

**PLANNING APPLICATIONS COMMITTEE**

**Tuesday, 13th April, 2010**

**10.00 am**

**Darent Room, Sessions House, County Hall,  
Maidstone**





## AGENDA

### PLANNING APPLICATIONS COMMITTEE

Tuesday, 13th April, 2010, at 10.00 am      Ask for:      **Andrew Tait**  
Darent Room, Sessions House, County Hall,      Telephone:      **01622 694342**  
Maidstone

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

#### **UNRESTRICTED ITEMS**

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

#### **A. COMMITTEE BUSINESS**

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes - 16 March 2010 (Pages 1 - 4)
4. Site Meetings and Other Meetings

#### **B. GENERAL MATTERS**

#### **C. MINERALS AND WASTE DISPOSAL APPLICATIONS**

1. Applications TM/09/3231-3236 - Variation of Condition 1 of Permission TM/08/3353 to allow waste to be sourced from the following local authority areas (in addition to Kent and Medway) at New Earth Composting Plant, Blaise Farm Quarry, Kings Hill, West Malling; New Earth Solutions Group Ltd. (Pages 5 - 32)
- C1 TM/09/3231: Surrey, East Sussex, West Sussex, Brighton and Hove, all London Boroughs, Thurrock, Essex and Southend;  
  
TM/09/3232: Surrey;  
  
TM/09/3233: Surrey, East Sussex, West Sussex and Brighton and Hove;  
  
TM/09/3234: Surrey, East Sussex, West Sussex, LB Bromley, LB Bexley, Thurrock and Essex;  
  
TM/09/3235: Surrey, East Sussex, West Sussex, Brighton and Hove, LB Bromley, LB Bexley and Thurrock; and  
  
TM/09/3236: Surrey, East Sussex, LB Bromley, LB Bexley and Thurrock.
2. Application TW/10/33 - Temporary drilling site with temporary road access. Drilling of well bores to establish hydrocarbon potential. Conduct of a well test to establish performance. Return to agricultural use upon termination at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough; Midmar Energy UK Ltd (Pages 33 - 60)

#### **D. DEVELOPMENTS TO BE CARRIED OUT BY THE COUNTY COUNCIL**

1. Proposal AS/10/20 - Cable stay footbridge over the M20 Motorway to the east of Junction 9 between Eureka Leisure Park and Warren Retail Park, Ashford; KCC Highways Services (Pages 61 - 76)
2. Proposal TM/09/3102 - Extension of the existing car park at Woodlands Infant School, Higham School Lane, Tonbridge; Governors of Woodlands Infant School and KCC Property Group (Pages 77 - 88)
3. Proposal DO/09/1189 - Movement of existing gates to entrance of campsite by approximately 6 metres into premises and painted green at Kearsney Campsite, Kearsney Avenue, Dover; KCC Youth Services (Pages 89 - 96)

#### **E. COUNTY MATTERS DEALT WITH UNDER DELEGATED POWERS**

1. County matter applications (Pages 97 - 104)
2. Consultations on applications submitted by District Councils or Government Departments
3. County Council developments
4. Screening opinions under Environmental Impact Assessment Regulations 1999
5. Scoping opinions under Environmental Impact Assessment Regulations 1999

#### **F. OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

##### **EXEMPT ITEMS**

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

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

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

Thursday, 1 April 2010

**KENT COUNTY COUNCIL****PLANNING APPLICATIONS COMMITTEE**

MINUTES of a meeting of the Planning Applications Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 16 March 2010.

PRESENT: Mr R E King (Chairman), Mr J F London (Vice-Chairman), Mr R Brookbank, Mr A R Chell, Mrs V J Dagger, Mr T Gates, Mr C Hibberd, Mr G A Horne MBE, Mr J D Kirby, Mr R F Manning, Mr R J Parry, Mr W Richardson (Substitute for Mr R A Pascoe), Mr M Robertson, Mr C P Smith, Mr K Smith and Mr A Willicombe

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

**UNRESTRICTED ITEMS****14. Minutes - 17 February 2010**

*(Item A3)*

RESOLVED that the Minutes of the meeting held on 17 February 2010 are correctly recorded and that they be signed by the Chairman.

**15. Site Meetings and Other Meetings**

*(Item A4)*

The Committee agreed to hold site visits on the afternoons of the next two meetings of the Committee. A visit to a South East London waste disposal site was provisionally scheduled to take place on 11 April 2010 and an application site in Tovil, Maidstone would be visited on 13 May 2010. In the event that the visit to London could not be arranged, the Tovil visit would be brought forward to 11 April.

**16. Proposal SH/09/1050 - Household Waste Recycling Centre, including a provision for the receipt of small amounts of trade waste at land at the end of Mountfield Road, New Romney - Kent Waste Management**

*(Item C1)*

(1) Mr W L Richardson made a declaration of personal interest as he had already given his views during the consultation period. He addressed the meeting in his capacity as local member but took no part in the decision-making process.

(2) RESOLVED that subject to the satisfactory completion of a legal agreement to secure a contribution towards local highway improvements permission be granted to the application subject to conditions including conditions covering the standard three year time limit; the development being carried out in accordance with the permitted details; details of a programme for the implementation of landscaping on the site including specific details of habitat creation; a scheme for foul and surface water drainage; groundwater protection; operating hours; noise restriction; details of signage; details of construction of the bunding; ecological works (as set out in

paragraph 68 of the report); and the submission of details of a Construction Management Plan for approval prior to the commencement of work on site.

**17. Proposal CA/09/1951 - Modified half core Children's Centre with associated car parking and play areas at Hersden Primary School, Shaftesbury Road, Hersden, Canterbury; KCC Children, Families and Education**

*(Item 10)*

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; the tree and hedge shown for retention being afforded protection during construction in accordance with the current British Standard; and dedicated off-street parking (as detailed within the proposals) being provided prior to first occupation of the Children's Centre, and being retained thereafter solely for that purpose whilst the Centre is in use.

**18. Proposal GR/09/972 - Change of use of upstairs room (known as the Chestnut Room) for meetings, launches, wedding ceremonies, receptions and other functions at Shorne Woods Country Park, Brewers Road, Shorne, Gravesend; KCC Country Parks**

*(Item D2)*

(1) The Head of planning Applications Group reported the views of Mr M V Snelling, the local Member in support of the proposal.

(2) Mr Mark Brett from Shorne PC addressed the Committee in opposition to the proposal. Mrs Amanda Dunk from KCC Country Parks spoke in reply.

(3) Mr R F Manning moved, seconded by Mr M B Robertson that the recommendations of the Head of Planning Applications Group be agreed.

(4) Mr C P Smith moved an amendment, seconded by Mr R J Parry that permission be granted for a temporary period of two years.

