environment Agency** – Provides advice in relation to groundwater, water quality and resources and waste matters. A number of conditions and informatives are sought to address groundwater and drainage issues
32. **Natural England** - No views received. Consulted 13th April and 21 September 2006.
33. **Health Protection Agency** – No views received. Consulted 13th April 2006 and 21 September 2006.
34. **Kent Highways** – No objection, subject to the imposition of conditions to limit the waste processed to 200,000 tonnes pa.
35. **Jacobs – (Advisor on Noise)** - No objection to the proposal as revised to incorporate the acoustic barrier. Due to the additional noise mitigation proposed, predicted noise levels from the crushing operations will be at worst at a level +3.9dbA higher than background as experienced in Braeburn Park. This is less than the +5dbA specified in BS:4142 which may trigger discernible differences. .As such the proposal should not cause detriment to aural amenity at the closest noise sensitive receivers.
36. **Air Quality Consultants - KCC Advisor on Dust Emissions** – In light of the Council's earlier refusal on this site and the suspended appeal, the County Council has appointed Professor Duncan Laxen of Air Quality Consultants as an expert witness to defend the Council's earlier refusal on dust grounds. In the event that the appeal is heard, the applicant has advised that it intends to submit the additional information with regards to noise and dust as set out in the current application before the Planning Inspectorate. Prof. Laxen was therefore consulted on the current planning application.
37. He has reviewed the application as submitted and the additional information provided by the applicant in September 2006 in the context of the planning policies cited in the Council's refusal of the 2004 application as set out in para. (2) above. His review takes account of the findings of an unannounced site visit and analysis of monitoring carried out by Bexley Council at two locations in Braeburn Park.
38. In summary, he advises that the application provides a reasonable assessment of dust arising from the application site. It concludes that the application site will not lead to exceedences of the air quality objectives for PM₁₀. This conclusion is considered appropriate, especially given the results of the monitoring that has been carried out.
39. The applicant has accepted that a package of mitigation measures will be necessary to control dust impacts. The package of measures is now considerably greater than initially proposed, and includes enclosure of dust sources, suppression of dust and monitoring to ensure controls are operated effectively. He advises that the package of measures is considered to be comprehensive and if applied appropriately will ensure that dust emissions are minimal. The measures are capable of being applied as conditions or as part of a Section 106 agreement, and subsequently enforced by Kent County Council. Therefore, given this advice the current F M Conway proposals in relation to the appropriate policies shows that they now meet the requirements of these policies.

40. **Jacobs (Advisor on Dust Emissions)** - No objection. With the planned mitigation in place, dust will not cause detriment to amenity to properties in Braeburn Park.
41. **Jacobs (Advisor on Landscape Matters) – No objection.** It is understood that when the Braeburn Park housing was built an extensive earth bund was formed to offer environmental protection to the properties from various activities in and around the Conway site. As part of the planning permission the bund was to be planted. This would have greatly enhanced its effectiveness as a visual screen to the benefit of the houses.
42. In assessing the current proposal, residential properties along the access road into Braeburn Park (Galloway Drive) and Highview Avenue would suffer a slight adverse visual impact by virtue of machinery on top of the stockpiles. The impact on the landscape would be minimal due to the location of adjoining recycling plants and limited visual receptors. If the bund supported a successful planting scheme with a potential height of anything over 3m then any of the operations taking place on the application site would be comfortably screened and form no visual intrusion.
43. In commenting on the proposed acoustic barrier, they advise that the barrier would exceed the height of the existing earth bund by approx. 1.5m. This barrier could be beneficial in terms of screening views of transitory machine activity from Braeburn Park including the view from the access road. However it would be desirable to soften the structure visually through planting.
44. **Thames Water** – no views received. Consulted 13th April and 21st September 2006.
45. **London Wildlife Trust** - The Trust has responded to the application as made in April 2006. No views have been received in respect of the revised crushing plant and the Council's consultation in September 2006. Its comments on the April submission can be summarised as:
- concerns about the potential negative impact on the wildlife and amenity value of the open space and that this will not be consistently and fully mitigated during day to day operations.
 - The earth bund adjacent to the site is currently designated as a Site of Borough Importance for Nature Conservation (sic). The application does not refer to this designation or the potential impact of the development on the open space.
 - Concerned about operating hours which include 7am to 2pm on Saturdays (sic), and the detrimental impact on residents' quality of life and the recreational value of the open space;
 - The existing earth bund and tree planting may help to provide a visual and acoustic screen for residents and park visitors, although the bund was not designed specifically with this in mind.
 - Proposes that the developer makes an appropriate financial contribution to the Trust to ensure the long-term maintenance of a screen of vegetation on the earth bund boundary of the site.

Publicity

46. The application has been publicised by way of a site notice and newspaper advertisement. Notification was carried out to the 487 properties who had objected to the 2004 application, the majority of which were located on the Braeburn Park housing development. In addition Bexley Council undertook its own consultation exercise. The application has been advertised as a departure to the development plan given its location within the Metropolitan Green Belt. If Members are therefore

mindful to grant planning permission the application would need to be referred to Government Office for the South East in order that it can consider whether to 'call in' the application for its own determination.

Representations

47. I received 51 letters of objection in response to the application as submitted in April 2006. One letter is written on behalf of 3 households in Braeburn Park, another is signed on behalf of 'The residents of Braeburn Park Crayford'. I received a further 22 letters in response to the consultation in September 2006. The planning considerations raised in respect of the application as originally made can be summarised as:

Environmental

- The site is a public nuisance in terms of noise, dust, pollution and visibility and is wholly inappropriate so close to housing.
- the level of noise and vibration from heavy goods vehicles and the crushing activity is unbearable. The noise is highly intrusive as it consists of 'crashes and bangs' and reversing warning beeps
- Dust arising from the site is causing health and amenity issues and denies residents the right to clean air. Cars and windows need frequent washing.
- There is concern that the crushing of concrete will create silica dust and put residents at risk of silicosis, a disease associated with major industrial crushing.
- The earth bund separating the site from Braeburn Park provides no protection from noise, dust, odour and visual impact. Planting on this bund has been unsuccessful.
- Impact upon the adjacent Special Scientific Interest site and Heritage Land, contrary to planning policy which seeks to protect and enhance these areas..
- The adjacent housing development was granted planning permission subject to the creation of a nature reserve on part of the site. The development would destroy that nature reserve.
- a children's play area will sit less than 100m from the F M Conway site.
- Proposal creates significant congestion and road safety issues

Planning policies

- Conflicts with planning policies, particularly those concerning development in the Green Belt.
- Conflicts with policy W18 of the Waste Local Plan.

Other

- Questions are raised about the quality assurance process to restrict materials that are to be crushed and the monitoring arrangements

48. The planning issues raised in respect of the application as amended in September 2006 can be summarised as:

Environmental

- The site is too close to residential properties that are down wind of the development; Dust can be seen hovering over the housing area and deposits on cars and window sills.
- The development is unsuitable for the site and damaging the area.
- Concern that dust mitigation measures are inadequate and that dust will migrate from the site. Health concern as to what is in the material.
- The area is covered by a blanket of toxic dust. What measures are in place to prevent the crushing of contaminated material?
- Development is dangerous to health causing short term discomfort (sore eyes/

throats) and long term illness such as silicosis, cancer, TB and bronchitis.

- The operation is noisy and works outside reasonable hours.
- Adverse impact on the green belt and nature conservation area.
- Objection to the visual impact of the plant - development is unsightly and clearly visible from Braeburn Park.
- Development is hazardous to highway safety

Local Member Views including Elected Members Representing Bexley Residents

49. The **County Council Member** for the site is Mr Maddison. He was advised of the application on 13th April 2006. To date, no views have been received.

50. **David Evennett, MP for Bexley Heath and Crayford** objected to the proposal as originally submitted on the grounds that it will be a hindrance on the quality of life for his constituents through noise, nuisance, dust and environmental consequences. In commenting on the revised details, he maintained his objection on the basis that the ‘

‘site is close to the Braeburn Park area of my constituency and affects the quality of life of residents in the area. This development has negative effects on the environment through pollution and also provides noise nuisance.’

51. The **Leader of Bexley Council** has also written on behalf of local residents who have contacted him on the various applications F M Conway have submitted. His letter registers his strong objection to the application as originally submitted. The following grounds are raised:

- Detrimental effect on residents on Braeburn Park and the bordering areas of Special Scientific Interest and Heritage Land
- Continued blight to area with fumes, dust and noise;
- Significant levels of lorries and congestion minor roads which are predominantly residential and not suitable for industrial loads
- Storage of materials could look like a mining site;

52. **Howard Marriner, a Borough Councillors for the Crayford Ward** of the London Borough of Bexley strongly objects to the proposal as originally submitted. He considers that the application has a detrimental effect on the residents of Braeburn Park and the bordering areas of special scientific interest. If approved it would have a serious effect on residents due to fumes, dust and noise. It also detracts from the outlook of residents and leads to traffic congestion on unsuitable roads.

53. A further letter signed on behalf of the three ward councillors for Crayford Ward was received in response to the application as originally submitted. It opposes the application in the strongest possible terms. The letter reads:

‘Whilst canvassing on the Braeburn Park estate we received many complaints with regard to fumes, noise and traffic created by the Conway development. You are no doubt aware that the site is situated above the residential area and bordering heritage land, any possible extension to the site will impact on the environment and quality of life for local residents.’

