



AGENDA

PLANNING APPLICATIONS COMMITTEE

Tuesday, 17th March, 2009, at 10.00 am
Council Chamber, Sessions House, County
Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **01622 694342**

Tea/Coffee will be available from 9:30 outside the meeting room

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

A. COMMITTEE BUSINESS

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes - 17 February 2009 (Pages 1 - 6)
4. Site Meetings and Other Meetings

B. GENERAL MATTERS

1. Draft amendments to Advice to Members on the Application of the Code of Member Conduct to Development Control (Pages 7 - 24)
2. Draft Member Training Programme June 2009 to March 2010 (Pages 25 - 28)

C. MINERALS AND WASTE DISPOSAL APPLICATIONS

1. Application TM/08/624 - Regularisation of the gas control compound permitted under Permission TM/04/3135 and installation of a new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham, West Malling; Infinis Ltd (Pages 29 - 60)

D. DEVELOPMENTS TO BE CARRIED OUT BY THE COUNTY COUNCIL

1. Proposal DO/08/320 - Single storey modular building for use as a Children's Centre at Hornbeam Primary School, Mongeham Road, Great Mongeham, Deal; KCC Children, Families and Education (Pages 61 - 76)

E. COUNTY MATTERS DEALT WITH UNDER DELEGATED POWERS

1. County matter applications
2. Consultations on applications submitted by District Councils or Government Departments
3. County Council developments

4. Screening opinions under Environmental Impact Assessment Regulations 1999
5. Scoping opinions under Environmental Impact Assessment Regulations 1999
(None)

F. OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

(Please note that the background documents referred to in the accompanying papers may be inspected by arrangement with the Departments responsible for preparing the report. Draft conditions concerning applications being recommended for permission, reported in sections C and D, are available to Members in the Members' Lounge.)

Monday, 9 March 2009

KENT COUNTY COUNCIL**PLANNING APPLICATIONS COMMITTEE**

MINUTES of A meeting of the Planning Applications Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 17 February 2009.

PRESENT: Mr R E King (Chairman), Mr A R Bassam (Vice-Chairman), Mr A R Chell, Mr J A Davies, Mr T Gates, Mrs E Green, Mr W A Hayton, Mr G A Horne MBE, Mr S J G Koowaree, Mr J F London, Mr T A Maddison, Mr J I Muckle, Mr W V Newman, DL, Mrs P A V Stockell and Mr F Wood-Brignall

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications Group), Mr J Crossley (Principal Planning Officer), Mr J Wooldridge (Principal Planning Officer), Mr R White (Transport and Development Business Manager) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**7. Membership**

The Committee noted the appointment of Mr A R Chell in place of Mr C Hibberd.

8. Minutes - 22 January 2009
(Item A3)

RESOLVED that the Minutes of the meeting held on 22 January 2009 are correctly recorded and that they be signed by the Chairman.

9. Application TM/08/3715 - Variation of Condition 6 of Permission TM/06/2171 to allow additional vehicle (HGV) movements to and from the site (an increase from 110 to 182 movements per day) at Borough Green Quarry, Wrotham Road, Borough Green; Cemex UK Materials Ltd
(Item C1- Report by Head of Planning Applications Group)

(1) Correspondence from Mrs V J Dagger, the local Member was tabled.

(2) The Head of Planning Applications Group informed the Committee of two Planning Policies that should have been specifically referenced in the report. These were: Policy C3 of the emerging South East Plan and Policy EN4 of the Kent and Medway Structure Plan (2006).

(3) The Head of Planning Applications Group reported the further comments of Wrotham Parish Council and Borough Green Parish Council together with the comments of the South East England Regional Assembly. The latter raised no objection subject to the Highways Authority and Highways Agency being satisfied with the proposal and to the imposition of Air Quality and Noise Mitigation measures. She also reported that Tonbridge and Malling Borough Council had not commented on the proposal.

(4) Mr M Taylor from Borough Green Parish Council, Mr H Rayner from Wrotham Parish Council and Mr R Saunders from Keep Boroughs Green addressed the Committee in opposition to the Application. Mr A Scott from Cemex spoke in reply on behalf of the applicants.

(5) RESOLVED that:-

(a) permission be granted to the application subject to all other conditions and informatives attached to Permission TM/06/2171 being repeated (with minor amendments as necessary) and to Conditions (5) and (6) of Permission TM/06/2171 being reworded as follows:-

“Condition 5: Unless otherwise agreed beforehand in writing by the County Planning Authority, HGVs associated with the quarry restoration, landfill and recycling operations shall not leave the site during school term time at Wrotham School between the hours of 0800 and 0845 and 1500 and 1545 Monday to Friday. In addition, the operator shall use its best endeavours to prevent HGVs arriving at the site during these periods. For the purposes of this condition “best endeavours” shall include the operator informing its customers of the above restrictions, requesting that they comply with them and only allowing HGVs to exceptionally enter the site during these hours when not to do so would lead to HGVs parking or queuing on Wrotham Road whilst waiting to enter the site.” *(The reasons for this condition are the interests of both highway safety and local amenity and the avoidance of unnecessary conflict with other road users at the start and end of the school day.)*

“Condition 6: HGV movements associated with the quarry restoration, landfill and recycling operations shall, together, not exceed 182 HGV movements per day (91 in / 91 out).” *(The reason for this Condition is to limit the total number of HGV movements associated with operations at the site in the interests of highway safety and local amenity; and pursuant to Kent and Medway Structure Plan Policies TP15, WM2 and MN2 and Kent Waste Local Plan Policies W18 and W22.); and*

(b) the applicant be invited to submit further applications to amend the requirements of conditions attached to Permissions TM/93/305 and TM/01/1205/MR86, as amended by Permissions TM/08/2981 and TM/08/3175, to provide consistency with the restrictions set out in Condition 5 (as amended in paragraph (a) above.)

10. Proposal TH/08/1366 - First floor extension to provide accommodation at St Crispin's Primary School, St Crispin's Road, Westgate-on-Sea; Governors of St Crispin's Primary School and KCC Children, Families and Education
(Item D1- Report by Head of Planning Applications Group)

RESOLVED that permission be granted to the proposal subject to conditions including conditions covering the standard time limit; the development being carried out in accordance with the permitted details; details and samples of the external materials in accordance with those indicated in the application being submitted to

and approved by the County Planning Authority prior to the development being commenced, and the development subsequently being carried out using the approved materials; no trees, shrubs and hedges being lopped, topped or removed as a result of the development, and all necessary measures being undertaken to ensure their protection before, during and after construction; and control over the hours of construction.

11. Proposal MA/08/2186 - Demolition of existing school buildings, erection of new Academy, re-provision of outdoor playing pitches, new four court multi-use games area, car parking spaces, bicycle spaces, strategic landscaping works and associated circulatory access roads at Cornwallis Academy, Hubbards Lane, Maidstone; KCC Children, Families and Education
(Item D2- Report by Head of Planning Applications Group)

(1) Mrs P A V Stockell made a declaration of personal interest as she had previously given her views on the proposal at a meeting of Maidstone Borough Council. She gave her views as the local Member but took no part in the decision-making.

(2) Mrs S Thompson, Head of Planning Applications Group declared an interest as the Chair of the Parent Forum of Cornwallis School and as a parent of a pupil at the School. She therefore did not advise the Committee on the proposal. The Principal Planning Officer, Mr J Crossley acted as the Lead Officer for this item.

(3) Correspondence from Coxheath Parish Council, Linton Parish Council and from Mr M Stevens, Clerk to Linton Parish Council was tabled.

(4) The Transport and Development Business Manager advised that a crash remedial scheme for the A229/ Heath Road crossroad had been designed and had been proposed for construction in 2010/11. He also advised that cycling strategies were likely to be developed in the near future. These schemes and strategies were, however, independent of the proposal under discussion.

(5) In agreeing to permit the proposal, the Committee agreed to include an Informative to advise of its view that the crash remedial scheme and cycling strategies should be progressed at the same time as the permitted development took place.

(6) RESOLVED that:-

- (a) permission be granted to the proposal subject to conditions including conditions covering the standard time limit; the development being carried out in accordance with the permitted details; the submission of details of all materials to be used externally, including the submission of details of door and window reveals; details of all external lighting; rating noise level from the plant not exceeding the existing LA90 when measured at the nearest residential property; a scheme of landscaping, including hard surfacing, its implementation and maintenance; measures to protect those trees to be retained; an Arboricultural Method Statement; a bat survey being undertaken prior to demolition of the existing school buildings; a habitat/biodiversity enhancement strategy, including monitoring and management;

protection of badgers from construction activities; no tree removal during the bird breeding season; the development according with the recommendations of the ecological survey; details of fencing, gates and means of enclosure, including colour finishes; archaeological works; "Secured by Design" principles being adopted; a BREEAM rating of 'Very Good' being achieved; the playing field being provided and marked out as shown on the proposed site plan; a community use agreement relating to use of the indoor and outdoor facilities, including hours of use and nature of use; the provision of car parking, cycle parking, access and turning areas; details of cycle parking design and phased implementation; promotion of a Traffic Regulation Order and a contribution of £2000 if successful; preparation, submission for approval, implementation and ongoing review of a revised School Travel Plan; provision of visibility splays, including improvements to the visibility splays at the sites exit; details of foul and surface water drainage; control of discharge of foul/contaminated drainage; survey work regarding land contamination; no floodlighting being erected on the multi-use games area, or elsewhere on the site, without the written permission of the County Planning Authority; hours of working during construction and demolition being restricted to between 0800 and 1800 Monday to Friday and between the hours of 0900 and 1300 on Saturdays, with no operations on Sundays and Bank Holidays; the development being carried out in accordance with the submitted construction management plan; and measures to prevent mud and debris being taken onto the public highway; and

- (b) the applicants be advised of the following informatives:
 - (i) Sport England should be consulted by the applicant to ensure that the proposed sporting facilities are designed to satisfactory technical standards. Attention is also drawn to the relevant Sport England Guidance Notes providing technical advice on the appropriate standards for the sports facilities;
 - (ii) account should be taken of the comments made by the Environment Agency relating to drainage, contamination, and storage of fuel, oil & chemicals;
 - (iii) account should be taken of the Informatives made by Maidstone Borough Council; and
 - (iv) the view of the Committee that the proposed crash remedial scheme and cycling strategies should be progressed at the same time as the permitted development takes place.

12. Proposal TM/08/3656 - Demolition of a conservatory and construction of a single storey extension and sun canopy at Ditton Infant School, Pear Tree Avenue, Ditton, Aylesford; Governors of Ditton Infant School and KCC Children, Families and Education
(Item D3- Report by Head of Planning Applications Group)

- (1) Correspondence from the local Member, Mr G Rowe in support of the proposal was tabled.

(2) Mr P Lambert, a local resident from Pear Tree Avenue addressed the Committee in opposition to the proposal. Mrs S Stafford, Deputy Head Teacher and Early Years Co-ordinator of Ditton Infant School spoke in reply as the applicant.

(3) RESOLVED that permission be granted to the proposal subject to conditions including conditions covering the development being commenced within 3 years from the date of permission; and the development being carried out in accordance with the permitted details.

- 13. Proposal SW/08/733 - Four classroom extension block, additional parking at the front of the school, repositioning of two temporary classrooms onto the playing field during construction works and internal remodelling and roof adaptations within the existing school building to provide pre-school facilities within the main school at Bapchild and Tonge Primary School, School Lane, Bapchild, Sittingbourne; Governors of Bapchild and Tonge Primary School and KCC Children, Families and Education**
(Item D4- Report by Head of Planning Applications Group)

RESOLVED that permission be granted to the proposal subject to conditions including conditions covering the standard time limit; the development being carried out in accordance with the permitted details; a groundwater protection condition; removal of all mobile classrooms prior to the first occupation of the development; the recommendations set out in the Tree Impact Assessment Report being adhered to; foundation design; external materials; a landscaping scheme; tree protection measures; details of car parking surface treatment and a construction method statement; details of construction access and temporary accommodation; and the preparation and submission of School Travel Plan prior to first occupation of new classroom block.

- 14. Proposal SW/08/1323 - Renewal of planning consent for existing two classroom mobile unit at Tunstall CE (Aided) Primary School, Tunstall, Sittingbourne; Rochester Diocesan Board of Education and KCC Children, Families and Education**
(Item D5- Report by Head of Planning Applications Group)

RESOLVED that:-

- (a) permission be granted to the proposal for a temporary period of 3 years from the date of permission subject to conditions including conditions covering removal of the classroom unit from site at the expiration of the 3 year period and the subsequent restoration of the site thereafter; and the development being carried out in accordance with the permitted details; and
- (b) the applicants be advised by Informative that the County Planning Authority would wish to see urgent action taken to resolve the temporary classroom accommodation at Tunstall Primary School during the three-year temporary consent timescale.

15. County Matters dealt with under delegated powers
(Items E1- E6- Reports by Head of Planning Applications Group)

RESOLVED to note reports on items dealt with under delegated powers since the last meeting relating to:-

- (a) County matter applications;
- (b) consultations on applications submitted by District Councils or Government Departments;
- (c) County Council developments;
- (d) Screening opinions under Environmental Impact Assessment Regulations 1999; and
- (e) Scoping opinions under Environmental Impact Assessment Regulations 1999.

16. Channel Tunnel Rail Link Award

(1) The Head of Planning Applications Group reported that the Channel Tunnel Rail Link Planning Forum (a partnership of the local authorities directly affected by the rail link and Union Railways and its planning advisors) had received the Royal Town Planning Institute's national award for planning excellence for their work on the Channel Tunnel Rail Link.

(2) RESOLVED that the Planning Applications Group be congratulated on the receipt of this prestigious award.

By: Geoff Wild – Director of Law and Governance

To: Planning Applications Committee – 17 March 2009

Subject: DRAFT AMENDMENTS TO ADVICE TO MEMBERS ON THE APPLICATION OF THE CODE OF MEMBER CONDUCT TO DEVELOPMENT CONTROL

Classification: Unrestricted

File Ref: PAC/03/09

Summary: To advise Members of the Committee of draft amendments to the Standards Committee's Advice Note 4 on "the Application of the Code of Member Conduct to Development Control", particularly in respect of the Dual Membership provisions. These will be considered by Standards Committee following consideration by this Committee

FOR DECISION

Introduction

1. The draft revised Standards Committee's Advice Note 4 "Advice to Members on the Application of the Code of Member Conduct to Development Control" is attached (**Appendix 1**).
2. Draft amendments have been prepared in respect of the *Dual Membership* section of the Advice Note (paragraphs 11 to 15). These amendments take account of the revised *LGA guidance note "Positive Engagement – A Guide for Planning Councillors"* (**Appendix 2**) and the Standard Board for England's Occasional Paper "*Predisposition, Predetermination or Bias*" (**Appendix 3**).

Predisposition versus Predetermination or Bias

3. The Advice Note and its draft amendments have been prepared with the distinction between Predisposition and Predetermination firmly in mind. The Standards Board's Occasional Paper defines both states of mind and explains that an elected Member can vote on a planning application in the event of being predisposed. The reason for this is that the Member who is predisposed is in a position to have an open mind to the merits of the evidence that is given during the Committee meeting itself.
4. Predetermination (which is coupled with "Bias" in the occasional paper) precludes the Member from voting on a planning application. Significantly, the Occasional Paper explains that Members "must not even *appear* to have already decided how they will vote at the meeting, so that nothing will change their mind."

The draft amendments to the Dual Membership Section

5. Currently the Advice Note states that Members of this Committee should not vote on an application if they have previously done so in another place. The new Guidance Notes and the Occasional Paper are not so prescriptive and, accordingly it is recommended that this advice is removed.

6. The implications of this amendment are that Members must ensure that the remainder of the Code is more strictly followed in respect of dual membership. Draft paragraph 11 of the Advice Note sets out that you must be able to demonstrate that they came to the debate with an open mind and that they have not formed a predetermined or fixed view.

7. Draft paragraph 12 of the Advice Note explains what Members should do whenever a future planning application is considered by a District/Parish Council, KCC Board or any other body of which they are a Member. Members should make a point of declaring that they will consider the matter afresh at the Planning Applications Committee meeting. They may also feel that is appropriate to ask that this declaration is minuted, although the Advice Note does not insist upon it.

8. Draft paragraph 13 of the Advice Note advises that Members should declare an interest when the item comes forward to the Planning Applications Committee. In order to be able to participate in the decision-making, Members must be in a position to declare that although they have participated in a previous discussion(s) on this matter, they have not yet reached a final conclusion and are not bound by the views of the Parish/ District Council/Board, etc.

Declarations of Prejudicial Interest

9. The Advice Note recommends that any Member who does not believe that they can safely declare an absence of predetermination should either declare a prejudicial interest and leave the meeting or arrange to be substituted and speak as the Local Member.

10. It has been the practice for Members of the Planning Applications Committee who do wish to speak as the Local Member to simply make a declaration of interest for that particular item, speak as the Local Member and then resume the role of Committee Member once that particular item of business has concluded. This practice does not conform to the Advice Note, which does not differentiate in any way within the category of Prejudicial Interest. I would therefore advise that a Member who declares a prejudicial interest *of any nature whatsoever* may attend the Committee meeting **either** as a Committee Member **or** as a Local Member, but not in both capacities.

Other Modifications to the Advice Note

11. The other draft amendments to the Advice Note simply reflect changes in circumstances since 2005, e.g. "Democratic Services" instead of "Council Secretariat."

Recommendation

12. I recommend that the Committee informs the Standards Committee that it endorses the draft Advice Note as set out in Appendix 1 to the report, subject to any comments made by Members during this meeting.

Geoff Wild
Director of Law and Governance
01622 694302

Background Documents
None.

This page is intentionally left blank

**KENT COUNTY COUNCIL
STANDARDS COMMITTEE**

Advice Note 4

Endorsed by Standards Committee, 9 March 2005

Amended by the Standards Committee on.....

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT TO DEVELOPMENT CONTROL**

1. This note gives advice to Members who:
 - are members of the Planning Applications Committee
 - sit in on a meeting of the Planning Applications Committee as a substitute Member
2. The provisions of the Code of Member Conduct regarding conduct, the registration and declaration of interests, and the acceptance and registration of gifts and hospitality, apply to the proceedings of the Planning Applications Committee and other discussions in which Members may become involved on planning applications and other development control proposals.
3. The Local Government Association, supported by the Standards Board for England, has issued a short but useful guidance note *Positive engagement - a guide for planning councilors (updated version)*. Separately the Standards Board for England has also issued a more detailed and helpful occasional note *Predisposition, Predetermination or Bias, and the Code*. Copies of these documents are obtainable from Democratic Services.
4. Where this note refers to an application, it applies also to any other decision coming before the Council as a local planning authority that is not the responsibility of the Leader and Cabinet.

Interests

5. If you have a personal interest in an application make sure you declare this at any meeting. It would be prudent also to notify the Monitoring Officer in writing so that the interest can be publicly recorded in the Register of Members' Interests.
6. If the interest is a prejudicial one you should take no part in any discussion on the application, either inside or outside committee meetings. If you are the Local Member, you should arrange for a colleague representing a nearby division to represent your constituents.

Executive and Lead Members

7. If you are a Cabinet Member or a Lead Member (including Chairman of the Schools or Highways Advisory Boards), you should not take part as a voting Member in a debate by the Planning Applications Committee on an application by the Council, e.g. a highway or school scheme. You may, with the Chairman's consent, speak to other Members outside the Committee meeting or at the meeting itself, but you should always remind the Member(s) of your responsibilities and position so that they and the public are aware of these when considering what you have to say. Take care you are not seen to be attempting to exercise undue influence on the other Member(s) through your position in the Council or party group.

Planning Applications Committee Members

Training

8. Before taking up a position as a voting member of the Planning Applications Committee, you should receive basic training in your duties. This will normally take the form of a discussion of this advice note with an officer nominated by the Monitoring Officer, as well as a discussion with a senior planning officer.

9. Once appointed, you should take part in all training sessions on planning law, policy and practice organised for members of the Committee. If you cannot attend, you should request a personal briefing from the Planning Officer.