*Amendment carried by 11 votes to 4*

(5) On being put to the vote, the substantive motion was carried as amended by 14 votes to 1.

(6) RESOLVED that temporary planning permission be granted to the proposal for a period of two years subject to conditions, including conditions covering the standard time limit; the development being carried out in accordance with the permitted details; the use of the Chestnut Room being solely for the uses applied for, with no other uses taking place unless otherwise agreed in writing by the County Planning Authority; and the hours of use of the Chestnut Room being limited to 08:00 to 22:00 seven days a week.

## **19. County matters dealt with under delegated powers**

*(Item E1)*

RESOLVED to note matters dealt with under delegated powers since the last meeting relating to:-

- (a) County matter applications;
- (b) consultations on applications submitted by District Councils and Government Departments;
- (c) County Council developments;
- (d) Screening opinions under Environmental Impact Assessment Regulations 1999; and
- (e) Scoping opinions under Environmental Impact Assessment Regulations 1999 (None).

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SECTION C  
MINERALS AND WASTE DISPOSAL

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

## Item C1

### **Six applications for variation of condition 1 of planning permission TM/08/3353 at Blaise Farm Quarry Composting Facility, West Malling, Kent – TM/09/3231 to TM/09/3236**

A report by Head of Planning Applications Unit to Planning Applications Committee on 13 April 2010.

Applications by New Earth Solutions Group Ltd for variation of condition 1 of planning permission TM/08/3353 to allow waste to be sourced from the following local authority areas (*currently condition 1 allows waste from just Kent and Medway*):

TM/09/3231: Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove, all London Boroughs, Thurrock, Essex and Southend;

TM/09/3232: Kent, Medway and Surrey;

TM/09/3233: Kent, Medway, Surrey, East Sussex, West Sussex and Brighton & Hove;

TM/09/3234: Kent, Medway, Surrey, East Sussex, West Sussex, LB Bromley, LB Bexley, Thurrock and Essex;

TM/09/3235: Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove, LB Bromley, LB Bexley and Thurrock; and

TM/09/3236: Kent, Medway, Surrey, East Sussex, LB Bromley, LB Bexley and Thurrock

all at the New Earth Composting Plant, Blaise Farm Quarry, Kings Hill, West Malling, Kent.

Recommendation: .

Local Members: Mrs S Hohler, Mrs T Dean and Mr R Long

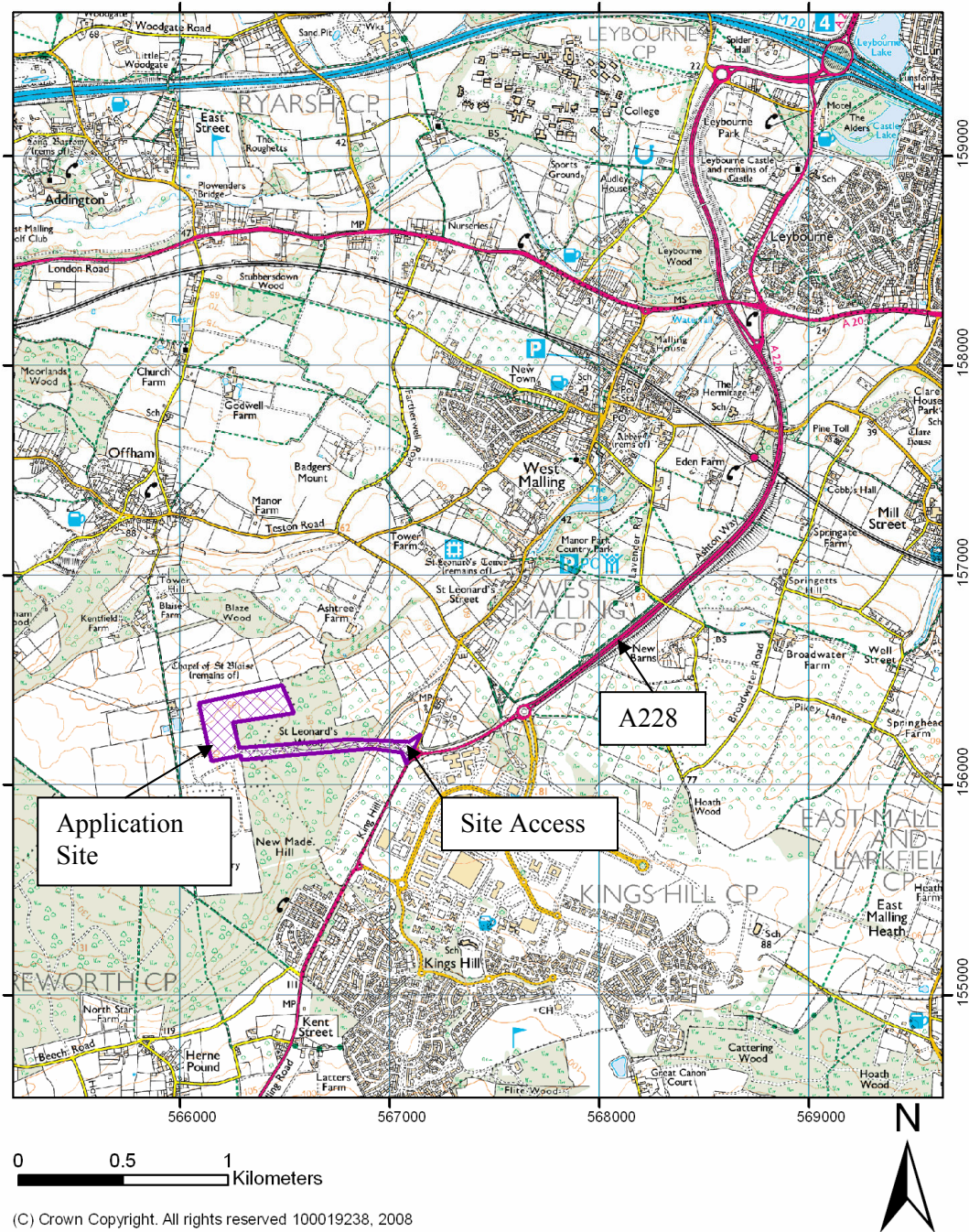
Unrestricted

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

1. The New Earth Composting Plant is located within the excavated quarry void in the north eastern corner of Blaise Farm Quarry near Kings Hill, West Malling in the Parish of Offham. The composting facility is located about 15 to 20m lower than adjacent ground and is bounded to the east / part south by St Leonard's Wood, to the north by farmland and planting associated with the quarry and to the west / part south by those parts of the quarry that have yet to be started / fully excavated. The nearest residential property (Blaise Farm House) is about 500m to the north west. Access to the composting facility is via a purpose built access road from the existing quarry access road and the A228 West Malling roundabout near Kings Hill. The site lies in the Metropolitan Green Belt and St Leonards Wood is designated as both Ancient Woodland and a Local Wildlife Site (LWS). The remains of the Chapel of St Blaise (Scheduled Ancient Monument) lie about 100m to the north of the application site. The quarry has the benefit of a mineral permission (TM/88/1002) granted in 1994 which provides for the winning and working of ragstone over a 62-year period from the

**Item C1**

**Six applications for variation of condition 1 of planning permission  
TM/08/3353 at Blaise Farm Quarry Composting Facility, West  
Malling, Kent – TM/09/3231 to TM/09/3236**



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**Six applications for variation of condition 1 of planning permission TM/08/3353 at Blaise Farm Quarry Composting Facility, West Malling, Kent – TM/09/3231 to TM/09/3236**

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start of commercial mineral extraction (i.e. from March 2001).