54. **Greater London Authority – Assembly Member for Bexley and Bromley –**

Strongly objects for the following reasons:

- Major departure from the long established national and local policy on development with the Green Belt;

- The unauthorised development has been in progress for some considerable time and has demonstrably resulted in a serious reduction in the residential amenity of nearby residents by reason of noise dust and odour. The application has failed to demonstrate that the processes are capable of being undertaken without detriment to those amenities.
- Application has failed to demonstrate that the site represents the most suitable site for the waste processing activities involved, when assessed against other potential sites;
- Since the works began, residents have experienced health worries.

Discussion

55. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The most significant development plan policies are outlined at paragraph 25 above (and amplified in Appendix 2).
56. This is a retrospective planning application. Members are reminded that in determining such applications, the planning considerations are the same as if the development had not taken place. Care needs to be taken to ensure that no advantage is given to the consideration of retrospective proposals.
57. Waste management proposals should reduce the environmental impact by moving its management up the waste hierarchy and be managed in ways to protect human health and the environment. Whilst PPS10 (Planning for Sustainable Waste Management) no longer requires specific consideration of BPEO at application stage requiring it at the plan making stage (where it is considered as part of the Plan's Strategic Environmental Assessment (SEA) and Sustainability Appraisal(SA)), guidance requires planning authorities in determining applications to be satisfied that waste management facilities are of *'the right type, in the right place and at the right time'*.
58. Where planning authorities have current waste plans that have not been through the SA/SEA process (as in the case of Kent), it is appropriate to consider planning applications against the principles of BPEO in the interim. Therefore until the emerging Kent Waste Development Framework reaches a more advanced stage, the County Council has resolved to consider applications against Policy WM2 of the Kent and Medway Structure Plan to ensure that they deliver facilities that are *'of the right type, in the right place and at the right time'* in accordance with paragraph 2 of PPS10'. This approach requires consideration as to whether planning applications reflect the principles of BPEO.
59. Accordance with Development Plan policy and consideration as to whether the proposal accords with PPS10, paragraph 2 can be assessed in relation to the following issues: need for waste management facilities; the principles of the waste hierarchy and self sufficiency, sources of waste and proximity principle; location (including Green Belt); environmental and amenity impacts; access and routing.

Need for Waste Management Facilities

60. Key objectives of the Waste Strategy that are translated into planning policy and guidance at national, regional and local level places an emphasis on reducing the growth in waste, recognise the need for substantial investment in new waste management facilities and to bring them about in a sustainable manner. Waste is now seen as a resource to be used prudently and managed in a way to maximise value from it. There is an emphasis away from landfill solutions towards recycling

and recovery and challenging targets are set to help achieve these objectives. Policy seeks to ensure communities take responsibility for dealing with its own waste and that it is disposed of as near as possible to the place of production and in a way that minimises risks to the environment. Whilst the Green Belt is to be protected, the guidance recognises that in some circumstances waste development may be acceptable. Policy support is also given to facilitate the use of secondary and waste materials where this is environmentally and economically acceptable.

61. The approved SE Regional policy provides further recognition that a range of facilities is necessary to manage the region's waste and that a large number of new facilities will be required. At the County level, work to support the emerging Kent Waste Development Framework identifies the need for a significant number of new waste management facilities.
62. In principle, proposals for new waste recovery facilities are therefore in accordance with waste management policy and guidance that supports the need for additional facilities. In particular, the proposal would enable up to 200,000 tonnes pa of construction and demolition waste from highway contracts, which have traditionally been landfilled to be recovered to re-useable constituents. The development treats waste as a resource and maximises its potential for other beneficial uses, thereby reducing both the amount of material to landfill and the need for virgin aggregates to be won.
63. However, whilst the proposal fares well against the general thrust of waste management policy/guidance, the site's acceptability for these waste management operations needs to be assessed against other planning considerations including the concepts of BPEO, the very special circumstances needed for development within the Green Belt and other environmental considerations.

BPEO

64. The application includes a Best Practicable Environmental Option (BPEO) Assessment to inform the planning process. One of the three grounds for refusal of the DA/04/787 application was that the application had failed to satisfactorily demonstrate that the proposal represents the BPEO with particular regard to the proximity and self sufficiency principles. The current application in seeking to address this ground of refusal has undertaken a fresh BPEO assessment with greater investigation on sites closer to the waste sources.
65. The methodology reviewed the relevant development plans to identify possible sites that could accommodate an aggregate crushing facility or could process the annual tonnage at an established facility. The work included site visits, discussions with planning officers and the use of GIS based mapping software to produce proximity calculations. Given the source of the waste arisings and in agreement with the County Council, the assessment of alternative sites considered north eastern Kent and the London Boroughs of Lewisham, Bromley, Bexley and Greenwich. The assessment considered development plan sites identified as either brownfield, for B2/B8 (industrial and storage), waste management and other sites that met locational criteria. It considered sites identified within the Greater London Authorities Report 'Recycling and Recovery Facilities Site Investigation in London and sites identified as part of The London Plan Alterations.
66. In total 22 sites were considered as alternatives to the application site. Each site was assessed against locational criteria. The assessment also considered the implications of material being crushed in one location and then being transported to

the approved washing plant at the applicant's site in Rochester Way, Dartford (approximately 75% of crushed material is put through the washing plant on site). The applicant's assessment concludes that no one site is clearly better than the application site and that the development represents the BPEO in the particular circumstances of this proposal

Waste Hierarchy

67. In terms of the waste hierarchy, the proposal is positive in a number of ways and as such meets the requirements of policy W1 of the Kent Waste Local Plan and other waste planning policy. In particular, it scores well with regard to the resultant shift away from landfill and its production of a useable alternative to virgin aggregates would assist in the overall reduction of waste. The proposal would enable a very high level of recovery of material (in excess of 90%) and enable waste to be managed in an integrated way.

Self Sufficiency

68. The objective of self sufficiency is for local authorities and the industry to achieve regional self sufficiency in managing its waste. South East Plan waste policy recognises that regional self sufficiency needs to be interpreted pragmatically, as waste movements across administrative boundaries will be likely and necessary in certain circumstances to make use of the nearest appropriate facilities. The Strategy also recognises that there is currently limited capacity for waste processing in London and notwithstanding the aspirations of the emerging London Plan towards self sufficiency it is recognised that the capital will be reliant on capacity in surrounding authorities into the future. Policy W3 of the Regional Strategy states that in considering provision for recovery and processing capacity for London's waste that support is given where there is a proven need, with demonstrable benefits to the region, including improving the viability of recovery and where this is consistent with the proximity principle.
69. From the stated waste sources, some 79% (158,000 of the 200,000 annual tonnes) would arise within the London area. The proposal is however on the boundary of the London Borough of Bexley and would primarily serve the London Boroughs closest to Dartford (Bexley, Bromley, Greenwich, Lewisham and Southwark). These are estimated to provide 51% of the total waste arisings. In addition the development would provide up to 42,000 tonnes pa of capacity (21%) for Kent. This is envisaged to be within the Thames Gateway area and would therefore provide a much needed facility to support materials recovery as part of the significant regeneration and development planned in one of Kent's growth area.
70. In light of the emerging policies for both the South East and London, the site's location on the border of the London area and its direct link to the primary route network (in particular the A2 and the M25), the considerations relating to proximity (which are addressed in detail below) and the potential role that the development may have in recovery of waste arising from Thames Gateway development, I consider on balance that the proposal is consistent with regional policy on self sufficiency.

Waste Sources and the Proximity Principle

71. This issue formed one of the Council's grounds for refusal for application DA/04/787. The Planning Authority was not satisfied that the applicant had satisfactorily demonstrated that a site did not exist closer to the waste sources that in terms of other planning considerations, particularly amenity impact on adjoining land-uses,

was equal to or better than the application site.

72. The current application reconsiders the issue of proximity and provides fuller investigation of possible alternatives. In doing so the applicant took into account that planning permission already exists for the aggregate washing plant and that the current proposal could provide the feedstock for the aggregate washing plant. The applicant therefore argues that notwithstanding the outcome of this application, some 75% of the annual 200,000 tonnes of material will be processed on the site pursuant to the permission for the approved aggregate washing plant. The submitted BPEO therefore considers a number of alternative sites to the application site and calculates the proximity with and without the mileage implications of the material being processed via the aggregate washing plant on the applicant's site. Each assessment included a number of locational criteria, along with a calculation for the average distance travelled in miles per tonne of waste. This allowed the sites to be ranked.
73. Of the 23 sites considered, the assessment concluded that in terms of proximity to the waste sources there is little to choose between the top 10 ranked sites. If the proximity issue is determined without regard to the waste miles to the aggregate washing plant, then the site at Bell Green Gas Works in Lewisham appears to be the most proximate to the waste source. Here the average distance per tonne the waste would have to travel from its source is 7.78 miles compared to 9.69 miles for the application site. It is also noted however that a mixture of uses are proposed for this site as part of a comprehensive redevelopment. The assessment ranks the application site as 10th out of the 23 sites considered if the proximity issue is determined without regard to the waste miles to the aggregate washing plant. If the assessment considers the fuller 'waste mileage ie with the mileage to the aggregate washing plant, then the application site is ranked 1st out of the 23 sites and is the most proximate.
74. In considering the earlier application I advised the Planning Authority that whilst operationally it may suit the applicant to locate the crushing facility with the other operations it is not a fundamental requirement in my view. In planning terms there is merit in 'processing' the material stream as close as possible to the source of the arisings. It is of note that as the applicant has invested considerable capital in constructing the washing plant adjacent to the application site, in commercial terms it is likely that transferral of a considerable proportion of any crushed waste stream from an alternative location could be brought to the site for washing.
75. It is therefore appropriate in my view to consider further the sites that were ranked higher than the application site in the assessment when the aggregate washing plant was excluded from the assessment and to consider whether they provide a realistic available alternative to the application site. These were:

SITE	RANKING	AVERAGE DISTANCE IN MILES /TONNE	COMMENTS
Bell Green Gas Works, Lewisham	1	7.78	Allocated for employment purposes, but falls outside the defined employment area. Proposed uses are B1/B2 and B8 and non-food retailing. Site adjacent to Sainsburys, with residential use along the northern boundary. Noise and dust impacts would need to be assessed. The site is known to be contaminated.

