

AGENDA

PLANNING APPLICATIONS COMMITTEE

Tuesday, 15th April, 2008, at 10.00 am Ask for:
Council Chamber - Sessions House, County Telephone: (01622) 696897
Hall, Maidstone

Refreshments will be available before the meeting outside the Council Chamber

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 - 18 March 2008 (Pages 1 - 6)
4. Site Meetings and Other Meetings

B. GENERAL MATTERS

No Items

C. MINERALS AND WASTE DISPOSAL APPLICATIONS

1. Application MA/08/45 - Importation of inert material over a three year period for site remediation works and associated office and wheel cleaning facilities at Lenham Quarry, Lenham Forstal Road, Lenham; Brett Aggregates (Pages 7 - 26)

D. DEVELOPMENTS TO BE CARRIED OUT BY THE COUNTY COUNCIL

1. Proposal CA/07/1414 - Timber building to be used as a music room at St Mary's Catholic Primary School, Northwood Road, Whitstable; Governors of St Mary's Catholic Primary School and KCC Children, Families and Education. (Pages 27 - 52)
2. Proposal MA/08/289 - Polymeric surfaced multi-use games area with fencing and planting at Eastborough Primary School, Vinters Road, Maidstone; Governors of Eastborough Primary School and KCC Children, Families and Education. (Pages 53 - 62)

E. COUNTY MATTERS DEALT WITH UNDER DELEGATED POWERS

1. County matter applications (Pages 63 - 68)
2. Consultations on applications submitted by District Councils or Government Departments
3. County Council developments

4. Detailed submissions under Channel Tunnel Rail Link Act 1996 (None)
5. Screening opinions under Environmental Impact Assessment Regulations 1999
6. Scoping opinions under Environmental Impact Assessment Regulations 1999 (None)

F. OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

Peter Sass
Head of Democratic Services and Local Leadership

Ext: 4002

(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, 7 April 2008

KENT COUNTY COUNCIL

PLANNING APPLICATIONS COMMITTEE

MINUTES of a meeting of the Planning Applications Committee held at Sessions House, County Hall, Maidstone on Tuesday, 18 March 2008.

PRESENT: Mr R E King (Chairman), Mr A R Bassam (Vice-Chairman), Mrs V J Dagger, Mr J A Davies, Mr T Gates, Mrs E Green, Mr C Hibberd, Mrs S V Hohler, Mr G A Horne, Mr S J G Koowaree, Mr J F London, Mr T A Maddison, Mr R A Marsh, Mr J I Muckle, Mr W V Newman, Mr A R Poole and Mr F Wood-Brignall.

ALSO PRESENT: Mr N J D Chard.

OFFICERS: The Head of Planning Applications Group, Mrs S Thompson (with Mr J Crossley); the Development Manager, Mr R White (with Mr A Ash); and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

15. Mr Fullarton

The Chairman agreed to write to Mr Fullarton on behalf of the Committee to wish him a speedy recovery.

16. Minutes

(Item A3)

RESOLVED that the Minutes of the meeting held on 12 February 2008 are correctly recorded and that they be signed by the Chairman.

17. New Validation requirements for planning applications

(Item B1 – Report by Head of Planning Applications Group)

(1) The Committee agreed to the inclusion of Public Art in the list of Local Requirements that were likely to apply to County Matter and Regulation 3 developments.

(2) RESOLVED that the introduction of the new planning application forms on 6 April 2008 be noted and that approval be given to:-

(a) the draft local list of validation requirements (including Public Art) for the planning applications that the County Planning Authority is responsible for determining; and

(b) the carrying out of consultations on the draft local list of validation requirements with relevant stakeholders.

18. Application TM/07/4535 – Removal of Condition 14 of Permission TM/06/762 at Blaise Farm Quarry Composting Facility, Kings Hill, West Malling; New Earth Solution Ltd.

(Item C1 – Report by Head of Planning Applications Group)

(1) The comments of Mrs T Dean, the local Member were circulated to Members of the Committee.

(2) RESOLVED that (for the reasons set out in paragraph 47 of the report) permission be granted to the rewording of Condition 14 of Permission TM/06/762 to read as follows:-

“14. No more than 100,000 tonnes of waste shall be imported to the site for composting in any calendar year.”

19. Application SH/07/1655 – Temporary use of the site (weekends only) to provide an area for the stationing of a refuse freighter and an open-back collection vehicle for the purpose of accepting bulky household waste, and the placing of recycling containers outside the boundary fence for collection by Shepway DC at Land at former goods yard, Station Road, Lydd; KCC Waste Management.

(Item C2 – Report by Head of Planning Applications Group)

(1) In agreeing to the recommendations of the Head of Planning Applications Group, the Committee agreed to include a condition requiring the applicants to ensure that any waste that was fly tipped outside the site was removed.

(2) RESOLVED that permission be granted to the application subject to conditions, including conditions covering use of the site ceasing within a year of the date of the permission; details of site restoration upon vacating the site; the development being carried out in accordance with the permitted details; hours of operation; the installation and maintenance of temporary signage and a traffic island; the installation of permanent signage and a traffic island should a second application be submitted for further retention of the site; the securing of the site and ensuring that the site is cleared of all equipment, vehicles or waste outside of operating hours; and the removal of any waste fly-tipped outside the site.

20. Proposal SH/07/1496 – Single storey modular building with a flat roof for use as a Children’s Centre, including installation of a canopy, storage units, fencing and external impact absorbent play area plus replacement of toilet facilities connected to existing nursery at St Nicholas Primary School, Fairfield Road, New Romney, Romney Marsh; 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 of all external materials, fencing and safety surfacing being submitted to and approved by the County Planning Authority prior to any development commencing on site; a School Travel Plan being produced and implemented within 3 months of the date of first occupation of the Centre; hours of use 08:00 to 18:00 Monday to Friday; a full landscaping scheme (including replacement trees and boundary

hedge planting) being submitted to and approved by the County Planning Authority prior to any development commencing on site; a surface water drainage scheme being submitted to and approved by the County Planning Authority prior to any development commencing on site; removal of further permitted development rights in association with the Centre unless otherwise agreed in writing by the County Planning Authority; and a programme of archaeological works.

21. Proposal CA/08/78 – Single storey modular building for Children’s Centre at Swalecliffe Community Primary School, Bridgefield Road, Whitstable; KCC Children, Families and Education.

(Item D2 – Report by Head of Planning Applications Group)

RESOLVED that permission be granted to the proposal subject to conditions, including conditions covering the standard time restriction for hours of operation; protection of existing trees and hedges; the fencing being finished in powder coated green to blend in with the landscaped setting; a Travel Plan being submitted for approval, or the existing School Travel Plan being revised to include the Centre; details of cycle parking being submitted for approval, in accordance with Kent Vehicle Parking Standards; all spaces within the existing school car park being made available to the Centre users outside of operational school hours; hours of use for the Children’s Centre being restricted to 8.00 to 18.00 Monday to Friday; hours of use for the nursery being restricted to 9.00 to 15.00 Monday to Friday term time; and the development being carried out in accordance with the permitted details.

22. Proposal TW/07/4011 – Floodlit synthetic turf hockey pitch, including fencing at Tunbridge Wells Girls Grammar School, Southfield Road, Tunbridge Wells; KCC Children, Families and Education.

(Item D3 – Report by Head of Planning Applications Group)

(1) The comments of Mr J Edwards, a local resident in opposition to the proposal were circulated and read out to the meeting.

(2) Mr J A Davies moved, seconded by Mr C Hibberd that the recommendations of the Head of Planning Applications Committee be agreed subject to the hours of use being limited to a finishing time of 7.30 pm on Monday to Saturday.

Motion Lost 3 votes to 12.

(3) Mr A R Bassam moved, seconded by Mr J I Muckle that the recommendations of the Head of Planning Applications Committee be agreed.

Carried Unanimously

(4) 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 of the fencing colour finish; timber kick boards being covered in artificial grass; an amended scheme of landscaping, its implementation and maintenance; tree protection; protection of nesting birds; recommendations of ecological Surveys/Reports; pre-commencement survey of the site for badgers; biodiversity enhancement measures; hours of use including limit on number of weekends per year; no commercial community use of the pitch; level of use of the pitch to accord with submitted details; lighting to be installed in accordance with approved details and checked on site; lighting levels not exceeding those specified within the application; extinguishing of lighting when pitch not in use; hours of working during construction; measures to prevent mud and debris on the highway; and no vehicles associated

with construction entering or leaving the site between 8.30 and 9.30 am and 3.30 and 4.30 pm.

23. Proposal SE/07/3859 – Single storey extension and improvements to access in accordance with the Disability Discrimination Act at Leigh Primary School, The Green, Leigh, Tonbridge; Governors of Leigh Community 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 condition for implementation; samples of materials to be used externally being submitted for prior approval; detailed 1:20 section drawings of the windows being submitted; and the development being carried out in accordance with the permitted details.

24. Proposal TM/08/211 – Two storey extension to St Peter’s Lodge to provide additional learning space on both floors at St Peter’s CE Primary School, Mount Pleasant, Aylesford; Governors of St Peter’s CE Primary School and KCC Children, Families and Education.

(Item D5 – Report by Head of Planning Applications Group)

RESOLVED that permission be granted to the proposal subject to conditions, including conditions covering the standard time condition for implementation; the external materials including brick type, roof slate, windows and eaves matching the adjacent building; an archaeological watching brief being secured; and the development being carried out in accordance with the permitted details.

25. Proposal SE/08/132 – Front lobby extension at Seal Primary School, Zambra Way, Seal, Sevenoaks; Governors of Seal Primary School and KCC Children, Families and Education.

(Item D6 – Report by Head of Planning Applications Group)

(1) Mr N J D Chard was present for this item pursuant to Committee Procedure Rule 2.24 and spoke. He said that Sevenoaks District Council had responded to the consultation on the proposal without consulting the local Members in accordance with its protocols.

(2) 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; and details of handrails and external materials of the DDA access ramp being submitted to and approved in writing by the County Planning Authority prior to any operations on site.

26. 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) Detailed submissions under Channel Tunnel Rail Link Act 1996 (None);

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- (e) Screening opinions under Environmental Impact Assessment Regulations 1999; and
- (f) Scoping opinions under Environmental Impact Assessment Regulations 1999 (None).

08/aa/pa/031808/Minutes

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Item C1**Importation of inert materials over a three-year period for site remediation works at Lenham Quarry, Lenham Forstal Road, Lenham – MA/08/45.**

A report by Head of Planning Applications Group to Planning Applications Committee on 15 April 2008.

MA/08/45 - Application by Brett Aggregates for the importation of inert materials over a three year period for site remediation works and associated office and wheel cleaning facilities.