2. The background and planning history of the composting facility is set out in the committee report dated 3 November 2009 on the outcome of a Public Inquiry into two Appeals by New Earth Solutions Limited against the Refusal of Kent County Council for the Removal of / Variation to Condition 12 of Planning Permission TM/06/762 (Restriction on Waste Sources) which is attached at Appendix 1 of this report. Since that report, a further planning permission was issued for the site on 11 January 2010 (TM/09/2661). This provided for a minor variation to the permitted hours of operation to allow the delivery of waste on certain bank and public holidays and was dealt with under officer delegated authority.

Garden and food waste collection and disposal contracts in Kent and Medway

3. Approximately 95,258 tonnes (t) of garden waste and food waste from Kent is expected to be sent for composting in 2009/10. Of this, about 26,600t will be sent for composting “in vessel” at Blaise Farm (24,600t being from kerbside collections in Tonbridge & Malling and Tunbridge Wells). The rest (all garden waste) will be sent for composting at “open windrow” facilities at Dunbrik (Sevenoaks), Shelford (Canterbury), Hope Farm (Shepway), Hawkhurst (Tunbridge Wells), Ridham (Swale), Uckfield (East Sussex) and Swanley (London). The current KCC waste management contract at Blaise Farm is for a duration of 15 years with an option to extend this for up to 5 years. It provides for between 25,000tpa and 30,000tpa of waste being sent to the site after the initial 3 year period during which amounts of waste are increased incrementally. As commercial operations commenced on 1 September 2008, the contract will run until 1 September 2023 (with a possible extension until 1 September 2028). This 1 September 2028 date is consistent with the permitted operational life of the facility.
4. The four East Kent Districts of Thanet, Dover, Shepway, and Canterbury have recently agreed to introduce a common collection system by 2012/13. They all currently collect green waste (some in a limited way) and now intend to expand and add food waste to green waste collections. Whilst this is an ongoing process, and precise arrangements have yet to be determined, it is understood likely that contracts will be awarded for Dover and Shepway by mid-2010. This could result in composting or some similar recovery process (such as anaerobic digestion) being required for up to 20,000tpa of green and food waste until 2020. It is understood that decisions for Canterbury and Thanet may be made in 2013 and that these contracts could result in the need for a further 30,000tpa of similar capacity. Unless new permissions are granted and provided unused capacity remains available, the ABPR compliant facilities at Blaise Farm and Ridham could be used to process some or all of this waste. It is also understood that Maidstone intends to introduce a trial collection of food waste in 2010 for 7,000 to 10,000 homes and that it envisages sending this waste to Blaise Farm. New contractual arrangements will be required for Ashford, Maidstone and Swale in 2013. The introduction of food waste collections prior to then is considered unlikely. Sevenoaks currently has no plans to introduce food waste collections but does have a green waste collection scheme. Dartford and Gravesham currently have no green waste collections although Dartford intends to undertake a trial from April 2010.

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5. Medway Council had resolved to award a new 15 year contract for the processing of garden / kitchen waste collected at kerbside to Countrystyle Recycling Limited (based at Ridham) in 2009. However, it recently extended its existing contractual arrangements until October 2010 in order to re-evaluate tenders previously considered in 2009. Until any new contract is awarded, the position remain uncertain. However, it is understood that this could lead to between 18,000tpa and 20,000tpa of garden and food waste being available for recovery in the relatively short term with the potential for this to increase further if residual waste collections were reduced from weekly to fortnightly over the entire Council area.

**The Proposals**

6. Six applications have been submitted seeking to vary condition 1 of planning permission TM/08/3353 (*i.e. the permission granted in appeal in August 2009*) to allow waste to be sourced from a larger catchment area. The applications propose that waste be permitted to be sourced from the following local authority areas:-

TM/09/3231: Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove, all London Boroughs, Thurrock, Essex and Southend;

TM/09/3232: Kent, Medway and Surrey;

TM/09/3233: Kent, Medway, Surrey, East Sussex, West Sussex and Brighton & Hove;

TM/09/3234: Kent, Medway, Surrey, East Sussex, West Sussex, LB Bromley, LB Bexley, Thurrock and Essex;

TM/09/3235: Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove, LB Bromley, LB Bexley and Thurrock; and

TM/09/3236: Kent, Medway, Surrey, East Sussex, LB Bromley, LB Bexley and Thurrock.

7. The applications are supported by a single detailed planning supporting statement and design and access statement. This includes (amongst other things) the applicant's position on the planning applications, catchment areas, the existing facility, the recent planning history (including the planning inquiry in August 2009), South East Plan Policy W4 (and recent interpretation of this elsewhere in the Region) and the wider policy context, as well as an appraisal of the proposals against other material planning considerations and an analysis of the need for composting facilities in the South East region and its proposals for a revised catchment area.

8. The applicant states that each application is for specific areas included within adjoining sub-regions defined in the South East Plan and that these are all different from the two considered previously at the recent Planning Inquiry. In its opinion, a correct interpretation of Policy W4 of the South East Plan would lead to the largest waste catchment area proposed by application TM/09/3231 being permitted. However, it acknowledges that material considerations may lead the County Council to decide that one of the other proposed waste catchment areas is the most appropriate. The applicant also states that the following represent key changes to the material considerations since the Planning Inquiry:-

- Documentary evidence exists of the desire of Waste Disposal Authorities in

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- adjoining sub-regions to use the Blaise facility;<sup>1</sup> and
- Other planning authorities in the South East have followed radically different approaches to the same South East Plan policy framework. Hampshire County Council, for example, has permitted two energy from waste plants without any planning condition on geographical limits.
9. The applicant emphasises the urgent need for additional capacity for treating biowaste and the unsustainable nature of leaving the permitted capacity at Blaise Farm unused. It further states that its principal aim is to maximise the amount of waste it diverts from landfill and that this is prevented by the current wording of the condition. The applicant specifically refers to an existing contract it has with Essex County Council to take up to 10,000tpa of waste until 31 March 2014 that it is unable to honour due to the current restriction. It also states that benefits of allowing a larger waste catchment include increasing the viability of the plant, bringing forward the second phase of the development (thereby increasing the actual capacity from 50,000tpa to 100,000tpa as is already permitted), additional employment opportunities and the production of more compost for local farmers or others. It states that allowing a larger waste catchment would not prejudice the ability of the facility to treat additional waste from within Kent and Medway. The applicant has also offered to provide a further modified Section 106 Unilateral Undertaking (relating to a liaison group, HGV routing and restoration).

