

## **Item C3**

### **Application to amend condition 3 of planning permission SE/00/2739 to allow additional time for completion of development and enable restoration to approved levels and to amend the approved Ecological Management Scheme to reflect a delay in commencement of operations at Greatness Quarry, Bat and Ball Road, Sevenoaks – SE/08/2141**

A report by the Head of Planning Applications Group to Planning Applications Committee on 14 July 2009.

Application to amend condition 3 of planning permission SE/00/2739 to allow additional time for completion of development and enable restoration to approved levels and to amend the approved Ecological Management Scheme to reflect a delay in commencement of operations at Greatness Quarry, Bat and Ball Road, Sevenoaks.

Recommendation: Permission be granted.

Local Member: Mr N Chard

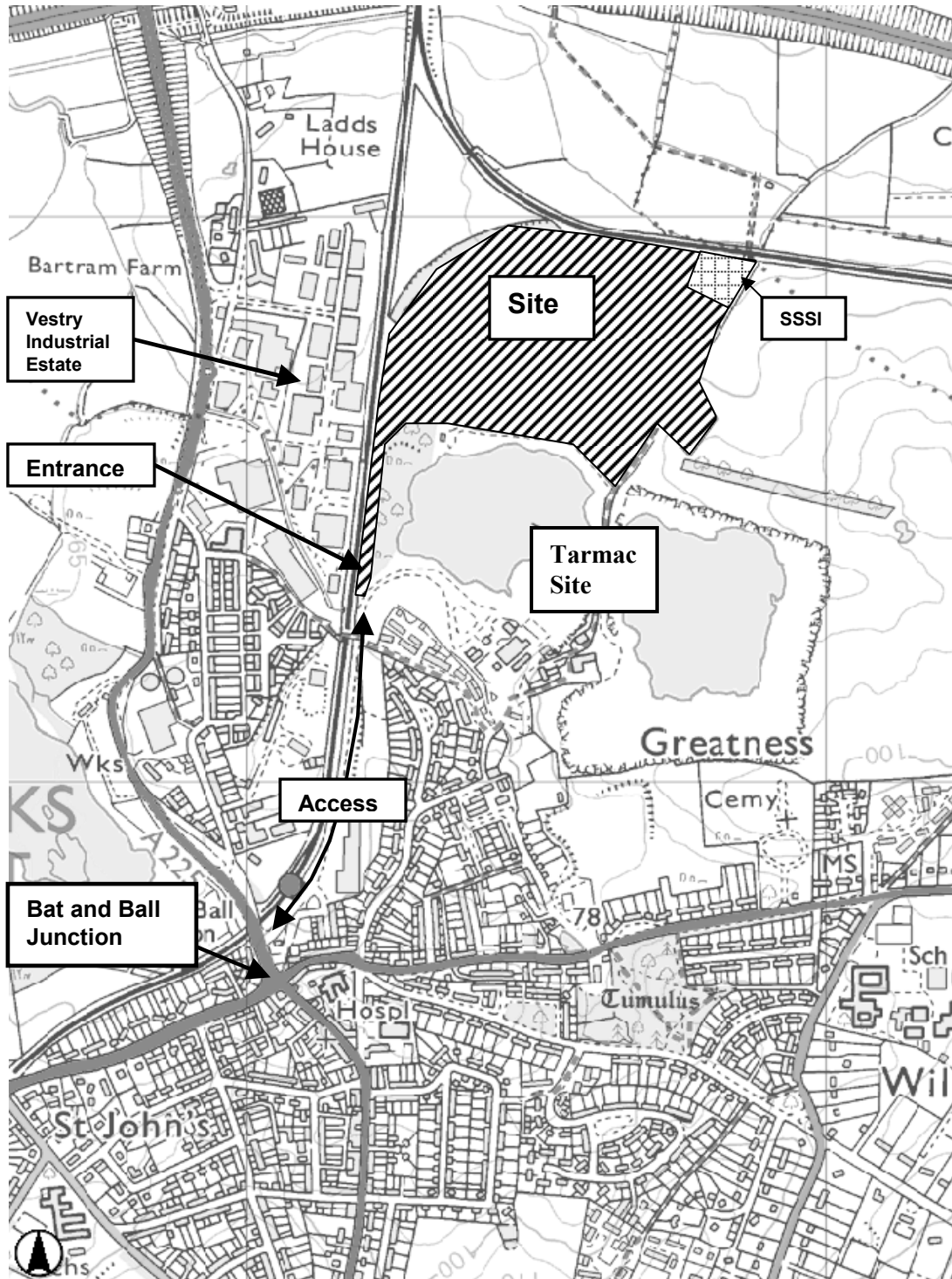
Classification: Unrestricted

#### **Site description and background**

1. Greatness Quarry is located approximately 3km north east of the town of Sevenoaks. The site was formerly a clay quarry and brickworks. The brickworks were removed upon completion of quarrying activities. The site is approximately 20ha in size. The main Maidstone to London railway line runs to the north of the site and the Sevenoaks to London line to the west. The A225, linking Sevenoaks with Otford in a northerly direction, is situated approximately 300m to the west of the site and the Vestry Industrial Estate lies between this and the Sevenoaks to London railway line. The A25(T) runs in east-west approximately 1km to the south and provides a connection between the M25 and M26 motorways. The M26 is located 0.5km to the north of the site. Access to the site is via the estate road from the Bat and Ball Junction on the A225 near its junction with the A25(T). The nearest residential properties to the site are those located in Watercross Drive approximately 420m to the south of the site. A public right of way (footpath SU3) flanks the site to the east.
2. The site is in the metropolitan Green Belt and land to the north of the Maidstone to London railway line is designated as an Area of Local Landscape Importance. The Kent Downs Area of Outstanding Natural Beauty (AONB) lies further to the north. Part of the site is designated as a Site of Special Scientific Interest (SSSI) for its geological interest, a specific SSSI area to view the geological face has been created to the north east of the site in consultation with Natural England. This area will not be affected in any way by this proposal.