Recommendation: Permission be granted subject to conditions

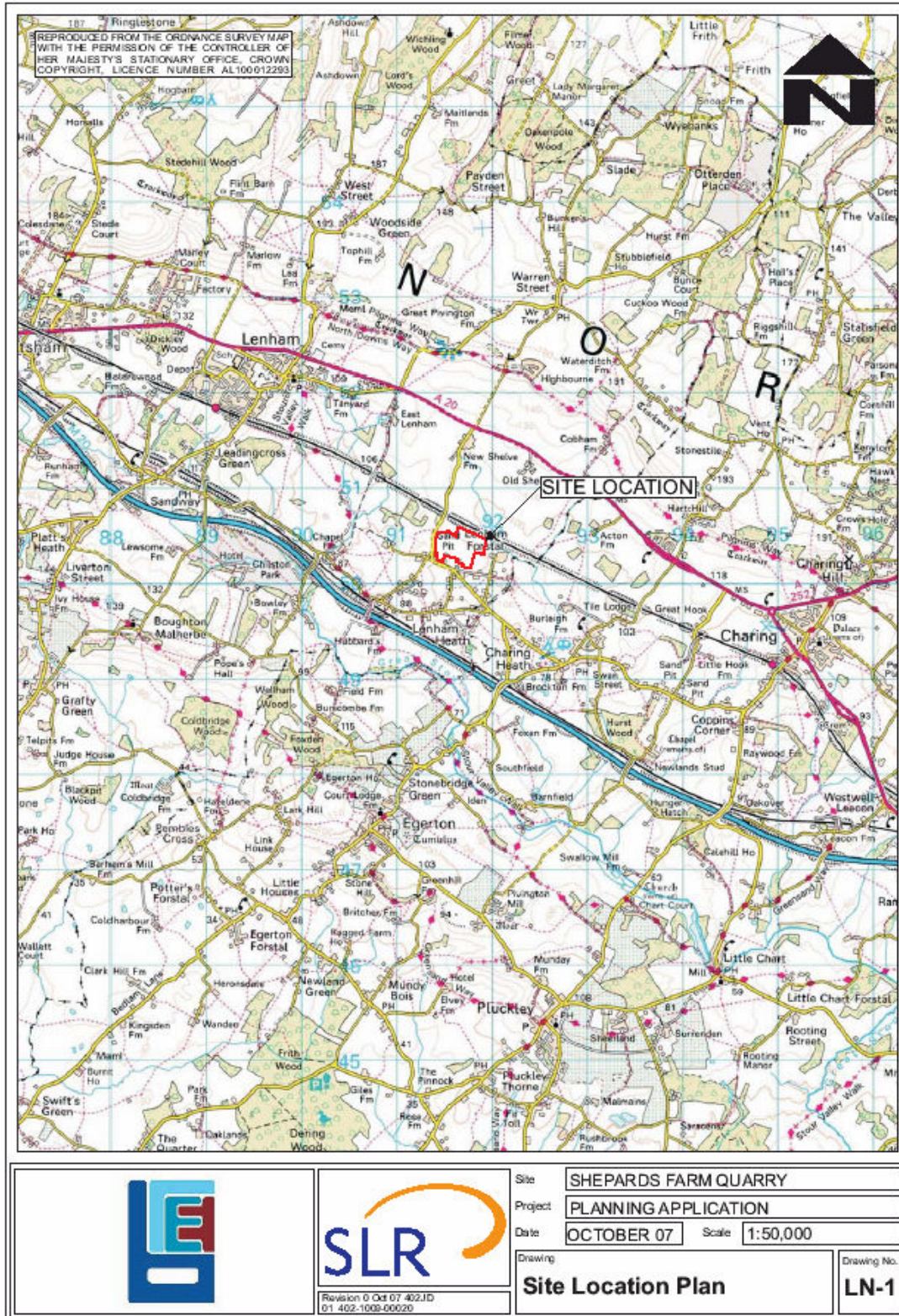
Local Member: Sir Sandy Bruce-Lockhart

Unrestricted

Site description

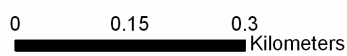
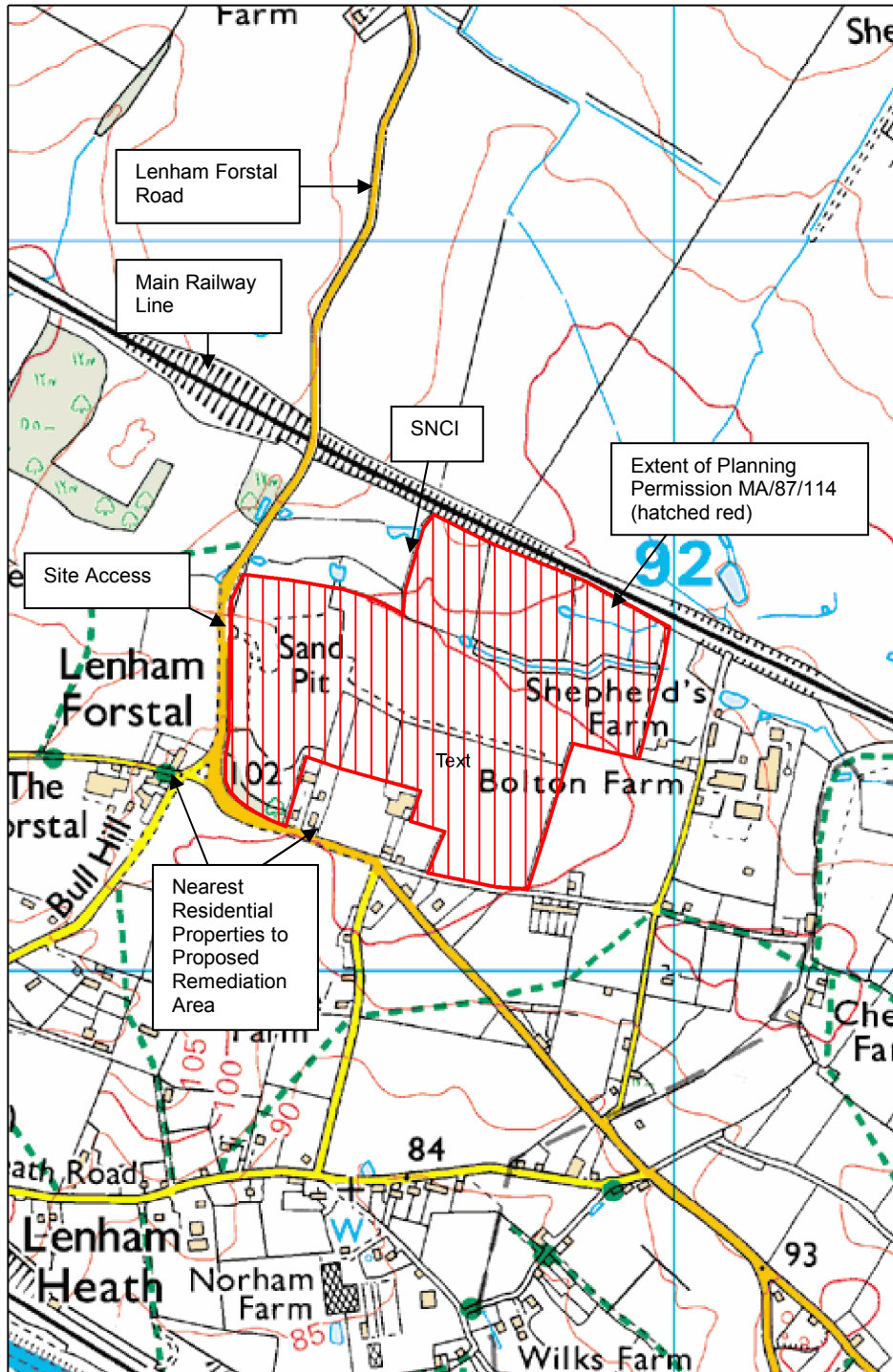
1. Lenham Quarry, also known as Shepherds Farm Quarry, is located immediately north of Lenham Forstal, Lenham Heath, 1km south of the Ashford Road (A20) between Lenham and Charing. The main line railway runs directly to the north of the site with the M20 and rail link passing 0.8km to the south. The quarry site is accessed via a dedicated access road off Lenham Forstal Road and covers an area of approximately 17 hectares. The site is an established sand quarry that has been operational since the early 1990s.
2. The application site forms an area of 3.73 hectares contained within the boundary of the existing open quarry at the Shepherds Farm site. The application site is located within the southwestern corner of the quarry in an area where extraction has been undertaken and the existing silt lagoons are positioned.
3. The nearest residential properties are located to the south along Lenham Forstal Road. To the east is the current (second) phase of land being worked within the quarry site and beyond this to the south-east and east are further privately owned properties. The quarry plant, site offices, weighbridge and associated facilities and sand stockpiles are located to the north. Lenham Forstal Road passes along the western boundary of the site, with further residential properties to the south-west. See attached location plan.
4. The application site is not easily visible from beyond the boundaries of the quarry site, being for the most part positioned within the open quarry below the height of surrounding ground levels, although the quarry is visible in long distance views from the Kent Downs AONB about 2km to the north. The quarry is well screened from Lenham Forstal Road to the west and to the other boundaries by existing bunds and boundary landscaping that surrounds the site.
5. The quarry is identified as an existing site in the Kent Minerals Local Plan: Construction Aggregates and land to the east and west is identified as areas of search for future building sand extraction. The application site is not subject to any specific designations and is not identified for any specific purpose in the Maidstone Borough Local Plan, although the northern (as yet unexcavated) part of the quarry and land to the west of this immediately to the south of the railway line is identified as a Site of Nature Conservation Importance associated with Pasture and Ponds at Lenham Forstal.

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.



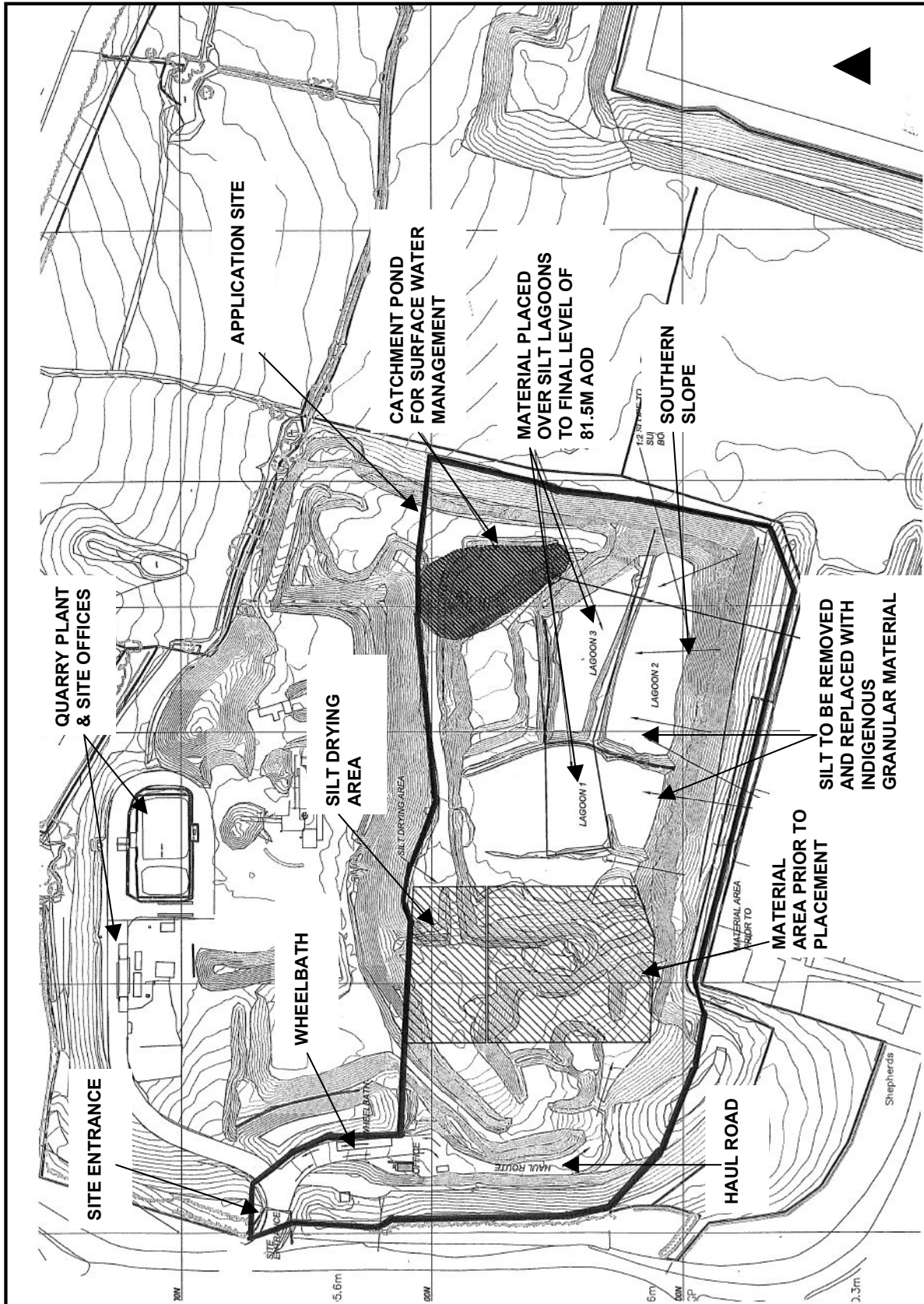
| | | | | |
|---|---|--|-----------------------|----------------|
|  |  | Site | SHEPARD'S FARM QUARRY | |
| | | Project | PLANNING APPLICATION | |
| | | Date | OCTOBER 07 | Scale 1:50,000 |
| | | Drawing | Site Location Plan | |
| | | | Drawing No. | LN-1 |
| | | Revision 0 Oct 07 402JD 01 402-1009-00020 | | |

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.



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Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.



Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

Background

6. Planning permission for the winning and working of sand, construction of an access road and restoration to agricultural use of land at Shepherds Farm was granted on appeal in 1989 under reference MA/87/114. The permission allows for mineral extraction for a period not longer than 36 years (i.e. until 24 August 2025) and places a number of controls over operations on site. These include, amongst other matters, the depth of excavation, a working and restoration scheme, the progressive restoration of the site with no more than 4 hectares out of agricultural use at any one time, hours of operation, noise limits and dust prevention measures. Although only building sands are now produced at the site using a dry screening process, the previous operator had also used a washing plant to produce concreting sands. This resulted in the need for silt lagoons at the site.
7. The applicant, Brett Aggregates, took ownership of the quarry in 2005. At the time of purchase the previous operator was in breach of a number of the planning controls placed on the site under the above permission. The breaches included over extraction of material from the site resulting in the over steepening of the southern slope, breach of the agreed maximum depth to which the quarry was to be excavated to and installation of silt lagoons in the base of the quarry (all of which had contributed to potential long term land instability and difficulties in securing the approved restoration). These breaches in planning control have been reported to the County Council's Regulation Committee. The current planning application has been proposed as the applicant's preferred method to ensure the first phase of the quarry is restored in accordance with the approved restoration scheme and so that the existing breaches are put right.
8. A request to modify the working and restoration scheme for the site was made by the Brett Group in June 2006 and subsequently approved in August 2006 (under reference MA/87/114/R4 & R11). This allowed the temporary relaxation of the condition requiring the progressive restoration of the site (for a period of 18 months until 3 February 2008) to allow the applicant to continue with a second phase of extraction operations prior to restoring the first. This enabled the applicant to continue to operate the site whilst a satisfactory solution to the over-deepening and steepening of the southern quarry face was prepared without prejudicing its ability to satisfactorily restore the site in the event that only on-site materials could be used. The temporary relaxation of the appropriate conditions effectively allows more than 4 hectares of the site to be out of agricultural use at any one time for this period. A request for the further two year temporary relaxation of the conditions to enable the operations proposed within this application to commence has recently been received and is currently the subject of consultation.

Proposal

9. The application proposes the importation of suitable inert (construction fill) materials for remediation work to infill part of Lenham Quarry to address existing breaches in planning control. The imported material would be used to enable restoration of part of the first phase of the quarry in accordance with the approved scheme.
10. During the first phase of extraction at Lenham Quarry, the previous operators extracted too much material from part of the site exceeding the maximum depth and compromising the ability to achieve the approved restoration contours with the materials set aside for this purpose. The current operators, Brett Aggregates, have calculated that in order to achieve the approved restoration contours 580,000m³ of material would be required.

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

Taking account of the available sandy overburden, Gault Clay and unsaleable quarry arisings within the quarry, the applicant has calculated that there would be a shortfall in restoration material of 237,000m³. Without the benefit of planning permission to import suitable construction fill materials for restoration purposes it would be necessary to use on site materials including a significant amount of the mineral (building sand) deposit itself.

11. This application represents the applicant's preferred method of restoration to correct the effects of the breaches in planning controls. The proposed development work would comprise:
 - The importation of 237,000 m³ of inert construction fill material over a three year period to fill over the silt lagoons to a level of 81.5m Ordinance Datum (OD) and to buttress the southern slope of the quarry by backfilling to provide a profile no steeper than 1v:2h, in accordance with the approved restoration scheme.
 - The removal of silt from the lagoons underlying the footprint of the buttressed southern slope and its replacement with indigenous granular material (i.e. sand, quarry reject material and sandy overburden); and
 - Associated site office and wheel cleaning facilities.
12. The proposed development would raise the quarry floor by 1.1m following settlement of the material, which would be in accordance with the approved restoration levels. This would in turn provide a suitable surface for earthworks to re-profile the southern face of the quarry to enable the stable construction of a slope no steeper than 1v:2h in accordance with the approved restoration scheme.
13. The application details that this would be achieved in stages with first the silt being removed from the lagoons underlying the footprint of the buttressed southern slope and its replacement with indigenous granular material. Then on the areas of the lagoons not under the footprint of the slope, where the silt would remain in place, material would be placed over the lagoons to build up the quarry floor. The silt removed from the lagoons would be placed in windrows within the quarry to dry before being used in the restoration of the site.
14. In association with this planning application the applicant is also applying to the Environment Agency for a Landfill for Recovery Licence to import the fill materials that, if granted, would control the amount and type of material that could be imported. Further to these controls the application also identifies an additional regime for testing and determining the acceptability of materials that would be imported to ensure they are the engineering equivalent of the materials on site and are appropriate to ensure slope stability.
15. The proposed development would require the importation of 79,000 m³ of inert materials each year for 3 years. The application calculates that this would result in an estimated 23 Heavy Goods Vehicle loads imported to the site per day (46 movements – 23 in / 23 out). The proposed operations would use the existing site access on to Forstal Road with all HGV movements routed via the A20. The existing access arrangements at the site are designed to restrict traffic from turning left out of the site and travelling through Lenham Forstal.

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

16. The hours of operation proposed for the importation of material and engineering operations on site would comply with the approved operating hours for the quarry, which are 0700 to 1800 hours Monday to Friday and 0700 to 1300 hours on Saturdays, with no operations on Sunday or Public Holidays.
17. The proposed development would also include the provision of a small temporary office building and wheel washing facilities for vehicles exiting the quarry. These would be positioned adjacent to an existing haul road that serves this part of the quarry site.
18. The application documents received include additional technical assessments of the potential environmental effects of the proposals in relation to traffic, air quality, noise, ground and surface water and a geotechnical assessment.

Planning Policy Context

19. **National Planning Policy** – the most relevant National Planning Policies are set out in PPS1 (Sustainable Development), PPS10 (Sustainable Waste Management), PPS23 (Planning and Pollution Control), PPG24 (Planning and Noise), MPS1 (Planning and Minerals), MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction), MPG5 (Stability in Surface Mineral Workings and Tips) and Waste Strategy for England 2007.
20. **Regional Planning Policy** – the most relevant Regional Planning Policies are set out in RPG9 (as amended) and the emerging South East Plan. These include RPG9 Policies E1 (Landscape Quality), INF2 (Water Quality and Drainage), INF3 (Waste Management), M1 (Supply of Minerals) and emerging South East Plan Policies NRM1 (Sustainable Water Resources, Groundwater, and River Water Quality Management), W14 (Restoration), W17 (Location of Waste Management Facilities), M3 (Primary Aggregates) and C3 (Landscape and Countryside Management).
21. **Kent and Medway Structure Plan (2006)** – the most relevant Policies include: SP1 (Conserving Kent's Environment and Ensuring Sustainable Pattern of Development), EN1 (Protecting Kent's Countryside), EN3 (Protecting and Enhancing Countryside Character), QL1 (Quality of Development and Design), TP15 (Development Traffic and Heavy Goods Vehicles), NR5 (Pollution Impacts), NR8 (Water Quality), WM2 (Assessment Criteria for Waste Proposals), WM5 (Waste Disposal to Land), MN3 (Assessment Criteria for Minerals Proposals) and MN5 (Provision for Construction Aggregates).
22. **Kent Waste Local Plan (1998)** – the most relevant saved Policies include: W12 (Landfill of Mineral Voids), W18 (Control of Noise, Dust, and Odour), W19 (Groundwater Protection), W20 (Land Stability, Drainage and Flood Control), W22 (Road Traffic and Access), W25 (Plant and Buildings), W31 (Landscaping) and W32 (Restoration and Aftercare).
23. **Kent Minerals Local Plan Construction Aggregates (1993)** – the saved Policies include: CA16 (Traffic Considerations), CA18 (Noise, Vibration and Dust), CA22 (Landscaping) and CA23 (Working and Reclamation).
24. **Maidstone Borough-Wide Local Plan (2000)** – Proposals Map.

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

Consultations

25. **Maidstone Borough Council** – no comment received on writing this report. Any views received prior to the Committee meeting will be reported verbally.
26. **Lenham Parish Council** – no objection to the application.
27. **South East England Development Agency** – comments that the application is not of regional significance and therefore the Agency does not have any comments to make.
28. **South East England Regional Assembly** – comments that the proposal is not of regional significance and therefore the Assembly does not wish to make representations.
29. **Environment Agency** – comments that the material proposed to be imported would sit below the groundwater table and as such the operations could impact on groundwater quality. The Agency confirms that under the Groundwater Regulations (1998) it is an offence to discharge List I substances to groundwater or cause pollution of groundwater by List II substances. The Agency confirms that a 'Landfill for Recovery' application has been made, and that should the licence be approved strict conditions on the material that could be accepted on site in terms of chemical and physical characteristics would be imposed. The Agency notes that importation of waste material would serve a useful purpose in replacing other (non waste) materials that would otherwise need to be used. It also states that provided the applicant uses no more material than is necessary to achieve the stated aims a 'Landfill for Recovery' Licence would be appropriate.

The comments confirm that wheel cleaning facilities proposed must discharge to either foul mains drainage or to a sealed tank which should be emptied regularly. There should be no discharge to ground.

The Agency's comments note that maintenance and filling of vehicles would occur on site. The Agency advises that where these operations occur on site they should take place within a bunded area with sealed drainage connected to the foul drainage system. The area must not be located on or discharge to permeable ground.