Information

10. You should approach all decisions on applications with an open mind and ensure you are as well informed as possible by:

- attending site visits or inspections on applications agreed by the Committee wherever possible
- ensuring you always read the Planning Officer's report thoroughly and come to the meeting prepared to be persuaded to take a different point of view
- not voting if you have not been present to hear the entire debate, including public comments and the Planning Officers' introduction.

Dual Membership

11. You may take part as a voting member in the consideration of an application by the Planning Applications Committee if you also serve on an advisory board, district or a parish council which has been, consulted on or is otherwise involved with the application. Dual membership does not of itself create a prejudicial interest that requires you to leave the room. It is, however, necessary for you to be able to demonstrate, if challenged, that you came to the debate with an open mind, without having previously formed a fixed or predetermined view on the issue and that you have considered all the relevant facts and arguments.

12. You should consider carefully what you say at meetings of other boards or councils whether you attend as a member of that board or council or as a KCC Member. You should declare at those meetings that if you come to consider the matter as a voting member of the Planning Applications Committee, you will consider the matter afresh, taking into account all the information and views you will then have before you, including those expressed at these boards or councils' meetings.

13. At the Planning Applications Committee meeting you should declare a personal (but not necessarily prejudicial) interest as a member of the board or parish/district council. You should say if you attended or participated in the board or parish/district council meeting but make it clear that you have not reached a final conclusion, but instead are considering the matter at Planning Applications Committee meeting afresh and not bound by board or parish/district council's views.

14. If you do not feel able to make such a declaration you should regard yourself as having a prejudicial interest. You should declare that interest and leave the meeting during consideration of that item. Alternatively, you may wish to arrange to be substituted at that meeting and speak instead as a Local Member (assuming the matter

affects your division). In that case, you must make clear when you speak that you have done this and why.

15. If you are associated with an external body that is the applicant (or a major beneficiary of the proposals, e.g. a school governing body for new school buildings) you should not participate as a voting member but declare that interest. With the Chairman's consent you may still speak on the same basis as a Local Member. If you have voting rights, you should ensure that your abstention is recorded in the minutes.

Lobbying by local residents, consultees and objectors

16. In any discussions with local residents, objectors or consultees you should be careful not to say how you might vote or express any opinion on the merits prior to your formal consideration of the matter at the Committee meeting. Explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.

17. If you decide to argue vigorously for a particular point of view in relation to an application on behalf of some or all of your constituents, or to become a member of a lobbying group for or against a specific proposal, you should not exercise your rights at the meeting of the Planning Applications Committee to vote or move or second any motion or amendment. You should inform the Chairman of this before the meeting begins and declare that intention at the beginning of the debate on the item.

18. If you are a member of a lobby, campaign or other group or association that is actively expressing a view on the application or other matter before the Committee, you are likely to have a prejudicial interest and should follow the advice in paragraph 14 above. More detailed advice is available in Advice Note 1 on dual-hatting and membership of lobby groups.

Lobbying by Applicants or Developers

19. You should inform the Monitoring Officer in writing if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

20. You should refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable and report any significant contact to the Planning Officer.

21. You should not take part in any meeting, presentation or site visit organised by applicants or developers unless a Planning Officer is present and can make a written file record of the discussion.

22. At any such presentation or discussion:

- ask relevant questions for the purposes of clarifying your understanding of the proposals
- remember that the presentation is not part of the formal process of debate and decision by the Planning Applications Committee
- be careful not to express any strong view or state how you or other Members might vote.

23. If you decide to inspect the site of an application by yourself make sure you stay on the public highway or public land. If you are spoken to by an employee or representative of the landowner or a local resident, explain who you are and why you are looking at the site but follow the preceding advice about not expressing an opinion.

Local Members

24. In discussion with your constituents or others be careful not to give the impression that the Planning Applications Committee will approve or refuse the application or that it will do anything other than reach a decision in accordance with planning law, policy and good practice.

25. If you are a member of the Committee and also the Local Member, remember that your overriding duty is to the whole community not just to the people in your ward and take account of the need to make decisions impartially. If you do not feel able to do this but want to argue the case for your constituents, do not take part in the debate as a voting member but make it clear that you are abstaining on that issue and why. You may vote on other issues raised in the meeting, or alternatively, you may wish to ask your political group to arrange for a substitute for the entire meeting so you can attend and speak on the specific item as the Local Member.

26. At a meeting where an application will be considered in which you will participate as a Local Member, you should not normally agree to serve as a substitute member.

27. If you sit on the applicant/benefiting body (e.g. a school governing body) but are not a member of the Planning Applications Committee, make sure if you speak to any member of the Committee about the application that they know of your membership and interest. Remember that if you speak at the Committee meeting, you have to declare your interest before speaking.

positive engagement

a guide for planning councillors
updated version



'The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.'

positive engagement

a guide for planning councillors

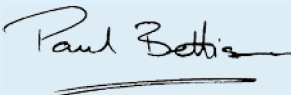
A message from **Iain Wright MP Parliamentary Under Secretary of State, DCLG** and **Paul Bettison, Environment Board Chairman, LGA.**

There have been some considerable changes over the last few years in how the planning process is delivered within England with a move away from an often adversarial, reactive and conflict based system towards a more pro-active, inclusive and creative approach.

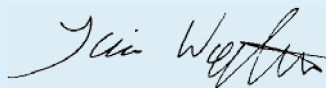
As a local councillor involved in planning matters, whether as a ward councillor representing your area's constituents as a councillor responsible for drawing up the spatial plan for your area, or as a councillor responsible for deciding upon application you have a crucial role to play in both making the planning system work and ensuring the best possible outcomes for your community for both now and in the future. The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.

However, concerns are sometimes expressed about the compatibility of councillors meeting developers and interest groups and then taking decisions on an impartial basis.

This leaflet is an updated version of the positive engagement for elected members launched in 2005. It is intended to summarise the principles that should be observed to enable you to both participate in and lead the system.'



Paul Bettison



Iain Wright

In broad terms, the success of the planning system will depend on:

- establishing and taking forward a clear spatial vision for the area based on the sustainable community strategy
- effective dialogue between applicants, local authority, local people and other interests to help define and realise the vision
- ensuring that the spatial plan for an area embodies the aspirations of the community
- effective communication and ownership of policy between executive and planning committee
- the planning service being focused on outcomes
- early and effective community engagement in discussions on plans and development proposals, in accordance with the authority's Statement of Community Involvement.
- upholding the ACSeS Model Members Planning Code

As a community leader and local representative you will want to be involved in relevant public meetings, pre-application discussions and policy production. However, this may create some risks for councillors, particularly those who are members of the planning committee, and for the integrity of the decision making process. You should familiarise yourself with guidance found in the LGA guide *Probity in Planning* (update) – the role of councillors and officers, guidance from the Standards Board for England which provides an overview of the Model Code of Conduct which applies to all members and co-opted members of local authorities and the ACSeS Model Members Planning Code. (see the weblinks at the end of this leaflet).

Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However, difficulties can be avoided if you follow these useful general hints:

do

- ✓ always involve officers and structure discussions with developers
- ✓ inform officers about any approaches made to you and seek advice
- ✓ familiarise yourself with your authority's Code of Conduct and follow it when you are representing your authority
- ✓ keep your register of interests up to date
- ✓ follow your local authority's planning code
- ✓ be aware of what predisposition, predetermination and bias mean in your role – ask your monitoring or planning officer and refer to the Standards Board Occasional Paper on Predetermination, Predisposition and Bias if unsure
- ✓ be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority
- ✓ preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- ✓ be aware of what personal and prejudicial interests are – refer to your monitoring officer and the Standards Board's website if you are unsure
- ✓ recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role
- ✓ stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- ✓ use meetings to show leadership and vision
- ✓ encourage positive outcomes
- ✓ ask for training from your authority in probity matters
- ✓ recognise that you can lobby and campaign but that this may remove you from the decision making process
- ✓ feed in both your own and your local community's concerns and issues
- ✓ be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

do not

- X use your position improperly for personal gain or to advantage your friends or close associates
- X meet developers alone or put yourself in a position where you appear to favour a person, company or group – even a ‘friendly’ private discussion with a developer could cause others to mistrust your impartiality
- X attend meetings or be involved in decision-making where you have a prejudicial interest under the Model Code of Conduct – except when speaking when the general public are also allowed to do so
- X accept gifts or hospitality
- X prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- X seek to influence officers or put pressure on them to support a particular course of action in relation to a planning application
- X compromise the impartiality of people who work for your authority
- X invent local guides on probity in planning which are incompatible with current guidance – look for commonly held and common sense parallels in other authorities or the principles set out in national guidance

This simple guide has been produced by a number of organisations who have shared interest in maximising the effectiveness of councillor involvement in planning.

They include: the Local Government Association, Association of Council Secretaries and Solicitors, the Standards Board for England, Planning Advisory Service and The Department of Communities and Local Government and Planning Officers Society.

weblinks

The Association of Council Secretaries and Solicitors

Model Members Planning Code
www.acses.org.uk/documents/category/4

Department of Communities and Local Government

www.communities.gov.uk

Local Government Association

Probity in planning (update): the role of councillors and officers
www.lga.gov.uk/planning

A LGA update to the highly successful original guidance (published in 1997) on preparing a local code of good practice for those dealing with planning matters will be available shortly

National Planning Forum

Pre-application advice for town and country planning:
National Planning Forum good practice note 2 one of a series of 'inspiring planning' good practice notes
www.natplanforum.org.uk/good%20practice.html

Planning Advisory Service

Member development modules
www.pas.gov.uk/membertraining

Planning Officers Society

Members and Planning
www.planningofficers.org.uk/article.cp/articleid/176

The Standards Board for England

Guidance on the Model Code of Conduct, including personal and prejudicial interests
www.standardsboard.gov.uk/TheCodeofConduct/Guidance/

Fact sheets and Frequently Asked Questions
www.standardsboard.gov.uk/TheCodeofConduct/Factsheetsandfrequentlyaskedquestions/

Paper on predisposition, predetermination or bias, and the Code
www.standardsboard.gov.uk/Publications/OccasionalPaper/

IDT 2517

Predisposition, Predetermination or Bias, and the Code

Both predetermination and bias have proved to be difficult and controversial issues for many members and monitoring officers. Although they are judge-made, common law issues, and not part of the Code of Conduct, the Standards Board for England has agreed to publish this occasional paper to help clarify the issues.

Based on advice from leading treasury counsel Philip Sales QC, which can be found on our website, this paper aims to clarify the issues involved and includes examples of where members are predisposed, and so can take part in a debate and vote, and where they are predetermined and their participation in a decision would risk it being ruled as invalid.

Sir Anthony Holland
Chair, the Standards Board
for England

What is predisposition?

It is not a problem for councillors to be predisposed. Predisposition is where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting.

This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly. They may even have been elected specifically because of their views on this particular issue.

What is predetermination or bias?

Predetermination or bias can lead to problems. It is where a councillor is closed to the merits of any arguments relating to a particular issue, such as an application for planning permission, and makes a decision on the issue without taking them into account.

Councillors must not even appear to have already decided how they will vote at the meeting, so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation, such as a national charity, amount to predetermination or bias on its own unless it has a particular vested interest in the outcome of a specific decision that a councillor is involved in making.

Making the decision

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome on the basis of their support of a general policy. This is as long as they are prepared to be open-minded and consider the arguments and points made about the specific issue under consideration.

How can predetermination or bias arise?

The following are some of the potential situations in which predetermination or bias could arise.

Connection with someone affected by a decision

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

example

a) A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a member panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

b) The complaint about the officer described above is made by the local office of a national charity of which the councillor is an **ordinary** member and has no involvement with the local office. The councillor should be able to participate in this situation **because the matter is not concerned with the promotion of the interests of the charity.**

Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

example

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of members is given delegated authority to make the statutory Order. They have a private meeting with local representatives of a footpath organisation and other interest groups before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

example

A councillor of a local highway authority who is also a member of a parish council that has been consulted about a road closure could take part in the discussion at both councils. The important thing is that the councillor must be prepared to reconsider the matter at county level in the light of the information and evidence presented there.

Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. However, if the councillor has made comments which suggest that they have already made up their mind, they may not take part in the decision. If the councillor is merely seeking to lobby the meeting at which the decision is taking place, they are not prevented by the principles of predetermination or bias from doing so. There is no particular reason why the fact that councillors can do this, in the same way as the public, should lead to successful legal challenges.

example 1

A council appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the council's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

example 2

A developer has entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator has already been granted. Following local elections there is a change in the composition and political control of the council. After pressure from new members who have campaigned against the incinerator and a full debate, the council's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The council's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

Conclusion

Councillors are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

For more information on the issue of predetermination or bias, councillors should talk to their monitoring officers or their political group.

The Standards Board for England
Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB

Enquiries line: 0845 078 8181
Minicom: 0161 817 5449
enquiries@standardsboard.gov.uk

www.standardsboard.gov.uk



**the
Standards Board**
for England

Confidence in local democracy

Planning Applications Committee Training

Report by Head of Planning Applications Group to the Planning Applications Committee on 17 March 2009

Summary: Draft Member Training Programme June 2009 – March 2010

Recommendation: To note the report and subject to any comments made by Members at the meeting endorse the suggested training programme.

Local Member: n/a

Unrestricted

Background

1. Members of the Planning Applications and Regulation Committees and substitutes are required to undertake training relating to the business of the Committees. This requirement is a recommendation of the 1997 Nolan Committee into Standards in Public Life. More recently, the Government's Planning Advisory Service has stated that it expects

each member to be trained to a level of competency in development control practice, has a sound knowledge of an authority's planning policies, and understands the rules of probity in planning.

It is widely recognised that planning is a complex area for anyone to engage in and that Member training is considered to improve the quality and predictability of planning decisions. The need for training is embedded in the Council's constitution through the Standards Committee Advice Note 4.

2. For the Planning Applications Committee this training has taken a variety of forms including core training at the start of each new administration, supplemented by training throughout the year on specific topics and tours of permitted sites. Appropriate training is required before Members can sit on the Committee.
3. As part of the preparations for a new Committee - post the Council elections this June, Legal and Democratic Services are currently putting together a programme of Members Training for the new administration. I have been asked to input into this process for the Planning Applications Committee. One day has been provisionally allocated for the initial training. In light of the amount of training being undertaken by Members at that time, a request has been made for a variety of training techniques.
4. As a starting point I have considered the draft set of competences developed by the Planning Advisory Service which identifies the skills that it considers are necessary to deliver the best outcomes from the planning system. It identifies the following core skills –
 - a) scrutiny and challenge;
 - b) communication;
 - c) working in partnership – take evidence from a variety of sources; understand and withstand pressures; respect and trust;
 - d) political understanding – recognise and understand different agendas; balance interests, be consistent and display courage in difficult situations;
 - e) understanding the spatial planning system – balance key issues and

Planning Applications Committee Training

- advice; understand the importance of policy; identify and evaluate considerations and evidence; ask relevant questions, analyse complex information;
- f) development management – understand wider spatial planning and sustainability issues in the context of planning proposals; ability to move from micro to macro; ability to read plans;
- g) Understanding the development process – understand the role and limitations of the Authority; recognise the interest and motives of development proponents and opponents.
5. A number of these issues are expected to be addressed as part of the more generic corporate training for the new administration. Some of the skills however are more appropriate to be delivered as part of the specific Planning Application Committee training. As a result I consider that training for the new Planning Applications Committee should specifically address the following:
- Probity considerations including Relationship with Executive function
 - Material planning considerations
 - The Development Plan
 - Introduction to waste planning considerations
 - Introduction to mineral planning considerations
 - Planning appeals
 - Planning enforcement
 - Update on new and emerging legislation
6. Subject to Committee agreement I would also wish to continue with a programme of training throughout the year. This would allow for more in depth training on specific topics identified by the business and would include tours of permitted sites. Suggested topics include environmental impact assessment, (including screening and scoping processes), appropriate assessment, an update on the emerging Mineral and Waste Development Framework, issues concerning community development, legal agreements and a more in depth coverage of different waste technologies.
7. In the past the Committee has received more detailed training on Sustainable Design, Development and Flood Risk, Planning White Paper, Sustainable Design (Part 2), Heritage and Archaeology, Renewable Energy, East Kent Site Tour, West Kent Site Tour and Landscape and Nature Conservation.
8. Prior to finalising the details of the training programme, I seek the views of the current Committee on whether the emerging programme is appropriate. In particular based upon their experience I would welcome its view whether the programme will equip Members with the necessary skills to fulfil the role needed for the next Planning Applications Committee.

Planning Applications Committee Training

RECOMMENDATION

9. I RECOMMEND that the Committee NOTES the report and subject to any comments made by Members at the meeting ENDORSES the suggested training programme set out in paragraphs 5 and 6 above.

Case Officer: Sharon Thompson

01622 696052

Background Documents: Report of the Nolan Committee on Standards of Conduct in Local Government in England, Scotland and Wales 1997, Planning Advisory Service guidance on Planning Committee Training

This page is intentionally left blank

SECTION C
MINERALS AND WASTE DISPOSAL

Background Documents - the deposited documents; views and representations received as referred to in the reports and included in the development proposals dossier for each case; and other documents as might be additionally indicated.

Item C1

Regularisation of the layout of the gas control compound permitted under planning consent TM/04/3135 and installation of a new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham, Kent – TM/08/624

A report by Head of Planning Applications Group to Planning Applications Committee on 17 March 2009.

Application by Infinis Limited for the regularisation of the layout of the gas control compound permitted under planning consent no. TM/04/3135 (dated 17 July 2007) and installation of a new landfill gas flare within the compound at White Ladies Gas Control Compound, Teston Road, Offham, West Malling, Kent.

Recommendation: Planning permission be granted subject to conditions.

Local Members: Mrs S. Hohler

Unrestricted

Background

1. This application was originally reported to the Planning Applications Committee on 9 December 2008. The report, which included sections on the background, proposal, relevant planning policies, consultee responses and representations, discussion and officer recommendation, is attached at Appendix 1. A site location plan, together with 'as permitted' and 'as proposed' layout plans for the gas control compound, can be found in the original Committee Report (now pages C1.10 – C1.12).
2. At the Committee meeting, three local residents (including representatives of Offham Parish Council) expressed concerns about the proposals and the applicant exercised its right of reply. Several Committee members (including the local member, Sarah Hohler) also sought clarification on a number of issues. The main issues raised related to:
 - noise emissions from the proposed additional landfill gas flare, particularly on surrounding residential amenity;
 - the need for the additional landfill gas flare;
 - the location of proposed landfill gas flare within the existing compound; and
 - hours of use for compound lighting and need for full luminosity details.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

3. As a result of these issues, the Committee resolved to defer consideration of the application to allow a site visit. A Members' Site Visit was held on 22 January 2009. Notes of that visit are attached at [Appendix 2](#).
4. The application is being reported back to the Planning Applications Committee for determination following the Members' Site Visit and the receipt of and re-consultation on further information submitted by the applicant.

Further information submitted in support of application by applicant

5. Further information was provided by the applicant following the meeting of the Planning Applications Committee in December 2008 and prior to the Members' Site Visit in January 2009. This information included further details on those concerns which were expressed by Members at the original Committee Meeting in December and which are outlined in paragraph (2) above. Amongst other things, the further information included noise contour predictions for two potential alternative locations immediately to the north and north west of the existing compound. Both locations are outside the current application area and would require extensions to the existing compound.
6. The further information was made available to Members ahead of the Members' Site Visit and has been the subject of further consultations with the Borough Council, Parish Council and KCC's Noise Consultant. The further views received are identified in paragraphs (8) – (10) below.
7. This report includes consideration of comments that have been received on the further consultations undertaken since the application was originally discussed at the Committee Meeting in December 2008. Members should also have regard to the considerations contained in the previous Committee Report when determining this application (see Appendix 1).