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3. Immediately to the south and south east of the site lies Sevenoaks (sand) Quarry which is operated by Tarmac Ltd. The restoration of Sevenoaks Quarry to a combination of grassland, tree planting and large lake to the south east does not involve the use of imported landfill. An application for an extension to Sevenoaks Quarry on land to the east of Greatness Quarry has been submitted and is currently under consideration (SE/08/675).
4. Planning permission (SE/00/2739) was granted on 7 December 2001 for the restoration of the site by development of an integrated waste management facility comprising landfill, inert waste recycling and composting. The permission provides for the restoration of the site to a mixture of grassland, tree planting and small ponds and associated wetland habitat for agricultural and nature conservation purposes by phased landfilling with non-hazardous commercial, industrial and municipal wastes. The permission includes various planning conditions. Condition 3 states:
  - “3. Unless otherwise approved in writing by the County Planning Authority, all waste treatment and disposal operations shall have ceased within ten years from the date of this permission. The site shall have been restored in accordance with details submitted for approval pursuant to condition (10)(a) of this permission twelve years from the date of commencement notified pursuant to condition (2) above;

*Reason: To provide for the completion and progressive restoration of the site within the approved timescale in the interests of amenity and pursuant to Kent Structure Plan Policies S1 and ENV1 and Kent Waste Local Plan Policies W4, W9, W12 and W23.”*
5. As well as providing for the phased restoration referred to in condition 3, condition 10(h) also required (amongst other things) the submission of an ecological management plan detailing measures for the safeguarding of nature conservation interests and mitigation of the proposals during operations and their aftercare upon final restoration. The various details required by condition 10 and several other conditions were submitted in 2002 and were formally approved by the County Council on 7 October 2002. The approved Ecological Management Scheme (EMS) contained schedules setting out a programme of ecological works to be carried out at site in subsequent years which assumed that development would commence in 2003. Although the operator failed to formally notify the County Planning Authority of the date of commencement as required by condition 2 of planning permission SE/00/2739 it is accepted that operations commenced on 15 August 2005.
6. On the basis of the above, all waste treatment and disposal operations are required to cease by 7 December 2011 and restoration should be completed by 15 August 2017.