The comments note the existing drainage strategy would be subject to change during the remediation process. The existing lagoons would be in filled, with an infiltration basin created in their place. The infiltration basin should be sited in the area of the site that water naturally migrates to once the remediation work is complete. During remediation work consideration needs to be given to the temporary arrangements for the surface drainage, the flood risk elsewhere should not be increased during land raising works. The comments confirm that the design considerations and size of the proposed infiltration basin appear satisfactory.

30. **South East Water** – no objection, subject to the acceptance, implementation, and adherence to a Waste Management Licence. South East Water note that the waste used should be appropriately characterised and that no more waste should be used than the volumes stated within the application documents.
31. **The Divisional Transportation Manager** – no objection to the application. The Transportation Manager comments as follows:

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

The Transportation Assessment submitted indicates that the proposal would result in an increase in HGV movements along Forstal Road, between the A20 and the site access, of 46 (2 way movements) per day. This equates to approximately 6 movements per hour. Notes that Forstal Road is a rural road that links the A20 with the village of Lenham Heath. There are currently approximately 60 two-way HGV movements along this road per day. All vehicular trips associated with the application are to be directed to and from the A20 to the north of the site. There should be no increase in HGV movements between the site and the village of Lenham Heath. The junction of Forstal Road/A20/Rayners Hill is assessed within the application documents concluding there would be no capacity problems at this junction associated with the development both at the year of opening 2008 and in 2011. Visibility from the site access and at the junction of Forstal Road and the A20 are satisfactory. The swept path analysis provided indicates that a large tipper lorry is able to turn to and from the A20 without encroaching onto opposing traffic lanes. There have been no *recorded* crashes between the site and the A20 junction within the latest 3-year period.

Following receipt of the letters of objection received from nearby residents the Divisional Transportation Manager comments that there are currently no safety concerns along Lenham Forstal Road, the records indicate that there have been no reported injury crashes within the latest 3 year period between the site and the A20 junction. The intensification of use is unlikely to lead to a safety problem occurring. In reference to the maintenance of Lenham Forstal Road, the Divisional Transportation Manager has confirmed that Kent Highway Services Operations Team has raised no concerns in respect to maintenance issues.

32. The County Council's Geo-Technical Consultant – comments as follows in relation to the geotechnical/ slope stability aspects of the application:

1. *'A stability assessment of the buttressed southern slope has been carried out by the applicant (included in Appendix E of Rev2 of a report by Applied Geotechnical Engineering which is attached to the application as Appendix E) which demonstrates that the selected proposal (granular and cohesive fill option) meets current Factors of Safety standards for earthworks of this type.*
2. *The analyses assume that fill with appropriate parameters are used in the construction of the earthworks. These should be verified by the applicant when the precise source of fills, and the compaction methods adopted on the site, have been established.*
3. *Construction monitoring to ensure stability is recommended (in Section 7.0 of the consultant's report) by the applicant's geotechnical advisor, the scope of which should be submitted for approval before the earthworks commence on site.'*

33. The County Council's Noise Consultant – no objection. Comments that, *'the applicant gives details of a baseline noise measurement survey at the closest residential properties to the application site, together with predictions of the noise from mobile plant when the proposed site is operational. Noise levels from the operational site, whilst being potentially audible at the closest properties, are predicted to be within the criteria of MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction) when the site is operational.*

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

34. **The County Council's Dust Consultant** – no objection. Comments that, *'the importation of the proposed remedial infill material has the potential to generate dust emissions. The applicant states that effective mitigation measures would be employed at the site as agreed as part of the conditions relating to Lenham Quarry and the extraction of sand. The proposed mitigating measures would ensure that the potential for dust generation would be minimal, the site is also within a protective 2/3 metre bund and for the majority of the time when infilling, some metres below the local land height.*

The combined effect of the sunken operations and proposed mitigating measures that would be employed during the remediation activities should ensure that nuisance dust should not be an issue.'

Publicity and Representations

35. The application has been publicised by a site notice and newspaper advertisement. 24 neighbouring properties were notified. 2 letters of representation have been received. The objections raised relate to the following issues: -

- Adverse impacts from extra traffic that would be generated by the proposals in terms of highway safety (including pedestrians and other road users), noise, and pollution.
- Concerns about the safety of the junction between Lenham Forstal Road with the A20.
- Concerns that Lenham Forstal Road has already been heavily 'patched up' encroaching on to the grass verges where pedestrians walk.
- Concerns over the cumulative impact of existing traffic levels and noise on the hamlet, including that associated with the site and other land uses in the area.
- Concern over the potential noise generated by the proposed wheel cleaning facility.
- Requests that the amenities of local residents and their ability to enjoy the countryside be respected.

Local Member

36. The Local County Member for Maidstone Rural East, Sir Sandy Bruce-Lockhart, was notified of the application on 9 January 2008.

Discussion

37. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, this proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations arising from consultation and publicity. In considering this proposal the Development Plan Policies outlined in paragraphs (19 - 24) above are particularly relevant.

38. In my opinion, the main determining issues relate to the following points:

- the sterilisation of part of the mineral reserve against the importation of suitable fill materials;

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

- the satisfactory restoration of the site to the approved details and the resolution of the breaches in the planning permission;
- the impacts of traffic that would be generated by the proposals;
- local amenity impacts including noise and dust;
- water environment (hydrology / groundwater impacts); and
- geotechnical and slope stability considerations.

Mineral sterilisation versus importation of fill material

39. Kent and Medway Structure Plan Policy MN5 seeks to maintain a sufficient supply of construction aggregates. In addition, Policy SP1 seeks the prudent use of natural resources whilst protecting the Kent countryside. Policies WM2 and WM5 require proposals for the disposal of waste to land to demonstrate a balance between the most efficient and the most environmentally sustainable method of managing the waste and lend support to disposal at suitable mineral workings to facilitate the reinstatement of land to a beneficial after-use and secure improvement of the environment. Kent Waste Local Plan Policy W12 supports proposals for landfill where they assist in the restoration of mineral working. Kent Minerals Local Plan: Construction Aggregates Policy CA23 seeks appropriate restoration and after-use for mineral operations.
40. The application proposes the importation of inert waste materials over a 3-year period to make up for a shortfall in appropriate material within the quarry available to achieve the remediation and restoration of the first phase of extraction. The base planning permission for the quarry requires the progressive restoration of each phase of operations to an agricultural use as later phases are opened. A temporary relaxation of this condition has been granted by the County Planning Authority to allow the operation of a later phase of extraction whilst the first phase remains open. As such, the early completion of appropriate remediation and restoration work to this first phase would be desirable.
41. There are two main options to address the shortfall in restoration materials available: (i) through the importation of suitable materials; or (ii) by using existing site won materials which would include usable primary aggregates. It is noted that the use of site won materials would not require the benefit of planning permission. However, this approach would effectively sterilise about 426,600 tonnes (t) of the saleable permitted mineral reserve¹ and would potentially take longer to achieve², as the restoration would need to be balanced against the continued operation of the quarry. The use of only site won material would also potentially require further phases of the site to be opened for longer periods in order to restore the first phase.
42. Recent consideration of the need or otherwise for additional permitted building sand reserves at Borough Green Sand Pit, Platt Industrial Estate in November 2007,³ concluded that no new mineral reserves were required to meet Kent's 7-year landbank of sand and gravel but that there was some doubt as to whether new reserves were required to meet a specific need for building sand. At that time, Members resolved to grant planning permission for the extraction of approximately 686,000 tonnes of building

¹ Based on a conversion rate of 1.8t/m³ being applied to 237,000m³.

² The applicant has suggested that if the permitted aggregate reserve had to be used for restoring the affected part of the site, this could only be achieved over the remaining life of the quarry (about 8 or 9 years).

³ Report on proposed northern extension at Item C1 of the Planning Applications Committee Agenda on 6 November 2007.

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sand subject to the prior completion of a Section 106 Agreement. This has yet to be concluded and the permission has not yet been issued. Notwithstanding the withdrawal (on 24 January 2008) of the emerging Kent Minerals Development Framework Construction Aggregates Development Plan Document (and associated DPDs), which sought to clarify the relative proportions of different minerals needed to make up the overall landbank, the desirability of maintaining a 7-year landbank for building sand remains. In view of the resolution in November 2007 it may be less likely that new building sand reserves are required at this point, however, the matter is complicated by the fact that about 426,600t of reserves would be removed from the landbank and production has continued in the intervening period. Regardless of the precise landbank at this time, I consider that the fact that significant saleable mineral reserves would otherwise be lost is the main consideration in this particular case. Subject to the proposed use of waste being acceptable in all respects as an acceptable alternative to the use of primary aggregates in restoration I am satisfied that the proposed development would be consistent with the aims of Policy MN4 of the Kent and Medway Structure Plan and other relevant mineral policy.

43. The application proposes the applicants preferred option: the importation of suitable inert granular type fill materials that would be the environmental and engineering equivalent to the site won materials. The application caps the maximum limit of materials that would be imported to site to only that necessary, in association with available materials on site, to achieve remediation for the over-deepening / steepening of the quarry and to enable the restoration contours approved under the base permission to be secured. The importation of inert fill material to the site would be classified as a waste operation, albeit landfill for recovery, and as such would be covered under the waste licensing regime. Provided the use of suitable waste materials to assist in the restoration of the site is acceptable in all other respects, I consider that its use in this instance would accord with the aims of Policy WM4 of the Kent and Medway Structure Plan and be consistent with Policy W12 of the Kent Waste Local Plan and other relevant waste policy. The environmental and other impacts of the proposals to import material to site are considered further below.
44. I am satisfied that the importation of suitable inert materials would be the most appropriate approach to achieving the remediation and early restoration of the application site. The importation of material would safeguard permitted mineral reserves that could be put to a more suitable use. This approach would in turn slow future need for new extraction sites to be brought forward around the County by making prudent use of permitted reserves and would assist in protecting other areas of the Kent countryside in accordance with Kent and Medway Structure Plan Policies SP1, EN1, and EN3.

Satisfactory restoration of site to approved details and resolution of breaches of planning permission

45. Lenham Quarry is an active mineral extraction site that has planning permission for the winning of sand from the Folkestone Beds. The base planning permission for the site places a number of controls over the operation of the quarry. These, amongst other matters, include a scheme of working and a requirement for progressive restoration of the site to an agricultural use.
46. Prior to the applicant taking over the management of the site in 2005 a number of the planning conditions were breached during the extraction of materials from the first phase of the quarry. The breaches include the over steepening of the southern slope of the

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

quarry through the removal of too much material, the over-deepening of the excavation at the base of quarry and the inclusion of silt settlement lagoons within the base.

47. This application seeks planning permission for the importation of suitable inert fill materials to enable the back fill of part of the application site to seek to remedy the breaches in planning control. I consider that the proposed arrangements would allow the quarry floor to be raised to an agreed level with suitable on-site materials to enable the final restoration of the first phase of the quarry to take place. The imported material would then be used to infill an area of the silt lagoons that would underlie the southern slope of the application site once final restoration has taken place. The silt from within this area would be removed and dried in windrows to be used in the restoration work. I am satisfied the proposed operations would enable the remediation of existing breaches in planning control and allow the applicant to advance the restoration of the first phase of the quarry back to agricultural land at approved levels in accordance with Kent Minerals Local Plan: Construction Aggregates Policy CA23, Kent and Medway Structure Plan Policy MN3 and other relevant mineral policy.

Highway impacts

48. Policies TP15, MN3 and WM2 of the Kent and Medway Structure Plan support proposals that are acceptable in terms of the traffic impacts on the highway network and local amenities. Policy TP15 also requires that any development that would generate an increase in heavy goods vehicle movements be well related to the primary and secondary road network. Policy CA16 of the Minerals Local Plan: Construction Aggregates and Policy W22 of the Waste Local Plan respectively require mineral and waste proposals to be acceptable in terms of highway safety and capacity, not to have a significant impact on the local environment and to seek off-site highway improvements from the developer where necessary.
49. The importation of up to 237,000m³ of fill material (over a three year period) would generate additional Heavy Goods Vehicle (HGV) movements on the surrounding highway network. Two letters of objection have been received from nearby residents concerning, amongst other matters, the potential impact of an increase in traffic on the highway network, road safety considerations and the impact on local residential properties.
50. The supporting documents received with the application contain a transport assessment which includes consideration of the local highway network, the proposed traffic movements that would be generated, the routing of traffic generated and any resultant impacts on highway capacity.
51. The application identifies that the existing permitted operations within the quarry generate approximately 30 HGV loads exported from the site per day (60 movements). These movements are spread throughout the normal working hours and the application calculates approximately 8 movements per hour. The transport assessment estimates proposed importation of materials to the site is expected to generate an additional 23 HGV loads per day (46 movements) for a period of 3 years. The assessment predicts this would generate around 6 additional movements per hour. Therefore the proposed operations would increase the number of HGV movements associated with the quarry from 60 (30 in/30 out) to a maximum of 106 movements (53 in/53 out) each full working day for the period identified to complete the proposed works. The assessment received concludes that the highway network has sufficient capacity to accommodate the

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

increase in movements.

52. I note that the application proposes to route all HGV traffic to and from the quarry via a 1km stretch of Lenham Forstal Road north from the site, connecting to the Ashford Road (A20). This would accord with the conditions placed on the base permission for the quarry operations at the site. Lenham Forstal Road is a country road, which has no pedestrian footways, and in places requires passing bays to enable two-way traffic movements. However, the quarry site is relatively remote being located on the outskirts of the settlement of Lenham Forstal and there are only a small number of properties between the quarry entrance and the A20 to the north. Vehicles leaving the site would be routed away from the nearby villages of Lenham Forstal, Lenham Heath and Charing Heath onto the secondary road network.
53. One of the letters of objection received from a nearby resident raises concern over the potential impact of the increase in HGV movements on the safety of pedestrians and other road users. Given the number of properties in the locality, and particularly those north of the site entrance along Lenham Forstal Road, I would not consider that there are a large number of pedestrian movements along this stretch of road. Once onto the Ashford Road there are footways in both directions.
54. The Divisional Transportation Manager has raised no objection to the application on highway grounds. He has confirmed that the conclusions made in the transportation assessment concerning the local network having sufficient capacity to accommodate the proposed increase in traffic are appropriate. The Transportation Manager also comments that there are currently no safety concerns along Lenham Forstal Road, with no reported crashes resulting in injury within the last 3-year period. One of the concerns raised by nearby residents relates to the state of repair of Lenham Forstal Road. In response to this point the Transportation Manager has confirmed that Kent Highway Services Operations Team has raised no concerns in respect of maintenance issues.
55. There are currently no restrictions on the number of HGV movements associated with the permitted operations at the quarry. I note that the transport assessment received with the application and, in turn, the Divisional Transportation Managers comments are based on the existing and proposed vehicle movements set out above. The Divisional Transportation Manager concludes that on the basis of these figures the development proposed would be acceptable in highway terms. On this basis, and to ensure highway safety and safeguard the amenities of nearby residents I consider it appropriate for a condition limiting the maximum number of HGV movements associated with all activities at the quarry (extraction and proposed importation) to 106 movements (53 in/53 out) should be imposed for the duration of importation and associated works if permission is granted. This would be consistent with the maximum number of movements set out in the application. The break-down of how this number of HGV movements is divided between each of the activities on site could be left to the applicant's discretion and allocated on the basis of operation need provided the overall maximum limit is not exceeded.
56. The application confirms that measures would be put in place to ensure that mud, debris and dust are not deposited on the public highway. These measures would include a wheel-wash facility for vehicles leaving the site, with all HGV's entering and leaving the site to be sheeted. I am satisfied that the measures proposed are appropriate and that the applicant could employ these and any other necessary measures to ensure that mud or other debris on the road would not become a problem. This could be secured by

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condition.

57. In my opinion, the proposed development is well related to the existing highway network and there is sufficient capacity to accommodate the proposed traffic. I consider that the number of additional movements that would be generated by this proposal, over a temporary 3-year period, would not have a significant impact on the local environment. I therefore consider that the proposed development would be acceptable in highway terms and would accord with the above policies.

Local amenity impacts including noise and dust

58. Kent and Medway Structure Plan Policies NR5, MN3 and WM2, Kent Waste Local Plan Policy W18 and Kent Mineral Local Plan: Construction Aggregates Policy CA18 require proposals to be acceptable in terms of their environmental and amenity impacts including noise, dust, odour and other emissions.

59. A noise assessment was included with the original application. This report was prepared to gauge the impact on residential amenity of the noise levels that would potentially be generated by the proposed importation and engineering operations. Existing background noise levels were measured for three noise sensitive properties during the daytime. This information was used alongside the noise level data for the plant equipment to calculate predicted noise levels at various properties. I note that the hours of operation proposed in the application accord with the base planning permission. These are 0700 to 1800 hours Monday to Friday and 0700 to 1300 hours on Saturdays, with no operations on Sunday or Public Holidays. I also note that the existing background noise includes the permitted operations within the quarry and road traffic noise from the nearby M20 and local roads.