**Planning Policy Context**

10. **National Planning Policies** – the most relevant National Planning Policies are set out in PPG2 (Green Belts), PPS10 (Planning for Sustainable Waste Management), PPS23 (Planning and Pollution Control) and Waste Strategy for England 2007.
11. **South East Plan (May 2009)** – These include Policies SP1 (Sub-regions in the South East), SP5 (Green Belts), CC1 (Sustainable development), CC2 (Climate change), NRM1 (Sustainable water resources and groundwater quality), NRM2 (Water quality), NRM5 (Conservation and improvement of biodiversity), NRM7 (Woodlands), NRM9 (Air quality), NRM10 (Noise), W3 (Regional self-sufficiency), W4 (Sub-regional self-sufficiency), W5 (Targets for diversion from landfill), W6 (Recycling and composting targets), W7 (Waste management capacity requirements), W10 (Regionally significant facilities), W14 (Restoration), W16 (Waste transport infrastructure), W17 (Location of waste management facilities), C4 (Landscape and countryside management) and BE6 (Management of the historic environment).
12. **Kent Waste Local Plan (1998)** – These include Policies W6 (consideration of need / harm), W10 (criteria for composting proposals), W18 (noise, dust and odour), W19 (ground and surface water), W20 (land drainage and flood control), W21 (nature conservation), W22 (road traffic and access), W31 (landscaping) and W32 (aftercare).
13. **Tonbridge and Malling Borough Council Local Development Framework Core Strategy (September 2007)** – Policies CP1 (sustainable development) and CP3 (Metropolitan Green Belt).

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<sup>1</sup> Letters from West Sussex, Surrey, Bexley, Bromley and the West London Waste Authority (a joint Authority of the London Boroughs of Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames).

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14. **Kent Joint Municipal Waste Management Strategy (April 2007)** – The most relevant Policies are 8 (which states that the Kent Waste Partnership will achieve a minimum level of 40% recycling and composting of household waste by 2012/13 and will seek to exceed this target) and 12 (which states that the Kent Waste Partnership will work to secure composting capacity including in-vessel in the County to enable the authorities in the east of Kent to provide an efficient and cost-effective service for management compostable wastes).

**Consultations**

15. **Tonbridge and Malling Borough Council** – Objects to the proposals on the basis that the sourcing of waste material from outside the sub-region of Kent and Medway could prejudice the ability of the Blaise Farm facility to compost green waste sourced from within this sub-regional area, which includes the Borough of Tonbridge and Malling. It adds that KCC will need to be satisfied that the proposed development complies with national, regional and local adopted planning policies regarding waste management and disposal.
16. **Offham Parish Council** – Supports the principle of maximising the amount of waste diverted from landfill but, in the absence of answers to various questions, is opposed to a further extension of the waste catchment area and hence all six applications. A copy of Offham Parish Council's response is attached at Appendix 2 of this report.
17. **West Malling Parish Council** – Objects strongly for the following reasons:-
- Local sources are not being used to their maximum extent as some authorities have existing contracts to send their waste to destinations other than Blaise Farm. It asks that KCC use its influence with other authorities so that green waste is sent to Blaise Farm. If this could be achieved then the site would be used to capacity and there would be no need to seek other sources;
  - Concerns that plastic is being included in what should be “green” waste. The plastic is being shredded instead of being burnt off resulting in poor quality waste which is spread on the ground where the shreds of plastic do not break down;
  - Perceptible odour occasionally emanates from the site;
  - There is pressure from the Government to increase recyclable waste. This is a move which it endorses and which would significantly increase local supplies of recyclable material; and
  - Any long term contracts to take material from a wider area could severely compromise the ability of the Blaise Farm facility to manage any increase in local supplies. It would be a nonsense if local supplies of recyclable materials could not be dealt with within Blaise Farm and would need to be trucked out of the area whilst supplies were being trucked in from elsewhere.

West Malling Parish Council has also requested a meeting with KCC, to include other affected parishes, in order to discuss the issues raised. It has also stated that the above represent its preliminary comments and that members reserve the right to add to these once such a meeting has taken place.

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18. **Kings Hill Parish Council** – Objects to all six applications on the basis of increased traffic impacts and the likely increased size of HGVs using the facility as a result of the alternative sources. However, is supportive of the facility and composting in general.
19. **Mereworth Parish Council** – Is extremely concerned at the large number of London Boroughs that have been included due to the impact of additional HGV movements on the local road infrastructure (particularly the A228). States that traffic impacts are a major issue for local residents. Is also concerned about any increase in vehicles taking compost from the site. It suggests that if the compost was accredited so it could be bagged and palletted rather than being removed by tractor (as currently) this would mean that larger vehicles could be used and this reduce the overall number.
20. **SEERA** – Has advised that if KCC is minded to amend condition 1, it should address the following through appropriately worded conditions and/or legal agreements:-
  - Ensure the proposal is beneficial to the region, including improving the viability of recovery and reprocessing activity in the region and thus assisting in delivery of recovery targets, and that the facility is the nearest appropriate location in line with the objectives of Policy W3 of the South East Plan;
  - Ensure that the proposal does not compromise the objectives of the Green Belt in line with guidance in PPG2 (Green Belts);
  - Secure an appropriate package of measures to prevent and mitigate against air and noise pollution in accordance with Policies NRM9 and NRM10 of the South East Plan; and
  - Secure appropriate measures to reduce the transport and associated impacts of waste movement in accordance with the objectives of Policy W16 of the South East Plan.
21. **Environment Agency** – No objection to the principle of the application but would remind the applicant of the need to ensure that any operating changes will also need to be approved by and reflected in the Environmental Permit for the site.
22. **Local Transport and Development Manager** – No objections. The proposal is to source material from further afield without any increase in the number of permitted HGV movements. Vehicles travelling from the proposed more remote areas will use the motorway and 'A' road links that currently serve the site.
23. **KCC Waste Management Unit** – The Waste Disposal Authority has a Statutory duty to seek provision for domestic waste disposal arisings in Kent, of which green/garden biodegradable waste constitute a key component of the waste stream. Notwithstanding the overall capacity requirements, the "Joint Strategy for the Sustainable Management of Household Waste for Kent" clearly identifies a requirement to reduce the amount of waste being sent to landfill in order to be able to meet strict Government targets and Best Value Performance Indicators. Blaise Farm is a key component of the existing waste infrastructure and contracted by Kent County Council to accept this category of material. Whilst the facility currently processes some 26,000 tonnes per annum mainly originating from the west of our region, this is set to rise significantly over the medium term as new Kent contracts begin to come on stream. Other outlets currently include Ridham Dock, Sittingbourne, Hope Farm near

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Hawkinge and Shelford at Canterbury. Hope Farm and Shelford both operate a "Windrow" type operation and are not able to take in "Food Wastes".