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New Cross Railway Yard, Lewisham	2	7.88	Allocated as a defined employment area. Site to be bisected by proposed East London line extension rendering site too small. Residential properties lie within 100m north, south, east and west – the noise and dust impacts on these properties would need to be assessed.
Silwood Triangle, Lewisham	3	8.05	Allocated as a defined employment area. The site is raised and visible from housing which is within 100m. Part of the site falls within the Strategic Viewing Corridor. The site is known to be contaminated. A Green Corridor abuts the west of the site and nature conservation sites lie within 250m.
Angerstein Wharf including Day Aggregates Site, Greenwich	4	8.09	Allocated as aggregate and other open yard industries area. Site inspection established no vacant area to locate the applicant's facility. Day's Aggregate has insufficient capacity to handle the volumes envisaged in this application
Footscray Business Park, Bexley	5	8.85	Allocated as primary employment area – office location. Development plan seeks to modernise this area to provide high quality business uses. Within 50m of housing and nature conservation sites within 100m.
Plumstead Coal Yard, Greenwich	6	8.86	Allocated as a rail freight site and industrial area. Currently used as a builders yard including aggregate storage. Access route narrow in parts and via A206 Plumstead High Street - new site access would be required. Housing located within 100m of the south of the site. Dust and noise impacts would need to be considered
White Hart Triangle, Greenwich	7	8.89	Defined as industrial land and currently under- construction. Housing towards the southern and north eastern parts of site.
Central Way, Greenwich	8	9.18	Allocated as defined industrial. The local plan advises that the site is linked with the White Hart Triangle site which is under construction for industrial uses. New housing within 50m – dust and noise impacts would need to be assessed. Highly visible site – screening would need further consideration.
Erith Haulage, Thamesmead	9	9.32	Currently used as a recycling depot. Part safeguarded for the Thames Crossing/ part allocated for housing. Adjacent Thamesmead Housing village development noise/dust impacts would need assessment. Site is highly visible and offers little potential for screening. Adjacent nature conservation site.
Application Site	10	9.69	

76. In light of the above, I am satisfied that the application has reasonably demonstrated that a site is not currently available closer to the waste sources that in terms of other planning considerations, is equal to or better than the application site. In particular, the BPEO assessment highlighted that in most cases the development would be contrary to some current development plan policies. In terms of proximity to housing, the application site performs as well as the best of the other sites considered. As a result of the detailed site investigation for the current application site, I now have more confidence that the impacts in terms of noise and dust can be adequately mitigated at the application site.
77. I therefore consider that on balance it is reasonable to conclude that given the waste sources, and consideration of the fuller BPEO assessment, which accompanied this application that the application site is reasonably proximate to the waste arisings. This conclusion is strengthened if you consider the wider objectives under- pinning the proximity principle (ie waste should travel the shortest possible distance) as the site clearly scores the highest proximity ranking if you include the mileage associated with transfer to the aggregate washing plant.

Locational Considerations

78. The site is not identified in the Waste Local Plan for waste management development. As such the locational criteria of policies W3 and W7 are relevant. These seek to ensure that development on unallocated sites has access to the primary or secondary route network, is located within or adjacent to an existing waste management operation or within an area of established general industrial use and seeks to minimise the impact on local and natural environments. The locational criteria in the emerging Regional Plan is also relevant.
79. The application site lies within an old established industrial area and is surrounded by a number of other waste management operations. The site is well connected to the primary route network. In light of these characteristics, the site is in accordance with elements of development plan policy. The proposal has demonstrated that there are benefits to the SE Region by providing needed capacity in the Thames Gateway area of Kent to support the regeneration in North West Kent and that on balance the proximity principle is met.

Green Belt

80. The site lies within the Green Belt. In relation to development in the green belt, proposals for waste facilities are acceptable in Regional Planning policy terms where they are consistent with the proximity principle, where there are no suitable alternative sites and provided that the development does not conflict with the purposes of the Green Belt designation. In addition to the general policies controlling development in the Green Belt, there is an additional general presumption against inappropriate development within them. Inappropriate development is by definition harmful to the Green Belt and should not be approved, except in very special circumstances.
81. The applicant considers that the development is not 'inappropriate development' as a result of the circumstances of the site, the development and its planning history. It therefore considers that it is not necessary to demonstrate the *very special circumstances* to set against the harm caused by inappropriateness, but to consider the proposal against whether it maintains openness and does not conflict with the purpose of the Green Belt. Notwithstanding this view, the application provides information setting out 'very special circumstances' for development in the Green Belt

should the local planning authority form the view that the development represents 'inappropriate development' with the potential to significantly impact on the openness on the Green Belt.

82. The applicant's special circumstances case can be summarised as; the site no longer serves any of the Green Belt functions, nor does it enjoy the principle characteristics ie openness; the need for the facility as recognised in national, regional and local planning policy to assist in the diversion of material away from landfill through increased recycling; the operation is wholly integrated with the approved drainage treatment plant on site and the permitted use of the land for mixed waste and industrial uses and buildings under DA/04/770.

83. I do not share the applicant's conclusion that the development is not inappropriate in terms of Green Belt assessment. In my view the development is not limited to a material change of use and involves the construction of new building. As such the development is '*inappropriate*' for the purposes of PPG2 and there is a policy presumption against development unless 'very special circumstances' can be demonstrated.

84. The applicant sets out a number of grounds to demonstrate that the very special circumstances are met as set out in para. 82 above. Taking each element in turn I would advise:

The site no longer serves any of the Green Belt functions, nor does it enjoy the principle characteristics ie openness

85. The application site is an industrial enclave within the Green Belt. It does not easily meet any of the 5 purposes of the Green Belt designation, nor does it realistically fulfil the objective of the use of land within the Green Belt.

86. In considering the issue of 'openness', it is appropriate to consider the relevant planning history and the impact this has on the 'openness argument'. Setting aside the retrospective nature of the application, the site is not undeveloped and this fact will not be affected by the determination of this application. The site lies within the boundary of the recently permitted drainage treatment and aggregate washing plant site. Irrespective of whether this application is permitted, the site already benefits from a permission that would see the storage of feedstock and processed materials for the aggregate washing plant and associated loading and unloading of these materials. This permission includes the open storage of material up to 6m in height.

87. Furthermore, an earlier planning decision by Dartford Borough Council in 2002 for industrial and storage use on the site is particularly important with regard to the very special circumstances test and the precedent that that decision set. In determining this 2002 application, the Borough Council would appear to have considered that the planning benefit gained by the replacement of various unsightly buildings at the site by more attractive buildings and development was sufficient to meet the very special circumstances test. In determining the application for the drainage treatment and aggregate washing plants (DA/04/770), the County Council and the Government Office for the South East (when the application was referred as a departure to the development plan) accepted that case law as set out in *Tesco's Stores Limited v Secretary of State for the Environment and Hounslow Bough Council, 1991* (the Tesco Case) was relevant to the consideration of the very special circumstances test on this site. It is therefore reasonable to consider the current application in the context of the Tesco case.

88. This caselaw established that in considering a case for Tesco's, the Inspector had not found it necessary to follow an earlier decision on the site that 'very special circumstances' existed, but had taken a practical view that if the appeal were dismissed, the consequence would remain that the site could be developed under the earlier permission for industrial uses. It was therefore, the dismissing of the appeal that amounted to the very special circumstances. The consequences of permitting the Tesco application would be that the development would have no greater impact than the permitted development on the Green Belt.
89. Transferring the principle to the current application, it is my view that in permitting this application the impact on the Green Belt objective of openness is no greater than that already permitted on the site. The Dartford Borough Council permission places no restrictions on the site in respect of storage use with regard to operating hours, nature of materials, nor a limit on the number or height of any stockpiles. Similarly, the County Council's decision for the aggregate washing plant allows the site to be used as a feedstock and storage area, subject to various conditions including limits on stockpile heights at 6m.

The need for the facility

90. The need for additional waste management facilities is recognised in national, regional and local planning policy. In delivering this strategy it is recognised that a dramatic change is required to current management patterns and that certain circumstances waste management facilities are not precluded from the Green Belt. An important factor in considering alternative locations and a further factor to set against the harm by reason of inappropriateness is that some 75% of crushed materials is to be processed through the aggregate washing plant. It is therefore feasible that some 150,000 m³ of material would be processed on the site to deliver an enhanced recycled product irrespective of whether the crushing plant is permitted on this site.

The operation is wholly integrated with the drainage treatment plant on site

91. It is noted that there is an element of inter-dependency between the proposal which would provide feed stock material for the aggregate washing plant on site. However, this inter-dependency is a commercial decision of the applicant and the washing plant does not require the crushing facility to be located adjacent. This argument therefore in my view would not represent special circumstances.

The permitted use of the land for waste and industrial uses and buildings

92. The development that was the subject of DA/04/770 (the aggregate and drainage treatment plants) was considered to be 'inappropriate' development' in Green Belt terms. It can therefore be argued that the current application if permitted would not lead to the introduction of 'inappropriate development' onto land where there is none, but would rather substitute one form of inappropriate Green Belt development for another.