60. One local resident has raised concern over the potential noise that would be generated by the proposed operations, including by additional traffic and the proposed wheel cleaning facilities. Concerning the wheel-wash facilities, the applicant has confirmed that this would consist of a sealed 'wheel bath' unit that only the lorries importing fill material to site would use. There would be no water pressure hoses within the bath that would generate a high level of noise and vehicles would simply drive through the bath when leaving the site.

61. The County Council's noise consultant has reviewed the noise assessment and application documents received and advised that the proposed restoration would be unlikely to have any adverse impacts on the amenities of the closest residential properties.

62. Further to the above comments, I note that the proposed importation and engineering works are similar in nature to the existing permitted operations, albeit that they would generate additional HGV movements to and from the site. Should planning permission be refused for this application, the applicant would still be required to restore the area in question using site won materials. This work would be covered by the existing planning permission which is subject to noise controls and a noise limit of 55dB(A) LAeq 1 hour (free field) measured adjacent to any noise sensitive property. A similar condition restricting the maximum noise levels generated by the proposed operations could be included in any planning permission should the Committee be minded to permit this application. This would accord with Government guidance in MPS2.

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63. Due to the nature of the proposed operations there is the potential for dust to be generated through the deposit of materials on site and the movement of vehicles. The application documents received included an air quality assessment. This report identifies that any dust generated from the proposals would have a relatively large particle size and would therefore be deposited close to the source. The Assessment concludes that ‘... *due to distance between operations and the majority of sensitive receptors, and the frequency of moderate wind speeds toward them it is considered that the risk of dust impacts would be insignificant to acceptable without suppression measures.*’ The majority of activity associated with the proposed operations would take place within the base of the quarry below the height of the surrounding land. In addition to this there are existing 2-3 metre high landscape bunds around the perimeter of the quarry site which would assist in acting as a barrier to dust.
64. The application identifies that the dust suppression measures agreed under the conditions on the permitted quarry operations would be employed to mitigate the proposed activities. These measures would include adequate supply of water for spray equipment, a water bowser to be used on haul roads to suppress dust, haul roads maintained and kept free from debris, all loaded vehicles to be sheeted, wheel and chassis cleaning facilities to be used, drop heights of imported materials to be minimised, double handling of materials reduced and stock piles sited to take advantage of shelter provided within the quarry base.
65. As with the considerations given to potential noise generated by the proposals, I note that should planning permission be refused the applicant would be required to undertake similar operations using site-won materials. The County Council’s Dust consultant has advised that the proposed mitigating measures would ensure that the potential for dust generation would be minimal.
66. Taking into consideration the views of the County Council’s noise and dust consultant and existing permitted operations on site, I consider that subject to the imposition of appropriate conditions covering maximum noise limits, hours of operation and dust suppression measures to be employed, the noise and dust aspects of the proposals accord with Kent and Medway Structure Plan Policy NR5, Kent Waste Local Plan Policy W18 and Kent Minerals Local Plan: Construction Aggregates Policy CA18.

Groundwater protection

67. The development proposed has the potential to impact on groundwater through contaminated run-off entering the ground from fill materials that would be imported or pollution from spillage of fuels, etc. The Environment Agency’s comments concerning the application identify that due to the depth of the quarry the material that would be imported would potentially be placed below the groundwater table and, as such, the type of material would be controlled under the Groundwater Regulations (1998). The Agency confirm that an application for a ‘Landfill for Recovery’ Licence has been made by the applicant and that should the licence be approved strict controls over the chemical and physical characteristics of the material to be imported would be imposed. The application details that the imported fill material would be environmentally inert and meet a set of criteria to ensure that the material is the engineering equivalent of the existing material on site.
68. In response to the Agency’s concerns over the control of wastewater that would be produced by the wheel washing facilities, the applicant has confirmed that this facility

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

would be a sealed unit which would be periodically removed and emptied off site at a licensed disposal facility. There would be no discharge from the wheel bath unit to either ground or foul water sewers. With reference to the concerns about the maintenance and filling of vehicles and plant machinery on site and the potential risk of pollution from accidental spills, the applicant has confirmed that this would take place on the existing concrete hard standing area within the existing plant area to the north of the application site. Further to this, the applicant confirms that a purpose built self contained fuel tank would be provided for the quarry. The applicant confirms that all site staff are trained in spillage procedures with emergency materials available on site to deal with any incident.

69. I note the Agency's comment concerning the 'Landfill for Recovery' licence and the controls that would be put in place over the type of fill materials that could be imported to site in order to protect groundwater. If planning permission is granted, conditions should be placed on the consent restricting the type of materials that could be imported to those indicated in the planning application. I would also consider it appropriate to limit the maximum volume of material that could be imported to ensure only material necessary for remediation work is brought to site and to reiterate the need for the affected part of the site to be restored to those levels required by the base mineral permission. Not wishing to replicate the controls in place under environmental legislation and subject to consideration under geotechnical issues below, I am satisfied that the specifics of the environmental qualities of fill material could be adequately controlled under the waste licensing process. Therefore, taking account of the comments received from the Environment Agency and South East Water, I consider that the proposals would not result in an unacceptable impact on groundwater resources and would accord with the appropriate Development Plan Policies, including Kent and Medway Structure Plan Policy NR8 and Waste Local Plan Policy W19.

Geotechnical

70. The application proposes the importation of inert construction fill material to raise the level of the quarry floor and buttress the southern face of the quarry by backfilling to a slope with a profile in accordance with the approved restoration scheme. The application includes a geotechnical report that considers the structural implications of the remediation work and importation of fill materials proposed, including consideration of stability and settlement of fill material. The report states that imported fill should have similar mechanical and environmental characteristics to the site won materials and sets out criteria for determining their mechanical behaviour and acceptability.

71. The County Council's geotechnical consultant has raised no objection to the application and accompanying report subject to appropriate conditions being placed on any permission. He advises that conditions be imposed requiring that each source of fill material proposed to be imported to site pass the acceptance criteria detailed in the applicant's geotechnical report to ensure its mechanical qualities are acceptable. He also recommends conditions covering the submission of a compaction methodology for the fill materials and the submission of a detailed design document for the construction of the slope to include monitoring of stability.

72. Kent Waste Local Plan Policy W20 requires waste proposals demonstrate that they are acceptable in terms of land settlement, stability, safeguarding drainage and flood control. Taking into account the comments made by the Environment Agency and the advice received from the Council's geotechnical consultant I consider that the proposed development would be acceptable in terms of the geotechnical / slope stability subject to

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the conditions recommended above.

Other issues

73. The application includes the installation of a small temporary office building to monitor operations and vehicle movements in and out of the site. This building would be positioned adjacent to the haul road into the quarry, opposite the proposed wheel cleaning facilities. This location is within the open quarry area, below the surrounding ground level and part way down the eastern slope of the first phase of operations. The area is well screened by surrounding ground levels, site bunds and landscaping and would not be visible from the public highway to the east. The building would be finished in green to ensure it blends in with the surrounding environment. Subject to the building being removed on completion of the importation of fill materials, I consider that this building would be acceptable in terms of the Development Plan Policies.
74. I am also satisfied that the proposed development is sufficiently distant from the northern (as yet unexcavated) part of the quarry to the north east to have no significant impact on any ecological interest associated with the pasture and ponds at Lenham Forstal Site of Nature Conservation Importance (SNCI). In coming to this view, I am mindful that restoration works would be required in the affected part of the site in any event and that HGVs transporting the imported material would not need to be routed within the site near the SNCI. I am also satisfied that any long distance views of the site from the Kent Downs AONB would be minimal and that any operations viewed from this distance would be indistinguishable from those that would otherwise be required were site won materials to be used.

Conclusion

75. The proposed development would provide for the remediation of existing breaches in the planning controls through the importation of inert fill material to achieve the backfill and stabilisation of the southern slope of the application site. The imported material along with existing site won materials would allow for the restoration of the first phase of the quarry in accordance with the approved scheme and final site contours. This approach seeks to return the application site to an agricultural use in accordance with the planning permission at the earliest opportunity. The importation of material to the site would prevent the need to use additional site won material to achieve the necessary remediation and thus avoid the sterilisation of primary aggregate reserves.
76. The application demonstrates that any increase in vehicle movements in association with the proposed operation would be moderate and only temporary in nature. The application includes additional environmental information that considers the potential impacts of the scheme and I am satisfied that this information demonstrates that there would not be an unacceptable impact from the proposals in terms of the environment or local amenity. On this basis, I consider that the application accords with National and Regional Policy and the relevant policies of the Kent and Medway Structure Plan and Minerals and Waste Local Plans referred to above.
77. I therefore consider that subject to the imposition of appropriate conditions as set out above and summarised below, the benefits of securing the earliest restoration of the application site, the remediation of breaches in planning control and the safeguarding of permitted primary aggregate reserves outweigh any detrimental impacts the proposal may have and I recommend that planning permission be granted.

Importation of inert materials over a three year period for site remediation works, Lenham Quarry – MA/08/45.

Recommendation

78. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the imposition of conditions including (amongst other matters) the following:-

- the development being carried out in accordance with the submitted plans and any approved pursuant to the conditions set out below;
- operations to be completed within 3 years;
- HGV movements being limited to a maximum of 106 per day (53 in / 53 out) for all operations at the site;
- the volume of fill material imported to site shall not exceed that necessary to achieve the proposed remediation scheme;
- detailed design document for the construction of the slope to include a monitoring regime;
- fill materials to accord with those proposed;
- final site contours to accord with permitted restoration scheme;
- each source of fill material to pass acceptance criteria detailed in the applicant's geotechnical report to determine mechanical acceptability;
- submission of compaction methodology for imported fills;
- submission of details of proposed fuel storage tank;
- wheel-wash facilities provided prior to commencement of operations on site;
- hours of operation;
- noise limits;
- dust suppression measures; and
- removal of office building and wheel-wash on completion of operations.

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| Case Officer: James Bickle |
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| Tel. no. 01622 221068 |
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| Background Documents: see section heading. |
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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

Application for the construction of a timber building to be used as a music room at St. Mary's Catholic Primary School, Whitstable – CA/07/1414

A report by Head of Planning Applications Group to Planning Applications Committee on 15 April 2008.

Application by The Governors of St Mary's Catholic Primary School for the construction of a timber building to be used as a music room – CA/07/1414.

Recommendation: Planning permission be permitted subject to conditions.

Local Member(s): Mr M. Dance & Mr. M. Harrison

Classification: Unrestricted

Site

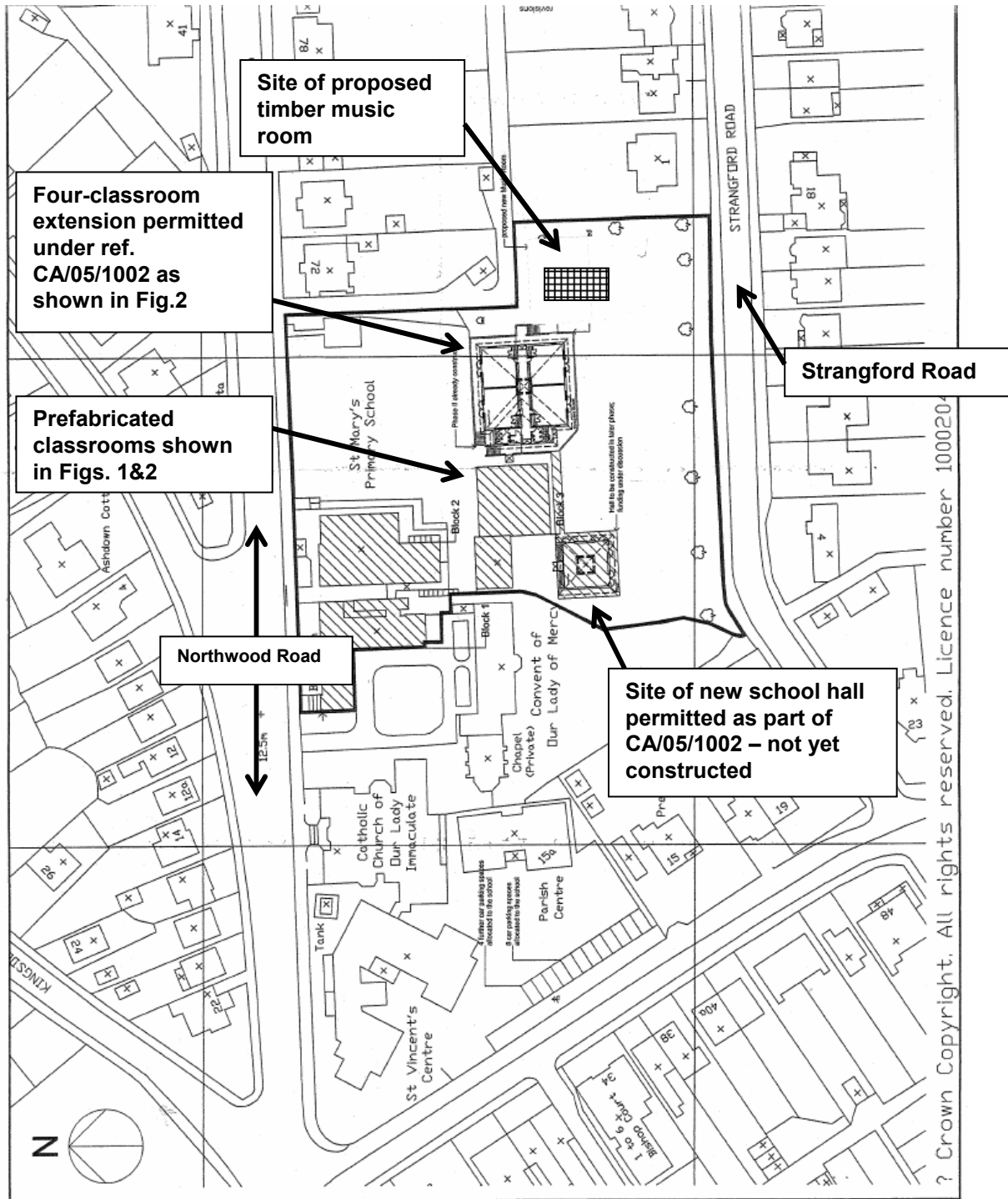
1. St Mary's Catholic Primary School is located on Northwood Road, Tankerton in a residential area east of Whitstable. The School is accessed from Northwood Road and consists of a variety of buildings some of which, were originally part of the adjacent Convent of Our Lady of Mercy, are approximately 100 years old. The school playing fields are to the rear of the site and bounded by Strangford Road. A site location plan is attached.

Background and Proposal

2. In recent years planning permission has been granted for a four-classroom building and a hall to the rear of the site (CA/05/1002) and for a small staffroom extension (CA/06/1498). The four-classroom extension has been constructed and funding is awaited for the construction of the hall, the staffroom extension has also recently been completed.
3. This proposal is for the construction of a timber building to the east of the four-classroom extension on a small corner of the playing field. The application was originally submitted in October 2007, the proposal then, sought to position the building with the longest façade parallel to Strangford Road. During consultation the applicant, amongst a number of other changes, took the decision to rotate the building 90° moving the building around 5 metres further away from boundary with the nearest residential property, 1 Strangford Road. It is this revised positioning that this report considers. No trees are to be removed as a result of this proposal.
4. The proposed building is to provide accommodation for the teaching of music, in particular individual violin and guitar lessons and for use by the school choir and recorder groups. No amplified musical instruments or music is proposed for use in the building and all activities would cease by 4.15pm Monday to Friday with no use at weekends. The school roll would not increase as a result of the planning application.