Further Consultations

8. **Tonbridge and Malling Borough Council** – The Borough Council has now considered the further information alongside that already submitted by the applicant and raises no objection to the proposed development.
9. **Offham Parish Council** – Maintains its objection. Its views on the latest consultation are attached at [Appendix 3](#).
10. **David Stretton (Representative of Offham Parish Council & Local Resident)** – Mr Stretton makes the following comments:
 - Identifies errors in Table 3 – results and effects on properties. For alternative location A, the + should be a – for the first property, whilst alternative B actually shows an admittedly small benefit for each of the properties in question;
 - States that data from the earlier monitoring reports demonstrates how the compound was in breach of its planning condition for a number of years and supports the local view that considerable distress to homeowners was caused;
 - Concludes that the real worst case scenario – apart from a broken exhaust on one of the generators, would be all three flares operating simultaneously without

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

the generators [the two Haas flares being needed to cope with gas diverted from the generators should there be a grid failure or other mechanical problems]. States that it would be useful to see the impact on the model in this scenario;

- Similarly, states that the other obvious question is if the additional 'good gas' available can be used to generate an additional 1 MW, then what impact does this have on capacity utilisation of the generators? Can the four generators cope? and finally, will the increased throughput of gas to the generators impact on their contribution to noise and air pollution – and has this been allowed for in the modelling?

11. KCC Noise Consultant (Jacobs) – Makes the following comments on the further information:

“Further to our site members meeting and the issuing of Infinis’s clarification document, I am still of the opinion, which was in agreement with Andrew Martin [*previous Environmental Health Officer at Tonbridge and Malling Borough Council*] and the subsequent officers of T&MBC; that we are satisfied that the regularisation of the layout of the gas control compound including the installation of the additional flare demonstrate that noise emissions from the facility will not exceed the permitted levels stated in the previously issued Planning Condition.

The documentation submitted [*by the applicant*] in January 26th merely pulls together a number of disparate reports and makes the assessment of the proposals more coherent. There is no fundamental alteration to the noise calculations or to the conclusions of the report.”

In response to the further consultee responses received to the further information, KCC’s Noise Consultant makes the following additional comments:

“Whilst I can sympathise with the local residents suspicions due to the site’s history and their scepticism about the proposed flare, their comments are not entirely accurate.

They comment that details of the assessment of noise levels gets ever more complicated causing confusion and then the rather uncomfortable thought that the statistics are being produced to justify the results. I can relate to this comment, and in particular their comment that all sorts of statistics have been produced over the years and not all the information is presented in the same format making it hard to compare. However, the documentation submitted in January 26th merely pulls together a number of disparate reports and makes the assessment of the proposals more coherent. There is no fundamental alteration to the noise calculations or to the conclusions of the previously submitted report merely the addition of noise contour plots demonstrating the various option’s noise footprints.

The Infinis clarification document’s main element was the assessment of noise from the length of the flare stack in response to a request from TB&MBC and was meant to demonstrate that the flares main noise source was the low level louvres rather than the top of the flare stack. The design of the additional low-calorific flare requires air-tight louvres unlike standard flares, as the in-rock gas will require less oxygenating, the louvres on the low-calorific flare will be shut for a higher proportion of the time compared to a standard flare therefore producing less noise.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Also included was an assessment of the relocation of the proposed flare, this demonstrate that by siting the flare at the north western edge of the compound noise levels at the adjacent properties would not alter significantly from the current proposed position.

The Parish Council conclude that they wish to see a “reasonable compromise. Grant the planning permission for the additional flare but in one of the alternative locations with additional noise mitigation measures.” Acoustically there is no rational justification for this and would presumably involve a considerable cost outlay by Infinis to re-engineer the layout of the site.

Therefore in terms of noise, I am still of the opinion which is in agreement with officers of T&MBC; that we are satisfied that the regularisation of the layout of the gas control compound including the installation of the additional flare demonstrate that noise emissions from the facility will not exceed the permitted levels as stated in the previously issued Planning Condition.”

Local Member

12. The County Council Member Mrs S. Hohler was notified of the further information on 26 January 2009.

Discussion

13. 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 the context of this application, the Development Plan policies outlined in the appended report (see Appendix 1 – paragraph 13) are of greatest relevance.
14. The main issues to be considered in this subsequent report relate to those issues expressed by Members, as identified in paragraph (2) above and any additional views expressed by consultees and local representatives on the further information submitted in support of this application by the applicant. In summary, these issues relate specifically to: -
- noise emissions from the proposed additional landfill gas flare, particularly on surrounding residential amenity;
 - the need for the additional landfill gas flare;
 - the location of proposed landfill gas flare within the existing compound; and
 - hours of use for compound lighting and need for full luminosity details.

Noise from additional landfill gas flare

15. Members will recall that the application for the installation of a proposed new landfill gas flare has generated considerable opposition, most notably on the grounds of a potential increase in background noise levels at nearby noise sensitive residential properties. The issue of noise has been extensively discussed within the previous report presented to the Planning Applications Committee in December 2008 (see Appendix 1). However,

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

further to the deferral of this application pending a Members' Site Visit, the applicant has submitted further information in support of their application which, amongst other matters, relates to noise issues.

16. The further information submitted in support of this application by the applicant sought to provide further clarification on some of the inconsistencies in the information previously submitted regarding predicted noise emanating from the proposed new landfill gas flare. As previously noted, this information has been the subject of further consultation with the relevant stakeholders and any further views received to date have been documented and are considered within this report.
17. It can be concluded from Offham Parish Council's latest consultee response (see Appendix 3) that it still has concerns over the installation of the proposed new landfill gas flare. It remains sceptical about the information submitted by Infinis, both in support of this application and in recent *[noise]* monitoring reports submitted pursuant to previous planning consents, on the basis that each further set of noise statistics causes more confusion and no one set is comparable to another. The Parish Council's overriding concerns with the current application remain with the potential increase in background noise to the detriment of Offham residents (particularly those in closest proximity to the compound where the proposed flare would be located) and the position of the proposed additional flare itself (as discussed further below). In addition, the Parish Council has highlighted a range of technical noise issues which have been considered by the County Council's Noise Consultant.
18. Notwithstanding the noise objections raised by Offham Parish Council and local residents (as detailed in both this and the previous Committee Report), I am mindful of the professional / technical advice received from KCC's Noise Consultant and Tonbridge & Malling Borough Council (Planning & Environmental Health Officers). Neither the Borough Council nor the County Council's Noise Consultant raises an objection to the proposal. In response to the various technical noise issues raised by the Parish Council and local residents, KCC's Noise Consultant has additionally advised that there is no rational justification in acoustic terms for the re-location of the flare outside the existing compound site.
19. As discussed in the previous Committee Report (see Appendix 1), noise levels emanating from the gas control compound are restricted by an existing condition on the 2004 consent (TM/04/3135) which requires that noise levels during night-time periods shall not exceed 39dB at nearby noise sensitive properties. I previously recommended that this condition could be attached to any new consent to ensure that the same limit is applied to any new plant and equipment installed within the compound.
20. Based on the technical advice received, I remain satisfied that the installation of the proposed 'in-rock' gas flare would accord with Policy W18 of the Kent Waste Local Plan and Policy NR5 of the Kent and Medway Structure Plan and that there is no justification to refuse this application on noise grounds, providing that existing noise controls and measures to demonstrate compliance are maintained / extended to cover both existing and new equipment.

Need for additional landfill gas flare

21. As set out above, the Parish Council and local residents have also questioned the need

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

for the installation of an additional gas flare. The further information submitted by the applicant reiterates that the need for the proposed flare is largely driven by the need for effective management of the 'poor quality' (in-rock) landfill gas. The fact that much of the landfill site was constructed before the inception of modern thinking and regulation on landfill engineering means that large parts of the site do not benefit from modern containment methods. This has led to the installation of a system of boreholes and pipework around the landfill (known as the 'in-rock' system) designed to extract this poor quality gas (with a higher oxygen content than the gas collected directly from within the body of the waste) which would otherwise migrate well beyond of landfill gas off site and potentially result in pollution or other problems. The high oxygen content of the in rock-gas results in gas at, or near, its explosive limit and as a result of this explosive potential, the poor quality gas requires specialist equipment to safely extract and dispose of it.

22. At present, the poor quality gas is being mixed with 'good gas' collected from within the landfill and subsequently combusted through a modified flare operating 24 hours a day. This modified flare was not designed for this purpose and has previously resulted in noise problems as it struggled to cope with the high oxygen content of the gas. As a result of the existing set-up, 'good gas' needed to make poor quality gas safe enough to combust is being diverted away from engines located within the compound which would otherwise have produced power for the National Grid. It has been suggested by the applicant that approximately 500m³/hr of good quality gas is currently being diverted away from the engines for the purposes of mixing with poor quality gas. This equates to just under 1 MW of energy that would otherwise have been exported to the National Grid and roughly equates to enough power for 1000 homes.
23. As previously concluded, any increase in the amount of gas available to generate electricity should be viewed favourably in terms of sustainable development and in planning policy terms, most notably against Policies NR2 and NR5 of the Kent and Medway Structure Plan.

Location of landfill gas flare

24. The specific location of the proposed new landfill gas flare has been a key issue for the Parish Council. The issue was raised during the previous Committee Meeting in December 2008 and again at the Members Site Visit in January 2009. The Parish Council has suggested that alternative locations for the proposed flare be considered outside of the current compound. This would inevitably involve the physical extension of the size of the existing gas control compound, together its associated acoustic fencing.
25. In an attempt to address the issue of an alternative location for the proposed flare, the applicant's further submission included various noise modelling data which has attempted to model the noise scenarios for various different locations of flare stack. This information has been formally shared with all relevant stakeholders, including Tonbridge & Malling Borough Council, Offham Parish Council and the County Council's Noise Consultant. The latest response from the Parish Council (see Appendix 3) recommends that planning permission be granted for the proposed new flare on one of the alternative locations considered by the applicant (i.e. either immediately to the north or north west of the existing compound).
26. Having considered the further information provided by the applicant relating to alternative flare locations, the technical advice received to date shows that there would

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

be no significant benefit, in noise terms, in locating the flare outside the existing compound. It would also increase the overall size of the compound itself. It should be noted that neither the County Council's Noise Consultant nor Tonbridge & Malling Borough Council have raised objection to the current application on the basis of the proposed location of the flare.

27. As the alternative locations referred to in the further information are not part of the current proposals and are outside the current application area, Members should note that it would not be possible to formally consider these under the current application. Instead, if Members are not satisfied with the current proposals they should refuse planning permission. This could lead to the applicant submitting a further application for one or more of the alternative locations or exercising its right of appeal against the refusal of planning permission. However, it is worth noting there would be general policy presumption against the extension of the existing compound (i.e. 'built development') given its location within the Metropolitan Green Belt and that any such proposals would give rise to additional visual amenity and landscape issues that would need to be fully justified. For these reasons, together with the professional advice received that there would be no significant acoustic benefit to re-locating the proposed flare in an alternative location, I consider that there is no justification to support an alternative flare location in this particular case.
28. It should also be noted that, based on the noise modelling data provided by the applicant for the alternative flare locations, the re-location of the proposed flare to one of the alternative locations would actually result in an increased background noise level at one of the nearest residential properties (The Oast) above and beyond that which is currently proposed.

Compound Lighting

29. Although concerns have been expressed about the proposed levels of lighting within the compound, it should be noted that the proposed lighting scheme is already installed and has been operational for some considerable time. This element of the proposal is therefore retrospective. Whilst it is unfortunate that the County Council is being asked to retrospectively approve the lighting scheme, it is worth noting that no complaints have been received about lighting emitted from the compound to date.
30. The proposed lighting is required to enable safe working in the compound during the normal working day when natural light is inadequate or to facilitate essential maintenance or emergency works during the evening or night. The lighting would only be used when needed and would be extinguished, through the use of a motion-sensor, when personnel are not on site. Members were able to see the lighting arrangement during the site visit.
31. As previously concluded, I consider that this aspect of the proposal accords with the objectives of Policy W25 of the Kent Waste Local Plan and Policies NR5 and WM2 of the Kent and Medway Structure Plan. However, any approval should be conditional on the lighting only being used during normal working hours when natural lighting is inadequate or when required for essential maintenance or emergency works at other times.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Conclusion

32. Having considered the various objections to and implications of the proposals as detailed within the appended report (see Appendix 1), together with the further issues arising from the Committee Meeting in December 2008, the Members' Site Visit in January 2009 and any further views received from consultees and interested parties to date, I remain of the opinion that the regularisation of the layout of the gas control compound and the addition of a new landfill gas flare are consistent with development plan policies. I also continue to support the applicant's desire to regularise the layout of the compound following several discrepancies between the 'as permitted' and 'as built' layouts and consider that the slight movement of plant and equipment within the compound itself is largely de minimus in terms of any potential impact from outside of the compound site in terms of visual or noise amenity issues. I am also satisfied that the proposed (existing) lighting is appropriate.
33. Whilst I note the Parish Council and local residents' original concerns (as detailed in the initial Committee report) and those further concerns that have been raised relating to the potential for noise nuisance to increase and the desirability of an alternative location for the landfill gas flare, I am satisfied that the facility could continue to operate within the noise levels prescribed under application TM/04/3135. Based on the professional / technical advice received, I consider that there is acoustically no rational justification for the re-location of the proposed flare outside of the built confines of the compound and note that there would be a general policy presumption against further extensions to the existing compound in Metropolitan Green Belt terms without specific justification.
34. Accordingly, I recommend that planning permission be granted subject to conditions.

Recommendation

35. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO conditions including those to cover the following aspects:
- Standard time limit;
 - The development to be carried out in accordance with the permitted details;
 - Noise controls (as prescribed in TM/04/3135), extended to cover the additional landfill gas flare and associated equipment;
 - Provision of an annual compliance monitoring report (as prescribed under TM/04/3135), extended to include all new equipment;
 - Landscaping scheme to be fully implemented in accordance with details approved under permission TM/04/3135;
 - Lighting only to be used when required;
 - Removal of plant, equipment and hardstandings when no longer needed for landfill gas control; and
 - Restoration of land.

Case Officer: Julian Moat

Tel. no. 01622 696978

Background Documents: see section heading.

SECTION C
MINERALS AND WASTE DISPOSAL

Background Documents - the deposited documents; views and representations received as referred to in the reports and included in the development proposals dossier for each case; and other documents as might be additionally indicated.

APPENDIX 1 - Item C1

Regularisation of the layout of the gas control compound permitted under planning consent TM/04/3135 and installation of a new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham, Kent – TM/08/624

A report by Head of Planning Applications Group to Planning Applications Committee on 9 December 2008.

Application by Infinis Limited for the regularisation of the layout of the gas control compound permitted under planning consent no. TM/04/3135 (dated 17 July 2007) and installation of a new landfill gas flare within the compound at White Ladies Gas Control Compound, Teston Road, Offham, West Malling, Kent.

Recommendation: Planning permission be granted subject to conditions.

Local Members: Mrs S. Hohler

Unrestricted

Site

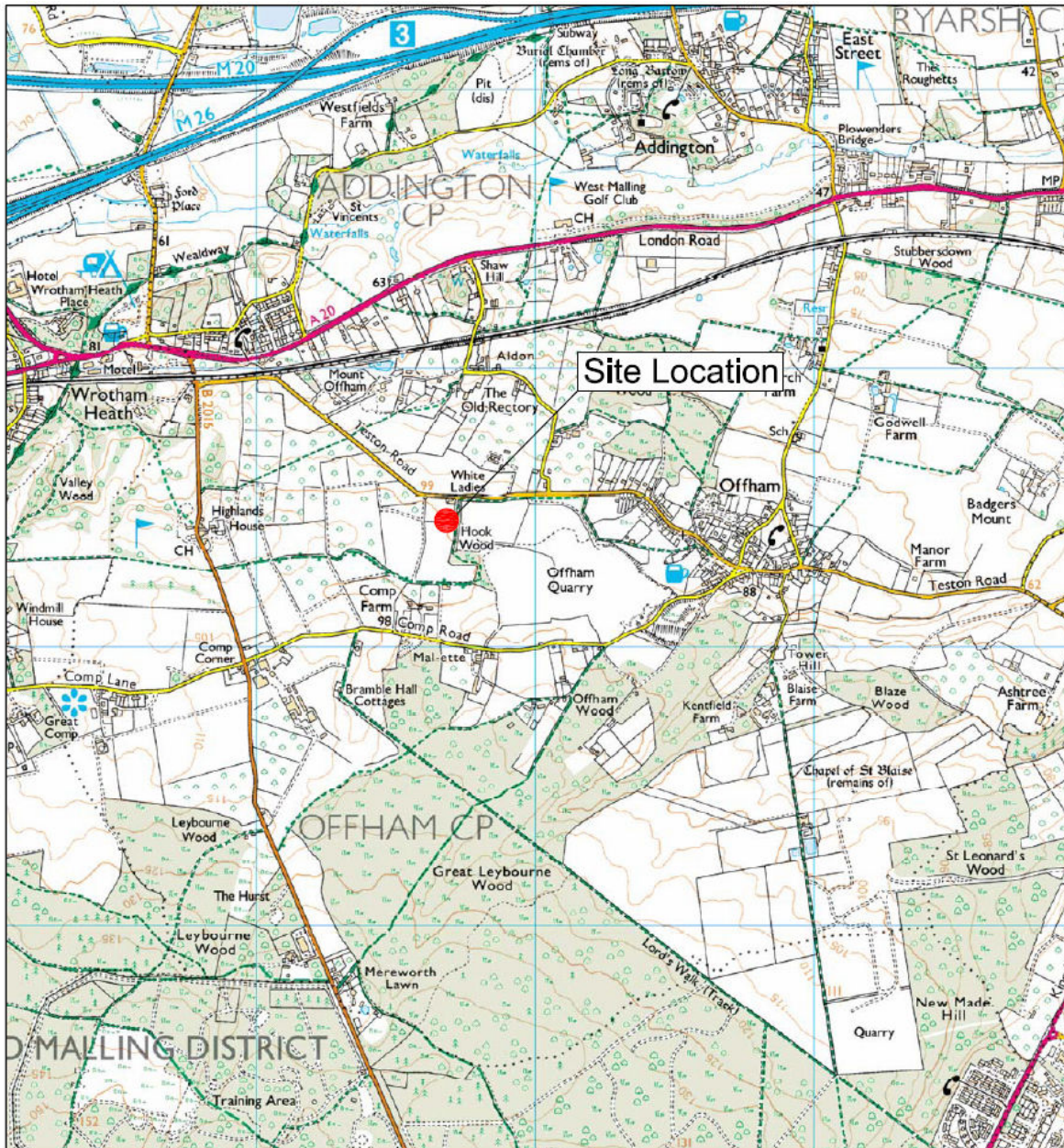
1. White Ladies gas control compound is situated immediately to the north west of Offham Landfill Site and south of Teston Road, from which access to and from the site is obtained. The site is some 400 metres to the west of Offham village. Individual residential properties are located near the site, most notably Comp Farm Oast (300 metres), Hunters Moon (320 metres) and The Roundells (335 metres). The application site is within the Metropolitan Green Belt. *A site location plan is provided on page C1.2*
2. The compound is surrounded by 4 metre high acoustic fence and lies within the grounds of the White Ladies Office Complex. Waste Recycling Group owns the gas control compound and the Landfill Site. However, the gas control compound is leased to Infinis, which owns the infrastructure installed within the compound and is responsible for the day-to-day management of landfill gas and the production of energy from the gas.