Current estimates suggest a potential doubling of this figure is likely, resulting in part from phase one of the East Kent Project. If extrapolated to take the additional tonnages envisaged from other known or potential contract procurement processes this total raises demand to a figure approaching the maximum 100,000 tonnes per annum through put of the plant. However at this time there remains a degree of uncertainty as to what the total demand is going to be since this will depend on the inclusion of "food waste" within future contracts. Whilst there clearly is a demonstrable medium to longer term Kent demand for this capacity, suitable contracts in some cases remain to be finalised or awarded and there is therefore an opportunity to utilise currently spare capacity from elsewhere.

The applicant has detailed the various merits, and considered different connotations for bringing in waste from different sources outside the currently permitted catchment area. Having fully considered the likely impact on Kent services of these options, by allowing the waste catchment area to be extended to include the London Boroughs of Bexley and Bromley on a temporary basis over this period, up to 2016 is considered appropriate. The longer term Kent position is protected by limiting approval to 2016. By this time London is expected to be self-sufficient and spare capacity can then revert back to safeguard the projected Kent processing requirement.

24. **Other Waste Planning Authorities** – All waste planning authorities (WPAs) in the South East and East of England regions and the Greater London Authority were also consulted on the proposals. Of those consulted, only **Berkshire** and **Surrey** commented on the proposals themselves.

**Berkshire Authorities' Joint Strategic Planning Unit** supports the applications as it does not support use of waste catchments. It is concerned about a "beggar my neighbour" approach to waste planning whereby waste catchments hamstring WPAs who, possibly for perfectly valid reasons, may have difficulty in achieving net self-sufficiency and also prevents cross-boundary movements of waste where these are the most sustainable solution to its management. It argues that waste catchments are therefore counter to the flexibility sought by South East Plan Policy W4 and supporting text. Instead, it believes that transport costs should determine sustainability. It further states that if waste catchments are to be used this should only be in wholly exceptional circumstances.

**Surrey** has no objection to the applications as they could potentially provide additional treatment capacity for its bio-waste waste than is currently available until such a time as more local facilities can be developed in Surrey. It adds that the risk of waste from Surrey displacing that from Kent and Medway is limited as Surrey will have developed its own facilities by the time separate collections in Kent and Medway are more widespread.

The other respondents provided information on ABPR compliant composting facilities (permitted or planned), the use of waste catchments in permissions (via conditions or Section 106 Agreements) and bio-waste movements in their areas.



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25. No responses have been received from SEEDA and DEFRA (Animal Health Division).

**Representations**

26. The application has been publicised both by site notice and newspaper advertisement and 15 local residential / business properties were notified. At the time of writing 2 letters of representation have been received. These object to the proposals on the following grounds:-

- Increased traffic (highway safety issues);
- Would change the facility from one serving the local area to one for London and the South East (and if this had been proposed originally, the facility would never have been permitted in the Green Belt);
- It would be more sustainable for new waste processing facilities to be provided in the proposed catchment areas to avoid waste being transported long distances;
- The “drive-times” referred to in the application documents appear to be rather optimistic.

27. CPRE Tonbridge and Malling District Committee objects strongly to each application as it considers them to be contrary to South East Plan Policies W3 and W4. It also questions whether allowing waste to be transported long distances by HGVs is an efficient use of resources, particularly if this results in the plant being unable to serve local requirements, and states that any further extension to the catchment area should be analysed using BPEO criteria. It is also concerned that the proposal could lead to pressure for increased and unacceptable levels of lorry traffic on local roads and a consequent detriment in environmental conditions with adverse impacts on road safety.

28. Concerns have also been expressed about odour in the area and the respondent has asked that KCC satisfy itself that this is not a result of the composting facility.

**Local Members**

29. County Council Members Mrs S Hohler, Mrs T Dean and Mr R Long were notified in October 2008.

**Discussion**

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the policies outlined in paragraphs 10 to 14 are of greatest relevance. Until the Kent Waste Development Framework has been adopted as a replacement for the Kent Waste Local Plan (1998), and any identified sites and locational criteria have been subjected to a Sustainability Appraisal and Strategic Environmental Assessment as part of that process, Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) requires that planning authorities should ensure proposals are

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consistent with its policies. The Inspector's Decision on the recent appeals is a key material consideration. Other material planning considerations include European and National Waste Policies (e.g. the EU Waste Framework Directive and Waste Strategy for England 2007) and Circular 11/95: The Use of Conditions in Planning Permissions (1995) which sets out the general criteria for the validity of planning conditions and the "six tests" that all conditions should meet.

31. Each of the planning applications has been submitted under Section 73 of the Town and Country Planning Act 1990. Although such applications are normally described as being to remove, amend or vary a planning condition(s), Section 73 actually provides for the development of land without compliance with a condition(s) attached to an earlier permission. Any planning permission granted pursuant to Section 73 represents a wholly new planning permission and the applicant would then have the option as to which planning permission it wished to rely upon. Section 73 enables the planning authority to decide that planning permission should be granted subject to conditions different from those existing, the same as those existing (in which case permission should be refused) or unconditionally. In principle, the scope of the planning authority's jurisdiction when considering a Section 73 application is more limited than when considering a full application and it does not empower the planning authority to rewrite the permission altogether. However, the planning authority is not constrained in its consideration of the full planning merits. Although the applicant has submitted six separate applications, it could have sought any or all of the proposed changes to condition 1 as part of the same application.
32. The key issue for each application is whether it accords with relevant waste planning policy (particularly South East Plan Policies W3 and W4) and, if not, whether there are any overriding reasons to depart from this policy.

Polices W3 and W4

33. Policy W3 aims to achieve net regional self-sufficiency and requires WPAs and waste management companies to provide for capacity equivalent to the waste forecast to require management within its boundaries, plus an allowance for disposal of a declining amount of waste from London. Although Policy W3 is mainly focused on making provision for London's exported waste to landfill, the policy and supporting text (paragraph 10.17) also recognise that there may be situations where the use of facilities within the South East region for recovery or processing of waste materials from London, or other regions, would also be appropriate. However, such provision should only be made where:-
- there is a proven need;
  - there are demonstrable benefits to the region, including improving the viability of recovery and reprocessing activity within the region; and
  - the provision is in the nearest appropriate location (i.e. the facility is the nearest available to the source materials).