Application for the construction of a timber building to be used as a music room at St. Mary's Catholic Primary School, Whitstable – CA/07/1414

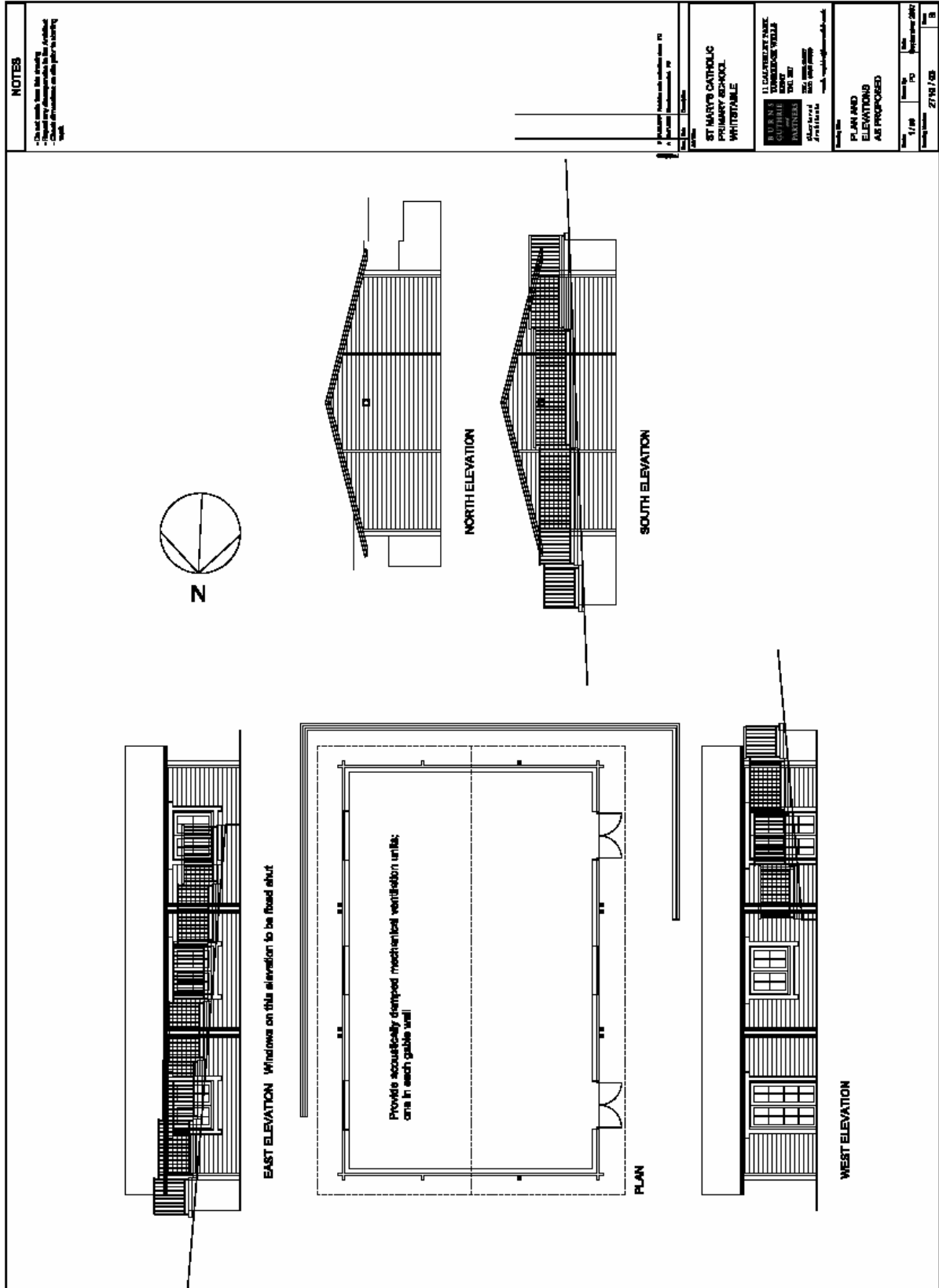
Site Location Plan



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Item D1

Application for the construction of a timber building to be used as a music room at St. Mary's Catholic Primary School, Whitstable – CA/07/1414



Application for the construction of a timber building to be used as a music room at St. Mary's Catholic Primary School, Whitstable – CA/07/1414

5. The proposed timber building is to be a single storey pitched roof structure measuring 8m in width, 12.8m in length and 3.6m in height with a floorspace of 102.4 square metres. The construction of the proposed music room would be as follows:
- 133 x 70mm thick horizontal 'logs' externally
 - 100mm thick insulation batts for thermal and acoustic insulation
 - 133 x 18mm thick timber horizontal boarding internally
 - all windows and doors would be double glazed
 - all roof slopes would be insulated to building regulations standards
 - there would be no windows or doors on the north and south elevations and on the east elevation all windows would be fixed shut
 - acoustically dampened mechanical ventilation units would be provided - one in each gable wall.

Planning Policy

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

(i) Kent & Medway Structure Plan 2006:

Policy SP1 Seeks to conserve and enhance Kent's environment ensuring a sustainable pattern of development and encourage high quality development and innovative design that reflects Kent's identity and local distinctiveness and promoting healthy, safe and secure living and working environments.

Policy QL1 Quality of development and design – Developments, individually or taken together should respond positively to the scale, layout, pattern and character of their local surroundings. Development which would be detrimental to the built environment, amenity, functioning and character of settlements or the countryside will not be permitted.

Policy QL11 Existing community services and recreation facilities will be protected as long as there is a demonstrable need for them.

Policy NR5 The quality of Kent's environment will be conserved and enhanced. This will include the visual, ecological, geological, historic environments, noise and levels of tranquillity.

(iii) Canterbury City Council Local Plan 2006:

Policy BE1 The City Council will expect proposals of high quality design which respond to the objectives of sustainable development. When considering any application for development the Council will have regard to the following considerations:

- The need for the development;
- The landscape character of the locality and the way the

Application for the construction of a timber building to be used as a music room at St. Mary's Catholic Primary School, Whitstable – CA/07/1414

- development is integrated into the landscape;
- The conservation and integration of natural features including trees and hedgerows to strengthen local distinctiveness, character and biodiversity;
- The visual impact and impact on local townscape character;
- The form of the development: the efficient use of land, layout, landscape, density and mix, scale, massing, materials, finish and architectural details;

Policy C17 The City Council will work with the Education Authority and school Governors to ensure that the needs of primary and secondary schools are taken into account in the assessment of their development needs and proposals. Planning permission will be granted for proposals that are needed by the schools subject to design and highway safety considerations.

Consultations

7. **Canterbury City Council** – raise no objections to the proposal but request that the following condition be imposed on any decision notice:

Before the building is used a full acoustic appraisal should be carried out detailing anticipated noise levels to be generated, sound reduction indices of the building elements (to include walls, roof, doors and windows) and anticipated external sound levels at the boundary with the nearest residential properties. The appraisal should take into account and achieve the desirable noise levels specified for gardens BS 8233:1999 sound insulation and reductions of noise for buildings – code of practice.

Divisional Transportation Manager – raises no objections.

Jacobs (Noise) – raise no objections to the proposal and states that despite the comments from local residents and Canterbury City Council that they do not believe that the requested noise assessment/survey is required. Given the structure of the proposed building and that the windows on the nearest side to residential properties are double glazed and non-opening, ventilation coming from windows on other facades within the building and with a mechanical ventilation system it is not considered that noise disturbance should arise.

Has further commented as follows:

Externally, children attending/queuing for the classroom may give rise to localised increases in noise levels, however the children currently have access to that part of the site during school hours. The construction of the classroom is robust enough to provide the necessary sound insulation for internal non-amplified music from primary school children such that it should not give rise to a neighbourhood noise issues. The request from Canterbury City Council and local residents for a full acoustic appraisal of the structure and background noise survey in this case would seem to be somewhat excessive.

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Environment Agency – raises no objection but advises that the applicant should ensure that the existing drainage systems are well maintained and of sufficient capacity to cope with any additional flow or loading that may occur as a result of this proposal.

Local Members

8. The local County Members, Mr M. Dance and Mr M. Harrison were notified of the application on the 1st October 2007.

Publicity

9. The application was publicised by the posting of two site notices and the individual notification of 15 neighbouring residential properties.

Representations

10. I have received 3 letters of representation and a petition with 28 signatures regarding the original submission and 8 letters of representation regarding the current proposals, 5 of which were received from the same resident the most recent of which is appended to this report. A second petition with 16 signatures was also received in response to the current proposals. A number of points raised in the letters of representation were not material planning considerations and as such have not been included in the summary below.

The main points included the following:

- The only change from the original submission is that the building has been rotated 90°, this actually moves the building closer to the 'near neighbours' along Strangford Rd.
- The application makes no reference as to how the roof, floor and ceiling are to be soundproofed.
- Due to its close proximity to residential housing it is therefore imperative that it is thoroughly and professionally soundproofed.
- A full noise survey should be carried out to accurately assess the affect that such a music room would have on its near neighbours.
- The proposed building is no more than a wooden shed, and as I understand, has no soundproofing features at all.
- The positioning of the building does not appear to have been thought through as regards local residents because the 'amphitheatre' effect of the terrain and the positioning of the building at one of the highest points within the school grounds would maximise the passage of sound/level of noise into the surrounding area.
- Siting the building directly next to an obscured 'right of way' could encourage vandalism and arson on the school's property but also on other residential properties backing onto the same 'right of way'.
- The development would breach their human right(s) to peaceful enjoyment (and general protection of property – Human Rights Act 1998, Article 1 of the First Protocol).
- There are other locations within the school's grounds where a suitable building of a similar size could be placed.

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- The building would cause all near neighbours to be subjected to an unrelenting and continual din/noise nuisance throughout the day and possibly during evenings and weekends.
- Questions how the building would be safely accessed by disabled people given that the ground slopes non-linearly from the playground to the finished floor level by several metres.
- What are the technical specifications of the proposed building and relevant legislative/'best practice' conformance concerning the construction and sound insulation of the building envelope in order to determine whether the proposed building is fit for the purpose for which it will be used.
- It is essential to establish precisely what the present background noise characteristics/sound levels are at the development site itself, the location boundaries and the facades of neighbouring properties, before any planning application is determined, in order to ensure that the proposed building can achieve the noise reduction levels required.
- Attention should be paid to the tonal characteristics of the type of noise that will be generated in the proposed building and the maximum noise/sound levels that are likely to be achieved.
- The same amount of wall insulation that is to be applied to the walls of the building should also be applied to the ceiling and/or roof of the building.
- Alleges that the proposed wooden building will also be used to provide music facilities and lessons to fee-paying adults and other members of the general public who are not enrolled pupils of the school.

Discussion

11. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Whilst the provision for educational needs are acknowledged by Structure Plan Policy QL11 and Local Plan Policy C17 the proposal must also be considered against the other relevant Development Plan Policies and policy guidance outlined in paragraph 6 above and any other material planning considerations arising from consultation and publicity.
12. The planning application seeks to position a relatively small, single storey, pitched roof building of timber construction on a corner of the school playing field adjacent to a recently constructed four classroom extension. The proposed building would be used for the teaching of music, specifically by the school choir who number 30 pupils and by recorder groups who number a maximum of 12 pupils, in addition to this the room would be used for individual violin and guitar lessons. It is not proposed to be used for the playing of amplified musical instruments or amplified music and should Members be minded to grant permission this could be conditioned as such. It is also proposed for all activities in the room to have ceased by 4.15pm Monday to Fridays with no use at weekends. The main issues to consider arise as a result of the sites location on the school playing field, the design and materials of the building and the potential for noise disturbance by the development on neighbouring residential properties.

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Site Location and Design

13. The location for the proposed building is to the rear of the school on a corner of the playing field (see site plan on page D1.2). The land slopes away from Strangford Road to the boundary of the site to the rear of 72 Northwood Road with a difference in height of around 2.6 metres. The building would be sited about 10 metres from the boundary with the nearest residential property and would be sited about 15 metres from the property itself. The school is extremely constrained and available space to develop is at a premium, hence the recent planning applications for new hall and classroom extension that have been positioned on part of the playing field. However in order to continue to fulfil its National Curriculum requirements the school have had no option to expand the built environment to the rear of the site. Prior to the submission of this planning application the school did conduct a site survey of potential locations for the proposed building but no other locations were found viable. There are some existing prefabricated buildings positioned in the centre of the school site - see site location plan and Fig.1 & 2 below (Fig. 2 shows these buildings in relation to the new 4 classroom extension). The school has future aspirations to replace these buildings with more permanent alternatives which would provide a more suitable location for a designated music room but at this time the replacement of these buildings is not possible and the proposed location remains the only suitable alternative.

Fig.1



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Fig. 2



14. The proposed building has been put forward on the basis of curriculum need, the facilities for teaching music are currently inadequate with no dedicated music room. The School have stated that a dedicated room would alleviate timetabling pressures on the dining hall, gym and hall that currently exist. The site chosen would enable the building to be sited on a corner of the playing field without restricting the use of the rest of the playing field for team games and athletics. The area of the playing field, as mentioned, slopes down from Strangford Road so the properties with a façade facing the playing field would be situated at a higher level with the single storey building being at a considerably lower level. The closest properties to the proposed building are situated on the north side of Strangford Road with the nearest property, 1 Strangford Road, approximately 15 metres away. There is little screening along this boundary, which comprises a low level picket style fence and one mature tree. In order to strengthen the level of screening along the boundary with 1 Strangford Road, a scheme of landscaping/boundary treatment could be required by condition to address this. Some residents have expressed concerns regarding the proximity of trees to the proposed buildings in terms of safety. I have drawn this to the applicant's attention to take any action as may be appropriate to ensure that any safety considerations are taken into account.

15. An example of the proposed building is shown in Figs 3 and 4 below. The external materials palette consists of interlocking Redwood Pine 'logs' sourced from a sustainable supply within the EU; windows and doors are to be constructed using laminated wood- double glazed frames; roof materials consist of 'ashfelt' roof shingles in a colour to be approved. In my view, I do not consider the siting and design of the building to be unduly obtrusive on the local landscape or the amenity of local residents.

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Although a brick built design may have been preferable, given that the building is proposed to be sited at a lower level to the properties on Strangford Road, I consider that the proposal accords with Structure Plan Policies SP1 and Local Plan Policy BE1 in relation to ensuring sustainable development and quality of design. I consider the form of the proposed development would make efficient use of the land, and the layout, scale, massing and materials of the development proposed are acceptable in planning terms. Coupled with a scheme of landscaping and suitable access arrangements that accord with the Disability Discrimination Act 2005 the proposal would not warrant refusal on grounds of its location or design and would be in accordance with Development Plan Policies.

Fig.3



Noise Impact on Residential Amenity

16. Members will note that most of the objections received relate to noise disturbance to neighbouring properties. These were drawn to the attention of the applicant's Architect who has responded as follows:
- The proposed music room would be used by the school choir who number a maximum of 30 pupils and by recorder groups who number a maximum of 12 pupils, it would also be used for individual pupil violin and guitar lessons
 - The Headteacher has confirmed that the proposed music room would be used during school hours and that all activities would be finished by 4.15pm
 - The school has no plans to use amplification and has no plans to use the facility out of school hours, and if neighbours are concerned on these issues they would be happy for any planning permission to contain conditions to these effects
 - There is no intention for the school to use the accommodation for "fee paying adults and other members of the general public"

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Fig.4



- The site is a school and its grounds and playground are used continuously by pupils during school hours, none of the activities which might take place in the proposed music room are any more of an issue in terms of neighbourhood noise pollution than the activities which currently take place in the school classrooms and assembly hall or on the school grounds and playground during break times or physical education classes.
 - Neighbouring residents objecting to the proposal cite the Human Rights Act, they will therefore no doubt be familiar with the UN Convention on The Rights of The Child, which recognises ‘the right of the child to education’ (article 28) and that the education of the child shall include the development of their talents to their fullest potential (article 29).
17. Given the proposed use of the building and the proximity to neighbouring properties it was necessary to consult with Jacobs Noise consultants whose formal response can be read above in paragraph 7. These views take into account the letters of representation received and the responses from other consultees. I am also mindful that the applicants only wish to use the proposed building for the use of relatively low level scholastic musical instruments and singing. It is not proposed for the building to be used for the playing of any amplified music and/or instruments and should Members be minded to permit the application this could be conditioned to the uses detailed in the application. There have been requests made for a background noise assessment to be undertaken to determine the existing noise levels in the vicinity of the proposed building in order to ascertain an acceptable dB limit that cannot be exceeded once the building is in use. The professional view from Jacobs on this point is that a noise assessment/survey was not needed due to the type of musical instruments proposed, the structure of the proposed building, the windows on the nearest side to residential properties being double glazed and non opening, ventilation being from windows in

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other facades within the building and a mechanical ventilation system being used. In the professional opinion of Jacobs the specification of the proposed building (detailed above) is considered robust enough to provide the necessary sound insulation for internal non-amplified music from primary school pupils which should not give rise to a neighbourhood nuisance issue. Furthermore, in the light of the advice from Jacobs, I do not consider it necessary to impose the condition suggested by Canterbury City Council with regard to conducting a full acoustic appraisal prior to the building first being used.

Conclusion

18. On balance, in the light of the above consideration, in my view, the proposed building would be acceptable in terms of its siting and design and I do not consider that it would result in an adverse impact on residential amenity in terms of noise nuisance. As such I do not consider the application to be contrary to Structure Plan Policies SP1, QL1, QL11, NR5 and Canterbury City Council Local Plan Policies BE1 and C17 relating to quality of design, sustainable development objectives and in terms of noise pollution. Accordingly I recommend that the application be approved subject to conditions.