Background

3. The landfill gas control compound at White Ladies was initially granted planning permission by the County Planning Authority in August 1995, under permission reference TM/94/370. In 2001, planning permission was granted under application TM/99/912, allowing for the replacement of an existing gas flare, the installation of a

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Site location plan




Rev:	Date:	Amendment:	Name:	Checked:
-	-	-	-	-

Status: **Final**

Drawing Based Upon:

Legend

- Site Location
- Land in the Control of the Applicant




Conrad House Beaufort Square Chesham Monmouthshire NP18 5EP
 T 01291 621821 F 01291 627827 E rps@rpsgroup.com W www.rpsgroup.com

Client: Infinis
Project: Offham (White Ladies) Landfill - Landfill Gas Utilisation Compound
Title: Site Location Plan

Date: Jan 2008 Scale: 1:20,000 Original Paper Size: A4
 Drawn: KR Checked: VB Job Ref: JER2666-OFF

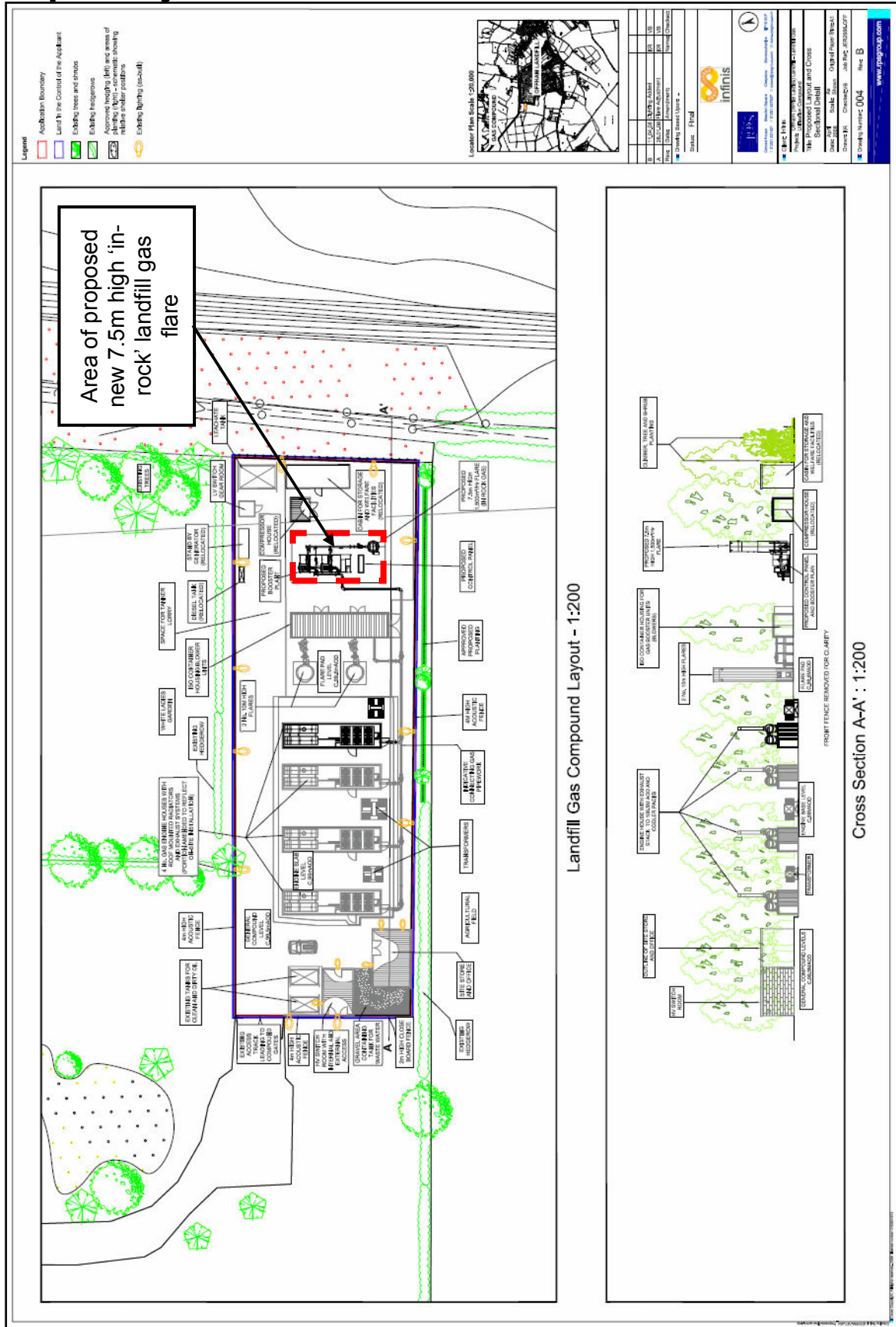
Figure Number: 001 **Rev:** 0

www.rpsgroup.com

© Crown Copyright, All rights reserved. 2006 License number 0100031673

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Proposed Layout Plan



Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

new gas flare and ancillary plant, as well as an extension of the original acoustic fence. In 2003, planning permission was granted under application TM/02/3536 for the installation of two additional gas utilisation engines and two replacement engines, new control room and associated plant and buildings and two replacement flares within the compound. In 2004, when the landfill gas control equipment was installed on site, the layout differed from the one approved under the 2003 consent (TM/02/3536). As a result, a retrospective planning application was submitted in August 2004 to regularise the compound's layout in line with the 'as built' installation. This application was granted planning permission by the County Planning Authority (TM/04/3135) in July 2007.

4. Planning permission TM/04/3135 included a number of planning conditions. Conditions 1, 6, 9, 10, 11 and 12 are of particular relevance to the current proposals. Condition 1 requires that the development be carried out as permitted. Condition 6 states that no external lights shall be installed or erected unless otherwise approved beforehand by the County Planning Authority. Condition 9 restricts noise from operations at the site to no more than 39dB at any noise sensitive property between 1900 and 0700 hours as expressed in terms of the rating level $L_{Ar,T(Free\ Field)}$ as defined in BS4142. Condition 10 requires annual noise monitoring to demonstrate compliance with condition 9. Condition 11 requires the acoustic fence surrounding the compound to be maintained so that it remains effective as an acoustic screen. Condition 12 requires landscape planting to be undertaken and maintained for the life of the facility.

Proposal

5. The proposed development comprises of three elements:
 - (i) The installation of a new 7.5m high landfill gas flare within the gas control compound to specifically deal with 'in-rock' landfill gas (low calorific gas collected from the perimeter of the site);
 - (ii) Regularisation of the layout of the permitted compound to accommodate the installation of the proposed gas flare; and
 - (iii) Details of external lighting within the gas control compound pursuant to condition (6) of the 2004 consent (TM/04/3135).
6. The gas control compound currently installed at the site collects gas produced within the body of the adjoining landfill site, as well as the gas generated through the perimeter gas collection system. The characteristics of the landfill gas and in-rock gas are different in that the methane content of the in-rock gas is lower than the one of the gas collected within the main body of the landfill. The in-rock gas has a methane content of less than 15%, resulting in its calorific value being considered as 'low'.
7. The current gas control compound comprises of four landfill gas engines and two flares, together with associated plant and equipment. Unlike the gas generated within the landfill's body, the low-calorific value of the in-rock gas collected via the perimeter collection system makes it unsuitable for electricity generation and cannot be used by the engines installed within the compound. As a result, the in-rock gas is currently being controlled by the existing flares. However, the existing flares are not specifically designed to burn low-calorific gas and, in order to ensure that safety issues are adequately addressed, the in-rock gas has to be blended with landfill gas to achieve a

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

sufficient calorific value.

8. As identified in paragraph 5(i) above, the proposal involves the installation of a new 7.5 metre high flare, specifically designed to deal with low calorific value gas. This new flare would have a capacity of 1,500m³/hr and would be dedicated to the control of the in-rock gas, only requiring a small amount of landfill gas to operate within the emissions standards prescribed by the Environment Agency's guidance on landfill gas flaring. In this way it would enable more landfill gas that is capable of being used as a fuel to be used to generate electricity. The new flare would be designed to operate continuously (24 hours per day, 7 days a week) alongside existing equipment within the gas control compound in order to provide effective gas management for the adjacent landfill site.
9. In order to accommodate the installation of the new gas flare and associated plant, some items of equipment already installed within the compound, need to be relocated. In addition, some of the equipment permitted under the 2004 consent (TM/04/3135) was installed at a slightly different location within the compound to the one indicated on the permitted layout plan. As a result, part (ii) of the proposed development, as detailed in paragraph 5 above, seeks to regularise the layout of the compound. The changes proposed to the gas control compound can be identified on 'Proposed Layout Plan' on page C1.4 when compared against the 'Permitted Layout Plan' (as permitted under TM/04/3135) on page C1.3. For clarification the items of plant and equipment affected by these changes are listed below:
 - Diesel tank has not been installed alongside the eastern boundary of the compound, as shown on the 'permitted layout', but alongside the northern boundary;
 - Stand-by generator, shown to the east of the compound on the 'permitted layout', has been installed alongside the northern boundary, next to the diesel tank;
 - One of the welfare and storage Portakabin's shown on the 'permitted layout' has been removed from the site, whereas the other one will be relocated alongside the eastern boundary of the compound;
 - Control room shown on the 'permitted layout' will be removed following the installation of the new flare; and
 - One of the engines and its associated transformer have been installed at a slightly different position to that shown on the 'permitted layout'.
10. As identified in paragraph 5(iii) above, the proposal includes details of external lighting within the gas control compound provided for under the terms of the 2004 consent (TM/04/3135). The 2004 consent stated that '*no external lighting shall be installed or erected at the site unless otherwise approved beforehand in writing by the County Planning Authority*'. The proposed lighting scheme has already been installed and has been in operation for some considerable time. This element is therefore retrospective. The justification for the provision of external lighting is that the compound needs to be accessible 24 hours a day for essential site maintenance and it is therefore necessary to provide adequate lighting to ensure the health and safety of employees using the gas compound during such night-time periods. The lighting scheme comprises a number of wall-mounted lamps positioned along the compound's fence which are controlled by a motion sensor to ensure that lights are only illuminated when site operatives are working in the facility. With the exception of two lights at the entrance to the compound, all lighting is contained within it.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Further Information

11. Further information was provided by the applicant in May 2008 responding to concerns raised by consultees and interested parties. This included: information relating to the site ownership; further information relating to the need of the additional gas flare and its impacts in terms of landscape and visual amenity and within the Metropolitan Green Belt; and additional information concerning noise measurements. The Borough Council, Parish Council, Environment Agency and the KCC Noise Consultant were consulted on this additional information.
12. Whilst this information went some way to addressing the concerns raised, the applicant was asked to provide a further noise assessment to demonstrate that the proposed new flare could operate alongside the existing equipment whilst still complying with the noise limit imposed by condition 9 of planning permission TM/04/3135 (i.e. 39dB_{L_{Ar,T}(Free Field)}). The methodology for this further assessment was agreed beforehand by both the County Council's Noise Consultant and Tonbridge & Malling Borough Council's Environmental Health Officer. This further noise assessment was submitted in October 2008 and was the subject of further consultations with the Borough Council, Parish Council, Environment Agency and KCC's Noise Consultant. This report includes consideration of comments that have been received on all three consultations.

Planning Policy Context

13. The planning policies summarised below are relevant to consideration of the application:

National Planning Policies – the most relevant National Planning Policies are set out in PPG2 (Green Belts), PPS10 (Planning for Sustainable Waste Management), PPS22 (Planning for Renewable Energy), PPS23 (Planning and Pollution Control) and PPG24 (Planning and Noise).

Regional Planning Policies – the most relevant Regional Planning Policies are set out in RPG9 (as amended) and the emerging South East Plan. These include RPG9 Policies E3 (Green Belts), E7 (Air and Water Quality), W12 (Other Recovery and Diversion Targets), W13 (Landfill Requirements) and emerging South East Plan Policies CC10a (Green Belts), NRM9 (Air Quality), NRM10 (Noise), NRM13 (Renewable Energy Targets), W12 (Other Recovery and Diversion Targets), W13 (Landfill Requirements) and C3 (Landscape and Countryside Management).

Kent and Medway Structure Plan (2006) – These include Policies SP1 (Conserving and Enhancing Kent's Environment and Ensuring a Sustainable Pattern of Development), SS2 (Extent of the Metropolitan Green Belt), EN1 (Protecting Kent's Countryside), EN3 (Protecting and Enhancing the Countryside Character), EN9 (Trees, Woodland and Hedgerows), NR2 (Energy Generation), NR3 (Renewable and Sustainable Energy Production), NR5 (Pollution Impacts), NR8 (Water Quality) and WM2 (Assessment Criteria for Waste Proposals).

Kent Waste Local Plan (1998) - These include Policies W18 (Noise, Dust and Odour), W25 (Plant and Buildings) and W31 (Visual Impact and Landscaping).

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Tonbridge and Malling Borough Local Plan Saved Policies (1998) – Identifies that the application site is in the Metropolitan Green Belt.

Tonbridge and Malling Borough Council Local Development Framework Core Strategy (2007) – This includes Policy CP3 (Green Belts).

Consultations

14. **Tonbridge and Malling Borough Council** – The Borough Council initially objected to the proposals on the grounds that there was insufficient information to show that acoustic amenity of nearby residential property would not be detrimentally harmed. These objections were maintained following the receipt of the additional information submitted in May 2008. However, it is understood that this objection will be withdrawn following its consideration of the additional noise assessment submitted in October 2008 which demonstrates that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit. Formal written confirmation of this is awaited at the time of writing this report and Members will be updated as necessary at committee.

15. **Offham Parish Council** – Objects. Its comments are summarised below:

Based on original application

Object to the proposals unless further information can be provided to address the following:

- Although it may prove difficult to alter the location of the specific plant within the compound, the Parish Council has consistently urged that noise producing plant should be located at the furthest point possible from the village boundary;
- Offham is known for having a very low level of light pollution. The village has resisted street lighting for this reason. The requested level of lighting for the compound would not be consistent with this policy and certainly contrary to the wishes of the vast majority of local residents;
- It could be argued that one more flare stack, slightly lower than the existing two, will have a marginal impact on the amount of plant already existing. However, marginal as it may be, it will have an impact and a negative one at that in Green Belt terms. The only 'very special circumstances' that would be relevant in relation to this application is stated necessity to comply with EU legislation that landfill gas be controlled and treated;
- The two existing flare stacks at 10m high are visible above the acoustic fencing and planting and therefore have a negative visual impact. The additional flare stack, although lower, is also higher than the 4m high acoustic fencing and planting and will therefore be visible and have an additional negative impact;
- How can the 'predicted noise levels due to the proposed equipment' possibly reduce when two additional pieces of equipment – one flare and one booster – have been added into the equation?
- Inconsistency in noise reports and assumptions for gas compound – imperative that the discrepancies be addressed;
- New flare stack is predicted to increase the decibel level at the key properties by some 6.1 Db. This is a very significant increase and is bound to cause a nuisance and generate many complaints.
- Any increase in the overall noise pollution from the site would be to the detriment

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

to the local community and would lead to the Parish Council strongly objecting to this proposal. Subject to this critical issue being fully addressed our other concerns regarding visual impact and the external lighting could then be further considered.

Based on further information submitted in May 2008

In the absence of any more substantive information to address our queries and concerns we write to confirm that we strongly object to this application for the following reasons:

- After undertaking our own research and relying on information previously given to use by WRG and others at Liaison Meetings, we do not believe that this additional flare stack is genuinely required *‘to provide finer environmental control and enhanced safety, as it will ensure that adequate measure are provided to mitigate against off-site migration’* Given that, prior to this application, we have been repeatedly assured that the existing equipment was of sufficient capacity and more than adequate to cope with both current and future needs, we conclude that the need for this new additional flare is driven more by commercial gain;
- Our understanding of the situation is that, under the current system, the ‘in-rock’ gas is collected and mixed with a proportion of directed ‘good’ gas and the mix is burnt/flared off. The rest of the ‘good’ gas is used for electricity generation and sold. As far as we can determine, the proposed system will mean that no ‘good’ gas has to be mixed with the ‘in-rock’ gas result in commercial gain to the applicant;
- Our principle objection to the application is, from the information supplied, the very high risk of unacceptable additional noise pollution. Irrespective of whether or not the methods of calculation are correct, or comparable, in any event all the statistics prove that the site is currently operating either at, or with statistical adjustment, just below the permitted noise levels;
- Horrified by the suggestion that a ‘noise survey could be carried out following the installation of the proposed flare in order to ensure that the gas control compound continues to operate within the noise level prescribed by the extant consent’. This is not acceptable, bearing in mind it took $\frac{3}{4}$ years of persistence by ourselves for the noise problems from the original equipment in the compound to be addressed;
- Firmly believe that the site can run perfectly efficiently without the additional flare stack and that the risks associated with its installation, particularly the issue of noise, are simply not acceptable to the local residents.

Based on noise assessment submitted in October 2008

- The height of the stack at 10 metres is 6 metres above the acoustic attenuation fence in situ. The noise profile clearly shows that, although the maximum noise output occurs at heights below two metres at levels of up to 97 dB, 89 dB is shown at the top of the stack. This begs the question as to whether an attenuated 97 dB has a greater effect than an unattenuated 89 dB;
- There is no consideration in the report of either directional noise factors as may be caused by e.g. a prevailing wind, nor is there any consideration of potentially variable rates of gas mix or inflow rates, which are both likely contributors to variability in noise profiles as predicted;
- The report addresses only the technical issue raised by TMBC in relation to assumptions made about the proposed additional flare stack operating in isolation and the pattern of noise levels emanating from various heights of the

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

stack;

- There have been no satisfactory responses to queries about overall noise levels likely to emanate from the site as a whole. Presumably the comments included in the original supporting evidence, that noise levels at sensitive local properties would increase by up to 6.1dB, therefore still stand;
- Given the last annual noise report from November 2007 demonstrated that the planning constraint was only just complied with, (after the rounding down of one statistic), we conclude that any increase in noise output from the site would prove unacceptable to local residents;
- The additional report does nothing to change the views of Offham Parish Council and, if anything, reinforces the belief that the proposed development would be detrimental to the local environment. Offham Parish Council therefore wishes to confirm its strongest objections to the proposal and recommends that KCC reject it. Furthermore, having previously received assurances that no noise increase would be permitted by further development at the White Ladies site, should KCC planners be minded to recommend acceptance of the plan, Offham Parish Council would propose to present objections to Committee.

16. **Environment Agency** – has no objection in principle but make the following comments:

'This proposal indicates that certain facilities are to be moved and a new flare installed. A detailed programme of change over is required, especially for the control room. The operational continuity of gas control at this site is paramount to prevent off-site migration and impacts on adjacent properties. There have been problems in the past with commissioning new flares from the point of view of operational control of gas and also leading to noise problems. A careful programme of installation and changeover for control mechanisms is required.

The (*landfill*) site is now closed and final capping and restoration is in progress. This enhances the need for full gas control.

Any amendments to gas control or utilisation systems will also require formal agreement by the Environment Agency in accordance with the relevant authorisation'.

17. **KCC Landscape Consultant (Jacobs)** – notes that the proposed changes and additional flare will be sited within the existing compound and the current mitigating planting maintained. Given these factors, the landscape effects arising from the proposal would be negligible.

18. **KCC Noise Consultant (Jacobs)** – comments set out below, but in summary raises no objection to the proposal following the submission of the detailed noise assessment report.

Based on original application

From the noise assessment provided [with the original submission] it is demonstrated that noise emissions from this facility will not exceed the permitted levels as controlled by planning consent TM/04/3135. However, I would wish to be provided with the calculations of this assessment to satisfy my of their accuracy. In addition, I would be grateful to receive spectral noise information on the proposed new gas flare.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Based on the further information submitted in May 2008

Requested further clarification on noise issues.

Based on noise assessment submitted in October 2008

Following the submission of the 'Sound Intensity Measurement Assessment', is satisfied with the previously agreed methodology adopted for the sound intensity measurements. From the noise assessment provided, it is demonstrated that noise emissions from the facility will not exceed the permitted levels as controlled by application TM/04/3135.

Representations

19. The application has been publicised by the posting of a site notice at the main entrance to the gas control compound and newspaper advertisement in the local press. In addition, 8 residential properties surrounding the site were notified of the proposals. At the time of writing this report, 39 representations have been received objecting to the proposed development. The main reasons of objection are summarised below: -
- Concerned with significant noise increase as a result of additional landfill gas flare – compound already operating very close to the maximum permitted noise levels;
 - Understand there are a number of discrepancies between the information submitted as part of this application and that previously submitted in a Compliance Monitoring Report (January 2008) in relation to the gas control compound;
 - Having suffered for several years before the operators responded, relatively recently, to the excessive noise issues by re-engineering the existing flare stacks, it would prove totally unacceptable if additional plant should return conditions to those of some three years ago;
 - Strongly object to this current application and will continue to oppose any further development at the site which exacerbates the damage to the local environment caused by operations remaining on the former landfill site after its recent closure to landfill;
 - Negative visual impact of yet another large flare stack;
 - Extensive quantity of external lighting that we believe will have an additional negative effect on our immediate environment;
 - We residents have suffered enough in this lovely village from the traffic, smells, noise and litter caused by the use of land as a landfill site. Just as it looked as if the site was at last about to be restored to the village as an amenity we now have this new proposal for a further landfill gas flare.