Paragraph 10.17 additionally acknowledges that provision for waste from adjoining regions may be appropriate where there are good sustainable transport links.

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34. Policy W4 requires Waste Planning Authorities (WPAs) to plan for sub-regional net self-sufficiency through provision for waste management capacity equivalent to the amount of waste arising and requiring management within their boundaries. It also states that a degree of flexibility should be used in applying the concept and, where appropriate and consistently with Policy W3, capacity should also be provided for waste from London and waste from adjoining sub-regions (waste planning authority area within or adjoining the region). Paragraph 10.18 of the South East Plan accepts that waste movements will occur between sub-regions and states that the level of sub-regional self-sufficiency capable of being achieved will depend on factors such as the nature of the waste stream and the type of facility concerned, with wider catchment areas necessary to justify more specialised reprocessing facilities. On this basis, and in terms of setting out a catchment area for sourcing waste, Policy W4 does not preclude cross border movements as long as the waste is from London or adjoining sub-regions (i.e. WPA areas within or adjoining the region) to the relevant WPA and subject to satisfying certain criteria.
35. It should be noted that there is a degree of uncertainty about some of the terms used in the South East Plan and that this can lead to different interpretations of the above and other policies. In this case, the main opportunities for disagreement relate to definitions of “sub-region”, “demonstrable benefits to the region”, “more specialised reprocessing facilities” and “nearest appropriate location”. “Proven need” and “good sustainable transport links” are not defined but, in this case, are probably somewhat clearer and less controversial. Similarly, the term “net self-sufficiency” clearly implies the import and export of waste as well as waste arising from within the sub-region.
36. “Sub-region” is defined as a waste planning authority (WPA) area in Policy W4 but, in cases, as combinations of WPAs in paragraph 10.19. The applicant prefers the latter definition which would potentially lead to the acceptance of a larger waste catchment area.
37. “Demonstrable benefits to the region” are not specifically defined, although the reference to “including improving the viability of recovery and reprocessing activity within the region” gives a steer as to what these are intended to be.
38. Similarly, the only example given of “more specialised reprocessing facilities” is that of materials recovery facilities (MRFs). In dealing with the recent planning appeals, the Inspector stated that it could be argued that the “specialised nature” of the Blaise Farm composting facility could reasonably allow a waste catchment that extends beyond the sub-region (although he went on to say that it was appropriate to determine the appeals on the basis of sub-regional self-sufficiency as set out in Policy W4 and that he saw no support for removing the waste catchment). I note that paragraph 10.15 states that exports of construction and demolition (C&D) waste contribute to “more specialised” needs, such as for the treatment of contaminated soils and recycling facilities (which are addressed in Policies W15 and M2). However, Policy W10 and associated paragraph 10.35 appear to indicate that “specialist facilities” relate to those dealing with paper and card, plastics, glass, wood, tyres, electrical and electronic equipment and end of life vehicles. This alternative approach would appear to be reinforced by Policy W3 which clearly distinguishes between “recovery” and “reprocessing” and paragraph 10.17 (and associated “Definitions” box)

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that makes it clear that composting is a form of “recovery”.

39. “Nearest appropriate location” is not defined although, in general terms, is probably reasonably well understood as being the facility closest to the source of the waste that is capable of dealing with it at a similar or higher point on the waste hierarchy in its collected form. However, the introduction of the term “available” in paragraph 10.17 provides a further potential point for disagreement in that it does not specify how and when this should be so. For example, there may be permitted capacity that has yet to be implemented or is already being used. These issues also complicate detailed consideration of the proposals. These matters are discussed further, as necessary, below in the context of the various “tests” set by the two policies.

Need

40. The applicant states that permitted and proposed ABPR compliant recovery and processing capacity (excluding EfW) in Kent and Medway is significantly less than the amount of green, kitchen (including food) and card waste that the waste collection authorities (WCAs) are likely to arise in Kent and Medway when separate collections are more widespread. It also states that the position is similar in the rest of the South East and other regions. I accept that there is currently a need for additional composting or other similar recovery capacity capable of dealing with food waste (i.e. ABPR compliant) in the South East, East and London Regions and that even more capacity will be required in future if other WDAs are to divert more bio-waste from landfill or utilise waste management options as high up the waste hierarchy as possible. The proposals therefore meet any of the relevant need tests and need is also an important material planning consideration in favour of the proposals.
41. Enabling the permitted capacity at Blaise Farm to be utilised for waste from elsewhere in the South East region would also assist in securing the diversion of waste from landfill, consistent with South East Plan Policy W5, and contribute to the targets for recycling and composting in the South East region set out in Policy W6. However, if the waste were to be sourced from outside the region, this could prejudice the ability of the South East to meet these targets.

Demonstrable benefits to the region

42. The applicant states that benefits to the South East Region of allowing London waste to be dealt with at the site include the full use of the permitted capacity and economies of scale that would enable the operator to offer lower prices to existing customers in Kent and Medway and thus increase the likelihood of further separate collections of green, kitchen and card waste in these areas. It would also increase the availability of compost produced at the site to local farmers and provide additional employment at the plant with other economic multiplier effects.
43. If extending the waste catchment area in some way provided the applicant with sufficient confidence to construct the second phase of the development this would increase the available unused capacity from about 20,000tpa to 70,000tpa and could, in turn, lead to the above benefits. However, it is difficult to see how permitting any of the applications would lead to any reduction in costs associated with the existing

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contractual arrangements as these have already been agreed. Whilst it is possible that the operator might be able to offer better prices for new contracts, there is no guarantee that this would be the case. New contracts could be for food or similar wastes or for green waste that is usually sent to cheaper open windrow facilities.

44. If extending the waste catchment area to London and / or the Eastern region (as proposed by four of the six applications) resulted in all or most of the unused capacity being filled with waste from those areas (as would be entirely possible under the terms of a number of the proposed waste catchments), the only possible benefits to the South East region would be those associated with the production of additional compost and employment. I consider these to be very limited benefits. In this eventuality, there would be clear disbenefits to the South East region as the unused capacity would be lost (either for the permitted life of the Blaise Farm facility or for some more limited period). This could prejudice the ability of other Waste Collection Authorities in the South East region (particularly other Kent Districts and Medway) to introduce food waste collections with resultant disbenefits. It could also result in a loss of capacity for C&I waste arising in the South East (including Kent and Medway). It would also require additional permitted capacity to be provided in the South East region.
45. I consider that the potential disbenefits to the South East region clearly outweigh the potential benefits and that the proposals to allow London waste are therefore contrary to Policies W3 and W4. As Policy W3 does not specifically refer to the Eastern region (since regions are meant to be self-sufficient), it could be argued that the requirement for “demonstrable benefits to the region” does not apply when considering proposals for waste from that area. However, as Policy W4 requires proposals to accord with Policy W3, it could equally be argued that the same constituent elements of that policy should apply also.