Recommendation

19. I RECOMMEND that PLANNING PERMISSION BE PERMITTED SUBJECT TO conditions, including conditions covering:

- The standard time condition;
- The development be carried out in accordance with the permitted plans;
- The use of the development hereby permitted shall be limited to between the hours of 08:30 and 16:15 Monday to Friday term time only and there shall be no use on Saturdays, Sundays or Bank Holidays;
- A scheme of landscaping, its implementation and maintenance;
- External roof materials to be submitted for approval;
- Prior to commencement of operations on site details of all access arrangements to comply with DDA legislation to be submitted for approval;
- The use of the building being restricted to the uses detailed in the application.

| | |
|---------------------------------|--------------|
| Case officer – Adam Tomaszewski | 01622 696923 |
|---------------------------------|--------------|

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| Background documents - See section heading |
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By Email and Hand (signed)

Mr & Mrs C Wakeman
5 Strangford Road
Tankerton
Whitstable
Kent CT5 2EP

27 March 2008

Mr Adam Tomaszewski
Planning Applications Group
Kent County Council
First Floor, Invicta House
Maidstone, Kent
ME14 1XX

Dear Mr Tomaszewski

Town & Country Planning Act 1990

Application: CA/07/1414 (Previously notified as: CA/07/TEMP/0042)

Proposal: Construction of a timber building to be used as a music room adjacent to new teaching block. (Amended details)

Location: St Mary's Catholic Primary School
Northwood Road, Tankerton, Whitstable, Kent CT5 2EY

Thank you for your letters dated 7 and 13 March 2008 and for the enclosures from Burns Guthrie (Applicant's Agent) and Jacobs UK Ltd (Kent County Council's noise consultant) concerning the above Application, which we have passed on to our neighbours.

We would initially remark that we were rather disappointed, after waiting all this time (since October 2007), to find that the Applicant and/or their Agent have not been forthcoming with all relevant information which was requested to allay our concerns and the fears of other residents concerning this proposed development. Moreover, they have also been less than candid where any unsolicited information has been provided, as will be demonstrated below.

We were also rather astonished to read the subjective comments provided by your 'noise(?) consultant', though not altogether unsurprised given that there is a conflict of

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interest here as regards Jacobs' special business relationship with Kent County Council's ("KCC") education and other departments.¹

The stance adopted by the Applicant and/or their Agent and the nugatory contribution of your 'noise consultant' has, we would submit, failed to provide KCC's Planning Application Group ("KCC PAG") with any objective criteria on which determine the merits of this Application in respect of the potential noise nuisance created by this proposed development.

We must therefore inform you that we **object** to the above Application/Proposal, and respectfully request that KCC, take into account, *inter alia*, the information/comments below - which should be read in conjunction with our previous correspondence and objection² - and reject the Application.

1. Local Authority – Noise Management

In common with our own requests dating from October 2007, Canterbury City Council's Environmental Protection department have also raised issues with this Application and require that:

'... a full acoustic appraisal should be carried out detailing anticipated noise levels to be generated, sound reduction indices of the building elements (to include walls, roof, doors and windows) and anticipated external sound levels at the boundary with the nearest residential properties. The appraisal should take into account and achieve the desirable noise levels specified for gardens BS 8233:1999 sound insulation and reduction of noise for buildings - code of practice. The assessment and recommendations should then be passed to the City Council for approval.'

No attempt appears to have been made, to the best of our knowledge, by KCC PAG or any other party, to ensure that the above appraisal is carried-out before any consideration is given to the planning merits of this Application, even though the Applicant has failed to describe (or even provide the information necessary for assessment purposes) within the Application and subsequent correspondence with KCC PAG precisely how, and whether, the proposed development/building structure will meet the relevant legislation/guidelines, especially in respect of noise.

1.1 Local Authority's – Roles and Responsibilities (Noise)

The local authority has a range of roles involving responsibility for noise control; these include:

- the investigation and abatement of statutory nuisances;
- **land use - planning;**
- entertainment - licensing;
- building control; and
- residential landlord.

¹ See Appendix 1: Jacobs' statement regarding its client Kent County Council.

² See author's written objection (dated 24/10/07) to Applicant's initial application variant CA/07/TEMP/0042.

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The primary aim of the local authority noise service is to safeguard public health and quality of life, in particular through the prevention and abatement of statutory nuisances. This requires the integrated management of noise issues within its control, whether in a preventative capacity or by reactively addressing any nuisances that arise. To help achieve this aim, a number of key statutory duties are placed upon every local authority in England and Wales by the Environmental Protection Act 1990, as amended.

The duties are placed upon local authorities³ but they are empowered elsewhere⁴ to delegate arrangements for their discharge to their committees,⁵ sub-committees or officers. This includes the power to delegate sequentially from authority to committee to sub-committee to officer.⁶ Delegation to a designation of officer (e.g. 'the Planning Officer'), rather than to any named individual, is permissible and usual.⁷ Neither the Local Government Act 1972⁸ nor the Environmental Protection Act 1990 require a resolution of the authority before noise enforcement action is taken or any *ex post facto* ratification of action taken by individuals.

Local authority departments with responsibility for noise services include:

- *Local authority building control and approved building inspection services*: ensure compliance with the Building Regulations⁹ relating to sound insulation between, and reverberation in the common parts of new and converted residential buildings and acoustic conditions of schools.
- *Local planning authority*: develop and enforce land use planning policies at both strategic and development site levels. The proactive implementation of national and local noise policy is to a considerable extent **achieved through the planning processes** - it should not be abdicated to building control.

1.2 Human Rights Act 1998

Section 6 of the Human Rights Act 1998 also makes it unlawful for a local authority to act in a manner which is incompatible with the rights contained in the European Convention on Human Rights (the Convention). This principle covers both actions **and any failure to act by a local authority**.

The Convention rights of most significance for local authority noise services include:

³ See ss 79(1) and 80(1) Environmental Protection Act 1990.

⁴ See s 101 Local Government Act 1972.

⁵ The words 'committee' and 'sub-committee' are to be given their ordinary, natural meaning which requires that they comprise more than one member (see *R v Secretary of State for the Environment ex p Hillingdon LBC* [1986] 2 All ER 273).

⁶ See s 101(2) Local Government Act 1972.

⁷ *R v Law Society of Great Britain & Wales ex p. Curtin* (1993) Times Law Reports, 3 December 1993.

⁸ See, by contrast, the statutory reservations to the authority in s 101(6) and (7) of the Diseases of Animals Act 1950.

⁹ Building Regulations 2000: Approved Document E – Resistance to the Passage of Sound (2003 Edition), ODPM.

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- Article 6 – Right to a fair trial.
- Article 7 – No punishment without law.
- Article 8 – Right to respect for private and family life.
- Article 1, First Protocol – Right to peaceful enjoyment of possessions.

While some of the Convention rights are absolute, e.g. Articles 6 and 7, others are limited or qualified, e.g. Article 8 and Article 1, First Protocol.

Interference with qualified rights is permissible only if what is done has a basis in law; e.g. Control of Pollution Act 1974, Environmental Protection Act 1990, Noise and Statutory Nuisance Act 1993, Noise Act 1996 etc.

2. Noise – in this Application

In this Application (CA/07/1414), the law and national guidance is relatively clear as regards 'noise':

Planning Policy Guidance 24: Noise ("PPG24") covers what needs to be taken into account when dealing with a planning application in a noisy area, or for a noisy activity.

PPG24 refers to British Standard 8233:1987, which has been superseded by BS 8233:1999 Sound Insulation and Noise Reduction for Buildings – Code of Practice. This standard sets out recommended limits for gardens and outdoor areas as:

- 'In gardens and balconies etc. it is desirable that the steady noise level does not exceed 50 $L_{Aeq, T}$ dB and 55 $L_{Aeq, T}$ dB should be regarded as the upper limit.'

For external noise levels at sites proposed for educational facilities, guidance is provided in the **DfES Building Bulletin 93, Acoustic Design of Schools**.

- For new schools, 60 dB $L_{Aeq,30min}$ should be regarded as an upper limit for external noise at the boundary of external premises used for formal and informal outdoor teaching and recreational areas.
- Noise levels in unoccupied playgrounds, playing fields and other outdoor areas should not exceed 55 dB $L_{Aeq,30min}$

2.1 Proposed Location – Background Noise

Contrary to the assertions of the Applicant's Agent¹⁰ and your 'noise consultant',¹¹ the 'proposed site' for the construction of a timber building (located in a far-flung corner of the Applicant/school's 'playing' field/buffer with neighbours) **is not used** by children for physical education¹² ("PE") or any other purpose. The Applicant/school uses its main hall for gym,

¹⁰ See letter of 6/3/08 from BurnsGuthrie and Partners to KCC PAG, page 2, para. 5F.

¹¹ See letter of 7/3/08 from Jacobs UK Ltd. to KCC PAG, 3rd para.

¹² See letter of 5/11/07 to neighbour(s) from music teacher (Mrs D Porro), 7th para., last sentence.

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dance lessons and games, together with the hard playground for netball, basketball and football,¹³ swimming cycling and rugby are off-site activities. Also, the Applicant/school has relied for some years on playing fields in Church Street for games and athletics,¹⁴ particularly since it embarked on an expansion plan to cover the school playing field with buildings. In fact, even when the school playing field was in use some years ago, it would only be used for a matter of weeks at the end of the summer term, and few children, if any, would actually congregate on the 'proposed site' - most preferring to remain on the hard playground. We would estimate that the background noise level is in the region of 30dB(A).

2.2 Type and Level of Noise – within Proposed Wooden Building

The Applicant and/or their Agent have failed to provide to KCC PAG with a complete list of the variety of musical instruments which they presently have at their disposal (and the associated noise levels which are likely to ensue in the proposed wooden building), which include, but are not limited to:

Table 1

| REPRESENTATIVE NOISE LEVELS | | | |
|-----------------------------|------------|------|-------------------------------------|
| NOISE SOURCE | dB | Peak | SOURCE EVIDENCE |
| (A single musician) | | | |
| Normal Piano Practice | 60 – 90 * | 105 | Applicant/school brochure, page 19. |
| Loud Piano | 70 – 105 * | 110 | Applicant/school brochure, page 19. |
| Violin | 80 – 90 * | 104 | Agent's letter 6/3/08 |
| Woodwind: | 68 – 102 * | 116 | |
| Recorder | | | Music teacher's letter 5/11/07 |
| Drum | 74 – 94 * | 106 | A school parent |
| Other Percussion: | 90 – 105 | | |
| esp. Xylophone | | | Music teacher's letter 5/11/07 |
| esp. Tambourine | | | A school parent |
| Singer | 70 – 85 * | 94 | Music teacher's letter 5/11/07 |
| Soprano | 105 - 110 | | Music teacher's letter 5/11/07 |
| Guitar - unamplified | 88 | | Agent's letter 6/3/08 |
| Guitar - amplified | 103 | 146 | Agent's letter 6/3/08 |
| Guitar (bass) | 101 | 133 | Agent's letter 6/3/08 |

1. Noise levels courtesy of Health and Safety Executive publication, 'Sound Advice'.

2. * means noise level measured at 3 metres.

¹³ See Applicant school's current brochure, page 19.

¹⁴ See Applicant school's current brochure, page 2, 'Introduction'.

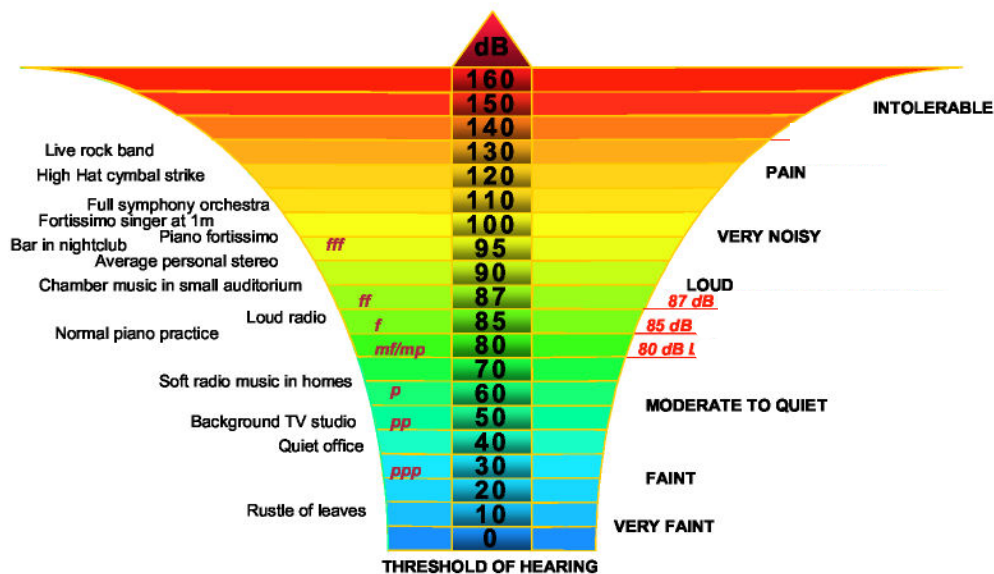
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Examples of Representative Noise Levels in dB

Source: Health and Safety Executive



The Applicant and their Agent¹⁵ have intimated that the proposed wooden building:

- will be used for music activities by approximately 30 people (or more?) at any one time;
- in response to concerns raised by near neighbours as regards its use during evenings and at weekends, that it would be used only during term time and only during school hours (8.50am to 3.15pm), with all activities ceased by 4.15pm;
- would only be used for unamplified musical activities.

Of course, the above intentions could change (unless there were conditions providing otherwise), and in such event would create a worse situation as regards noise nuisance for near neighbours. The following comment is therefore based on the above level of daytime use.

It should therefore be readily evident from Table 1 above – which shows the noise levels attributable to a single musician playing the respective instrument alone/unaccompanied – that noise levels within the proposed wooden building can easily exceed in excess of 100dB.

It is therefore necessary to ensure that the structural design, assembly and material composition of the proposed wooden building is sufficient to attenuate (or reduce) this level of airborne noise, so that it does not propagate through the structure of the building and exceed 55 dB $L_{Aeq,30min}$ outdoors and/or cause a noise nuisance to near neighbours.

¹⁵ See letter of 6/3/08 from BurnsGuthrie and Partners to KCC PAG.

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2.3 Noise Level – Outside Proposed Wooden Building

The Applicant and/or their Agent have failed, in the absence of providing any acoustic noise assessment or appraisal of the proposed building/location with this - effectively their second - Application (CA/07/1414), to respond to requests through KCC PAG to provide sufficient information regarding the construction and material composition of the proposed wooden building and the specification of the components they intend to employ within the building.¹⁶ This lack of cooperation prevents an accurate assessment/calculation of the building's sound reduction qualities in respect of both airborne and impact sound, particularly since there appear to be 'rigid connections' between the inner and outer wooden walls with no apparent sound transport or vibration isolation between them.

Nevertheless, it is possible to demonstrate, by a 'rule of thumb' method, that the proposed wooden building, producing in excess of 100dB internally, will be capable of breaching the standards and guidance set out in PPG24 and the DfES Building Bulletin 93, Acoustic Design of Schools (described in 2. above).

2.4 Noise Level Prediction – Outside of the Proposed Wooden Building

The Applicant's Agent has specified that the proposed wooden building will contain:

- a) three pairs of windows on the east elevation, which will be 'fixed shut';
- b) two pairs of doors and one pair of windows on the west elevation, all of which can be opened;
- c) double-glazed windows and doors;
- d) two simple and very crude acoustic ventilation units, each fixed into the north and south elevations of the proposed wooden building.

KCC PAG's noise consultant recognises that ventilation will be provided by the opening pair of windows on the western elevation of the building. However, ventilation may also be provided by the doors during the summer months.

PPG24 gives guidance on the insulation of buildings against external noise. This states that, for any partially open window, the sound reduction will be in the region of 10-15dB(A) - say 13dB(A). This sound reduction guidance may be conversely applied (neglecting wind direction, sound transport through the structure of the building etc.) such that, for example:

if the internal noise within the proposed wooden building is 100dB(A), and just one solitary window is left open/ajar on the western elevation of the proposed building, then the resulting noise that may be measured outside of the building will be 100dB(A) – 13dB(A) = 87dB(A), which is some 22dB(A) above the limits imposed by PPG24 and the DfES Building Bulletin 93, Acoustic Design of Schools (described in 2., above).

¹⁶ e.g. windows or doors which are influenced by the glass used in the systems and the frame performance (factors include size, airtightness etc.)

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Moreover, it should also be recognised that, even when double-glazed windows and doors that contain glass are 'closed' or 'fixed shut', they will not necessarily provide a sufficient level of attenuation. Double glazing was originally developed to reduce heat loss through windows; as may be seen from Table 2, below, a double-glazed window with 4/12/4 will typically achieve the maximum attenuation level of 29dB (i.e. for doors).

Table 2 Acoustic performance of glass units (source Pilkington)

| Typical Glass Unit | Acoustic Performance | | | Frame Effect |
|-----------------------|------------------------------------|------------------------------------|--------------------------------------|--------------|
| | R _m ¹ dBA | R _w ² dBA | R _{TRA} ³ dBA | |
| 4/12/4 (Normal) | 29 | 31 | 25 | Negligible |
| 6/12/6 | 30 | 33 | 26 | |
| 10/12/4 | 34 | 36 | 29 | |
| 10/12/6 | 34 | 38 | 32 | |
| 10/12/6.4 pvb | 36 | 40 | 34 | Significant* |
| 10/12/17 Audio Screen | 41 | 45 | 37 | |

1 R_m (Mean Value) - this is the simplest approach, involving an arithmetic mean of the sound reduction indices measured at the 16 1/3 octaves.

2 R_w (Weighted) - this is the most common way to classify sound insulation. It is biased towards the particular frequencies that humans are particularly sensitive to, giving an indication to the perceived acoustic performance.