Local Member

20. The County Council Member Mrs S. Hohler was notified of the original application on 22 February 2008. Mrs Hohler was also notified about the further information submitted in both May and October 2008.

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 the context of this application, the policies outlined in paragraph (13) above are of greatest relevance.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

22. The main issues to be considered in respect of this application for the provision of a new landfill gas flare, the regularisation of the plant and equipment within the gas control compound and the approval of an external lighting scheme relate specifically to:-
- Noise issues arising from the installation of a new 'in-rock' landfill gas flare;
 - The need for a new landfill gas flare;
 - Landscape and visual amenity impacts; and
 - Green Belt.

Noise

23. As noted above, the proposed installation of a new landfill gas flare has generated some considerable opposition, most notably on the grounds of a potential increase in background noise levels. A number of residential properties are located within the vicinity of the site and the nearest property (Comp Farm Oast) is located approximately 300 metres from the gas control compound. Policy W18 of the Kent Waste Local Plan and Policy NR5 of the Kent and Medway Structure Plan are of particular relevance in terms of potential adverse noise impact on neighbouring land uses and amenity.
24. Members will note from paragraph (2) above, that the entire gas control compound is surrounded by a 4 metre high acoustic fence which provides significant noise attenuation for the local environment. It is also noted that the noise levels emanating from the gas control compound are restricted by an existing condition (9) on the 2004 planning consent (TM/04/3135) which sets out that noise levels during night-time periods shall not exceed 39dB at nearby noise sensitive properties. The question as to whether or not the proposed new gas flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit is a key consideration.
25. It should be noted that a recent [noise] Compliance Monitoring Report (January 2008), which is an annual requirement placed on the operator of the gas control compound as a condition of the 2004 planning consent (TM/04/3135), has shown that the compound is currently operating within its prescribed noise level limits.
26. As a result of the concerns received relating to noise levels from statutory consultees and interested parties, a sound intensity measurement report was requested from the applicant to further consider the potential for any increased noise levels at nearby residential properties. As previously noted, the methodology for this report was agreed beforehand in joint discussions between the County Council's Noise Consultant, Tonbridge and Malling Borough Council's Environmental Health Officer and the applicant's noise specialist. Following the submission of the sound intensity measurement report in October 2008, the County Council's Noise Consultant has advised that the applicant has been able to demonstrate that noise emissions from the proposed facility, with the inclusion of the new landfill gas flare, will not exceed the levels permitted by planning permission TM/04/3135. It is also understood that Tonbridge and Malling Borough Council's Environmental Health Officer is now satisfied that this is the case.
27. Notwithstanding the noise objections raised by Offham Parish Council and local residents, on the basis of the professional / technical advice received and subject to formal confirmation of the Borough Council's position, I am satisfied that the installation of the proposed 'in rock' gas flare would accord with Policy W18 of the Kent Waste Local Plan and Policy NR5 of the Kent and Medway Structure Plan and that there is no

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

justification to refuse the application on noise grounds provided existing noise controls and measures to demonstrate compliance are maintained / extended to cover both existing and new equipment.

Need

28. The Parish Council and local residents have questioned whether there is a true need for the installation of the additional gas flare and see no need for this on the basis that the existing equipment already works and the applicant has previously demonstrated compliance with the existing noise condition. It has also been argued that the applicant is driven by a desire for greater financial profit through the installation of the new flare rather than any need for additional safety measures for the management of low-calorific ('in-rock') gas.
29. Whilst a case of need can be considered as a material factor in the determination of a planning application, the financial profit of an applicant is not a reason for approval or refusal. Similarly, whilst the current gas collection system appears to be working acceptably at present this is not a reason for refusal. In considering need, it should also be noted that the installation and use of the proposed new flare would enable more gas to be used to generate electricity on site. Although this has not been quantified any increase in electricity production should be viewed favourably in terms of sustainable development and associated planning policy such as Policies NR2 and NR5 of the Kent and Medway Structure Plan.
30. I accept that lighting is required to enable safe working in the compound during the normal working day (0800 to 1800 hours Monday to Friday and 1800 to 1300 hours on Saturdays) when natural lighting is inadequate or to facilitate essential maintenance or emergency works during the evening or night. I note that the lighting would only be used when needed and that it would be switched off when personnel are not on site. I am also satisfied that the actual lighting proposed is necessary to provide the required illumination. This would accord with the objectives of Policy W25 of the Kent Waste Local Plan and Policies NR5 and WM2 of the Kent and Medway Structure Plan. Any approval of the lighting should be conditional on it only being used when required for essential maintenance or emergency works. Whilst it is unfortunate that the County Council is being asked to retrospectively approve the proposed lighting scheme, it is worth noting that no complaints have been received about lighting from the compound since it has been installed.

Landscape and visual impacts

31. The main landscape and visual impacts as a result of this proposal arise from the installation of an addition landfill gas flare and any impacts associated with the lighting. The proposed 'in-rock' gas flare would be 7.5 metre high and would be visible above the 4 metre high acoustic fencing surrounding the gas control compound. Although the additional flare would be lower than the existing two 10 metre high flares, and a similar height to the existing four 7 metre high engines, it is important to consider its visual appearance upon the wider landscape. In this instance, it is important to consider Policies EN1 and WM2 of the Kent and Medway Structure Plan and Policies W25 and W31 of the Kent Waste Local Plan.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

32. Landscape planting was required around the gas control compound and along Teston Road by earlier planning permissions granted by the County Council (most recently TM/04/3135). The site is therefore relatively well screened by semi-mature vegetation planting to the north, east and southern boundaries. However, some of the required planting has either not sufficiently established or has died. Condition 12 of planning permission TM/04/3135 requires the implementation and maintenance of the approved landscape planting for the life of the facility. This will be taken up with the applicant and would assist in further mitigating the proposals. For the avoidance of doubt, I consider that an appropriate landscape condition should be imposed in this case if planning permission is granted.
33. In terms of the wider visual impact of an additional landfill gas flare, I note that the existing compound can be identified from several vantage points both within and outside of the village of Offham itself. Whilst the existing two 10 metre high flare stacks and engine units can be identified above the acoustic fence, I consider that the addition of a single additional flare stack of 7.5 metres in height would not have a significant detrimental visual impact on the wider landscape and would therefore accord with the above development plan policies. It should be noted that the County Council's Landscape Consultant has advised that the wider landscape effects arising from the proposal would be negligible
34. I am satisfied that the other changes within the compound set out in paragraph 5(ii) would have no impact on landscape or visual amenity given that they would be concealed behind the existing 4 metre high wooden acoustic fence. Clearly, the use of the lighting proposed in paragraph 5(iii) could have some visual impact on local amenity. However, given the design and provided it is only used when required I consider this to be acceptable. I therefore consider that the proposed development is in general accordance with development plan policy relating to landscape and visual impacts.

Metropolitan Green Belt

35. As previously noted in paragraph (1) above, the site lies within the Metropolitan Green Belt. As such, Policy SS2 of the Kent and Medway Structure Plan and Policy CP3 of the Tonbridge & Malling Local Plan Core Strategy are of relevance. These carry forward the general presumption against built development in the Green Belt in accordance with Planning Policy Guidance Note 2. However, as the proposals are ancillary to previously permitted mineral working and their subsequent restoration (in terms of the need to maintain landfill gas control), and relate to the provision of an additional flare stack in a previously established compound site, I consider that the impact of such development would be minimal in terms of the overall site context as a whole. As such I do not consider the proposed development to be contrary to Green Belt policy provided that the equipment installed within the compound is removed when no longer required for the control of landfill gas. Such removal of equipment can be secured by condition in this particular case. On this basis, the proposal does not in my view represent inappropriate development in the Green Belt and it is not necessary for the applicant to demonstrate 'very special circumstances'. The Parish Council's objections relating to the inadequacy of the applicant's case for very special circumstances are therefore not relevant in this case.

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Other matters

36. Although no objections have been raised in respect of air quality, it should be noted that atmospheric emissions associated with the new flare are matters for the Environment Agency under the terms of the Environmental Permit which already covers the facility. The Environment Agency's responsibilities in this context are referred to specifically in Informative 2 on planning permission TM/04/3135. The applicant states that the proposed new flare would meet the Environment Agency's published emissions standards and it should be noted that the Environment Agency has not raised any objections in terms of air quality. On this basis, I consider the proposals to be consistent with development plan policies relating to air quality, including Policy NR5 of the Kent and Medway Structure Plan.

Conclusion

37. Having considered the various objections to and implications of the proposals, I consider that the provision of an additional landfill gas flare within the existing gas control compound to deal with low calorific ('in-rock') gas is consistent with development plan policies. I support the applicant's desire to regularise the layout of the compound following several discrepancies between the 'as permitted' and 'as built' layouts, and consider that the slight movement of plant and equipment within the compound itself is largely de minimus in terms of any potential impact from outside of the compound site in terms of visual or noise amenity issues.

38. Whilst I note the Parish Council's and local residents' concerns relating to the potential for noise nuisance to increase, and await formal confirmation that Tonbridge and Malling Borough Council is now satisfied that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit, I am satisfied that the facility could continue to operate within the noise levels prescribed under application TM/04/3135. I consider that the proposals would also be acceptable in landscape terms provided the previously approved landscape planting is corrected and maintained for the life of the facility. I am also satisfied that the proposals are not contrary to Green Belt policy. On this basis, I recommend that planning permission be granted subject to conditions.

Recommendation

39. I RECOMMEND that SUBJECT TO formal confirmation that Tonbridge and Malling Borough Council is now satisfied that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit PLANNING PERMISSION BE GRANTED SUBJECT TO conditions including those to cover the following aspects:

- Standard time limit;
- The development to be carried out in accordance with the permitted details;
- Noise controls (as prescribed under TM/04/3135) be extended to cover additional landfill gas flare and associated equipment);
- Requirement to provide annual compliance monitoring report (as prescribed under TM/04/3135) be extended to include all new equipment;

APPENDIX 1 - Item C1

Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

- Landscaping scheme be fully implemented in accordance with details approved under permission TM/04/3135;
- Lighting only to be used when required;
- Removal of plant, equipment and hardstandings when no longer needed for landfill gas control; and
- Restoration of land.

Case Officer: Julian Moat

Tel. no. 01622 696978

Background Documents: see section heading.

APPLICATION TM/08/624 – REGULARISATION OF THE LAYOUT OF THE GAS CONTROL COMPOUND PERMITTED UNDER PLANNING CONSENT TM/04/3135 AND INSTALLATION OF A NEW GAS FLARE AT WHITE LADIES GAS CONTROL COMPOUND, TESTON ROAD, OFFHAM

NOTES of a Planning Applications Committee site visit to White Ladies Gas Control Compound, Teston Road, Offham on Thursday, 22 January 2009.

MEMBERS PRESENT: Mr R E King (Chairman), Mrs S V Hohler (Local Member), Mr S J G Koowaree, Mr J F London, Mr J I Muckle and Mr W V Newman.

OFFICERS: Mr J Wooldridge and Mr J Moat (Planning); Mr R Woolley (Jacobs); and Mr A Tait (Legal and Democratic Services).

TONBRIDGE AND MALLING BOROUGH COUNCIL: Mr M Balfour (Councillor & Local Resident); Mr M Broome (Planning) and Mr C Kennard (Environmental Health).

OFFHAM PARISH COUNCIL: Mrs C Innes and Mr D Stretton.

THE APPLICANT: Infinis Ltd: (Ms J Kwabla and Mr T Thomas); RPS (Mr D Humpheson).

- (1) The Chairman opened the meeting. He explained that the site meeting had arisen from a decision by the Committee to inspect the site before determining the application. Accordingly, its purpose was for the Committee Members to familiarise themselves with the site and to listen to the views of interested parties.
- (2) Mr Wooldridge briefly introduced the application. He explained that the landfill gas control compound had initially been granted planning permission by the County Planning Authority in 1995. He then explained that subsequent planning permissions had been granted for the site in 2002, 2003 and 2007, the details of which were contained in the Officer Report to Planning Applications Committee on 9 December 2008. He explained that the applicant was now seeking to install a new 7.5m high landfill gas flare within the compound to deal with the "in-rock" landfill gas. This was 'poor quality' gas that is collected from the gas wells at the site perimeter which is currently mixed with the 'good quality' gas obtained from the main landfill site in order to become suitable for burning in one of the existing gas flares.
- (3) Mr Wooldridge continued by saying that the application also sought a regularisation of the layout of the permitted compound to accommodate the installation of the proposed gas flare, as well as including details of external lighting.
- (4) Mr Wooldridge explained that the application site lies within the Metropolitan Green Belt.
- (5) Mr Wooldridge then said that the Planning Applications Committee had been concerned over the questions of: the effects of noise emissions on the residential environment; the need for the gas flare; its proposed location within the compound; and the hours of use for the lighting and consequent luminosity. Further information had therefore been sought and received from the applicants, which would itself require further formal consultation. This meant that it was likely that the application would be reported to the March meeting of the Committee.
- (6) Ms Kwabla (Infinis) agreed with the content of Mr Wooldridge's introduction and then

pointed out the location of the external lighting. These, she said, were mainly inward-facing to the compound, and consisted of 250 watt regular standard lighting units, which gave off limited overspill into the local community.

- (7) Members were then taken into the Gas Control Compound where they were shown the 1 megawatt engines with their silencers and exhaust systems which were used to burn the 'good quality' gas which was collected from the gas control system within the adjacent landfill site. They also saw the flares, one of which was being used to burn the 'poor quality' gas mixed with some 'good quality' gas.
- (8) Mr Wooldridge pointed out the location of the proposed new flare at the eastern end of the compound (nearest to the adjacent landfill site). This flare would, at 7.5m, be 2.5m shorter than the existing 10m high flare stacks.
- (9) Mr Wooldridge then pointed out the location of the nearest residential properties. These consisted of Comp Farm Oast (approximately 300 metres to the south) and Hunters Moon (320 metres) and The Roundells (335 metres) to the North East. He explained that the prevailing wind was South Westerly.
- (10) In response to a question, Mr Humpheson (RPS) said that that the acoustic fencing surrounding the gas control compound was 4m high.
- (11) Mr Humpheson then replied to a question from Mr Muckle by saying that the maximum amount of equipment that would be running at any one time would be 4 engines and the new flare.
- (12) Mr Humpheson also said that the current flares would only be used in exceptional circumstances such as when the engines were shut down and could not be used to produce electricity.
- (13) Mr Thomas (Infinis) said that it was envisaged that the gas engines would be in operation for 6 to 7 years, although the site would continue produce gas for at least 30 years. As the amount of gas available declined, the Company's assets would be switched to more profitable sites. It was impossible to be more specific about the end date as gas curves were very difficult to predict. However, appropriate gas control measures would need to be maintained at the site.
- (14) Mr Thomas continued by saying that the electricity generated by the gas burning was sufficient to power approximately 1000 homes per engine. Infinis were currently using 3 engines, with the agreement of the Environment Agency, to avoid pulling too much gas out of the landfill site at any one time.
- (15) Ms Kwabla confirmed that no flame would be visible from the gas flare and that only the heat haze would be visible above (as was currently the case with the existing flare stacks).
- (16) The discussion then turned to the noise levels. Mr Humpheson referred to the data contained in the supplementary papers which had been made available to Members on the day of the Meeting. He said that new acoustic gates would not serve any purpose as there was no residence that would be advantaged by such mitigation. He also stated that increased tree planting would only be beneficial if they were higher than the current 4 metre high acoustic fence and of a sufficient depth to allow further noise mitigation. Given the space available, he noted that this was not practical and would offer no significant benefit in this instance.

- (17) Members then walked to various points around the site where noise levels were measured. These were:-
- A point just North of the acoustic screening: 55db (including traffic noise);
 - A point just South of "White Ladies": 52.5db; and
 - A point just in front of "White Ladies": Not recordable owing to the amount of traffic in the vicinity.
- (18) Mr Humpheson said that the noise levels had been recorded at below 35 dbs when measured from the nearby residential properties.
- (19) Mr Balfour said that the atmospheric conditions would cause the noise levels to vary. For example, during summer evenings a high pitched whine emanating from the site was audible at the nearby residential properties.
- (20) Mr Stretton from Offham Parish Council asked Members to bear in mind that, up to a certain point, the noise levels increased as you moved away from the attenuation provided by the acoustic fence at the White Ladies Gas Control Compound.
- (21) Members then walked along the footpath between the landfill site and the Gas Control Compound. Mr Wooldridge pointed out some of the existing gas infrastructure on the adjacent landfill site. He explained that further restoration work would be taking place on site during the year, including drilling and further recontouring of differential settlement.
- (22) Mr Koowaree asked why the existing flares were painted grey when green would better match the local landscape. Mr Wooldridge replied that the colour was designed to reflect the fact that they were viewed against the sky from most locations near the site.
- (23) The Chairman thanked everyone for attending. The notes of the visit would be appended to the report to the determining Committee meeting.

VIEWS OF OFFHAM PARISH COUNCIL TO THE ADDITIONAL SUBMISSION FOR PLANNING APPLICATION TM/08/624 – DATED 13 FEBRUARY 2009

There has been much correspondence and discussion following the original submission of this planning application in February 2008, culminating in the report to the KCC Planning Applications Committee on the 9th December 2008, further lengthy discussions at the Site Liaison Meeting on the 14th January 2009 and the KCC Planning Applications Committee Site Meeting on the 22nd January 2009.

It seems to us that the detail on the assessment of the noise levels seems to get ever more complicated, with additional statistics causing more confusion as no one set is comparable to another leaving us with the rather uncomfortable thought that the statistics are being produced to justify the results rather than the other way round.

Need for the Proposed Flare

Our simple understanding of the need for the proposed flare is that it will enable the poor quality gas to be separated totally from the "good gas", the latter gas being of financial value as it supplies the National Grid.

Whilst this separation is of financial benefit to Infinis, we have not queried Infinis' justification for the proposed flare on the basis that the separation of the gases will result in a more effective extraction system and minimise the migration of landfill gas off site.

Noise

Our overriding concern with the application remains with the position of the proposed additional flare and the potential increase in noise to the detriment of Offham residents, particularly those in closest proximity to the compound where the proposed flare is to be located.

The problem we have with all of the information provided to date is that the statistics produced by the applicant are continually changing and, when queried, the response has been that none of the past information submitted is accurate. Now the applicant is asking us to rely on their interpretation of "manufacturer's data" rather than any of the previously submitted Noise Compliance Reports.

Bearing in mind that Offham struggled for 3-4 years for it to be acknowledged that the existing flares were operating in excess of the permitted noise levels and modifications to the flares were finally made which reduced the noise levels, we are justifiably sceptical of simply accepting a set of statistical data that works in the applicants favour at face value. Furthermore, whilst modifications to the existing flare stacks reduced the level of noise it should be noted that the site continues to operate towards the upper end of the permitted noise levels, leaving very little margin for error.

Putting aside all the technical arguments and justifications, quite simply we as Offham residents have suffered from problems with noise emanating from the existing flare stacks in the past and we do not wish to repeat this experience. Hence we are not seeking to be obstreperous and oppose the proposed flare stack we are simply requesting that it is located at the other end of the compound, furthest away from any residential property in order that any risk of increased noise is minimised. From our point of view this does not seem to be a very big thing to ask.