Nearest appropriate location

46. The applicant has provided details of some of the other ABPR compliant composting facilities in the wider South East of England (including London). Full details of sites with DEFRA approved ABPR composting plants are also available on the DEFRA website. As of 20 January 2010, there were 5 such sites in the South East, 8 in London and 13 in the Eastern region. However, a number of these were small scale facilities that cannot be considered to be comparable with Blaise Farm and should therefore be discounted when considering the current proposals. There were only 2 other ABPR approved sites of a comparable scale to Blaise Farm in the South East (Countrystyle Recycling at Ridham near Sittingbourne and Cambridge Recycling Services in High Wycombe), 2 in London (London Waste Ltd at Edmonton and West London Composting Ltd at Harefield) and 9 in the Eastern region (Cumberlow Composting Services at Buntingford in Hertfordshire, Envar Ltd at Huntingdon in Cambridgeshire, Donarbon Ltd at Waterbeach in Cambridgeshire, Huntingdon Recycling at Huntingdon in Cambridgeshire, Countrystyle Compost (East Anglia) Ltd at Woodbridge in Suffolk, Anglian Water Services at Ipswich in Suffolk, County Mulch Ltd at Sandy in Bedfordshire and County Mulch Ltd at East Stanton and Ipswich in Suffolk). Whilst these sites could, in theory, be used to treat food / kitchen waste (with or without garden waste) arising from within any of the proposed new waste

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catchment areas, the availability of unused capacity at any given time will determine whether this is possible. Another factor is whether arrangements have already been made for any of these sites to take waste from specific locations or organisations (including local waste disposal or collection authorities).

47. Other locations that could be the “nearest appropriate” are those that are expected to become available in the future / during the life of the Blaise Farm composting facility. This category is difficult to assess as it is dependent on many factors (including whether or not planning applications are submitted on sites allocated in waste local plans or WDFs, planning applications are permitted, planning permissions are implemented, environmental permits issued and ABPR certification obtained). However, it is probably reasonable to assess proposals against operational ABPR compliant sites or those where planning permission has been granted and is expected to become operational relatively quickly. On this basis and from both information submitted by the applicant and responses from other waste planning authorities there are several other facilities that could be regarded as “nearest appropriate”. These include the following permitted facilities:-

*South East region:*

- Ashgrove Farm, Oxfordshire (35,000tpa IVC); and
- The Vinery, Poling, West Sussex (20,000tpa of 45,000tpa IVC); and
- Wisley Airfield, Surrey (30,000tpa IVC).

*East of England region:*

- Cumberlow Green Farm, Hertfordshire (30,000tpa IVC extension to existing site);
- Redwell Farm, Hertfordshire (48,500tpa IVC under construction);
- Tempsford Airfield, Bedfordshire (48,000tpa); and
- Wymington, Bedfordshire (10,000tpa).

48. The requirement for waste to be treated at the nearest available location only applies to that from London and the East of England region. Based on a general desk-based assessment of the locations referred to in paragraphs 46 and 47 above, it would appear that there are nearer appropriate locations for waste from large parts of London, Essex and Thurrock to be treated than Blaise Farm (i.e. at facilities in London, Hertfordshire, Suffolk, Cambridgeshire and Bedfordshire). Whilst I have not carried out a definitive / detailed assessment, the outcome of this general assessment can be considered alongside the conclusions on the other “tests”.
49. Although not directly comparable, operational sites or sites with permission for anaerobic digestion (AD) are also relevant as these could also treat some of the same or similar waste streams. Permitted sites include those at:-
- Twinwoods, Bedford (42,000tpa);
  - Worton Rectory Farm, Oxfordshire (45,000tpa); and
  - Adnams Distribution Centre, Reydon, Suffolk (20,000tpa).

Although not directly relevant to the consideration of the current planning applications, it is understood that other proposals for AD plants are likely to come forward and be tested through the planning system. These could lead to additional biowaste

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management capacity in due course.

Good sustainable transport links

50. As Blaise Farm is only accessible by road and has no sustainable transport links, any proposals to extend the waste catchment area to the East of England Region fail the test set out in paragraph 10.17. The test does not apply to waste from London or the rest of the South East region.

Are there any overriding reasons to depart from Policies W3 and W4?

51. The applicant states that the letters from several WDAs in adjoining sub-regions (in the South East, London and East of England) demonstrates their desire to use the Blaise Farm facility. Whilst this may be true, the majority of these letters actually say that it would be beneficial for these waste management services if the Blaise Farm facility were capable of receiving their waste as it would increase the competitiveness of the waste market. Whilst most also note that they are aware of or use facilities that are more distant than Blaise Farm, they do not comment on whether there are more proximate facilities. It is hardly surprising that WDAs outside Kent and Medway would support the enlargement of the waste catchment to include their areas as this would, in itself, be likely to provide greater choice and reduce disposal costs by increasing the number of potential facilities they could use.
52. The fact that the applicant is unable to honour an existing contract with Essex County Council to take up to 10,000tpa until 31 March 2014 is also material although the alternative arrangements for this waste are not known and it may be composted elsewhere. The applicant has advised that if the planning permission were amended to allow Essex waste it could accept the waste on an annual basis for the remaining period of the contract. It argues that this would not prejudice its ability to take further Kent and Medway waste if such contracts become available due to the short term nature of the Essex contract. Notwithstanding the previous refusal of an application to enable Essex waste to be treated at Blaise Farm for a temporary 18-month period in October 2008 (TM/07/4435) I have some sympathy with this argument, particularly as the policy position has changed with the adoption of the South East Plan, as further supporting information has been submitted both in support of the recent appeals and in the current applications and as the amount of waste is relatively small.
53. The applicant also states that other planning authorities in the South East have followed radically different approaches to the same South East Plan policy framework than Kent. It states that Hampshire County Council has permitted two energy from waste plants without any planning condition on geographical limits. Whilst technically correct, this fails to acknowledge the fact that Hampshire CC had previously imposed such restrictions and only “lifted” these once its WDA contracts had secured sufficient capacity to meet the County’s needs. If this logic is followed for Blaise Farm, consideration might be given to amending the existing waste catchment only when all the WCAs in Kent and Medway have had the opportunity to send their waste to the facility. This would not be until at least 2013. Although Berkshire and Surrey support the applications and suggest that waste catchment areas are not appropriate, and some other WPAs have adopted this approach, this is by no means universal. Indeed,

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waste catchments have been imposed by condition in East Sussex. Examples include those at a composting facility at Chiddingly and an EfW facility at Newhaven which restrict waste to that arising in the administrative areas of East Sussex and Brighton and Hove. Waste catchments have also been imposed (or recommended by officers) on a number of waste facilities by several WPAs (e.g. Oxfordshire, Cambridgeshire, Peterborough and Suffolk), albeit using clauses in Section 106 Agreements rather than planning conditions and in cases providing for a percentage of waste capacity being used from within a specified WPA or distance. A very recent example of this approach was when Oxfordshire CC's officers recommended that waste catchment area restrictions be required on two applications for EfW facilities. It should be noted that both applications were subsequently refused although the reasons for refusal were not related to waste catchments.