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**The Proposals**

7. The application seeks to amend condition 3 of planning permission SE/00/2739 to allow additional time for completion of development and enable restoration to be completed to approved levels. The applicant proposes that condition 3 be reworded to require all waste treatment and disposal operations to be completed within 10 years of the commencement of operations as opposed to 10 years from the date of the planning permission. It does not propose to amend the current requirement for restoration to be completed within 12 years of the date of commencement of operations. The application also seeks to amend the Ecological Management Scheme (EMS) approved in October 2002 to reflect the resultant changes. The application includes a revised Work Programme and Schedule of Tasks which reflects the proposed changes. On this basis, all waste treatment and disposal operations would be required to cease by 15 August 2015 and all restoration would have to be completed by 15 August 2017.
8. In support of the application, the applicant states that the original working scheme (and hence planning permission SE/00/2739) had assumed that operations would commence in mid 2002 after the necessary Pollution Prevention and Control (PPC) Permit (now Environmental Permit) had been obtained from the Environment Agency in late 2001 / early 2002. It also states that the original planning application had always been based on the 1.5 million cubic metre void being infilled over a 10 year period. As the PPC Permit was not actually issued until 15 March 2004 and waste treatment and disposal operations did not actually commence until 15 August 2005, it states that operations are about 3.5 years behind the anticipated schedule and that it will no longer be possible to complete the site within the timescale originally envisaged. The applicant also states that operations are on schedule to be completed within 10 years of the date of commencement and that the phasing arrangements are being complied with in other respects (moving from west to east across the site away from the Vestry Industrial Estate).

**Planning Policy Context**

9. **National Planning:** Policies PPS1 (Delivering Sustainable Development), PPG2 (Green Belts), PPS10 (Planning and Waste Management), PPS23 (Planning and Pollution Control) and Waste Strategy for England 2007.
10. **South East Plan (May 2009):** Policies CC1 (Sustainable Development), SP5 (Green Belts), NRM5 (Conservation) NRM9 (Air Quality), NRM10 (Noise), W3 (Regional Self-Sufficiency), W4 (Sub-Regional Self-Sufficiency), W5 (Targets for Diversion from Landfill), W6 (Recycling and Composting), W7 (Waste Capacity Requirements), W13 (Landfill Requirements), W14 (Restoration), W17 (Location of Waste Management Facilities), C3 (AONB) and C4 (Protection of Landscape)
11. **Kent Waste Local Plan (March 1998):** Policies W1A (Integrated Waste

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Management Facilities), W3 (Locational Criteria), W6 (Need), W10 (Composting and Digestion), W12 (Landfill of Mineral Voids), W18 (Noise, Dust and Odour), W19 (Groundwater), W20 (Land Drainage and Flood Control), W21 (Nature Conservation), W22 (Road Traffic and Access), W27 (Rights of Way), W31 (Landscaping) and W32 (Aftercare).

12. **Sevenoaks District Local Plan (2000):** Identifies that the site lies in the Green Belt (Policy GB1) and adjoins an Area of Local Landscape Importance (Policy EN8).

**Consultations**

13. **Sevenoaks District Council:** Objects on the grounds of: (i) Nuisance to Residential and Commercial properties; (ii) Traffic; and (iii) Air Quality. It states that the site was not an Air Quality Management Area (AQMA) when the permission was originally granted. It also states that if the County Council is minded to grant the amendment to condition 3, that the 10 year period should be from 15 March 2004, which is the date the Pollution Prevention and Control permit was granted.
14. **Sevenoaks Town Council:** Objects and recommends refusal on the grounds that the application is premature and would urge the applicant to adhere to the approved timetable.
15. **Environment Agency:** No objection.
16. **Natural England:** No comments.
17. **Divisional Transportation Manager:** No objection on the basis that it is necessary for the restoration works to be completed and that agreeing the proposed amendment for additional time to complete the development would be preferable to increasing the number of vehicle movements to meet a shortened timescale. Also advises that any increase in traffic generated would cause more difficulties, delays, congestion and air quality issues without improvements at the Bat and Ball Junction. However, given the timescales involved does not consider it appropriate to require a contribution towards improvement works at the Bat and Ball junction.
18. **KCC Noise and Air Quality Consultant (Jacobs):** Advises that the proposed rewording of the time limits for the site operations is unlikely to cause detriment to the nearest residential receptors in terms of noise and air quality, as the noise conditions previously applied to the site will continue to be operational. Also advises that as the applicant seeks to extend the infilling time rather than increase the previously agreed HGV movements through the Bat and Ball Junction AQMA, as such the proposal would not have any additional detriment to that previously agreed.