Summary of Very Special Circumstances

93. To summarise on the Green Belt consideration, in my view this proposal is '*inappropriate development*' in terms of the guidance in PPG2. As such it is necessary for '*very special circumstances*' to be demonstrated that outweigh the harm caused by '*inappropriate development*'. In this particular case I am satisfied that the need for the facility, the role that the site plays in meeting the purpose of the Green Belt as set out in para 85 above and its contribution to maintaining the concept of '*openness*' and the planning history of the site are factors that are adequate to justify the very special circumstances for development in the Green Belt.

Amenity Impacts (noise, dust, odour and visual impact)

94. A substantial number of objections have been raised to the development on these grounds arguing that the development is inappropriate to be sited in close proximity to housing. In the decision making process, these amenity considerations referred to above should have particular regard to the adjoining land uses. In terms of noise and dust considerations there is little doubt, that the development without measures to mitigate noise and dust gives rise to unacceptable amenity impacts on adjacent land uses. Policy W18 of the Waste Local Plan requires development to satisfactorily address means of controlling noise, dust, odour and other emissions. A similar objective is reflected in the Kent and Medway Structure Plan policies QL1 and NR5.

Noise

95. Noise assessment for this development has indicated that the development without mitigation measures would give rise to noise impacts greater than the acceptable threshold advised in BS:4142. The applicant has therefore proposed a number of mitigation measures to demonstrate that the development when considered with the approved aggregate washing plant and the drainage treatment plant could operate within a noise rating of 0-+5dba rating above background levels. A rating of +5dba is defined in the British Standard as of 'marginal significance' and is considered to be the threshold of acceptability in planning terms for assessing the noise impacts of industrial type activities on residential areas.
96. The application has undergone a number of revisions during the planning process to satisfactorily demonstrate that this threshold could be met including the provision of a new enclosed crushing plant and an acoustic fence in addition to the mitigation measures set out in paragraph 21 above. A revised noise assessment based upon a worst case scenario has demonstrated that the development would result in a rating of +3.9db above background levels. In light of this, I am now confident that the development is acceptable in noise terms.

Dust

97. Grounds 2 and 3 of the County Council's refusal of the application that is currently the subject of the unheard appeal relate to dust. In particular, the Planning Authority considered that the earlier application failed to demonstrate that the development would not have an unacceptable impact upon local amenity with regards to dust. In reaching that conclusion the Committee accepted officer advice that the application had failed to provide sufficient information to enable the impact on the amenity of local residents and adjacent land uses to be properly assessed.
98. Whilst it is of note that Bexley Council no longer raise an objection on dust grounds, considerable objection has been raised by local residents to the dust that could arise from the development and concerns regarding poor air quality. Dust has been witnessed on the site around the crusher and above the industrial estate from the Braeburn Park area. Residents claim that dust regularly falls within the housing area and monitoring by Bexley Council has identified a number of 'dust instances' following the installation of a dust monitor within the estate.
99. The application currently before Members specifically seeks to address the earlier grounds of refusal. It incorporates a comprehensive dust assessment considering relevant legislation and policy, existing air quality conditions, dust emission modelling and a comprehensive dust mitigation and management scheme based upon the specific circumstances at the site. Details are set out in para. 23 above. They include measures for the crusher and storage areas in addition to operational

controls and monitoring.

100. The applicant has confirmed its intention to place these revised details in relation to dust before the Planning Inspectorate in the event that the appeal against the earlier decision is heard. The Council has appointed an expert witness on air quality to defend its position on the air quality issues raised by the development. It is therefore appropriate that the Committee takes into account his view on the air quality consideration of this current proposal. His view is summarised in para. 36 above.
101. The air quality considerations have been reviewed by Professor Laxen and officers in the context of the planning policies cited in the Council's refusal of the 2004 application as set out in para. (2) above. The study submitted with the application provides a reasonable assessment of dust arising from the application site. It concludes that the application site will not lead to exceedences of the air quality objectives for PM₁₀. Professor Laxen advises that this conclusion is considered appropriate, especially given the results of the monitoring that has been carried out.
102. Concerns about health and the risk of silicosis due to exposure to dust from the application site have been examined. Professor Laxen advises that silica dust is widely present in the environment and not unique to the F M Conway activities. Using reasonable assumptions, it is concluded that unmitigated emissions would give rise to negligible concentrations of free crystalline silica within Braeburn Park. Levels would be lower still with mitigation of dust emissions.
103. The analysis of the current F M Conway proposals in relation to the appropriate policies shows that they now meet the requirements of the policies set out in the Council's earlier grounds of refusal. The mitigation measures proposed reflect good practice in planning guidance. Jacobs who usually advise the Planning Authority on air quality issues has also considered the dust assessment and raises no objection.
104. I am now therefore satisfied that the application subject to effective implementation of the dust mitigation scheme would not lead to overriding amenity impacts on adjacent landuses such as to warrant a refusal of planning permission.

Odour

105. A number of the representations refer to odour objections. Site visits by officers from the planning authority and from Jacobs Babbie have not experienced an odour problem arising from the development and odour was not identified as a ground of refusal in the earlier application. I do however understand that the applicant may have previously had a bitumen plant on the site which may have given rise to the concerns raised in the representations. This plant is no longer on site and not part of the planning application.

Visual Impact

106. Objection has been raised to the visual appearance of the site and the negative impact this is having on the housing in Braeburn Park and the surrounding area. Between the application site and the houses in Braeburn Park there is an extensive earth bund which is to form part of a nature reserve. The bund rises to approximately 15m in height above the houses in Braeburn Park and was provided as a 'buffer' between the housing and industrial landuses. The approved housing scheme shows that some 10,000 trees of mixed species are to be planted. Planting has taken place with limited success. Bexley Council has however confirmed that it is its intention to ensure that the planting takes place in accordance with the legal agreement. It is therefore reasonable to determine the planning application on the basis that the bund

will be planted and that in time it will assist in providing a visual screen between the two landuses. The successful planting of the bund would in my view greatly enhance the effectiveness of the bund as a visual screen.

107. Jacobs who advise the Planning Authority on landscape matters considers that in the absence of a noise barrier on the applicant's boundary a successful planting scheme of more than 3m in height on the adjacent earth bund would screen the operations on the applicant's site and satisfactorily address visual intrusion. The site is briefly glimpsed from the A2 and is read as part of the established industrial estate. This view is transitory and is not considered to be an overriding factor. The noise barrier would reduce further the visual impact of the development.
108. The visual impact of the development including the impact of the noise barrier needs to be balanced against the potential visual impact of unrestricted open storage on the site and in the context of the visibility of other large industrial buildings and structures that are clearly visible in the locality. There are clear visual benefits in my view to the erection of the barrier and the effect this would have in screening views into the industrial estate. In light of the above, the visual impact arising from the development is considered acceptable.

Hours of Operation

109. Operating hours are set out in para. 18 above. At present the F M Conway site operates under the benefit of a planning permission granted by Dartford Borough Council. With the exception of the workshop building there are no restrictions on operating hours and vehicles have 24 hour access.
110. Objection has been raised by local residents to the working hours operating on the site. In its consideration of the application, Bexley Council seeks the imposition of a planning condition to restrict the hours of operation for maintenance activities on Saturday to between 0800 and 1300. In addition, it seeks a condition to restrict deliveries to the site before 0800 and for there to be a restriction on the operating hours of the road sweeper.
111. The working hours sought mirror those approved by this Council for the operation of the aggregate washing plant. Providing that the noise and dust mitigation measures are adequately implemented, it would be unreasonable in my view to seek to restrict this maintenance period to a different time-frame than that applicable to the adjacent washing plant. It is also of note that in considering the hours acceptable for the washing plant, the Committee restricted the hours to those set out in the Waste Local Plan to reflect the amenity considerations on the site. Clarification has been sought as to what activities constitute maintenance. Should members be minded to grant permission a condition would be attached defining maintenance activities.
112. With regard to the road sweeper, the operation of this plant is recognised to be a key area of concern to local residents due to its tonal noise. The introduction of the acoustic barrier will reduce the impact. Whilst the revised noise calculations demonstrate that the quieter road sweeper is no longer required, the applicant has agreed to limit the hours of operation of the sweeper to 2 daily operations between 10am to noon and between 2pm and 4pm Monday to Friday. As necessary, the crushing yard would be swept between 10am and noon on Saturday. These hours are not unreasonable when balanced against health and safety requirements. It should however be noted that the operating hours for the road sweeper is not restricted elsewhere on the site, or on other adjoining landuses.

113. The application states that the applicant has contracts that can require weekend and night-time working. These are planned and except in emergencies (ie emergency road re-surfacing following an accident) the work can be scheduled so that there is no requirement to load or unload outside the above 'normal' hours. In the event that contracts arise which would result in the arrival of material at site outside of the approved working hours, then the agreement of the planning authority would be sought. There would be no operation of the plant outside of the above working hours.

Impact upon the SSSI and Nature Conservation

114. Objection is made on the grounds of the potential impact to the nature conservation site and the SSSI in the vicinity of the site. The SSSI lies to the east of the application site. Natural England (formerly English Nature) has not responded to the current application, although in response to the 2004 application advised that as a precaution to protect the site a buffer zone should be provided between the SSSI and the development. In this case, the SSSI lies to the rear of the existing workshop, some 150m from the application site. I am therefore satisfied that the development would have no adverse impact upon the SSSI and would be consistent with development plan policy.

115. The earth bund adjoining the application site is intended to be densely planted and managed by London Wildlife Trust. With the dust and noise mitigation schemes successfully implemented, there is unlikely to be an unacceptable impact on the proposed nature conservation site. I note the views of the London Wildlife Trust in seeking a contribution towards additional planting on the earth bund. In light of the mitigation scheme and the commitment to replant landscaping that has failed on site, I do not consider that this is necessary as part of the proposal.