Historically all sorts of statistics have been produced and not all of the information is presented in the same format hence it is hard to compare like with like:

- The "Results" (in this latest report – January 2009) from September 2005 and October 2006 clearly indicate that the site was operating in excess of the 39dB limit.
- A Noise Impact Assessment dated January 2007 which formed part of a retrospective application to amend the layout of the Gas Control Compound produced "Measured Noise Level Data" for the three test locations that gave readings all in excess of 44dB and "Predicted Noise Levels" of 37.5dB, 37.3dB and 38.2dB.
- Revised Annual Noise Compliance Monitoring Report dated November 2007 gave "predicted noise levels" (table 7.3) of 32.1dB, 31.6dB and 33.5dB, but actual "corrected measured noise levels" (table 8.1) at each of the three locations as 37B, 37dB and 39dB
- In the original application for the proposed additional flare RPS produced a Noise Assessment dated January 2008. This report produced "Measured Noise Level Data" for the three test locations that gave readings below the permitted 39dB. It is worth noting however that the readings were all in excess of 32dB.
- A further table from this January 2008 report calculates a Cumulative Assessment of current and proposed equipment and gives total predicted levels at the three locations of 38.2dB, 37.6dB and 36.1dB (table 7.4).
- Table 2 in the latest information submitted dated January 2009 produces totally different sets of figures and a dramatic reduction from previous submitted figures by a factor of 12-14dB or more.
- This significant difference in figures is dismissed by the applicant on the grounds that it "is principally due to the influence of the weather". We do not accept that all of the previously submitted figures can simply be dismissed on the grounds of weather or as has been suggested verbally to us that the information used was inaccurate. At the time of submitting each of these reports the applicant was happy to rely upon them and it is only now, when challenging the conclusions reached, that a totally new set of statistics have been produced that give totally different results in the applicants favour.
- Furthermore the applicant acknowledges that when adding "calculated noise levels" to their "extrapolated noise levels" the noise levels increased by up to 6.1dB but dismiss this by stating that "although a 6dB change in noise level is considered to be a quadrupling of the noise energy, the derived increase of 6.1dB overstates the true impact as both flares are assumed to be operating, which would not be the case under normal operating conditions."
- More tellingly the applicant goes on to say that "in any case, it should be noted that a 6.1dB increase would not result in a breach of the planning condition". However, it would if using the figures from any of the previously submitted noise reports rather than relying on the significantly reduced figures of this latest report.
- It is worth noting that despite all assurances given, even on the predicted statistics used in this latest report, Figures 3 and 4, although marginal, clearly show an increase in noise levels in that the decibel rings on the plan widen in Figure 4 over figure 3. Presumably this is the 6dB increase.
- However, we presume that the dB rings in these figures are an interpretation from the modelling and support table 2. These figures we have already queried. In

any event table 2, and presumably the rings do not take into account the 5dB correction figure therefore when looking at these plans the relevant ring is the 34dB ring rather than the 39dB which obviously will be further away from the source of the noise.

- Historically comparison between predicted and actual data has shown that actual results have always been demonstrably above predictions.
- It was quite clear from the site visit that irrespective of all statistical readings there is a distinct "hum" from the compound. This noise is 24/7. Any risk of increasing this audible hum is quite simply not a risk Offham residents wish to take.

Position of the Proposed Flare

In relation to alternative locations for the proposed flare, we appreciate that Table 2 clearly demonstrates no perceptible increase to the human ear but we query these figures in the light of previously submitted material and as indicated above.

Maybe Infinis and RPS are correct and that there will be no audible increase in noise from the additional flare and that the site will continue to operate within the permitted limits. However, bearing in mind that they draw their conclusions based on "manufacturer's data" rather than hard facts they could also be wrong.

Whilst the applicant concludes that the alternative positioning of the proposed flare would make little or no real difference to the outcome in terms of noise propagation. we, on the other hand, would suggest that the model concludes that Alternative 1 (Figure 6) would lead to an improvement for properties in Aldon Lane, at the western end of Teston Road and at properties bordering on the WRG site at the village end of Comp Lane. Please also note that there are some basic mathematical errors in the tabular data comparing the two locations.

From our point of view a simple solution to this problem would be to relocate the proposed additional flare stack to the far side of the compound so that **if** there is any increase in noise levels, the increase in distance will help to mitigate the perceptible increase in noise to such an extent that it does not once again become a problem for Offham residents.

Looking again at the layout of the site compound it would seem that with some reorganisation space could be made available in the bottom corner where there is an existing "site store and office" and "gravel area containing tank for waste water". Furthermore any noise "channels" such as that one indicated in Figure 6 could easily be mitigated with a bolstering of the acoustic fencing so that sound does not escape and the noise circles can be continuous.

Whilst statistically Infinis/RPS have sought to prove that such a relocation would make no audible difference, because the site has, in the past, operated at the margins, and indeed beyond the permitted levels we firmly believe that from a practical point of view such a relocation is essential to minimise the risk to Offham residents.

Additional Facts

- It is acknowledged that this flare stack will be the first of its kind anywhere in the world and furthermore its proposed location is nearer to any residential property than indeed any other even similar flare. The five much smaller low- cal units (of between 5% and 10% in capacity comparison with the proposed flare), operating in Cheshire, are not comparable.

- It is not a replacement flare but an additional flare, albeit that under normal operating conditions it will work instead of the two existing flares. However in cases of emergency all three flares could be called into operation and quite clearly in these instances whatever set of data is used the noise levels will exceed the permitted maximum of 39dB.
- It is important to point out that this proposed flare stack will remain in operation long after the extraction of saleable gas has ceased. This could be for a period of up to 25 years or more. Consequently the location of this flare is of considerable importance to the Village.
- Furthermore there are a number of technical issues raised by the latest information submitted:
 - The sound pressure measure distribution chart (Fig 5) as supplied in supplementary supporting data (October 15, 2008) is based on the 10 metre stack currently in operation. Given that the stack was operating at 60% of maximum capacity, and that its construction differs significantly in its proportions to the one proposed, we have not been convinced of its relevance to the debate.
 - The Current Haas flare operates at about 60% of its maximum capacity, flaring some 1800 cu.m./hour of gas, which comprises 1300 cu.m. from the in-rock system mixed with 500 cu.m. from the main system.
 - The proposed flare would flare just the 1300 cu.m. per hour from the in-rock system. It would therefore be operating at about 87% capacity.
 - It is not clear whether or not the proposed flare stack would only burn 100% in-rock gas or whether it would still require a mix of good and bad gas as has been suggested previously albeit that the percentage of good gas would reduce.
- The latest "modelling" has used manufacturer's data for flare stack noise output. This only seems to provide "ceiling" figures which state that the stack will meet a 69dB level at a distance of 15 metres. Identical figures are supplied with the current Haas flare. However, as the current flare operates at about 60% capacity, the measured noise output is apparently 64dB at 15 metres. As the proposed flare will be operating closer to 90% capacity, it could be argued that the noise output might be closer to the "ceiling" value than the 62-64 range suggested by Infinis.
- The arguments used by Infinis and RPS based on "experience" and "gut feeling" concerning physical size of the stack and its combustion chamber size are simply not robust enough in our opinion. An analogy used by both ourselves and Infinis making comparison between say a 350cc motorcycle and a 150cc motorcycle does not assure us that the smaller machine will be quieter than the larger one - particularly when it will be operated at higher revs!
- Currently, and at the time of the site visit on the 22nd January, only three of the generators are operating. We understand this is because of restrictions imposed by the Environment Agency on the level of "pull" considered acceptable on the in-rock system. It seems reasonable to assume that with all four generators operational and additional pressure required to "pull" the gas from the extraction network, noise levels will automatically be higher than those experienced at the time of the visit.
- A public footpath runs close to the eastern boundary of the compound and at the time of the site visit a strong odour of exhaust fumes was noted. Should the proposed additional flare stack be positioned as per the application, much closer to this boundary, the situation would worsen considerably, making it most unpleasant for those using the footpath.

Finally, our concern is based on a total lack of trust in the data which has been presented. The summary data from past surveys in 2005 and 2006 demonstrates that the compound was operating in excess of the agreed planning limit for a number of years, and at much distress to local residents. Needless to say we are extremely concerned and want to be totally confident that we will not return to such a position.

We conclude therefore by returning to our suggestion of a reasonable compromise. Grant planning permission for the additional flare but in one of the alternative locations with additional noise attenuation features to ensure that the noise mitigation is consistent and there are no "noise tunnels".

SECTION D
DEVELOPMENT TO BE CARRIED OUT BY THE COUNTY COUNCIL

Background Documents – the deposited documents, views and representations received as referred to in the reports and included in the development proposal dossier for each case and also as might be additionally indicated.

Item D1

Single storey modular building for Children’s Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320.

A report by Head of Planning Applications Group to Planning Applications Committee on 17 March 2009.

Application by KCC Children, Families and Education for single storey modular building at Hornbeam Primary School, Mongeham Road, Great Mongeham, Deal, (Ref: DO/08/320)

Recommendation: permission be refused

Local Member(s): Mr Terence Birkett and Mr Mike Eddy Classification: Unrestricted

Site

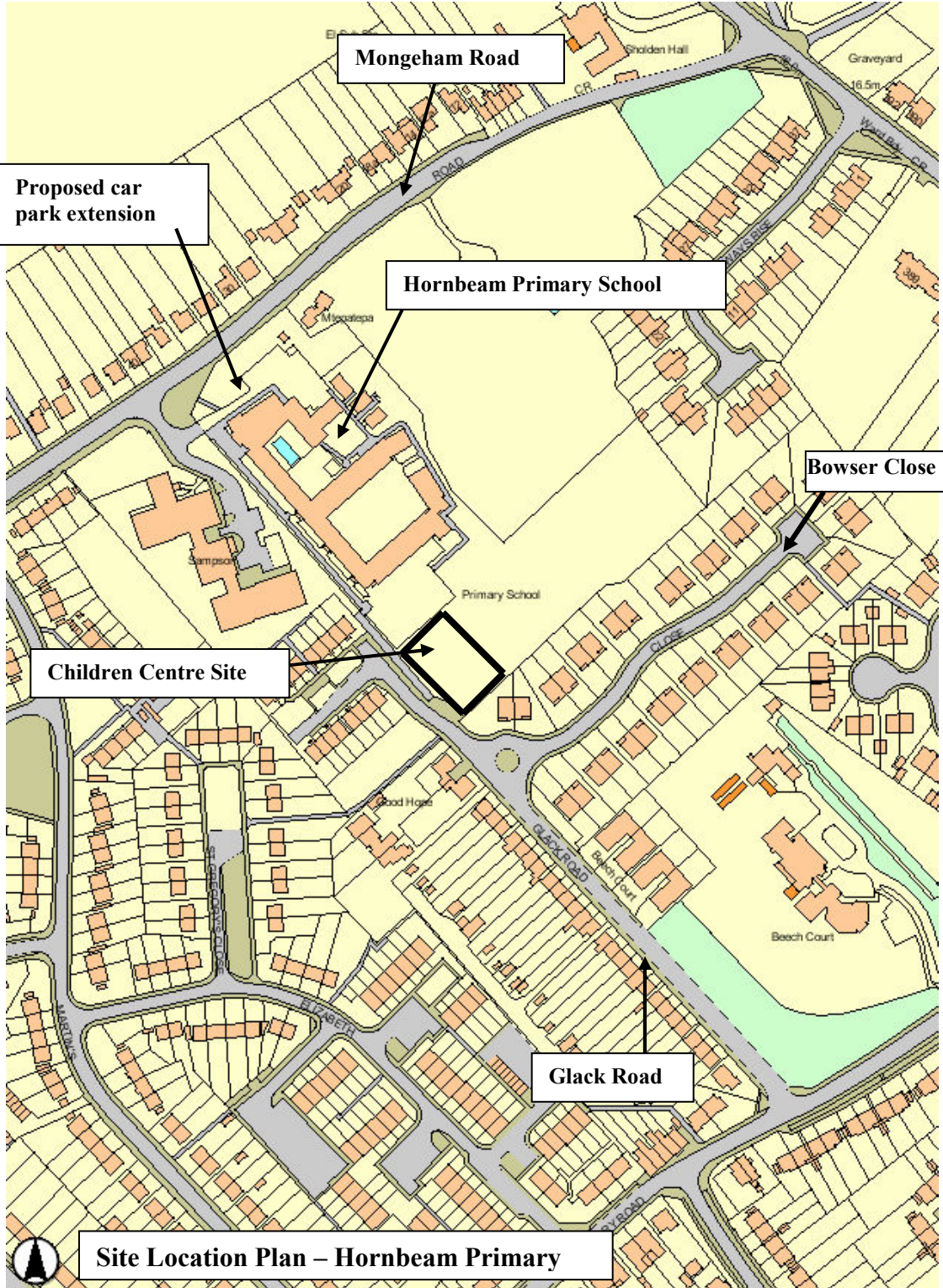
1. Hornbeam Primary School is located in the village of Great Mongeham, which is to the west of Deal. The school site is an ‘L’ shape and surrounded by residential properties on all sides. To the north of the site is Mongeham Road and residential properties are located on the opposite side of the road. To the east is a large property with extensive grounds, whilst to the south there are properties that back onto the school site that are accessed off Bowser Close. To the west of the site is another residential property called Sampson Court, which is accessed solely off Mongeham Road. The school has a single vehicular access, which is off Mongeham Road and parking for staff is in front of the school. There is also a pedestrian access at this location.
2. The school has another pedestrian access point to the south of the site, which is accessed off Glack Road (a cul-de-sac) by means of a gated walkway between the school and Sampson Court. This gated walkway is only open at the start and finish times of the school. There is currently a field access to the school and an area of hardstanding (where the parents wait for the gate to the walkway to open) at the end of Glack Road. This is where the proposed Children’s Centre and vehicular/pedestrian access is proposed. There are also a number of trees located within the school playground which follow the line of the gated walkway which are affected by the proposed development. A site location plan is attached.

Proposal

3. The planning application is for one of 52 new Children’s Centres across Kent, which are part of the Central Government’s National Sure Start Programme. The main aims of the Sure Start programme are to increase the availability of childcare for young children and support parents in their aspirations towards employment. The applicant states that the area identified for the new build half core Children’s Centre has been chosen because it is ideally suited to provide a separate access for both visitors on foot and staff by car. The Children’s Centre would offer a range of health, adult

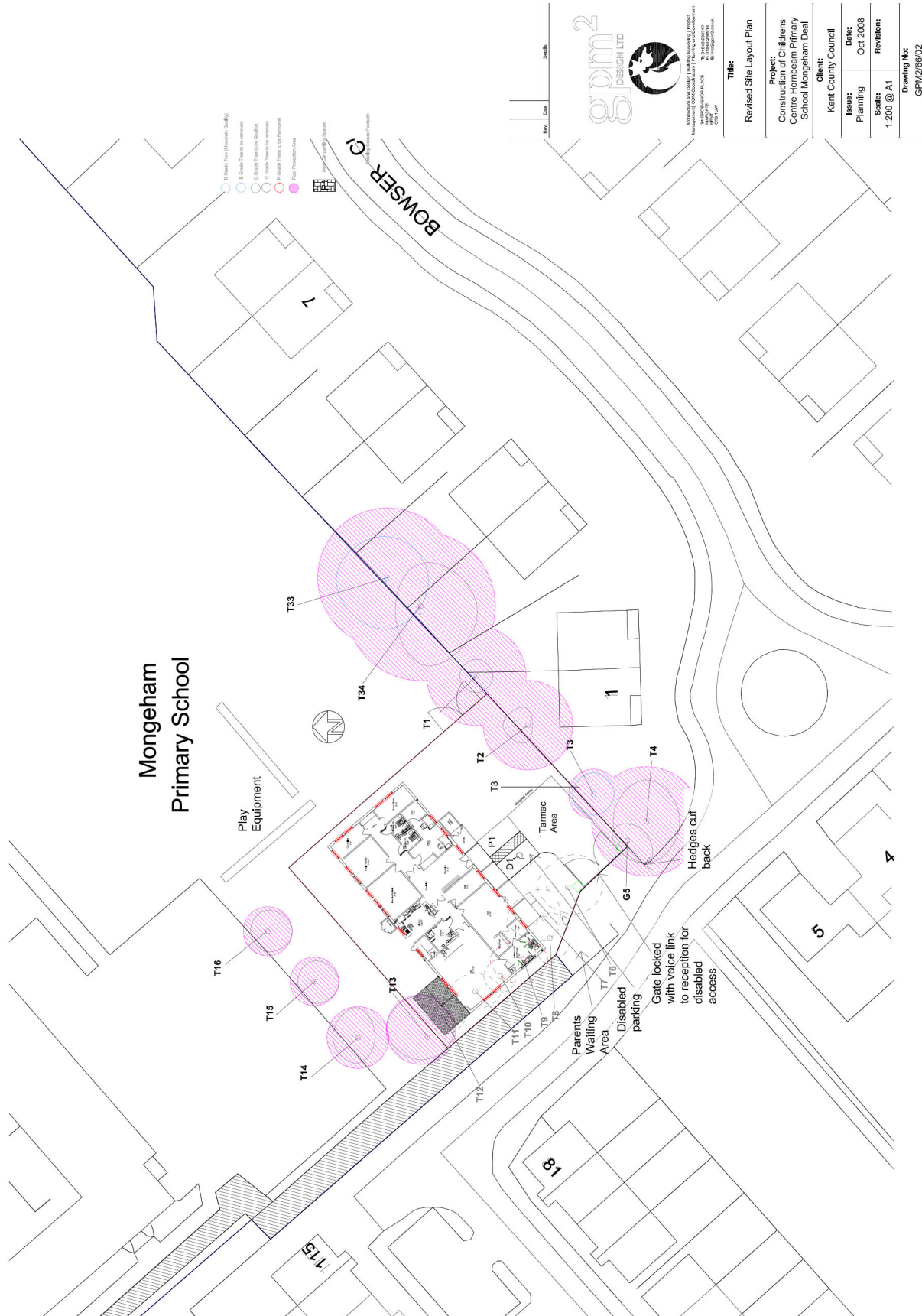
Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

education and family support services. Alongside with these services, there would be a nursery facility for 0-5 year old children.



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. (2009) Scale: 1:2500

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320



gpm2 DESIGN LTD
 11 DASH ROAD
 HORNBEAM GREAT MONGEHAM, DEAL
 199 5LW

Title: Revised Site Layout Plan	
Project: Children's Centre Hornbeam Primary School Mongeham Deal	
Client: Kent County Council	Date: Oct 2008
Issue: Planning	Revisions:
Scale: 1:200 @ A1	Drawing No: GPM/2/06/02

Item D1

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

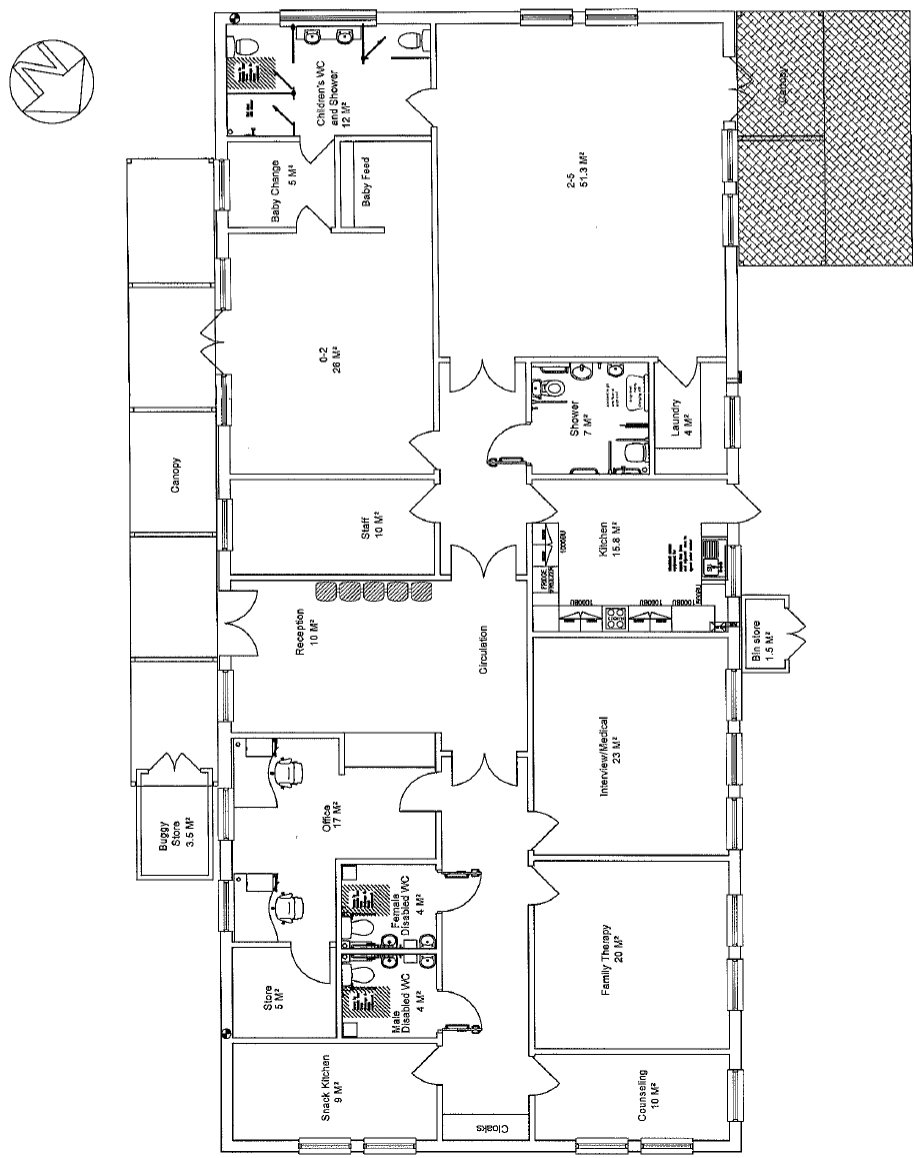
This drawing is copyright & the property of EC Harris & must not be copied in whole or in part without their written permission. Copyright is reserved. ©
 This drawing must not be scaled. The Contractor is to report all dimensions.
 It is the Contractor's responsibility to check all dimensions and locations commencing from the datum level. It is essential that this drawing is read in conjunction with all specifications & schedule of works & that all works are included by.