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**Representations**

19. The application was advertised in a local newspaper and a site notice was posted. In addition, the occupiers of 372 properties were notified. No responses have been received.

**Local Members**

20. The Local County Member for Sevenoaks, Mr Chard, was notified of the application on 1 August 2008. Adjacent member Mr John London was also informed by email of the proposal on 4 February 2009. No comments have been received to date.

**Discussion**

21. 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. In Kent, the development plan is the Regional Spatial Strategy (RSS) for the South East of England (also known as the South East Plan) and any development plan documents which have been adopted or approved in relation to the area. In this case, these other development plan documents are;
- The Kent Waste Local Plan (March 1998) – only those policies that were saved in September 2007
  - The adopted Sevenoaks Local Plan – only those policies that were saved in September 2007
22. In the context of this application, the policies outlined in paragraphs 9 to 12 are of greatest relevance.
23. Prior to the publication of PPS10, Government advice required planning authorities to consider whether waste planning applications constituted the Best Practicable Environmental Option (BPEO). The approach was designed to assist in establishing the optimum and most sustainable form of waste management for any given waste stream. The guiding principles of BPEO were the concept of the waste hierarchy, the proximity principle and the objectives of regional self-sufficiency. In addition, BPEO sought the right form and scale of waste management for the given waste stream at the right time and location. Case law established that consideration of BPEO to individual applications should be afforded substantial weight in the decision making process. PPS10 moved the consideration of BPEO principles to the Plan making stage where it is to be considered as part of the Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA) process applied to the Plan. However, where planning authorities' current waste policies have not been subject to the SA / SEA process (as is the case with the Kent Waste Local Plan) it is still appropriate to consider planning applications against the principles of BPEO. KCC issued a position

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statement to this effect in November 2005 (amended in October 2006). The position statement also states that until such time as the Kent Waste Development Framework (WDF) reaches a more advanced stage, applications will be considered against Policy WM2 of the Kent & 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. It also states that this approach is consistent with the underlying principles of the adopted and emerging Regional Spatial Strategy for the South East (i.e. RPG9 and the draft South East Plan). Although the South East Plan was adopted on 6 May 2009 (replacing RPG9 and superseding draft versions of the South East Plan) and Policy WM2 of the Kent and Medway Structure Plan (2006) will cease to have development plan status with the rest of the Plan when the three-year saved period expires on 6 July 2009, KCC considers that the principles of the position statement remain valid.

24. The main issues to be considered in this case are whether the proposed variation to condition 3 is necessary and whether it would be acceptable in terms of its resultant impacts on traffic, air quality, the environment (including Green Belt) and amenity.

Need

25. As explained in paragraphs 4 to 6 (inclusive), planning permission SE/00/2739 was permitted in December 2001 with the expectation that a PPC Permit would be obtained from the Environment Agency during 2002 and that operations would commence during 2003. In this way it was expected that the proposed landfill phasing arrangements would enable all waste treatment and disposal operations to be completed within 10 years in accordance with planning permission SE/00/2739. Restoration would be completed within a further 2 years. On the basis of these assumptions, condition 3 was worded in such a way that no flexibility was given to address the possibility of a delay in operations commencing. As a result of delays in obtaining a PPC Permit and in commencing operations, the applicant states that it is no longer possible to keep to the previously agreed timetable and phasing unless condition 3 is amended to allow for 10 years of infilling from commencement of operations at site. The delay in obtaining the permit from the Environment Agency led to a 3 years 8 months delay in the commencement of operations at site from that originally envisaged in the planning application documents. The applicant states that to restore the site to the approved restoration contours at the current rate of fill, which is limited by both vehicle movement restrictions and availability of waste, the site would need to be operational for 10 years from the date of commencement. As such the applicant is requesting a variation to condition 3 to accommodate the delay in starting operations on site. Approval of such would allow for Cory's to fill the site to the approved levels and restore to the approved plans. No revision is sought to the restoration timetable which would envisage the site being completed by 15 August 2017.