Access

116. The site has good access to the primary route network and in particular the A2 and the M25. Width restrictions are in place in Station Road, Bexley which effectively prohibit large vehicles using roads within the Bexley area. There is no objection from the Highway Authority. I therefore conclude that the proposal is in accordance with development plan policy regarding satisfactory means of access.

Other issues

117. A number of representations are concerned that measures are needed to prevent the crushing of contaminated material. The application is made on the basis that operations would be undertaken in accordance with the WRAP¹ Quality Protocol for the production of aggregates from inert waste. This Protocol has been produced by a partnership of the Highways Agency and the Quarry Products Association. It sets out acceptance criteria for waste. Waste that doesn't meet the criteria will not be deposited on site.

118. In the event that permission were granted, monitoring would take place by the Waste Planning Authority against the terms of the permission. A Site Liaison Group is to be established for the site which would provide a channel for communication and dialogue on planning issues.

¹ Waste and Resources Action Programme

Conclusion

119. This is an application designed to specifically address this Council's earlier decision to refuse planning permission for an aggregate crushing operation on the site (ref: DA/04/787). Since the determination of this application, national planning guidance on waste management has been reviewed with the publication of PPS10 (Planning for Sustainable Waste Management) in 2005. A key policy change was to move the concept of BPEO from application stage to the plan making stage. The guidance requires planning authorities in determining applications for waste management developments to be satisfied that they are '*the right type, in the right place and at the right time*'. Until the Council's emerging Waste Development Framework is adopted, this approach requires consideration as to whether applications reflect the principles of BPEO.
120. National, regional and local policy and guidance all recognise the need to provide a significant increase in new waste management facilities in order to meet national recycling and recovery targets. There is a clear policy direction to divert waste disposal away from landfill options, up the waste hierarchy and for its management in a sustainable way. New waste facilities are not excluded from the Green Belt where they are consistent with the proximity principle, where there are no suitable alternative sites and provided that the development does not conflict with the purposes of the Green Belt designation (to prevent urban sprawl by keeping land open).
121. The application has been considered against the planning objectives and principles and development plan policies. Subject to the effective implementation of the mitigation measures and appropriate planning conditions I consider, on balance that the application would provide a waste management facility that accords with planning policy.
122. The application has been advertised as a departure to the development plan given its location within the Green Belt. In the event that the Committee is minded to permit the application, it will need to be referred to the Government Office for the South East. I therefore recommend accordingly.

Recommendation

123. SUBJECT TO NO direction to the contrary from the Secretary of State, I RECOMMEND that PERMISSION BE GRANTED subject to CONDITIONS amongst others relating to standard commencement, restriction on waste sources to those identified, details of the acoustic barrier including planting, restriction on stockpile heights to 6m and measures to remove plant visible above the barrier outside working hours, control of noise, operating hours, including the provision for out of hours use in exceptional circumstances and operating hours for the road sweeper, noise, dust and environmental monitoring and the availability of data and results, limitations on plant, measures to eliminate contaminated material, the definition of maintenance activities and a programme for implementation.

Case Officer: Sharon Thompson

Tel. No. 01622 696052

Background Documents: see section heading.
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APPLICATION DA/06/417 – RETROSPECTIVE APPLICATION FOR USE OF LAND FOR SCREENING, CRUSHING AND PROCESSING OF AGGREGATES, CONSTRUCTION AND DEMOLITION WASTE AND CONCRETE TOGETHER WITH OPEN STORAGE OF THESE MATERIALS AT FM CONWAY WORKS, ROCHESTER WAY, DARTFORD

NOTES of a site visit held at FM Conway Works, Dartford on Tuesday, 20 June 2006.

MEMBERS PRESENT: Mr R E King (Chairman), Mr J A Davies, Mrs E Green, Mr S J G Koowaree, Mr J F London, Mr T A Maddison and Mr A R Poole.

OFFICERS: Mrs S Thompson (Planning) and Mr A Tait (Legal and Secretariat).

THE APPLICANT: FM Conway: Mr M Conway (Managing Director), Mr N Leaver (Director), Mr R Woodland (Solicitor) and Mr K Parr (RPS).

OTHER LOCAL AUTHORITIES: Bexley Council: Mrs J Slaughter (Chair-Planning), Cllr H Mariner, Cllr J Waters, Mr K Stone (Planning) and Mrs D Blazer (Environmental Health); Dartford BC: Mr T Smith (Chair-Planning), Mr A Legg (Planning), Mr H Pugh (Environmental Health).

ALSO PRESENT were Ms J Schofield from the London Wildlife Trust and six local residents from the adjoining housing development.

- (1) The Chairman opened the visit by explaining that its purpose was to enable Members to familiarise themselves with the application site and to gather the views of those present.
- (2) Mrs Thompson introduced the application, explaining the previous planning history of the site. She said that a previous application had been refused in March 2005 on the grounds that:
 - the proposal had failed to demonstrate that it represented the Best Practicable Environmental Option (BPEO);
 - the application had failed to demonstrate that the development would not have an unacceptable impact upon local amenity with regard to dust; and
 - given the potential harm arising from dust emissions from the development, the applicant had failed to satisfactorily demonstrate an overriding need for the development.
- (3) Mrs Thompson then explained that the applicants had lodged an appeal against the refusal. The inquiry was to be held in abeyance whilst the County Council considered the merits of this current application. She advised that the current application had been prepared to specifically address the Council's grounds of refusal for the earlier planning application.
- (4) Mrs Thompson informed the meeting that the applicants held the view that crushing activity on the site did not require planning permission as, in their view, the activity fell within the B2/B8 use classes already permitted. The applicants had therefore submitted two applications for a Certificate of Lawful Development (CLUED) to Dartford BC. The applicants had appealed against the non-determination of the first (in conjunction with their appeal against KCC's refusal of the previous planning application). The second had been refused by the Borough Council.
- (5) Mrs Thompson then informed the meeting that the County Council's enforcement function was carried out by the Regulation Committee which considered the situation at the site every three months. This Committee had agreed that owing to the uncertainty concerning the lawful use, the site would be allowed to work under an agreed working protocol pending the determination of the planning appeal. This protocol set limitations concerning the way in which the development was carried out including restrictions on stockpile heights, dust suppression measures and the adoption of good practice on the production of aggregates from inert waste.

- (6) Mrs Thompson then described the application itself. She said that it sought retrospective permission to stockpile, screen, crush and store construction material arising from the applicants' highway maintenance and civil engineering operations. This material was then used either as a sub-base or as a feedstock to the aggregate washing plant which had been permitted in March 2005.
- (7) Mrs Thompson referred to the applicants' definition of the site operations contained in the briefing paper and then described the waste sources. She said that the applicants' business was centred on servicing highway maintenance contracts for highway authorities. These contracts fell into two categories: highway maintenance; and repair and gully cleansing. Based upon contracts from previous years and contracts for future years, the approximate proportions of waste sources were expected to be 20% from North West Kent, 60% from London Boroughs south of the Thames River and 20% from London Boroughs north of the Thames. The intention was for 100% of the aggregates arising from the highway maintenance contracts to be recycled with some 75% going to the aggregate washing plant (permitted on site) for future processing and 25% to sub-base or foamway use.
- (8) Mrs Thompson continued that the application had been accompanied by a revised BPEO assessment, an assessment against planning policy considerations; and a detailed noise assessment with mitigation measures. The BPEO Assessment had considered 22 alternative sites in nearby London Boroughs, in sites identified in a recent GLA Study and in sites identified in the London Plan. The assessment had also considered the implications of material being crushed in one location and then being transported to the approved washing plant at the site. The applicants' assessment had concluded that there was little to choose between the top ten sites assessed. If movements associated with the Conway site's aggregate washing plant were excluded from consideration, the Bell Green Works site in Lewisham would be the most suitable in proximity terms. If, however, these movements were taken into account, the assessment had concluded that the Conways site was the most suitable in proximity terms. It was the applicants' view that the development therefore represented the BPEO.
- (9) Mrs Thompson then explained that access to the site would be via Rochester Way and the strategic road networks (A2 and M25).
- (10) Mrs Thompson turned to the proposed noise mitigation measures. These included the provision of a bespoke enclosure for the crusher; positioning the crusher within the south west quadrant of the yard to reduce impact on the Braeburn Park Estate; introducing a quieter road sweeper; and the replacement of conventional reversing alarms with silent "Smart Alarms."
- (11) Mrs Thompson then said that a number of dust mitigation measures were also proposed. These included the augmentation of the current water based dust control system on the crusher with a new foam based system; the installation of a fully automated water sprinkler system mounted around the perimeter walls between the aggregate storage bays; water sprays located to serve the north of the processing area with a spray located to cover the stockpile and the yard entrance; the installation of 4 impact sprays on the entrance roadway to keep the surface dampened down; the use of a road sweeper; maintaining the height of stockpiled raw materials to below 6m; minimising drop distances and the number of times materials were handled; sheeting the trucks entering and leaving the site; and minimising exhaust emissions by ensuring that plant and equipment was not left running for long periods when not in use.
- (12) Mrs Thompson said that the views of a number of statutory consultees had been received and were summarised in the briefing paper. She had also received 51 letters of objection from local residents. Their main grounds were: that the site was wholly inappropriate so close to housing in terms of noise, dust, odour, visual impact and operating hours; health issues arising from dust from the site; that the site conflicted with planning policies and was inappropriate for the Green Belt; and objection to the retrospective nature of the application.
- (13) Mrs Thompson then summarised the key policy considerations, cross-referring to the briefing

note. She advised that the application would need to be considered against policies that sought to move away from traditional landfilling to more sustainable forms of waste management. These policy considerations sought to see waste as a resource, aimed to meet the principles of BPEO and recognised a need for additional facilities for the recycling and recovery of waste. There was also a policy recognition that some of London's waste would be processed in adjoining regions. She also advised that the application would need to be determined against the locational criteria for waste management facilities and policy considerations that sought to protect amenity and environmental resources, including the Green Belt.