3 R_{TRA} (Traffic noise reduction) - is biased towards the lower frequencies and is used to compare products where the external noises arise from mainly lower frequency road traffic.

In conventional (i.e. brick-built) building construction, up to a glazing R_m of about 35dB, the window/door frame is not often a serious air leakage path; on high-performance windows, beyond R_m of 35dB*, it is necessary to evaluate the acoustic performance of the proposed glass framing.

However, in this Application, the proposed wooden building is not a conventional structure - it is made from wood, which is notoriously unstable, particularly with the passage of time. Therefore, air leakage around window/door frames within the proposed wooden building will become significant and reduce the performance characteristics (shown in Table 2, above) of double-glazed windows and doors in this Application.

Neglecting air leakage around window and door frames (and any sound transport through the wall, roof and floor sections) of the proposed wooden building, using Table 2, above, it may still be deduced that, when all doors and windows are fully closed and internal noise within the proposed wooden building is around 100dB(A), the resulting noise that may be measured outside of the building will still be above the limits imposed by PPG24 and the DfES Building Bulletin 93, Acoustic Design of Schools (described in 2., above).

2.5 Noise – Ventilation Unit

The air ventilation unit (Greenwood AAF/S) which the Applicant's Agent intends to install within the proposed wooden building is a product which has been manufactured for some 30 years, initially by Greenwood Airvac Ventilation Limited. Within the specification sheet

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provided by the Applicant's Agent, the specification performance only extends from 0 to 3500 Hertz; it is not possible to say with any certainty how the product would attenuate sound pressure/noise beyond this point, bearing in mind that the frequency range of the musical instruments that will be used within the proposed wooden building will extend well beyond 3.5kHz.

However, it is certainly clear as regards its performance when noise levels within the proposed wooden building are around, say, 100dB(A), that below 3.5kHz:

- a) When the fan is switched 'OFF', its attenuation capability is 43dB(A), which implies that it would be capable of transporting some 57dB(A) of noise into the environment.
- b) When the fan is switched 'ON', depending on which speed setting is selected:
 - i) *High speed*: its attenuation capability is 49dB(A), which implies that it would be capable of transporting some 51dB(A) of noise into the environment.
 - ii) *Low speed*: its attenuation capability is 33dB(A), which implies that it would be capable of transporting some 67dB(A) of noise into the environment.

It should be evident from the information provided above that this acoustic extract ventilator appears to have been designed for speech applications rather than music - where the sound pressure/noise level that it is likely to encounter is far less than an application involving sound pressure/noise from a musical instrument, and where it is more effective.

We would conclude that the proposed acoustic ventilator is not fit for purpose in respect of this Application, given the levels of noise it will carry/transport into the environment.

2.6 Noise – Giving Rise to Complaints from Residents

It is useful and instructive to note that noise from industrial sources radiated to residential areas is usually assessed against British Standard BS4142:1997, 'Method for Rating industrial noise affecting mixed residential and industrial areas'. This standard describes a method for assessing whether the 'specific noise' from an industrial source is likely to give rise to complaints from residents of the adjacent dwellings. The 'specific noise' levels are determined outside dwellings. The specific noise level is determined for reference time periods of one hour for the daytime (7 am to 11 pm).

The frequency or impulsive characteristics of the noise are likely to increase the scope for complaints, and this is taken into account by adding +5 dB to the specific noise source level to obtain the 'Rating Level'. BS4142:1997 requires that the Rating Level of a noise is compared with the existing background noise ($L_{A90,T}$). Guidance given in the standard states that, if the difference between the Rating Level and the background noise ($L_{A90,T}$) is +5 dB, it would be considered as being of 'marginal significance'; this is usually taken as being an acceptable situation, as it is a reasonable compromise between the requirements of commerce and the amenity of residents. However, a difference of around +10 dB or more indicates that complaints are likely. Most local authorities use a difference of +10 dB as the point at which they will take action against the organisation producing the noise.

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In addition to the above, the World Health Organisation (WHO) has published guidelines for community noise, as shown in Table 3, below. The WHO document gives guidance for the levels of noise both inside and outside of dwellings.

Table 3

| Specific Environment | Critical Health Effect(s) | L _{Aeq} (dB) | Time Base (hours) | L _{Amax, fast} (dB) |
|----------------------|--|-----------------------|-------------------|------------------------------|
| Outdoor living area | Serious Annoyance, daytime and evening | 55 | 16 | - |
| | Moderate annoyance, daytime and evening | 50 | 16 | - |
| Dwelling, indoors | Speech intelligibility and moderate annoyance, daytime and evening | 35 | 16 | - |
| Inside bedrooms | Sleep disturbance, night time | 30 | 8 | 45 |
| Outside bedrooms | Sleep disturbance, window open (outdoor values) | 45 | 8 | 60 |

Note: The 'daytime' and 'night-time' periods are generally referred to as 07.00 to 23.00, and 23.00 to 07.00 hours respectively.

It may be quite readily deduced from the information directly above and the preceding sections that music activities within the proposed wooden building will be capable of generating noise outside of the building which is far greater than the 55 L_{Aeq} dB level attributable to 'serious annoyance' by the WHO, and also significantly greater than +10dB above the existing background noise (i.e. BS4142:1997) level, which will justifiably give rise to continual complaints from residents and cause the local authority to take action against the Applicant under the Environmental Protection Act 1990.

3. Applicant's Revision to the Original Proposal (CA/07/TEMP/0042)

The Applicant and/or their Agent have not denied¹⁷ that this second Application/revision (CA/07/1414) has essentially involved merely a rotation of the building through 90°; the building has not been sunk by 1 metre as suggested – the height of the building above ground essentially remains the same.

Further, the worthless inclusion of the Greenwood acoustic ventilation units - to placate windows on the eastern elevation of the proposed wooden building being 'fixed shut' - has been dealt with in 2.5, above.

Consequently, all of the arguments put forward in our first objection (dated 24 October 2007) to this Proposal (under, then, CA/07/TEMP/0042) and subsequent correspondence remain valid. Where any change or further clarification may be required, it is provided below.

¹⁷ See this author's letter to KCC PAG dated 25/2/08, and the Applicant Agent's response of 6/3/08, item 1.

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4. Safety and Security

4.1 Location/Building Suitability

Rotation (through 90°) of the proposed wooden building has failed to mitigate the danger to its occupants from the possibility of falling trees/branches situated in close proximity to the proposed site.

4.2 Access - The Disability Discrimination Act 1995 (DDA)

In the Applicant Agent's Supporting Statement (paragraph 7) to the first Application (CA/07/TEMP/0042), he stated that:

*"The school is arranged on many levels and disabled access is, unfortunately not possible throughout the majority of the existing buildings. However, **the proposed building will be provided with level thresholds to all external entrance doors**".*

We pointed-out in our objection (24 October 2007) that the proposed building was to be located on a steep slope, close to the highest point of the school's ground/playing fields, and that it was unclear as to how the building could be used by disabled people as regards access to the building, particularly during the winter months (i.e. slippery ramps/approaches etc).

We averred that the Application/Proposal (in this playing field location) failed to meet the minimum standards set-out in BS8300:2001 - 'Design of buildings and their approaches to meet the needs of disabled people', and therefore would potentially breach the Disability Discrimination Act 1995.

The Applicant's Agent does not deny that the proposed development will breach the Disability Discrimination Act. He has merely stated, in response to our argument, that:

"Disabled access is a problem throughout the school site which is on many levels; this is an issue which the school will address via an access statement in due course".¹⁸

Of course, we have failed to receive any access statement from the Applicant and/or their Agent. However, the Applicant school's brochure is informative, at page 9 under 'Accessibility Plan', it states:

"Our accessibility plan shows how we have considered ways in which pupils with disabilities can be helped to access the curriculum, how we plan to improve the delivery of information to these children with advice from the physical/sensory service ... here at St Mary's, we strive to be inclusive and any request for admission for a child with a disability will always be considered. It is discussed with both the LEA and the Diocese, with the aim of hopefully meeting that child's needs."

¹⁸ See letter of 6/3/08 from BurnsGuthrie and Partners to KCC PAG, item 2.

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Moreover, the Applicant school had intended¹⁹ to absorb children from the St Philip Howard Catholic Primary School in Herne Bay, where almost a third of the school children who attend the school have learning difficulties and disabilities.²⁰

We have advised KCC PAG that there are alternative locations within the school's grounds where a suitable building of a similar size could be placed, affording better and safer access (including access for those with disabilities), and greater safety and security. However, we are advised by a KCC PAG Planning Officer that the Applicant school acknowledges that there is at least one alternative location, but chooses not to use it at this time because the school wants to reserve it for future classroom expansion. We submit that a specialist classroom dedicated to music activities would be better placed at a lower and more accessible location for disabled people within the Applicant school's grounds than the proposed location which is close to the highest point of the school's ground/playing fields and could not be accessed by those with physical disabilities.

Furthermore, due to the fact that the proposed wooden building would be much further away from the gardens of near neighbours, with more careful attention to its design and conditions imposed regarding its use, it could prove not to be a noise nuisance to near neighbours in the alternative location.

5. Environmental Performance

5.1 Acoustics/Ventilation

This has been dealt with in sections 1. and 2., above.

5.2 Proposed Building Aesthetics

There are no further details to add to our original comment under this heading in the letter of objection dated 24 October 2007.

6. Over-Development

There are no further details to add to our original comment under this heading in the letter of objection dated 24 October 2007, other than:

- The Applicant school had geared itself for expansion (to increase its intake of pupil numbers) in or around 2004, primarily because the St Philip Howard Catholic Primary School was to be closed in January 2005. In September 2005, following a high-profile campaign by the local community, a decision was made to keep the school open and it has since been rated as satisfactory by Ofsted.
- It remains unclear, therefore, as to why the Applicant school needs to expand unabated, particularly when there are more non-Catholic children entering the Applicant school each year than Catholic children and there are alternative schools in the town - other than to increase the headteacher's salary.

¹⁹ This was ostensibly the reason for the school's building expansion programme.

²⁰ See section 6 below and the St Philip Howard Catholic Primary School Ofsted report, page 1.

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Finally, please accept that, as far as is practicable, we have endeavoured in our approach to this task to keep our comment and examples - where it concerns mathematically technical subject matter - as simple as possible so that it may be understood by any layperson who may read this document. Therefore, inevitably, complex technical arguments and mathematical equations have been avoided. In the event that any further information or clarification is required, please do not hesitate to contact us accordingly.

Yours sincerely

Mrs & Mr C Wakeman B.A., M.Sc., C.Eng., M.I.E.T.

Item D2**Multi-use games area with fencing and planting,
Eastborough Primary School, Maidstone – MA/08/289.**

A report by Head of Planning Applications Group to Planning Applications Committee on 15 April 2008.

Application by Governors Of Eastborough Primary School and Kent County Council Children, Families And Education for a polymeric surfaced multi-use games area with fencing and planting at Eastborough Primary School, Vinters Road, Maidstone (Ref:MA/08/289)

Recommendation: permission be granted subject to conditions

Local Member(s): Ian Chittenden

Classification: Unrestricted

Site

1. Eastborough Primary School is located on the north side of Vinters Road less than 1 km from Maidstone Town Centre. Residential properties adjoin the site to the north and south, a public car park to the west, and a cycle way/foot way, which is part of Huntsman Lane runs to the east. The vehicular access to the school site is from the southwest of the school site. The school buildings are located on the western part of the site and the playing field is located to the east of the site. The southern and eastern boundaries are bounded by hedgerows and a number of mature trees. The northern boundary, adjoining the playing field is open with approximately 1.8m high chainlink fence between the properties in Hanover Court and the school grounds. The site is sloping down from north to south. A site plan is attached (see page D2.2).
2. Prior to 2000 the southern part of the existing playing field was occupied by a number of permanent and temporary school buildings, which were demolished and the land cleared providing for the grass playing field.

Proposal

3. The application is for the construction of a Multi Use Game Area (MUGA) on the school's playing field. The proposed MUGA would be 36.6m x 21.35m with 3m high weldmesh fence to stop balls from being kicked out of the area. The surfacing used for the proposed pitch would be permeable, resin bound rubber crumb base mat with textured polyurethane surface coating finished in green. It is also proposed to install an underpitch drain system connected to a silt chamber in the SE corner which would then fall to a soakway to ensure the facility would be playable in all weather conditions. The MUGA would be used for tennis, basketball, netball and five-a side soccer by school age children. In addition to use by Eastborough Primary School pupils, the facility would help the school to provide community use in line with the Governments "Extended Schools initiative". The school proposes to use the MUGA Monday to Friday 8.00am to 6.00pm and Saturdays & Sundays 9.00am to 1.00pm throughout the year. Floodlighting is not proposed.

Proposed site plan



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Cross section drawing, view from West

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Planning Policy

4. 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, the 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 a high quality that responds positively to the local character. Development, which would be detrimental to the built environment, amenity, function or character of the area, will not be permitted.

Policy QL11 Provision will be made for development and improvement of local services in existing residential area and in town centres, particularly where services are deficient.

Policy QL15 Provision should be made for sport, informal and formal recreation facilities taking account of the potential for dual use and/or joint provision.

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

Policy NR5 Development should not result in an unacceptable level of pollution including noise.

(ii) Maidstone Borough Wide Local Plan 2000:

Policy CF9 Dual use of school's facilities will be encouraged where appropriate except where the increased level or duration of activities is incompatible with local residential amenity.

Policy ENV6 Landscaping, surfacing and boundary treatment will be required to be carried out as part of development proposals.

Consultations

5. **Maidstone Borough Council:** raises no objection to the proposal.

Divisional Transportation Manager: raises no objection to the proposal.

Sport England: raises no objection, however recommends securing community use of the facility by a planning condition.

County Archaeologist: no objection.

The County Council's Noise Advisor: advises that due to its close proximity to the nearest residential properties there is a potential risk for the proposed MUGA to have a detrimental

Multi-use games area with fencing and planting, Eastborough Primary School, Maidstone – MA/08/289

impact in terms of noise. However, without a noise assessment it is difficult to quantify the potential noise impacts. Thus, it is suggested that the use of the MUGA should be limited to 8.30am to 6pm Monday to Friday and no regular weekend use, unless the noise assessment demonstrates that noise impacts are acceptable. Additionally, an acoustic fence along the rear of properties on Snowdon Avenue and Hanover Court could be used to mitigate the potential noise level.

Local Member

6. The local Member Mr. Ian Chittenden was notified of the application on the 7th February 2008.

Publicity

7. The application was publicised by the posting of two site notices and the individual notification of 16 nearby properties.

Representations

8. 1 letter of representation was received in response to the proposal. The main planning reasons for objections can be summarised as follows:
 - The objection is on the grounds of proximity of the new games area to a housing complex for the elderly. The associated 3m high weldmesh fencing has poor aesthetics and the increase in noise levels, will be a major disturbance for elderly people.
 - It is suggested to find a different location for the MUGA or rotating the MUGA 90 degrees so this would be less visible.

Discussion**Introduction**

9. The application is required to be determined in accordance with the relevant Development Plan policies, unless other material considerations are of overriding importance. Therefore, the proposal is considered in the context of the Local Development Plan policies, Government Guidance and other material considerations arising from consultation. Issues of particular relevance include site selection, orientation, impact on playing fields and local residential amenity. Consideration should be given to Kent and Medway Structure Plan Policy QL11 that generally supports improvement of local services in existing residential areas. Consideration should also be given to Policy QL15 of the Kent and Medway Structure Plan and the Maidstone Borough Wide Local Plan Policy CF9 that encourage decision makers to make provision for dual use of community facilities. In conjunction with these and other relevant policies, these issues are considered and discussed below. In principle, I see no overriding objection on planning policy grounds, on the basis that the site is already a part of an existing playing field and the use of it for sporting activities is already established.

Location and orientation

10. The MUGA is proposed in the north west corner of the school playing field. The property adjacent to the school boundary (1 & 2 Hanover Court) is oriented west to east and therefore the southern elevation is a side elevation with no habitable room windows on it. Properties 4-15 have their back gardens facing the school playing fields and there is no screening in between the school grounds and the residential properties. One of the

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reasons for the objection raised by the resident was the proximity of the proposed MUGA to the residential homes. In her view the MUGA would be too close to her property and that some alternative locations would have been better. The applicant states however that various locations and orientations for the MUGA have been investigated (discussed below) and the proposed location had been chosen after careful consideration of all possible alternatives within the school grounds.