Rev. A	Layout Issues	PD 31/07/05
Revised Comments		Notes
Client	Kent County Council	Date 20/07/07
Project title	Hornbeam Primary School Full Core New Build Facility	Drawn: mt
Drawn by	mt	Approved: DS
Scale	1:100 @ A3	Job No. 2205499
Proposed Internal Layout		Draw. No. 0464



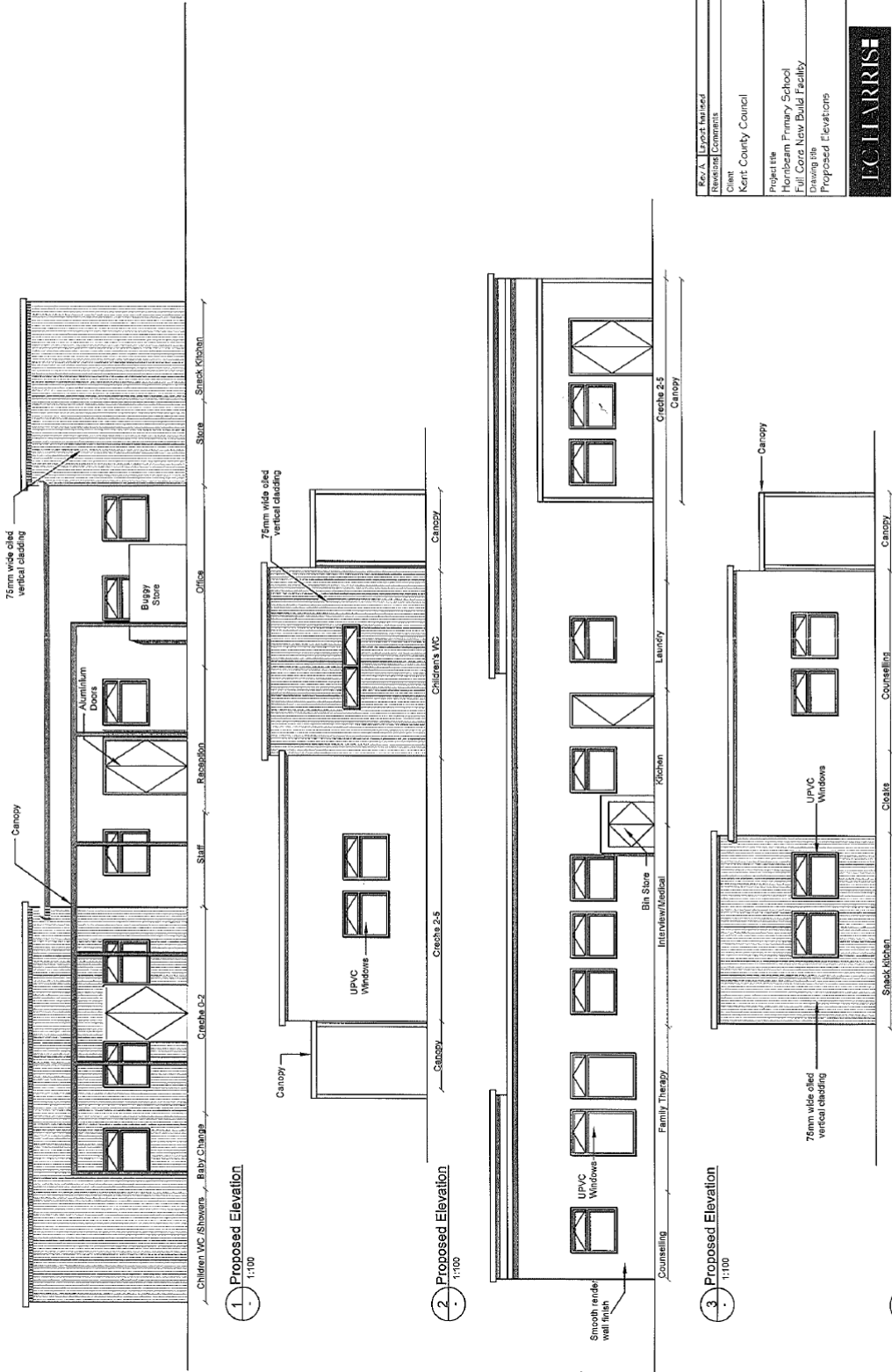
EC HARRIS LLP
 EC HQ, Regent Quarter, 34 York Way, London, N1 9AB
 Tel : 020 7612 2000 Fax : 020 7612 2001
 information@echarris.com www.echarris.com
 Delivering better value results for clients



Item D1

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

This drawing is copyright & the property of EC Harris & must not be copied in whole or in part without the written consent of EC Harris. The Contractor is to report all dimensional discrepancies & errors to the Contract Administrator prior to construction commencing. It is essential that this drawing is read in conjunction with all specifications/schedule of works & that all works are indicated on.



Rev. A	Layout finalized	PD 3 1/0 1/00
Revised	Comments	Date
Client	Kent County Council	Date
Project title	Hornbeam Primary School Full Core New Build Facility	Drawn
Drawing title	Proposed Elevations	Approved
		Scale
		Job No.
		Drawn
		Proj. No.
		Drawn
		Proj. No.
		Drawn
		Proj. No.



EC HARRIS LLP
 ECHQ, Regent Quarter, 34 York Way, London, N1 9AB
 Tel: 020 7612 2000 Fax: 020 7612 2001
 information@ec Harris.com www.ec Harris.com
 Delivering better value results for clients

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

4. The planning application has been submitted by Kent County Council's Children, Families and Education Directorate. The Hornbeam Primary School site has been identified as part of the Kent strategy as having surplus capacity and a need in the area for a Children's Centre. The proposed catchment area for this Children's Centre is the Deal and Sandwich area and the applicant advises that this is the only possible site for a Children's Centre within this catchment area. The area also required a Children and Adolescent Mental Health Service (CAMHS) facility and this has been integrated into the new Children's Centre as the services complement each other. The Children's Centre section will operate a separate unit from the school with the School having no control over the day to day operation. The staff will control all visitors to the Centre via a secure entrance door.
5. The proposal is for a new single storey, flat roof modular building together with two canopies and 5 new car parking spaces, one of which would be a disabled space (see page D1.3). 3 of the car parking spaces would be located in the parking area for Hornbeam Primary School and would be accessed off Great Mongeham Road, whilst the other 1 parking space and 1 disabled space would be located in front of the Children's Centre and would be accessed off Glack Road (see paragraph 10).
6. The proposed building would be constructed in sections in a quality controlled factory environment. The parts are transported to the site and fixed on pre-constructed foundations. The unit will be part clad with factory fixed oiled cedar cladding to the corners and the areas in between the sections of cladding, will be smooth render painted in a green colour. The roof would be a metal flat roof and the building has been designed to be no higher than the school buildings. The applicant states that the proposed building would achieve a minimum BREEAM rating of 'good' with desired target of 'very good'. A minimum life-span of 25 years is warranted by the manufacturer, which is also the requirement of the Department for Education and Skills (DfES), which would provide funding for this project.
7. Externally there would also be two canopies and an impact absorbent play area. Inside the building, the Children's Centre would contain two large rooms, one for 0-2 and another for 3-5 years old. Attached to the 0-2 year's area would be a nappy changing and food preparation rooms. There would also be a further disabled WC, children's toilets and a laundry. To complement these areas, the unit would have a reception/office and kitchen. The CAMHS facilities will be a medical room, family therapy room, counselling room and a snack kitchen. The Centre's site would be enclosed with 1.8 metre high weld mesh fencing, which would be finished in a green powder coat or metal paint.
8. The entry to the Children's Centre would be via an existing gated entrance from Bowser Close, which is used by maintenance vehicles to maintain the school grounds. There is also a gated walkway which exists from the front of the school to the area of the new Children's Centre and this would also be used by staff. The new car parking spaces are only for the use of staff at the Children's Centre and any disabled visitor. No visitors car parking is proposed (apart from the disabled space), as the aim with the other approved Children's Centres is that the majority of the visitors would live in walking distance to the Centre and therefore it is expected that users would walk to the site.
9. The expected opening hours are to be 8.00am to 6.00pm, five days a week for 48 weeks of the year. The majority of these hours will be within the existing school

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

opening hours, including the other activities the school provides. The Children's Centre would employ 4 full time equivalent members of staff with the number of rising for special events. Staff employed within the surrounding area will be expected to walk and any staff required to drive in would be offered parking within the new car park area. The nursery would have a roll of 52 children with 26 attending in the morning and 26 in the afternoon. The visitors to the CAMHS facilities will fluctuate depending on demand. These visitors are likely to be spread out over the 10 hours of operation. Only when a particular event, such as a seminar is being provided, would there be a number of people arriving at one time. However it is unlikely that these events will occur at the same time as the start and end of school and so there would be minimal impact on current traffic levels.

10. The original planning application proposed 7 car parking spaces, which included 1 disabled parking space, in front of the Children's Centre. However from the initial public consultation on the planning application, objection was received from Dover District Council regarding the parking and its close proximity to the private amenity space of No 1 Bowser Close and the potential noise and disturbance it could cause to that property. A revised drawing was prepared which proposed to move all the parking spaces from in front of the Children's Centre, apart from the 1 disabled parking space, to the school car park and extend this car park with an additional 9 parking spaces. However this proposal would have resulted in the removal of a dozen trees, which would have also potentially included two trees classified of moderate quality and value. That proposal was therefore dismissed and the applicant managed to add an additional 3 car parking spaces at the existing school car park which did not affect any of the trees. An additional 1 parking space was added to the 1 disabled parking space in front of the Children's Centre. Due to guidelines on disabled car parking spaces and the distances that disabled people can negotiate, the disabled parking space had to be located in front of the Children's Centre. That was accepted by Dover District Council.

Planning Policy

11. The Development Plan Policies summarised below are relevant to the consideration of the application:

(i) **The Kent & Medway Structure Plan 2006:**

Policy SP1 Seeks to conserve and enhance Kent's environment and to ensure a sustainable pattern of development.

Policy SS6 Seeks to improve the built and natural environment, functioning and appearance of the suburbs, including the provision of services and facilities that serve local needs.

Policy QL1 Seeks to ensure that all development is well designed and of high quality that responds positively to the local character. Development, which could be detrimental to the built environment, amenity, function or character of the area, will not be permitted.

Policy QL12 Provision will be made to accommodate additional requirements for local community services in response to

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

growth in demand from the community as a whole. The services will be located where they are accessible by walking, cycling and by public transport.

Policy EN9 Tree cover and the hedgerow network should be maintained. Additionally they should be enhanced where this would improve the landscape, biodiversity, or link existing woodland habitats.

Policy TP3 States that the local planning authority should ensure that development sites are well served by public transport, walking and cycling.

Policy TP19 State that development proposals should comply with vehicle parking policies and maximum standards adopted by the County Council.

Policy NR1 Proposal for development should incorporate sustainable construction techniques.

(ii) Dover District Council Local Plan 2002

Policy DD1 Requires proposals that are acceptable in terms of layout, siting, scale, architectural style, materials, spatial and visual character of the area, landscaping, privacy and amenity.

Consultations

12. **Dover District Council** – Raises objection on visual amenity grounds and residential amenity grounds. The development, by virtue of its scale, location and design, would constitute an incongruous and obtrusive feature within the street scene contrary to Policies QL1 of Kent and Medway Structure Plan and DD1 of the Dover District Local Plan. The original application and subsequent amendments do not involve any alterations to the design and appearance of the building. It remains out of keeping with the traditional pitched roof and brick construction of neighbouring buildings and will appear incongruous within the street scene. The separation distance of 1.2m from the footpath does not overcome the concern that the building will be clearly visible and obtrusive within the street scene, particularly given the loss of trees. Additionally the proposed on site parking, by virtue of its close proximity to the private amenity space of 1 Bowser Close would cause noise and disturbance to that property, detrimental to the enjoyment of that property, and contrary to policies QL1 of the Kent and Medway Structure Plan and DD1 of the Dover District Local Plan. From a residential amenity point of view, the reduction in the number of spaces to the front of the proposed building would be beneficial to the potential noise and disturbance caused to 1 Bowser Close. However the amended plans show a dropped kerb from the area marked 'tarmac area' leading to an unmarked piece of land. It is still quite possible for the unmarked piece of land to be used for the parking of cars and/or for the dropping off and turning of vehicles. It is noted that the gates are proposed to be locked, with voice-link to Reception for disabled access. However this would be difficult to enforce and there is insufficient assurance from the plans that the residential amenity of 1 Bowser Close would be improved.

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

Deal Town Council – consulted on the application on 7 March 2008, 14 August 2008 and 19 November 2008. No comment has been received to date.

Divisional Transportation Manager - raises no objections, as the amount of traffic that the development would generate is likely to be very low.

On the basis of additional parking spaces being supplied on a 1 for 1 basis for the staff of the proposed Children's Centre, the final revised layout in terms of parking and access is now acceptable. Several site visits have been carried out to the roads surrounding the site during a normal school day and it was evident that there is sufficient on street parking available to accommodate the occasional short stay visitor that the healthcare CAMHS aspect of the site would generate.

Whilst there is some concern locally that the road and footways surrounding the site are already busy at the start and end of the school day, and that the proposed development would make this worse. Although there is the potential for a small increase in parents driving to the area, the exact increase in vehicular traffic would be very difficult to quantify at this stage. The fact that the proposed facility is well located in terms of serving a residential catchment area and also being attached to an existing school, it is likely that many users of the proposed Children's Centre are local and/or are already making the journey to the school site with siblings. There is no personal injury crash record for the roads surrounding the school.

On the basis that the centre may also be used for evening meetings etc I would request that a condition is placed on any consent granted ensuring the school car park and linking footpath is kept unlocked and made available for visitors of the centre outside of school hours.

To ensure the site is managed as a whole I would ask that you also include a condition to include the Children's Centre with future revisions of the School's Travel Plan.

Environment Agency – raises no objections.

Local Member(s)

13. The local County Members, Mr Birkett and Mr Eddy, were notified of the application on 7 March 2008, 14 August 2008 and 19 November 2008. Mr Birkett has not commented. However Mr Eddy has objected to this application based on the grounds that it is not located in the right place to serve the proposed catchment area and thus it is not within 'pram pushing distance'; it urbanises this part of the school site; there would be unacceptable loss of trees and the prefabricated structure is inappropriate within a residential area.

Publicity

14. The application was advertised by the posting of a site notice and the notification of 38 neighbouring properties. Neighbours that sent in letters of representations were re-notified of subsequent changes to the planning application.

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

Representations

15.25 letters of representation was received in response to the proposal. The main planning reasons for objection can be summarised as follows:

- Unacceptable increase in traffic as the road is already not suitable for the amount of traffic that is now using the road.
- Already problems are experienced for a resident living opposite the 'school entrance' in getting in and out of his property.
- The existing road surface is not suitable for heavy vehicles.
- The development will increase traffic and fails to provide adequate parking.
- The development is located at the end of a dead end road and this will cause problems for Emergency Services and deliveries at the start and finish of school/Children's Centre.
- Wrong location for the Children's Centre.
- Problems are already experienced of poor parking by parents, by parking across driveways and thus creating a single carriageway road.
- Walking to the Children's Centre would be minimal and car use would be the main source of getting children to the Children's Centre.
- The proposed entrance to the Children's Centre is via an already narrow and restricted 'footpath entrance point'.
- The closure of the South Deal Primary School and subsequent transfer to children to Hornbeam Primary School has increased traffic to the school, and especially in Glack Road.
- Enforcing of the existing *School Keep Clear* markings is unsuccessful.
- The development will increase noise levels.
- The Children's Centre will be open for 48 weeks of the year as opposed to the school being open for 36 weeks of the year and so it will increase traffic levels for a longer period of time.
- Concerned over how will parents be encouraged to walk or to use public transport.

Discussion

Introduction

16. The Children's Centre Programme is being developed as part of the Central Government's National Sure Start Programme and is funded by the DfES. Kent County Council has been tasked with creating 52 Children's Centres across Kent by March 2008. Having regard to the Kent Primary Strategy, Kent County Council's Children's Centre Team in conjunction with Multi Agency Partners has identified suitable sites within areas of relative deprivation for such services. This proposal represents one of the many Children's Centres planned in Kent.

17. The application is required to be determined in accordance with the relevant Development Plan policies, unless other material considerations are of overriding importance. Consideration should be given to the impact of the siting, layout and scale of the development as well as impact on playing fields and highway safety. In addition the design of the proposal and the need for the new community facility should be considered. Policy QL1 of the Kent and Medway Structure Plan and Policy DD1 of the Dover District Local Plan require new developments to be of high quality and well

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

designed in terms of layout, siting, scale, architectural style, materials, spatial and visual character of the area, landscaping privacy and amenity. Further consideration should be given to the Kent and Medway Structure Plan Policy QL12 that encourages decision makers to make provision for community facilities and to ensure that they are located where they are well served by public transport, walking, cycling and by public transport. In conjunction with these and other relevant policies, these issues are considered and discussed below.