- (14) Mr Conway said that the Company had been founded in 1961 and had become the largest private construction business in the London region. It had an annual turnover of £10 million and employed 600 staff. It had achieved the ISO 14,000 Standard (Environmental Management) in 2004 and had also received Investors in People accreditation, the Green Apple Award 02 and the Liverpool City Award.
- (15) Mr Conway continued by saying that the company processed 200,000 tonnes of waste road arisings every year. These were inspected at source, washed and screened, returned to their virgin state and then re-used (often in the very place from which they had been taken). Overall, 96% of all these materials were recycled.
- (16) Mr Conway then said that the Drainage Treatment Plant (the only one in the UK) treated 750 litres of water per year, aiming for Zero Impact on the water supply.
- (17) Mr Conway concluded his remarks by saying that Conways was the only Company to meet all the requirements of the Landfill Directive and that this site was the only one in the UK to have received a PPC Certificate for Drainage Treatment.
- (18) Mr Parr (RPS) agreed that Mrs Thompson's introduction had correctly outlined the proposal. He said that the application had addressed all three grounds for refusal set out for the previous application. Firstly, he believed that this location demonstrated that it conformed to the BPEO Principle because it was an integrated facility which enabled the materials to be brought in and processed before being sent out again.
- (19) Mr Parr went on to say that Conways had invested considerably in dust mitigation measures. The new foam-based system, combined with other measures reduced emissions to the point where the applicants believed they could demonstrate to the Committee's satisfaction that it was operating at an acceptable level.
- (20) Mr Parr said that the Noise Assessment had identified the two noisiest parts of the operation which would now be enclosed. This would enable the facility to conform to BS 4142 in an acceptable way.
- (21) Mr Parr concluded by saying that it was important to recognise that the land had established industrial use. Also, that the Bund would separate industrial and residential activity.
- (22) Mr Stone from Bexley Council said that the concerns of Officers set out in the briefing note regarding this application had been endorsed by Bexley Council's Planning Committee on 15 June 2006. He advised that his Council wanted to protect the amenity of residents affected by the proposal and that these residents principally lived in the Bexley area. The grounds for objection were that there was insufficient information within the application to enable the Council to be satisfied that residential amenity would be protected. There were also concerns over the robustness of the Noise and Dust Assessments. The Council had put a number of questions to the applicants and had, up to this point, received only an insufficient, partial response. Bexley believed that the entire plant should be enclosed, rather than just parts of it. He also said that his Council considered that KCC should consider whether it was expedient to take enforcement action. With regard to this he acknowledged the points made by Mrs Thompson in paragraph 5 above.
- (23) Mr Stone said that Bexley Council had also included some suggested Conditions if KCC were minded to grant Permission.

- (24) Mr Davies asked how long the business had been established at the site and when the housing estate had been built. He also asked whether the Bund was a part of the application and whether any other parties were the subject of possible enforcement action.
- (25) Mr Woodland (Solicitor on behalf of the applicants) said that Braeburn Park Estate had originally been a quarry. Bexley Council had then offered the land owner a land exchange so that it could identify it as appropriate for residential development. Bexley Council had granted planning permission for residential development. Planning permission was granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 which included provision for extensive open space to be created on the site and managed as a nature conservation area. He understood that as soon as the bund was properly planted, London Wildlife Trust would take over its management. He said that in 1999 the Developer, as part of the Section 106 Agreement, had deposited £1.5m with Bexley Council. Of this amount, £800,000 could not be released until the Bund was screened and planted. The developer had then planted 10,000 trees on soil that was predominantly rubble and unsuitable for growth. He had asked Bexley Council why they did not insist on the planting being properly undertaken with the topsoil being removed and replaced with more decent soil.
- (26) Mr Leaver (Conways) said that Conways had arrived at the site in October 2000. Crushing operations had commenced in 2001. The first house in the Braeburn Park Estate had also been built in 2001. Mr Leaver then said that before 2000 the site had been a mixed-use industrial site, consisting of such diverse activities as removals, crane operators, ship waste, oil waste and storage cabins. This use had been in place since the 1960s.
- (27) Mr Stone agreed that the history of the site was complicated. The area of Braeburn Park Estate had been transferred from Dartford BC to Bexley Council by the Boundary Commission and the permission for housing development there had been granted before Conways had commenced crushing operations. The Bund had been planted with limited success and meetings were taking place between Taylor Woodrow and Bexley Council on how best to proceed. Taylor Woodrow had presented evidence to the Council on the chemical make up of the soil. The £800,000 which Mr Woodland had referred to, would be released to the London Wildlife Trust as soon as Bexley was satisfied with the planting arrangements.
- (28) In response to a question from Mr Woodland, Mr Stone confirmed that enforcement proceedings had not taken place against Taylor Woodrow and that any decision on this matter was a consideration for his Committee.
- (29) Ms Schofield from the London Wildlife Trust advised that hand-over to the Trust was not just dependent upon the planting of trees.
- (30) Mrs Thompson said that there were two Permissions on the application site. One of these had been issued by Dartford BC in 2002 for an industrial/storage use, the other by KCC in 2005 for the drainage treatment plant, aggregate washing plant and two industrial/storage buildings. She also asked Members to be aware that there were unresolved lighting issues which were currently being addressed by Dartford BC.
- (31) Mr Maddison introduced himself as the local Member and clarified that he was speaking neither for nor against the proposal. He then said that local residents appeared to have bought their houses on the understanding that the bund would be completed and planted. He asked whether its eventual satisfactory completion would have the desired effect of a buffer zone.
- (32) Mrs Grady (a local resident) asked why the industrial activity had not come up during the land searches. Mr Woodland said that this was probably because the developer had provided local searches, which might not have provided a search over a wider area.
- (33) Mr Morgan (local resident) said that the residents could not understand why the Bund had not yet become a Nature Reserve as promised. He added that there had been a significant

increase in the scale of operations since the residents had moved in to their new homes. It was doubtful whether a fully and properly planted Bund would make a satisfactory difference in terms of noise, dust and visual amenity. He raised concern over what would follow if permission were granted.

- (34) Mr Poole asked whether it would be realistic or reasonable to completely enclose the process. Mr Conway said that this option would be unnecessary and uneconomic. Mr Parr said that the proposal had been assessed against noise and dust criteria and that the development could operate within acceptable limits. There was therefore no need to enclose the development.
- (35) Mrs Thompson said that were Conways to apply to fully enclose the facility, there would be serious planning issues to consider, including the size of the shed and the impact that such a building would have on the Green Belt and the very special circumstances needed for such a development within the Green Belt.
- (36) Mr London asked whether the water based dust control system and the noise from the screening and crushing operation would be continuous or intermittent. Mr Leaver replied that the dust control system would work off a wind trigger system which would not come into operation on a still day. The crusher itself would be permanently in operation.
- (37) Mr Leaver said that Conways had attempted to arrange for the formation of a Liaison Group involving Conways, Bexley Council, Dartford BC and local residents. There had to date been little interest shown.
- (38) Mrs Thompson said that she had very recently been instrumental in getting such a group together.
- (39) A local resident asked why Conways had to operate in the Green Belt. She suggested that there were far more appropriate sites in the Thames Gateway area. Mr Conway said that this would not be an economic option for his company as land in Thames Gateway cost as much as £4.5m per acre. Furthermore, this site was very good in BPEO terms.
- (40) Mr Pugh (Dartford BC) asked whether either the noise or dust mitigation measures had been used elsewhere. Mr Parr replied that the foam-based water control system was used in the USA and at a quarry in Barnstable. Acoustic cladding was a standard procedure throughout the UK. He offered to provide further details on request.
- (41) Mrs Blazer (Dartford BC Environmental Health) supported the views of Mr Pugh and also raised concerns related to maintenance and durability. It was important to establish how these measures performed in a working environment. She added that dust and noise impact on Braeburn Park Estate could not be mitigated by the tree planting measures permitted for the Bund. She also sought clarification as to whether the noise assessment had been taken with the crusher fully loaded.
- (42) Mr Leaver replied to a question by saying that the water to be used in the sprinklers would be recycled.
- (43) Mrs Thompson asked the meeting to note that if the Planning Applications Committee were minded to grant permission, the application would need to be referred to the Secretary of State as a departure from the Development Plan.
- (44) The Chairman asked that an aerial photograph showing the industrial estate in its wider setting be included in the Committee report together with a description of the other activities taking place.
- (45) The Chairman thanked everyone for attending. The notes of this visit would be appended to the Committee report when the application came to be determined.

Following the meeting, Members inspected the site including the crushing operation. They then viewed the site and Bund from various locations in Braeburn Park Estate

Appendix 2 to Item C1

Planning Policy Considerations

National Planning Policy

The European Waste Framework Directive (75/442/EEC) sets out general requirements for a national waste management strategy.

Government's Waste Strategy 2000 (as Amended)

Waste Strategy 2000 was prepared in response to the above and sets out the Government's objectives and targets for the management of waste. The latest change to the Waste Strategy was published in July 2005 and was issued with PPS10 (Planning for Sustainable Waste Management) and its Companion Guide.