26. The amendments to the Ecological Management Scheme (EMS) as proposed within

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the application are a consequential amendment in order to reflect the delay in commencement of operations. The EMS sets out a programme of ecological works which should take place during a specified time period after the beginning of works. As such the current scheme refers to ecological works in the specified years following the date of the permission, however as the commencement of operations was not until 2005. The applicant therefore proposes to alter the programme of ecological works to coincide with the commencement of operations at site.

27. The amended EMS does not alter the content of the ecological works which was originally permitted; it merely changes the dates which actions have to take place by. The statutory consultee for ecological matters has not raised any objection to these proposals and as such in my opinion the shift in the programme of ecological works is not likely to have an adverse impact.
28. Sevenoaks Town Council raise objection to the proposal as in their opinion (amongst other matters) that the proposal is premature. It is important to acknowledge that the applicant has submitted this application not because they are not keeping up with the phased filling of the site but because of the delay in starting. The applicant has confirmed that they are progressing in accordance with the approved phasing plans. It is an early acknowledgement that they are not going to be able to complete filling operations within the shorter timescales. I do not therefore consider that the application is premature. The application is I consider a sensible approach to address the lack of time currently allowed to complete filling operations and preferable to make new, rather than in 3 years time, when other options to address the situation will be reduced. Members should note that the applicant states. it would not be possible to fill the site sufficiently within the time currently allowed to reach approved levels. Were members minded not to support this proposal the applicant would need to seek permission for either a different landfill and restoration scheme, or seek to remove or vary the vehicle number restrictions thereby allowing them to fill the site to approved levels within a shorter time period. Neither of these options is being proposed and we must determine the proposal before us. However it is my view that either of the two alternatives above would have greater consequential effects on traffic at Bat and Ball junction, air quality, and the amenity of neighbours of the site than the extension of time being sought. Given the above, I am satisfied that there is a need for the development . This needs to be considered against the impacts discussed below.

Traffic and Air Quality Impacts

29. Since permission SE/00/2739 was granted the area around the Bat and Ball junction has been designated an Air Quality Management Area (AQMA). This is due to high levels of air borne pollution having been monitored at the junction. In accordance with Air Quality planning guidance the Bat and Ball junction, which is used by the traffic from Greatness Quarry and the surrounding industrial estate, is subject to an Air Quality Action Plan (AQAP). Sevenoaks District Council and Sevenoaks Town Council have objected to this application on the grounds that it would have an adverse effect



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on air quality within an AQMA. Policies NRM 9 of the South East Plan seek to ensure development is designed so as to adequately mitigate pollution impacts and not adversely affect any improvements brought about by the AQMA status.

30. The proposal would result in vehicle movements occurring at this junction beyond the end date originally envisaged for filling operations. However the movements previously permitted started later and consequentially would continue for a period of approximately 3.5 years beyond the original end date. These movements would not be any greater in number or frequency and would take place over the same period of time as that which was permitted originally. This point is supported by my air quality advisors, who raise no objection to the proposals.
31. The Divisional Transport Manager acknowledges that if the site has to be completed and restored. This proposal to allow an additional 3.5 years is preferable (from a highway safety and congestion point of view) to increasing the number of vehicle movements to meet a shortened timescale.

Environment and Amenity Impacts

32. The site lies within the Green Belt and the Kent Downs AONB. Part of the site is designated as a SSSI for its geological interest. As such planning policies (PPG 2 and SP5, C3 and C4 of the South East Plan) provide for presumption against inappropriate development. Policies NRM5, C3 and C4 of the South East Plan provides that high environmental standards of restoration should be provided in this location, where the primary objective is to protect, conserve and enhance landscape character, natural beauty and scientific conservation. The landfilling operation has already been acknowledged to be acceptable development in this location, subject to a high standard of restoration. The restoration of this site by landfilling was originally permitted on the premise that the proposal would facilitate the full and proper restoration of the site to a mixture of grassland, tree planting and small ponds and associated wetland habitat for agricultural and nature conservation. This proposal in seeking extension of time for filling operations is seeking to ensure that the high standard of restoration as previously approved and considered necessary as part of the landfill consent is achieved by the filling of the site to approved levels.
33. The applicant has identified that completion of filling and consequent restoration in accordance with the approved scheme cannot be achieved within the currently restricted timeframe. Given the location of this site within a highly sensitive landscape area it is, in my view, important that the previously carefully considered and planned restoration be completed. I do not consider there would be anything to be gained in terms of visual amenity by insisting the scheme be completed within the present timescale and given the current availability of materials; doubts are raised over whether sufficient material is available at this time.
34. Sevenoaks District Council raise concerns over the proposal in terms of potential