Siting, design and appearance

18. An objection has been raised by Dover District Council on grounds of detrimental impact on visual amenity. It is claimed that the development, by virtue of its size, scale, location and design would constitute an incongruous and obstructive feature within the street scene and is contrary to Policies QL1 of Kent and Medway Structure Plan and DD1 of Dover District Council. This objection has been put forward to the applicant but the design and location of the Children's Centre has remained the same (albeit the building has moved 1.2m further into the site and is now not located right up to the existing fence). The applicant has stated that there are numerous constraints why any alterations cannot be accommodated and these are namely prohibitive cost, time delay, implications for the provision of play space within the school site, potential need to relocate the existing school play equipment and the issue of maintenance of the play space provision for pupils.
19. The proposal is for a new single storey, flat roof modular building together with two canopies. The parts are transported to the site and fixed on pre-constructed foundations. The unit would be part clad with factory fixed oiled cedar cladding to the corners, and the areas in between the sections of cladding would be smooth render, painted in a green colour. The roof would be a metal flat roof and has been designed to be no higher than the school buildings. Dover District Council has commented that the design of the building is out of keeping with the traditional pitched roof and brick construction of neighbouring residential buildings and would appear incongruous within the street scene.
20. Whilst it would undoubtedly be beneficial to encourage a design solution for the proposed Children's Centre which matches the existing style of the buildings on site, it is not always necessary to replicate the design. In some circumstances an alternative and more appropriate designs would be welcomed. In this particular case, the existing school buildings that are closest to the proposed Children's Centre have a flat roof construction and therefore I do not consider what is proposed would be unacceptable on design grounds. Additionally, whilst it would normally be easier to accommodate new buildings of a permanent construction, as opposed to a modular type construction, this has not been possible with the current wave of Community Children's Centres. Tight budget constraints and the short timescale for project delivery have meant that modular style buildings need to be used for the proposed units.
21. However, I feel that there is scope to explore changing the shape of building from a rectangle to a more square shape and moving the building further away from the fence and into the site and thus retaining the existing trees which are currently proposed to be removed (see paragraphs 24 and 25). Currently at the back of the building there is a 5m strip of land, (where it is proposed to locate the children's covered play area on part of this land), that could be better used. This would also

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

mean that the potential for having to take more land from the school, and thus affecting the existing play equipment, would be minimal or even non-existent. By retaining the existing trees at the site frontage and thereby providing a visual screening of the building from the road, this would help to overcome objections that the proposed building would be incongruous and obstructive feature within the street scene. I would also recommend that the existing vegetation on the frontage be increased to include an evergreen hedge to ensure a visual screening of the building throughout the whole of the year. Without such an amendment or something similar, I consider that the proposal has an unacceptable impact on the street scene and immediate locality.

Noise and disturbance

22. The currently proposed siting of the building and car park is located to the rear of properties in Bowser Close, which currently backs onto the school playing field. Objections have been raised to the location of the car park, by virtue of its close proximity to rear gardens and the potential noise and disturbance that may be experienced, would conflict with Policies QL1 of the Kent and Medway Structure Plan and DD1 of the Dover District Local Plan. Whilst the removal of 5 of the proposed parking spaces from in front of the Children's Centre has been welcomed by Dover District Council, there is still a concern that there is potential for cars to park unofficially within the area in front of the proposed Children's Centre.

23. Whilst the nearest point of the proposed building would be sited 17 metres from the nearest house, the proposed parking area would be 12.5 metres away and within 8 metres of the garden area. The nature of the activities within the proposed Children's Centre would range from a nursery with an outdoor covered play space, a CAHMS facility to discreet parent counselling meetings. There would also be regular visitor and staff movements to and from the Centre throughout the day, which does have the potential to cause some nuisance for neighbouring properties. Since the parking area is only to cater for 2 vehicles, which would involve negligible movements compared to other existing traffic movements in the vicinity, I consider that there would be a minimal disturbance as a result of that element. In respect of pedestrians going to and from the proposed Children's Centre, whilst there would be increased levels of activity through the day in this part of the school site, I do not consider an objection would be warranted on these grounds.

Trees/Landscaping

24. Members will note that this application seeks the removal of 7 trees of varying age and species in order to situate the Children's Centre in its proposed location, with the potential to lose a further tree due to its close proximity to the building footprint. One of these trees (a wild cherry) has been identified as needing removal prior to the commencement of any work on site. Dover District Council and Mr Eddy have raised objection to the removal of these 7 (potentially 8) trees, in particular that it opens up the site and would make the proposed building more visible from the road. The applicant has proposed to replace these lost trees but no details of the species or the proposed location have been provided.

25. It must be noted that these trees provide a pleasant visual screen from the roadway and residential properties beyond. I consider it unfortunate that the current siting of the building would result in the loss of these trees. Even though the building has been

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

moved 1.2m further into the site, it is still not far enough away to retain these trees and the visual screen that they provide. The removal of trees is in conflict with Kent and Medway Structure Plan policy EN9 which seeks to encourage trees to be retained on site wherever possible. Whilst the application needs to be considered on the basis of the details submitted, I consider that in order to mitigate the loss of trees and visual screen the building shape could be altered from a rectangle to a square shape and moved further into the north-west corner of the site. I also consider that the existing vegetation on the frontage could be increased to include an evergreen hedge to ensure a visual screening of the building throughout the whole of the year. This would in my view satisfactorily address the conflict with policy EN9. This option has been suggested to the applicant, but they have declined to pursue it.

Traffic and parking

26. Another element of the application that requires consideration is the potential for the proposed Children's Centre use to generate additional traffic activity, including movements to and from the site, and whether this would result in an unacceptable impact upon the surrounding area. The Children's Centre would offer a range of health, adult education and family support facilities as well as a nursery facility for 26 children in the morning session and 26 children in the afternoon session. It is also proposed to have a CAMHS facility which would attract visitors throughout the day, usually on an appointment system across the day rather than all arriving at once. Only when a particular event, such as seminar is being provided, would there be people arriving at the same time, but since these events would not occur at the same time as the start and end of school, there would be minimal impact upon the current traffic levels.
27. The application proposes a total of 5 new car parking spaces, which includes 1 disabled parking space. Three of the staff parking spaces would be located at the existing school car park, which is accessed off Great Mongeham Road. The staff would walk to the Children's Centre via the gated walkway, at the side of the school. The staff would be provided with keys to open the padlocks at either end of the gated walkway. The other 2 car parking spaces, which include the disabled parking space, are proposed in front of the Children's Centre and would be accessed off Glack Road. It is proposed that the Children's Centre would employ the equivalent of 4 full time members of staff, with staff living in the local area expected to walk to the site.
28. As mentioned previously, the original planning application proposed a total of 7 car parking spaces all in front of the Children's Centre. However due to the objections received from Dover District Council on grounds of its close proximity to the private amenity space of neighbouring properties and the potential noise and disturbance it might cause, a revised drawing was proposed to move all of the parking spaces, apart from the disabled parking space, to the school car park and to extend that car park with an additional 9 parking spaces. However that proposal would have resulted in the removal of a dozen trees, which would have also potentially included two trees classified of moderate quality and value, so that proposal was dismissed, and the applicant proposed to add an additional 3 car parking spaces at the existing school car park which did not affect any of the trees. An additional 1 parking space was added to the 1 disabled parking space in front of the Children's Centre. Due to guidelines on disabled car parking spaces and the distances that disabled people can negotiate, the disabled parking space had to be located in front of the Children's Centre.

Single storey modular building for Children's Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

29. Other than the 4 staff spaces, there is no additional car parking proposed apart from one disabled parking bay. The applicant states that all the Children's Centres in Kent have been strategically located to minimise travel distances for the majority of the residents it is intended to serve, by being located closely within the local communities they serve. The Sure Start scheme puts a great deal of emphasis on 'buggy pushing distances' with the users of the centre being encouraged to walk to them. However, this Children's Centre is expected to serve the Deal and Sandwich area so the catchment area is potentially much further than the 'pram pushing distances' that it states it will serve. This is also one of the concerns that Mr Eddy has about the proposed location of the Children's Centre. However, should the Centre also be intended to serve families from Sandwich, then I would regard this location on the outskirts of Deal and just off the road to Sandwich to be a logical one, if there is no option of providing an additional Centre in Sandwich itself.
30. A significant number of letters of representation have been received from local residents living in Glack Road and Bowser Close. Both these roads are cul-de-sacs (with Bowser Close being located off Glack Road) and currently experience traffic and parking problems by parents of Hornbeam Primary School, who park in both of these roads and then use the gated walkway to gain access to the school. The main pedestrian and vehicular access to the school is via Great Mongeham Road. The local residents claim that the roads are unsuitable for the amount of traffic that already use these roads and that it is unacceptable to allow any further increase in traffic. However the applicant has stated that it is unlikely that the Children's Centre would lead to an increase in traffic at the start and finish of school time as parents would largely be walking to the site and be arriving at different times from the school times, as the Children's Centre would operate different hours to the school.
31. Kent Highways Services has raised no highway objections to this proposal as the amount of traffic that the Children's Centre would generate is likely to be low, compared to all other traffic movements generated in the locality (e.g. by the school and neighbouring housing). Whilst I accept that there will be some inconvenience from existing traffic congestion in this locality, which is typical of all neighbourhoods which include a primary school, I do not consider that there is enough evidence to recommend a refusal based on highway grounds. From a policy point of view, it is considered that the proposal meets the requirements of Policies TP3 and QL12, which require that such community facilities should be grouped together to reduce the need to travel.

Conclusion

32. Having regard to the Development Plan Policies, in addition to material considerations raised by respondents, I consider that the creation of the Children's Centre, plus the associated car parking and the loss of trees, unduly conflicts with the relevant Development Plan Policies. Whilst I also acknowledge there might be some potential for an increase in vehicle movements arising from the additional facility in the area, it is unlikely to be so significant to also recommend a refusal on highway grounds.
33. The proposed location of the building would result in the removal of the existing trees, which currently provide a pleasant visual screening of the site and which would otherwise ensure that the proposed Children's Centre would not create an incongruous and obtrusive feature within the street scene. The loss of trees could be

Single storey modular building for Children’s Centre, Hornbeam Primary School, Great Mongeham, Deal – DO/08/320

overcome by the suggested re-positioning and reconfiguration of the building, but the applicants have declined to pursue this option.

34. Whilst the building is of modular construction and out of keeping with the traditional pitched roof and brick construction of neighbouring properties, I consider that the design would be acceptable if the existing trees were to remain in place and additional evergreen hedging is added, to reduce its impact on the street scene and to further shield the building from the neighbouring properties. I therefore recommend accordingly.

Recommendation

35. I RECOMMEND that PERMISSION BE REFUSED ON THE FOLLOWING GROUNDS

- i) The development is contrary to Policy QL1 of the Kent and Medway Structure Plan and Policy DD1 of the Dover District Local Plan in relation to inappropriate siting and consequential loss of trees and impact upon visual amenity and the street scene.
- ii) The development is contrary to Policy EN9 of the Kent and Medway Structure Plan in relation to loss of trees.

Case officer – Lidia Cook	01622 221063
---------------------------	--------------

Background documents - See section heading

E1 COUNTY MATTER APPLICATIONS AND DETAILS PURSUANT PERMITTED/APPROVED/REFUSED UNDER DELEGATED POWERS - MEMBERS' INFORMATION

Since the last meeting of the Committee, the following matters have been determined by me under delegated powers:-

Background Documents - The deposited documents.

TM/08/209/R2,R3&R4 Details of proposed landscaping and tree planting scheme together with a programme of archaeological investigations. Margetts Pit, Margetts Lane, Rochester

E2 CONSULTATIONS ON APPLICATIONS SUBMITTED BY DISTRICT COUNCILS OR GOVERNMENT DEPARTMENTS DEALT WITH UNDER DELEGATED POWERS - MEMBERS' INFORMATION

Since the last meeting of the Committee, I have considered the following applications and - decided not to submit any strategic planning objections:-

Background Documents - The deposited documents.

DO/09/32 DOVER DISTRICT COUNCIL – extension and refurbishment of public conveniences (40m²). Public Conveniences, The Quay, Sandwich

MA/09/117 MAIDSTONE BOROUGH COUNCIL – installation of 1 non-illuminate banner sign. The Hazlitt Arts Centre, High Street, Maidstone

E3 COUNTY COUNCIL DEVELOPMENT APPLICATIONS AND DETAILS PURSUANT PERMITTED/APPROVED UNDER DELEGATED POWERS MEMBERS' INFORMATION

Since the last meeting of the Committee, the following matters have been determined by me under delegated powers:-

Background Documents – The deposited documents.

AS/06/2071/R12 Details of ecological mitigation measures – Erection of a detached 3 storey block of 36 extra care apartments for the elderly. Land at Hopkins Field, Eastern Avenue, Ashford

AS/06/2071/R9,11, 16,17&18	Details of site levels and contours, foul and surface water drainage, measures to prevent mud and debris being taken on to the public highway, the location of site compound and temporary site accommodation and site personnel parking – Erection of a detached 3 storey block of 36 extra care apartments for the elderly. Land at Hopkins Field, Eastern Avenue, Ashford
AS/06/2277/R5	Details of extended use arrangements. Proposed floodlit all-weather pitch and extended multi-use games area. The North School, Essella Road, Ashford
DA/08/982/R12	A scheme to deal with the risks associated with contamination. The Manor School, Keary Road, Swanscombe
DA/08/1264	A new sports hall including a fitness suite, PE classroom, staff, changing and storage facilities. External facilities including a floodlit 3 court netball area for premier league netball and associated parking. Dartford Grammar School for Girls, Shepherds Lane, Dartford
DA/08/1626	Retention of the access road together with the gated access adjacent to the church at the rear of Wilmington Grammar School for Boys (currently under temporary permission Da/07/1173). Wilmington Grammar School for Boys, Common Lane, Wilmington, Dartford
DA/08/1742	Construction of new staff room extension to front of existing building. The Brent Primary School, London Road, Dartford
DO/08/1006/R2	Minor amendments to details approved under planning permission DO/08/1006. St. Josephs Catholic Primary School, Ackholt Road, Aylesham, Canterbury
DO/09/16	Erection of steel framed canopy with glazed roof. Ancillary remodelling works comprising new double doors, regrading of paving, connecting rainwater pipes to surface water drainage and installation of 2 No. roof windows. Deal Parochial C of E Aided Primary School, Gladstone Road, Walmer, Deal
GR/08/154/R2	Minor amendments to the approved scheme. Thamesview School, Thong Lane, Gravesend
GR/08/229/R8	Details of an archaeological watching brief pursuant to condition (8) of planning permission GR/08/229 for the redevelopment of Northfleet School for Girls. Northfleet School for Girls, Hall Road, Northfleet
GR/08/229/R9	Details below ground excavation pursuant to condition (9) of planning permission GR/08/229 for the redevelopment of Northfleet School for Girls. Northfleet School for Girls, Hall Road, Northfleet

GR/08/229/R11	Details of a Desktop Assessment pursuant to condition (11) of planning permission GR/08/229 for the redevelopment of Northfleet School for Girls. Northfleet School for Girls, Hall Road, Northfleet
GR/08/229/R17	Details site levels pursuant to condition (17) of planning permission GR/08/229 for the redevelopment of Northfleet School for Girls. Northfleet School for Girls, Hall Road, Northfleet
GR/09/34	Planning application for the refurbishment of Marling Cross Library (266) replacing existing door and windows. To include change of use for 266a from insurance broker to library. Marling Cross Library, 266 & 266a Mackenzie Way, Gravesend
MA/06/1933/R3	Details of ground conditions pursuant to planning permission MA/06/1933 for new apartment buildings. Land at Tovil Green, Maidstone
MA/06/1933/R7	Details of foul and surface water drainage pursuant to planning permission MA/06/1933 for new apartment buildings. Land at Tovil Green, Maidstone
MA/06/1933/R8	Details of site levels pursuant to planning permission MA/06/1933 for new apartment buildings. Land at Tovil Green, Maidstone
MA/06/2014/R5	Details of external lighting for the car parking area. Oakwood House, Oakwood Park, Maidstone
MA/08/1700/R19	Details of surface water drainage & foul drainage pursuant to conditions 19 & 20 of planning permission MA/08/1700. New Line Learning Academy, Boughton Lane, Maidstone
MA/08/2481/R3	Details of landscaping pursuant to condition 3 of planning permission reference MA/08/2481- Dismantle existing maze in playground and the erection of a three-tower children's climbing frame and a wooden stage with tarmac and wetpour play surface. South Borough Primary School, Stagshaw Close, Postley Road, Maidstone
MA/09/55	Two storey extension to existing classroom block. Oakwood Park Grammar School, Oakwood Park, Maidstone
MA/09/97	Erection of an open sided playground shelter for use as play space, waiting and teaching area. St Johns C of E Primary School, Provender Way, Weaving, Maidstone
SE/08/2592	Provision of new teaching and administration accommodation in a new extension to the existing school with associated landscaping work and access, and two temporary mobile buildings for the duration of the construction. Horizon School, Hilda May Lane, Swanley

SH/08/1227	Construction of office extension on rear of existing school building. St. Martins CE Primary School, Horn Street, Folkestone
SH/09/19	Installation of 60 no. photo-voltaic panels in two arrays on existing pitched roofs. All Souls Primary School, Stanley Road, Folkestone
SH/09/27	Replacement of 2 mobile classrooms and erection of new community building for both public and school use (revision of permission ref. SH/08/562). Christ Church CEP School, Brockman Road, Folkestone
TH/05/964/RVAR	Details of proposed balancing pond (Weatherlees Pond). Proposed East Kent Access, Phase 2, Ebbsfleet Land, Cliffsend, Thanet.
TH/08/242/R2	Minor amendments to elevations - pursuant to condition 2 of planning permission TH/08/242. The Charles Dickens School, Broadstairs Road, Broadstairs
TH/08/1037/R3	Details of external materials pursuant to condition (3) of planning permission reference TH/08/1037 - Demolish & Rebuild the Pavilion. Newington Playing Field, Marden Avenue, Ramsgate
TM/07/199/R8A	Minor amendments to details of external lighting approved under condition (8) of planning permission TM/07/199 for a two storey classroom extension and entrance. Sussex Road School, Sussex Road, Tonbridge
TM/08/3483	Construction of a new amenity block, removal of the existing temporary toilets, erection of fencing and gates to form new bin store, removal of bund and surfacing of area to extend car park, cycle storage and the removal of trees. Manor Park Country Park, St. Leonard's Street, West Malling
TM/09/75	Extension to existing classroom to provide an increase in teaching space and toilet facilities. Plaxtol Primary School, School Lane, Plaxtol
TW/09/82	Renewal of planning consent for retention of pavilion adjacent to school playing field. Paddock Wood Primary School, Old Kent Road, Paddock Wood, Tonbridge

E4 TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 1999 – SCREENING OPINIONS ADOPTED UNDER DELEGATED POWERS

Background Documents –

- *The deposited documents.*
- *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.*
- *DETR Circular 02/99 – Environmental Impact Assessment.*

- (a) Since the last meeting of the Committee the following screening opinions have been adopted under delegated powers that the proposed development does not constitute EIA development and the development proposal does not need to be accompanied by an Environmental Statement:-

CA/09/Temp/0003 – Retention of a mobile classroom unit.
Barham C of E Primary School, Valley Road, Barham, Canterbury

DA/08/Temp/0049 – Variation of conditions (6) and (15) of planning permission DA/98/805/MR27 in respect of final restoration contours and noise limits.
Stone Pit II, St James Lane, Dartford

DA/09/Temp/0005 – Application for the erection of a new academy, provision of outdoor playing pitches, new floodlit 6 court MUGA, 160 car parking spaces, drop off zone, landscaping and associated ancillary works.
Longfield Academy, Main Road, Longfield

SH/09/Temp/0005 – Application for temporary planning permission for an existing mobile classroom and library complex.
Selsted Church of England Primary School, Wootton Lane, Selsted, Dover

SW/09/Temp/0004 - Section 73 application to vary the requirement in condition 18 of SW/05/1203 to install and use a wheel cleaner and to seek approval for the installation of an additional water tank at the site pursuant to condition 3, a revised as built layout of the site pursuant to condition 4 and submission of a closure report to satisfy the outstanding requirements of condition 7 of SW/05/1203 at the Ballast Phoenix Limited Recycling Plant, Ridham Dock Industrial Complex, Sittingbourne.

- (b) Since the last meeting of the Committee the following screening opinions have been adopted under delegated powers that the proposed development does constitute EIA development and the development proposal does need to be accompanied by an Environmental Statement:-

SH/08/124 Construction and operation of a materials recycling facility, anaerobic digestion plant and associated office and parking facilities at Otterpoole Quarry, Ashford Road, Sellindge, Ashford

E5 TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 1999 – SCOPING OPINIONS ADOPTED UNDER DELEGATED POWERS

- (b) Since the last meeting of the Committee the following scoping opinions have been adopted under delegated powers.

Background Documents -

- *The deposited documents.*
- *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.*
- *DETR Circular 02/99 - Environmental Impact Assessment.*

DC29/09/SW/0001 – Proposed biomass combined heat and power plant at Countrystyle Recycling Ltd, Ridham Dock, Iwade, Sittingbourne.