Key objectives of the strategy in relation to waste management decisions are to:

- reduce the environmental impact of waste by moving its management up the waste hierarchy;
- manage the waste in ways that protect human health and the environment;
- Individuals and communities should take responsibility for their own waste;
- Deliver the environmental outcome that does most to meet the objective of the Waste Strategy taking into account feasibility and acceptable costs.

Challenging targets are set to achieve a reduction in landfill disposal.

PPS10 and its Companion Guide (Planning for Sustainable Waste Management)

PPS10 sets out how the principles of the National Waste Strategy are to be carried forward into the planning system. The Guidance recognises that a step change is needed in the way that waste is handled and that significant new investment in waste management facilities will be required. In particular, the PPS requires planning authorities to:

- take account of the Strategy objectives set out above;
- play a key role in providing sufficient opportunities for new waste management facilities of the right type, in the right place and at the right time
- deliver more sustainable waste management solutions by moving management up the waste hierarchy;
- to move away from landfill solutions towards recycling, composting and energy from waste;
- take an integrated approach to waste management.
- consider a broad range of locations including opportunities for on-site management and co-location of facilities ;
- See waste as a resource.
- consider the physical and environmental constraints including impact on neighbouring uses;

In considering applications on unallocated sites (such as the current application), the Guidance advises that sites for waste management facilities should be considered favourably when consistent with the policies in the PPS. Where sites are within the Green Belt they are likely to be *inappropriate development*. The Guidance advises that it may be appropriate to grant planning permission for such development, providing the applicant can demonstrate that *very special circumstances* clearly outweigh the harm caused by the site being developed in the Green Belt.

A key change from the previous guidance (PPG 10) was to move the consideration of the BPEO (Best Practicable Environmental Option) to the plan making stage where it is considered as part of the Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA) processes applied to the plan.

Guidance is given for handling applications in the interim stage pending the updating of development plans. Where planning authorities' have current waste plans that have not been through the SA/SEA process (as in the case of Kent), it is appropriate to consider planning applications against the principles of BPEO in the interim. Therefore until the emerging Kent Waste Development Framework reaches a more advanced stage, the County Council has resolved to consider applications against Policy WM2 of the Kent and Medway Structure Plan to ensure that they deliver facilities that are '*of the right type, in the right place and at the right time*' in accordance with paragraph 2 of PPS10'. This approach requires consideration as to whether planning applications reflect the principles of BPEO. These can be broadly summarised as the waste hierarchy², the proximity principle, the objectives of regional self-sufficiency and seeking the right form and scale of waste management for the given waste stream at the right time and location.

Finally, it reminds planning authorities that they should not duplicate the role of pollution control authorities and that planning authorities should work on the assumption that the relevant pollution control requirements will be properly applied and enforced.

PPS1 – Delivering Sustainable Development

This sets out the overarching planning guidance for the delivery of sustainable development through the planning system. Sustainable development is a core principle underpinning planning decisions. It recognises the need to bring forward sites for essential infrastructure, including sustainable waste management.

MPS1 : Planning and Minerals (Nov 2006)

This sets out the national planning guidance for mineral development. It reflects the Government's requirement to contribute to the achievement of sustainable development as required by s39 of the Planning and Compulsory Purchase Act 2004 and incorporates the UK Strategy for delivering sustainable development as set out in 'Securing the Future' (March 2005). These set out how the goal of sustainable development can be achieved in an integrated way to provide amongst others the protection and enhancement of the environment and the efficient use of resources and energy. The Aggregate Annex replaces the former guidance in MPG6.

The guidance recognises that in order to long term conservation of minerals it is necessary to make the best use of them. This is to be achieved by adopting a hierarchical approach to minerals supply, which aims firstly to reduce the quantity of minerals used, then to use as much recycled and secondary material as possible, before securing the remainder through new primary extraction. The Guidance also gives support for closer integration of mineral planning policy with national policy on sustainable construction and waste management.

MPS2: Controlling and Mitigation the Environmental Effects of Mineral Extraction in England – Annex 1 – Dust

This provides guidance to minimise dust emissions.

² reduction, re-use, recycling and composting, energy recovery and disposal

PPG2 - Green Belts

There is a general presumption against inappropriate development in the Green Belt unless 'very special circumstances' can be demonstrated. The PPG provides guidance on inappropriateness and sets out limited circumstances where development may be acceptable. This includes advice for 'essential other uses of land' which preserve the openness of the Green Belt and do not conflict with the purpose of its inclusion and for redevelopment proposals of major sites within the Green Belt where opportunities for improvement may arise without adding to the impact on the openness of the Green Belt.

PPG24 – Planning and Noise

This provides guidance on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development. As a general principle, noisy development should where possible be sited away from noise sensitive land uses (ie housing). Planning Authorities should however consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.

Regional Planning Policy

The most relevant policies are set out in the Adopted Regional Spatial Strategy (**RPG9**) which sets out current regional planning advice regarding waste and provides a framework for the preparation of local development frameworks. The Strategy requires local authorities to make adequate provision for managing the Region's waste within its boundaries and that a range of facilities are necessary to manage the waste arisings. Key objectives focus on reducing the amount of material sent to landfill, an emphasis on waste minimisation and the encouragement of recycling and recovery, and seeing waste as a resource. It recognises that capacity could be limiting recycling rates and to justify capital investment, it accepts that some of the more specialised facilities may need to serve large catchment areas.

The strategy reiterates the principles of Waste Strategy 2000. In particular Policy INF3 seeks to provide adequate provision for the South-East Region's waste within its own boundaries, wherever possible and policy E3 addresses Green Belt considerations.

Changes to the Regional Guidance (RPG9) – Waste and Minerals dated August 2005 are also relevant. The key relevant policies are:

W3 and W4 seeks provision for regional and sub-regional self-sufficiency. This includes a requirement for Waste Planning Authorities to provide capacity (usually landfill) for waste exported to the region from London; Provision for recovery and processing capacity for London's waste should be made only where there is a proven need with demonstrable benefits to the region and where this is consistent with the proximity principle. The explanatory text for policy W3 states:

'There may be situations where the use of facilities within the (South East) Region for recovery or processing of waste materials from London or other regions would be appropriate, for example where the facility is the nearest available to the source of materials, where there are good sustainable transport links and this would make provision of recovery or reprocessing capacity more viable.'

W5 and W6 set targets for the diversion from landfill and improvements in recycling construction and demolition waste rates from 45% in 2005 to 60% in 2025.

W7 sets the waste management capacity requirements for the County.

Policy W17 gives support for the location of waste management facilities. Potential new sites should have the following:

- Good accessibility from existing urban area
- Good transport connections
- Compatible land uses – active mineral site, previous existing industrial land use, contaminated or derelict land, or land on or adjacent to sewage treatment works, or agricultural buildings or yards, and
- Be capable of meeting locally based environmental and amenity criteria.

It further advises that on Green Belt locations that:

‘waste management facilities should not be precluded from Green Belt where this is the nearest appropriate location, where there are no alternative sites and provided that the development would not cause harm to the objectives of the designation.’

Policies M1, M2 and M3 support sustainable construction and a greater use of recycled and secondary aggregate.

These policies have largely been carried forward in the draft South East Plan, which is to be the subject of an Examination in Public late 2006.

Kent and Medway Structure Plan: (Adopted July 2006)

The most relevant policies are :

SP1- Strategic policy to conserve and enhance Kent’s environment and ensure a sustainable pattern of development.

SS2- Green Belt and presumption against ‘inappropriate development’. Any development permitted within the Green Belt should be designed and sited so as to maintain the open character of the area and should not conflict with the purposes of including the land within the Green Belt.

EN3 –protection and enhancement of countryside character

EN7 – protection for County and local wildlife designations

QL1 – development should be well designed and be of high quality. Development that is detrimental to the built environment and amenity will not be permitted.

TP15– Presumption against development that generates significant increases in traffic unless it accesses the primary and secondary route network.

NR1 - prudent use of resources

NR5 – protection from pollution impacts.

NR8 – protection of water quality.

WM1 – support for integrated management of waste reflecting BPEO, national waste hierarchy and national waste management targets.

WM2 – Assessment criteria for waste proposals. Proposals should demonstrate that they are the BPEO and that they demonstrate a need that overrides material environmental and other land use concerns.

WM3 - securing waste reduction

MN1 – support for the provision of minerals through recycling, subject to environmental, transport and other planning considerations.

MN2 – support for recycling proposals at appropriate locations to maximise the use of recycled and secondary materials.

Kent Waste Local Plan (1998)

Relevant policies are:

W1 – Provision for dealing with waste arisings in accordance with the waste hierarchy for Kent and for a share of the Region's waste as agreed by SERPLAN which cannot be reasonably dealt with in the area of origin.

W2-Protection of environmental resources including groundwater, SSSIs and sites of nature conservation interest.

W3 – Locational criteria for waste processing and transfer proposals. On unallocated sites, presumption against development unless it has access to primary or secondary route network and is located within or adjacent to an existing waste management operation or within an area of established general industrial use.

W4 - Presumption against built waste management development within the Green Belt with the exception of temporary proposals related to the restoration of mineral workings.

W6 – on unallocated sites where demonstrable harm would be caused, need will be a material consideration

W7 – location al criteria for proposals to prepare Cat A material for re-use. Unallocated , sites considered against whether they:

- Seek to minimise impact on the local and natural environment;
- Have access to the main road network
- Are within or adjacent to an existing waste management facility or are part of a location within an established general industrial type area.

W18 – Policy to satisfactorily address means of controlling noise, dust, odour and other emissions, particularly in respect of potential impact on neighbouring land uses.

W19 – policy to satisfactorily address surface and ground water issues.

W21 – safeguard of geological and habitat features and provision where appropriate for suitable compensatory mitigation measures.