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nuisance to residential and commercial properties. The site is being worked in accordance with the approved phasing and progressive restoration plans. As such the filling operations are now working further to the east away from the residential and commercial properties. The impact upon these interests is therefore reduced. The Council's noise advisors consider that the proposed amendments would not cause any additional detriment in noise or air quality terms beyond those considered acceptable in the currently approved arrangements. Noise impacts will continue to be controlled by the existing conditions within which the site currently operates.

Conclusion

35. Planning permission SE/00/02739 already provides for the operation of a landfill site for 10 years from the date of the permission. The original permission took into account factors such as noise, dust, odour, traffic management and restrictions on movements and appropriate conditions were attached. These would remain in force. The application has been made in recognition of the delay in acquiring an environment permit and an acknowledgement that the site cannot be restored to the levels and standard required by the planning permission SE/00/2739 in the 3.5 year timescale which remains. In granting planning permission for the landfilling operation, the Planning Authority accepted that a 10 year timescale was necessary for the works. The effect of this application is to shift the 10 year timescale, some 3.5 years into the future. All other aspects and controls will remain the same. Given the sites sensitive location within the Green Belt and AONB there is an overriding need to ensure a high standard of restoration and this would require the further timescale sought.
36. Restoration of the cells nearest The Vestry Industrial Estate is about to commence and they will then be seeded in accordance with the approved restoration plans. Whilst this proposal will prolong filling operations beyond that originally envisaged, the end date for complete restoration remains the same. Neither the Council's noise and air quality advisor nor the highways officer raises any objection to the proposal.
37. I am satisfied that the proposed variation to the condition and amendment to the EMS would not lead to unacceptable adverse impacts and would accord with adopted and emerging development plan policies. I therefore recommend accordingly.

Legal Agreement

38. The original planning permission SE/00/2739 was also subject to a S106 legal agreement which provided for:-
  - The protection of the geological interests and establishment of a new area of geological interest together with public access and interpretation facilities
  - The funding of highway signs on the A25

### Item C3

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- The establishment of a research fund with English Nature
- The submission of a HGV routeing agreement.

39. Whilst the terms of this agreement have mostly been met there is an on-going need to maintain the HGV routeing. I am advised by Legal Services that it will need to be revisited and a supplemental legal agreement drafted so that it accommodates the new permission should Members be minded to support my recommendation.

### **Recommendation**

40. SUBJECT TO the applicant entering into and the satisfactory completion of a Section 106 Agreement (and to pay reasonable legal and administrative costs and disbursements incurred by the County Council) as set out above

I RECOMMEND that PERMISSION BE GRANTED for the proposed variation to condition 3 of planning permission SE/00/2739 and the proposed amendment to the approved Ecological Management Scheme SUBJECT TO condition 3 being reworded as follows:-

3. Unless otherwise approved in writing by the County Planning Authority, all waste treatment and disposal operations shall cease by 15 August 2017 and the site shall be restored in accordance with details approved pursuant to condition (10)(a) of this permission on 7 October 2002 by 15 August 2017.

*Reason: To provide for the completion and progressive restoration of the site within the approved timescale in the interests of amenity and pursuant to South East Plan Policies SP5, NRM5, NRM9, C3 and C4 and Kent Waste Local Plan Policies W4, W9, W12 and W23.*

### Informative

The applicant be reminded that all other conditions imposed under Planning Permission SE/00/2739 remain in effect.

Case Officer: Shaun Whyman
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Tel. No. 01622 221055
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Background Documents: see section heading.
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