11. One of the alternative locations was to place the court further to the east, however a greater number of Hanover Court properties would then be directly affected and the development would then impact upon the mature trees along the eastern boundary. Additionally, pupils and staff would need to traverse the school field to use the MUGA. The option to place the MUGA on the southern side of the field close to Vinters Road was also considered but there is insufficient space to fit the court between the existing flat playing pitch and the southern boundary. Moreover, a number of trees would be affected and the site is organised as a meadow area designed to attract wildlife.
12. As the positioning of the pitch elsewhere would not be possible, turning the orientation of the pitch through 90 degrees has been considered. Due to the sloping of the northern part of the playing field the positioning of the court is constrained. To rotate the pitch 90 degrees would require much greater ground leveling work including the construction of a retaining wall across part of the playing field. Additionally, positioning the MUGA north-south would compromise the usability of the level playing field, which needs to have the minimum run off zone around the marked pitch. Finally, the school wants to reserve the grass area to the front of the foundation stage playground to enable its inclusion as part of the foundation stage playground.
13. Consequently, the applicant considers that the proposed location and layout would be the most suitable for the school's needs. However, it does raise a number of issues in view of the proximity to neighbouring residential properties, as discussed below.

Playing field

14. The proposed development is to be constructed on an area classified as a formal playing field. Therefore, it is important to assess the proposal against current playing field policy. Policy QL15 of the Kent and Medway Structure Plan seeks to ensure that provision is made for sport, informal and formal recreation facilities. Further, national Planning Policy Guidance 17 *Planning for Open Space, Sport and Recreation* states that careful consideration should be given to development proposals involving development on playing fields. The national guidance aims to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The development, which would lead to the loss of, or would prejudice the use of playing fields should not be permitted unless it meets with one of the exceptions. The MUGA is proposed on an area of the school playing field, which has not been used for any formal sporting activity due to its sloping nature from north to south. Sport England recognises the current limitations and considers that as the proposed development is to improve an outdoor sports facility, the benefits to the development of sport would outweigh the detriment caused by the loss of a part of this existing playing field. Consequently, the proposal would be in accordance with the development plan policies.

Residential amenity

15. The Policy QL1 of the Kent and Medway Structure Plan seeks to ensure that the development considers the needs of all sections of the community and the same time protects the amenity of local residents. Consequently, the development needs of the school need to be balanced against the needs to protect local amenity. The applicant states that the proposal would help the school to meet the Government's objective to

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encourage increased physical activity of pupils from the current 2 hours per week to 4 hours per week. The pitch would support the school's healthy ethos and would help to tackle the growing problem of obesity in young children. The applicant also states that the existing playground is too small to accommodate a wide range of activities and construction of a new MUGA would help to enable the children to enjoy a range of sports including football, basketball and netball.

16. An objection was raised on the grounds of the visual impact of the proposed fencing around the multi-use game area and an increase in noise level that would be a major disturbance for elderly people living in Hanover Court.
17. The part of the development that would be visible from the nearby residential homes would be the 3m high green weldmesh fencing (although black finish is also available), comprising a standard 3mm wire gauge 50mm x 50mm weld mesh up to a height of 1.3m and 5mm wire gauge 50mm x 150mm above that. The higher section of the proposed fencing around the MUGA would therefore be more open than the lower section where the fence would be strengthened to provide higher durability for football impacts. It is considered that the type of fencing proposed would have minimal visual impact due to its design. The ground level of the gardens of Hanover Court properties are already higher than the grass area on the school side. The impact would be further minimised by leveling works and a reduction of ground levels by approximately 600mm. The new MUGA fence would be of similar height to the existing boundary chainlink fence (drawing D2.3). Additionally, the applicant proposes planting along the boundary to further minimise the visual impacts. For the reasons above I consider that, the 3 m fencing would be acceptable in visual terms.
18. In terms of noise impact, the area is already classified as a playing field and the proposal does not change this use. Arguably it can already be used for sports both during weekdays and on weekends. On the other hand, the construction of the MUGA would be formalising and concentrating the use in a particular area of the playing field close to the residential boundary. The County Council's noise advisor considers that there is potential for increase in noise levels along this boundary however it is difficult to predict the impacts without a full noise assessment. The same time I acknowledged that the MUGA would be very close to the already existing hard surface area just to the west from the proposed site, which has the potential of generating similar noise levels. The applicant also notes that the proposed rubber type of surface would minimise the noise expected from balls landing on macadam surface, which can take place on the nearby hard surface play area. Under the circumstances, in my view, the most effective way of addressing the noise concern would be by controlling hours of use of the new facility.
19. In addition to the hours of use condition, the County Council's noise advisor suggests the erection of an acoustic fence to reduce the potential for noise. However, this could lead to even greater visual intrusion to residents who enjoy the open character of the boundary. I do not therefore support this element.

Hours of use

20. The applicant proposes to use the MUGA Monday to Friday 8am - 6pm throughout the year and Saturday & Sunday 9am- 1pm. The reason for the indicated hours is that the Eastborough Primary School offers childcare before and after school to provide wrap around care from 8am - 6pm during term time, which is in line with the Government's Extended Schools Agenda. Furthermore, the school is working with Maidstone Borough Council to extend this facility to include holiday periods. On the other hand, the County Council's noise advisor suggests that the hours of use should most likely be restricted to 8.30 am to 6.00pm weekdays and no regular use of the facility during weekends.

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However, it is recognised that without a noise assessment it is difficult to be definite about the required restrictions.

21. Policy QL15 of the Kent and Medway Structure Plan seek to ensure that provision is made for dual use of school sport facilities, while also having regard to Policies QL1 and NR5 of the Kent and Medway Structure Plan, which aim to protect the residential amenity and not to lead to unacceptable noise pollution. The school proposes to open its facilities not only to school pupils during the school hours but also to other school age children.
22. In general, it is considered that the provision of the new facility would improve the provision of sport facilities available to school children. Availability of the sport facility during the extended school hours between 8am - 6pm would not be unreasonable bearing in mind that unrestricted use of the playing field is already available and would not result in a significant extension of time to the normal school day. Therefore, I do not consider the MUGA would have detrimental impact on residential amenity. However, I do have some reservations about the use of the MUGA during weekends.
23. Currently, the existing school playing field and the hard surface play area can be used during the extended school hours including weekends. Should the school open its existing facilities to wider community during weekends, the distance between Hanover Court and the existing marked playing field would buffer the potential noise generated by children playing. However, encouraging more formalised activity along that boundary by allowing weekend use of MUGA, carries the potential risk of detriment impact of the weekend enjoyment of neighbours gardens. For this reason, I would recommend restricting the use of the MUGA to weekdays only. Should the school wish to extend the use to weekend, more evidence would need to be provided that the MUGA would not have detrimental impact on the residential amenity.
24. In the light of the above, I consider that the proposal would be in accordance with the Policy QL1 and NR5 of the Kent and Medway Structure Plan 2006, which require all developments to protect the amenity of their local surroundings and not lead to unacceptable noise levels.

Conclusion

25. Overall, I believe that the school would benefit from having the facility, which would provide better access to a range sport activities. The provision of this outdoor facility would outweigh the detriment caused by the loss of the grass playing field. Furthermore, it is unlikely, in my view, that by installing the rubber base mat pitch on the already existing playing field, the amenity of local residents would be significantly compromised. Furthermore, it is considered that any potential visual impact would be minimised by the lowering of the ground levels of the MUGA and provision of new planting along the boundary. The potential noise impact could be controlled by a planning condition limiting the days of use to weekdays only, between the hours of 8am-6pm. Consequently, I consider that the proposed development would be in accordance with the aims and objectives of the relevant Development Plan Policies.

Recommendation

26. Subject to any further views received by the Committee Meeting, I RECOMMEND that PERMISSION BE GRANTED SUBJECT to conditions, covering:
 - Standard time limit
 - No external lighting shall be installed
 - Details of landscaping scheme, including colour of fencing

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- Hours of use for the MUGA to be restricted to 8.00-18.00 Monday to Friday with no use during weekends
- The development to be carried out in accordance with the permitted details.

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| Case Officer –Anna Michalska-Dober |
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| Background documents –See section heading |
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E1 COUNTY MATTER 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.

| | |
|---------------------|---|
| CA/08/1 | Siting of an additional portable office adjacent to existing weighbridge. Shelford Landfill Site, Shelford Farm Estate, Broad Oak Road, Canterbury |
| CA/08/261 | Construction of pedestrian/cycle path. CANTERBURY CITY COUNCIL APPLICATION. Cotton Road to St Andrews Close, Including Horses & Goats Tunnel, Windcheap, Canterbury |
| DO/07/613/R4 | Discharge of condition 4 (details of surface and foul drainage). Eastry Wastewater Treatment Works, Felderland Lane, Eastry |
| SH/05/53/R2A & R15A | Minor amendments to approved plans and landscaping details of pumping station numbers 1 – Church Lane and 5 – Rolfe Lane of the Greatstone first time sewer system. Pumping stations in Church Lane and Rolfe Lane all in New Romney |
| SH/07/774/MR66 | Application for determination of new conditions under the terms of the Environment Act 1995 (Section 96 and paragraphs 6 and 10 of schedule 14). Lydd Quarry, Jury's gap Road, Lydd |
| SH/08/148 | SHEPWAY DISTRICT COUNCIL – Engineering operations consisting of the levelling of the site to provide 25m x 35m grassed play area. Open Space, Brabner Close, Folkestone |
| SH/08/167 | Amendments to approved details of planning permission SH/05/53 to include new point of access, minor amendments and a landscaping scheme. Pumping Station No.2, Ashford Road, New Romney |
| TM/95/761/R25 | Archaeological Watching Brief Specification, pursuant to condition (25) of planning permission TM/95/761. Hermitage Quarry, Hermitage Lane, Aylesford |
| TM/03/2784/R36 | Archaeological Watching Brief Specification, pursuant to condition (36) of planning permission TM/03/2784. Hermitage Quarry, Hermitage Lane, Aylesford |

- TM/04/4354/R10 Details of widths of undisturbed margins to protect public highway, railway line and river Medway on the red land pursuant to condition (10) of planning permission TM/04/4354.
Land adjacent to East Peckham Quarry, East Peckham
- TM/08/175 Section 73 application to vary condition (4) of permission TM/04/2028 to allow time for completion of quarry restoration.
Workhouse Quarry, Workhouse Road, Ryarsh

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.

None

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/08/224 Retention of toilet block to serve nursery / preschool.
Bethersden Primary School, School Road, Bethersden, Ashford
- DA/07/1063 A new 2 form entry primary school and community centre with playground and playing field.
The Hub, The Bridge Development, Dartford
- DO/06/1247/R5 Details of all materials to be used externally pursuant to Condition 5 of planning permission reference DO/06/1247.
Roly Eckhoff House, Roosevelt Road, Dover
- DO/06/1247/RA Minor amendments including the demolition of the bungalows and a re-arrangement of the car park layout, including the removal of 4 spaces.
Roly Eckhoff House, Roosevelt Road, Dover

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| DO/07/935/R | Amendment to the siting of the building. Refuse Transfer Station, Honeywood Business Park, Whitfield, Dover |
| DO/07/935/R2 | Details of materials pursuant to Condition 2 of planning permission reference DO/07/935. Refuse Transfer Station, Honeywood Business Park, Whitfield, Dover |
| DO/07/1468 | Provision of a mobile toilet unit. Hornbeam Primary School, Mongeham Road, Great Mongeham |
| DO/07/1475 | New entrance foyer. St Edmunds Catholic School, Old Charlton Road, Dover |
| DO/08/49 | Renewal of temporary permission for continued use of buildings as a nursery. Warden House School, Birdwood Avenue, Deal |
| DO/08/173 | Replacement of the existing timber windows and doors to UPVC units on the south façade of the school. St Martin's School, Markland Road, Dover |
| DO/08/174 | Provision of additional fire exits. Barton Junior School, Barton Road, Dover |
| GR/07/673/R3 | Details of a buggy store pursuant to Condition 3 of planning permission reference GR/07/673 for a Children's Centre. Kings Farm Primary School, Cedar Avenue, Gravesend |
| GR/07/673/R4 | Details of a canopy pursuant to Condition 4 of planning permission reference GR/07/673 for a Children's Centre. Kings Farm Primary School, Cedar Avenue, Gravesend |
| GR/07/673/R5 | Details of cycle parking pursuant to condition 5 of planning permission reference GR/07/673 for a Children's Centre. Kings Farm Primary School, Cedar Avenue, Gravesend |
| GR/07/673/R | Minor amendments to elevation drawings of the Children's Centre permitted under planning permission GR/07/673 comprising minor changes to the window arrangements, parapet to north east elevation, and inclusion of a canopy to main entrance. Kings Farm Primary School, Cedar Avenue, Gravesend |
| MA/06/859/RA | Amendment to planning application; provision of an additional external store. Bower Grove School, Fant Lane, Maidstone |
| MA/07/2620 | Provision of temporary accommodation comprising 8 classrooms, 5 practical rooms, 1 conference room, 1 dining room, 1 ante room, and 83 additional car parking spaces. New Line Learning Academy, Formerly Oldborough Manor Community School, Boughton Lane, Loose, Maidstone |
| SE/07/1975/R3 | Details of all materials to be used externally – New single storey extension. Crockham Hill C of E Primary School, Crockham Hill, Edenbridge |

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| SE/07/1975/R5 | Details of a scheme of landscaping – New single storey extension. Crockham Hill C of E Primary School, Crockham Hill, Edenbridge |
| SE/08/545 | Replacement of 2 no. sheds and forming a new door opening to existing window. Edenbridge Primary School, High Street, Edenbridge |
| SW/07/1/R9B | Details of the sequence of construction of the avian screen and earthworks bund pursuant to condition 9B of planning permission SW/07/1. Land between A249, Neats Court Roundabout and Rushenden Road, including parts of Neats Court Marshes, Queensborough, Isle of Sheppey |
| SW/07/1/R3,R17 & R19 | Details of bridge design, fencing and paved surfaces, foundations of bridge and earthworks and proposed piling method pursuant to conditions 3, 17 & 19 of planning permission SW/07/1. Land between A249, Neats Court Roundabout and Rushenden Road, including parts of Neats Court Marshes, Queensborough, Isle of Sheppey |
| SW/07/902/R3 | Details of proposed canopy pursuant to condition (3) of planning permission SW/07/902 for a Children's Centre. Grove Park School, Hilton Drive, Sittingbourne |
| SW/08/62 | Renewal of consent for existing modular building at Swale Language Unit. Minterne Community Junior School, Minterne Avenue, Sittingbourne |
| TH/06/1300/R5 | Details of ground conditions report, site investigation and method statement pursuant to Conditions 5 of planning permission reference TM/06/1300 for a two-storey apartment building. Former tramshed and part of rear garden of Westbrook House, 150 Canterbury Road, Margate |
| TH/06/1300/R9 | Details of a scheme for the disposal of foul and surface waters pursuant to Condition 9 of planning permission reference TM/06/1300 for a two-storey apartment building. Former tramshed and part of rear garden of Westbrook House, 150 Canterbury Road, Margate |
| TH/07/1567 | Construction of 8 car parking spaces including 3 disabled parking bays. Minnis Bay Day Care Centre, Minnis Bay, Birchington-on-Sea |
| TH/07/1727 | Retention of a storage container. Northdown Primary School, Tenterden Way, Margate |
| TM/07/199/R | Minor amendment to roofing materials proposed to classroom building permitted under planning permission TM/07/199. Sussex Road School, Sussex Road, Tonbridge |
| TM/08/397 | Temporary mobile home. Hayesbrook School, Brook Street, Tonbridge |

- TM/08/477 To erect a 9m long X 3.6m wide X 3.0m high (at highest) timber apex roof structure/shelter on reception playground and covered walkway to link classroom to shelter.
Snodland CE Primary School, Roberts Road, Snodland
- TW/05/1397/R3&R4 Details of materials and landscaping scheme pursuant to conditions 3 & 4 of planning permission TW/05/1397.
Tunbridge Wells Grammar School For Girls, Southfield Road, Tunbridge Wells

E5 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/08/Temp/0010 Application for a beach volleyball facility with floodlighting and an associated storage building, and floodlighting to two adjacent existing tennis courts.

Victoria Memorial Recreation Ground, Knight Avenue, Canterbury

SH/08/Temp/0010 Use of farm access road between Hope Farm and B2011 New Dover Road to provide vehicular access road to green waste composting facility at Hope Farm and variations of conditions 2, 6 and 7 of planning permission SH/03/62 and condition 14 of planning permission SH/04/1629.

Hope Farm, Crete Road East, Hawkinge, Folkestone

TH/08/TEMP/0014 Demolition of existing school buildings, erection of new school together with associated hard and soft landscaping to provide games pitches and courts and the provision of a car park area.

Relocation of Portal House School (to the grounds of the former Newington Infant School and Newington Nursery), Melbourne Avenue, Ramsgate

TH/08/TEMP/0013 Demolition of the existing dining hall and the erection of a creative arts block, roofing over of the internal quadrangles to the main building and the creation of a new multi use games court to the rear of the sports hall and associated works including hard and soft landscaping.

King Ethelbert School, Canterbury Road, Birchington, Margate

DO/08/Temp/0010 Section 73 application to carry out development without complying with conditions of DO/92/988 – Reprofilling with inert waste.
Back Sand Point Landfill Site, Ramsgate Road, Sandwich

- (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:-

None

E6 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.*

None