W22 – satisfactory means of access.

W23 – measures to prevent debris on the highway.

W25 – consideration for the siting and layout of the facility to minimise impact.

W26 - Standard operating hours – 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturday – Proposals to work outside these hours will be considered where operational factors justify greater flexibility

Dartford Borough Local Plan Review 2000

GB2/GB6 – presumption against development in the greenbelt unless it maintains the openness of the greenbelt and does not conflict with its function.

DD11 – General design criteria for development

Draft London Plan Adopted 2004 (including Alterations 2005)

The Mayor's Spatial Strategy for London was adopted in February 2004 and provides a regional planning framework for London for the next 15 years. In October 2005, the Mayor published draft alterations to the Plan which included minor changes to its waste strategy. Relevant policies seek to provide self-sufficiency and a framework for moving the management of waste up the hierarchy through the timely provision of facilities The strategy recognises that London's self-sufficiency is to be improved over time and that in the interim some waste will continue to be exported to the neighbouring regions. The following policies are particularly relevant:

Policy 4A.1 - seeks to improve levels of regional self sufficiency (rising from 75% in 2010 to 85% by 2020) with emphasis on the waste hierarchy. It is recognised that a partnership with Government, London Boroughs and other interested parties will be needed to meet

this policy objective.

Policy 4A.2 spatial policies for waste management including support for recycling and recovery in suitable locations, applying the principles of BPEO. Where waste cannot be dealt with locally, facilities are promoted that have good access to river or rail.

Policy 4A.3 - site selection criteria to be based upon proximity to waste source, nature of activity and its scale, environmental and transport impact. Policy support is given primarily to sites that are located on Preferred Industrial Locations or existing waste management locations. The Mayor of London is to work with SEERA (and the East of England Regional Assembly) to co-ordinate strategic waste management across the 3 regions.

Policy 4A.5 – support for the development of aggregate recycling facilities in appropriate and environmentally acceptable locations with measures to reduce noise, dust and visual intrusion to a practical minimum.

Policy 5 – policy support for construction and demolition waste facilities by encouraging recycling at existing sites, using mineral extraction sites for recycling and ensuring that major development sites are required to recycle by using mobile facilities wherever practicable.

Further alterations to the Plan published in September 2006 are currently the subject of public consultation. In particular policy 4A.1 includes an objective to minimise the amount of energy used in the collection, transfer and management of waste and to seek recycling and re-use levels for construction and demolition waste to 95% by 2020. Policy 4A.2 supports the need to deal with waste in one of the nearest appropriate installations.

Site investigation work for the recycling and recovery facilities in London undertaken for the Greater London Authority in July 2005 is also relevant. This evaluated the adequacy of London's existing strategically important waste management facilities to meet London's future needs and identified the potential to locate new recycling and recovery facilities in London.

Draft London Best Practice Guide – The control of dust and emissions from construction and demolition, 2005 (Greater London Authority, London Boroughs and the Association of London Government)

This sets out good practice including dust and emission controls and site monitoring protocols. It also includes site risk assessment criteria and mitigation measures relating to low, medium and high risk sites.

Bexley Unitary Development Plan

G26 – gives protection to conserve and enhance those features of the built and natural environment, which contribute to the special character of London. This includes sites of nature conservation interest.

G27 – protection for open land.

ENV24 – In the Sites of Borough Importance for Nature Conservation, the Council will have particular regard to the effects of development on wildlife habitats, or the need to protect rare species. Planning permission may be refused if development is likely to cause the loss of a valuable habitat or conditions will be used, where appropriate, to protect, enhance, create or restore habitats.

G30 – Proposals for waste management developments will be considered within the context of national sustainable development principles of BPEO, the waste hierarchy and the proximity principle.

G39 – Protection and enhancement of the quality of the built environment.

**Extract from Report to Bexley Council's Planning Applications Committee
23rd November 2006**

Recommendation and Suggested Conditions

In conclusion, in the absence of a satisfactory noise barrier close to the noise source concerns are raised that the operations would have an adverse impact on the residents of the Braeburn Park Estate, **it is therefore recommended that Kent County Council be advised that Bexley Council objects to the proposal and requests that the application be refused**

It is also recognised however that this application is not within the jurisdiction of Bexley Council and falls to Kent County Council to determine and it is therefore considered appropriate to suggest that, if KCC is minded to grant planning permission, a number of detailed matters (as set out in the recommendation) be addressed by way of suitably worded conditions

RECOMMENDATION

- OBJECT, in the absence of a suitable noise barrier
- Should Kent County Council be minded to grant planning permission that the following matters be addressed by way of suitably worded conditions

CONDITIONS

Noise Readings

1. Kent County Council has indicated a condition could be imposed requiring that noise emanating from the activities associated with the aggregate washing plant, drainage treatment plant and screening, crushing and processing of aggregates, construction and demolition waste and concrete together with open storage of these materials during the approved anytime operating hours shall not exceed a Rating Level of 5dB when calculated in accordance with BS:4142 (1997) above the measured agreed background level at any noise sensitive location. If such a condition were to be imposed Bexley Council would require the following
2. Background noise levels to be taken on the same day that noise monitoring readings are taken
3. All plant on site associated with the crushing, screening, stage and processing of waste to shut down to ensure effective background noise readings are made
4. No lorry movements associated with the crushing, screening and storage of materials, drainage treatment plant or aggregate wash plant should occur at times when the background noise level is being assessed
5. Background noise readings to be taken between 10am and 3pm at times when noise from the A2 is typically low.
6. The equipment on-time figures for the bucket loaders, excavators and lorries that form part of the BS4142 assessment of noise from the site shall be adjusted to properly reflect "worst case" hour to the satisfaction of the Local Planning Authority.
7. A robust noise assessment of all the plant and equipment that actually operates on the site must be made to the satisfaction of the Local Planning Authority.
8. A maximum 5 minutes reference time interval is to be used for the assessment of noise from the site.

Barrier

9. Within 3 months of the granting of planning permission plans to be put forward for the construction of an additional acoustic barrier at the boundary of the FM Conway site.
10. A written scheme for the construction, design, extent and erection of the acoustic barrier shall be submitted to the LPA and must be to the satisfaction of and approved by the LPA and shall thereafter be maintained in accordance with approved scheme.

Crusher

11. No crusher, screener or grader operates on site other than that identified in this application on the site otherwise than as agreed in writing by the LPA.
12. Plastic strips to be fitted to conveyor openings on the crusher and grader.

Plant

13. No plant or machinery other than that identified in this planning application must operate on site.
14. The steel buckets on the bucket loaders should be dampened using a heavy duty rubber lining to reduce impulsive noise impacts.
15. Exhaust silencers to be provided for the bucket loaders.

Stockpiles

16. The height of stockpiles of materials shall be limited to four metres above the adjacent ground level.
17. A permanently fixed clearly visible measuring stick must be provided to the satisfaction of the Local Planning Authority to demonstrate compliance.
18. No more than one excavator shall operate on the stockpiles at any time.
19. No plant or machinery shall be left on the stockpiles outside of the hours of operation of the crushing facility, 7am to 6pm on Monday to Friday, and not at all on Saturdays, Sundays or Public Holidays

Road Sweeper

20. The road sweeper shall not be operated on a Saturday or Sunday.
21. The road sweeper shall only be operated two times per day during the hours of 9am –6pm Monday to Friday (not on Public Holidays) for a period of time to be agreed with the Local Planning Authority.

Lorries Reversing Alarms and Work Flow

22. Within 3 months of the granting of planning permission;
23. Tonal reversing beepers on all on site vehicles must be replaced with either white noise beepers, "smart alarms", radar activated alarms or similar quieter alternatives.
24. A timescale must be given for the replacement of reversing beepers on the FMC lorry fleet and third party haulers with quiet alternatives.
25. Work flow on site to be designed to minimize the need for reversing alarms.
26. Tailgate seals and powered tail gate lifts to be fitted to all FMC lorries as part of its fleet replacement programme.

27. A written scheme for each shall be submitted to the Local Planning Authority and must be to the satisfaction of and approved by the Local Planning Authority and shall thereafter be maintained in accordance with approved scheme. The types of beeper to be used must be approved by the Local Planning Authority.

Hours of operation

28. Waste Management Activities need to be defined.
29. Maintenance work needs to be defined.
30. Deliveries shall not be made before 8am as per the permissions granted for the Aggregate Wash Plant and Drainage Treatment Plant. This includes pre-crushed material being delivered to crushing area.
31. The hours of operation of the waste management activities shall be limited to 7am to 6pm on Monday to Friday with no working on Saturdays, Sundays or Public Holidays, apart from maintenance work on Saturdays, which may take place between 8.00am to 1.00pm

General

32. All plant, machinery, equipment and raw materials on site to be kept within the areas identified on the plan.

Contaminated material

33. The applicant needs to submit details of the strict controls used to eliminate contaminated material from the waste prior to crushing. This scheme shall be to the satisfaction of and approved in writing by the Local Planning Authority and shall thereafter be maintained in accordance with the approved scheme.

Traffic

34. The routeing of HGVs travelling to and from the site shall be restricted to the A2 and London Distributor roads.

Dust

35. A management system shall be implemented which monitors dust at the boundary of the site closest to residential properties. This management system shall detail the dust monitoring protocol to be implemented, monitoring locations, and specify boundary concentrations of dust which are indicative of system failure leading to unacceptable dust emissions. The management system shall also specify action to be taken in the event of unacceptable dust emissions from the site.
36. All monitoring results shall be made available to officers from Kent County Council, Dartford Borough Council, Bexley Council and the Environment Agency on request, and shall be kept for a minimum period of two years.