54. The applicant has effectively discounted the likelihood of the facility taking C&I waste due to the difficulties in attracting suitable waste streams and I am sympathetic to its reasons for this. These issues were discussed at the public inquiry in 2009 and are referred to in the Inspector's report. Given this, and the current position in terms of MSW contracts referred to in paragraphs 4 and 5 above, I also accept that there is insufficient readily available suitable waste from within the permitted catchment area to enable the facility to operate at full capacity (100,000tpa). Indeed, unless waste from the Maidstone trial and Dover and Shepway contracts is treated at the facility, there is likely to remain insufficient waste to enable the first phase (50,000tpa capacity) to be utilised. Given the real and pressing need for additional ABPR compliant composting capacity and the possibility that the applicant may be unsuccessful in securing any or all of the MSW contracts within Kent and Medway referred to elsewhere in this report, I consider that it is unreasonable to refuse to allow any amendment to the existing waste catchment area. However, any amendment requires careful consideration so as not to entirely prejudice the ability of the facility to take further Kent and Medway waste.

Other matters

55. As the site lies in the green belt the proposed development represents "inappropriate development". However, in determining the appeals in 2009 the Inspector concluded that increasing the waste catchment would cause no direct harm to the green belt over and above that already allowed (i.e. the "fall-back" position). The Inspector also considered any indirect harm to be small (effectively rejecting KCC's concerns on this issue). Having considered the Inspector's conclusions on these issues and noting the benefits of utilising unused capacity at the site (in terms of diversion from landfill and resultant climate change benefits) I am satisfied that there are very special circumstances in this case sufficient to overcome the usual presumption against inappropriate development in the green belt.
56. Although all six applications would be likely to result in an increase in the number of HGVs currently using or contracted to use the site, which could lead to additional associated impacts on the road network near the site (e.g. the A228), they would not result in any increase in the number already permitted to use the site. Indeed, the applicant has suggested that overall HGV movements might actually be less if waste were to be sourced from further from the site as there would be a tendency for it to be



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“bulked up” rather than be transported in dustcarts or other smaller vehicles. The impacts associated with permitted HGV movements have already been fully considered when the previous applications were determined and the existing permissions already contain conditions designed to keep related impacts to an acceptable level (e.g. maximum daily HGV movements). The Section 106 Agreement also restricts the use of local roads through Offham, West Malling and Mereworth to vehicles collecting waste from these areas and the permissions contain other conditions designed to ensure that potential impacts on the local environment from operations at the site are minimised. No changes are proposed to these restrictions and the site would continue to be controlled by an Environmental Permit. Any new permission(s) would need to replicate the conditions imposed on planning permission TM/08/3353 as amended by TM/09/2661 and be conditional on the prior completion of a modified Section 106 Agreement (Unilateral Undertaking) to secure the continuing obligations attached to the existing legal agreement.

57. Concerns have been expressed about odour in the Blaise Farm area and it has been suggested that this could be related to the composting facility. Initial investigations suggest that the odour may relate to the use of compost produced at the facility on farmland in the local area but the matter is being explored further. It should be noted that the applications should have no direct impact in terms of odour as they relate to where waste is sourced from rather than how the facility operates. None of the applications would lead to any increase in the permitted capacity of the facility.

#### Conclusion

58. Taking all the above factors into account, I consider that allowing waste from adjoining sub-regions within the South East region (i.e. Surrey, East Sussex, Brighton and Hove and West Sussex) would be consistent with Policy W4 and would assist in enabling the South East region to meet the targets set out in South East Plan Policies W5 and W6. Despite the doubt about the precise definition of sub-region, and whether it should be based on WPA areas of some combinations thereof, I am prepared to accept the broader definition in this case. My position on this is further influenced by the fact that the boundaries of Kent and West Sussex are very close if not actually adjoining. Whilst allowing this waste to be treated at Blaise Farm could reduce the ability of the site to treat waste from within the Kent and Medway sub-region, I am satisfied that the benefits to the South East region associated with this outweigh any potential disbenefits for the sub-region and that there are no material planning considerations sufficient to outweigh these policy considerations.
59. I consider that allowing waste from London and adjoining sub-regions within the East of England region would fail one or more of the tests in South East Plan Policies W3 and W4 (and associated text). I also consider that allowing waste from outside the South East region in any of the ways proposed would be likely to prejudice the ability of the South East region to meet the targets set out in South East Plan Policies W5 and W6 and discourage the provision of new facilities in London and the East of England. Although I consider that there are no overriding material considerations to depart from these policy requirements for the life of the facility (given the relevant tests and policy requirements), I consider that there is a case for allowing two exceptions in this case. The first is to allow waste from the adjoining WPA areas of

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LB Bromley and LB Bexley on a temporary basis given the need for IVC capacity, the degree of policy support for capacity being provided for London waste until 2016 and the proximity of these boroughs to Blaise Farm. This temporary period should most appropriately be until 31 December 2015 (i.e. linked to the date by when Policy W3 expects that London waste exported to the South East region will be restricted to residues of waste that have been subject to recycling or other recovery process and by when a net balance in movements of materials for recovery between the Region and London is in place). The second is to allow up to 10,000tpa of waste from Essex until 31 March 2014 when the existing contractual arrangements between the applicant and Essex County Council expires. Whilst both of these exceptions could give rise to some or all of the disbenefits referred to above, I consider these to be acceptable in this instance as they could assist in encouraging the implementation of the second phase of development at the site and would be unlikely to prejudice the ability of the Blaise Farm composting facility to take additional waste from within Kent and Medway.

60. The effect of the above is that waste should additionally be allowed from Surrey, East Sussex, Brighton and Hove and West Sussex for the life of the facility (on the basis that these are adjoining sub-regions to Kent and Medway within the South East region) but that waste should not be allowed from London (apart from LB Bromley and LB Bexley for a temporary period until the end of 2015) or from the East of England (apart from Essex for a temporary period until 31 March 2014 and limited to no more than 10,000tpa). The following recommendation reflects this. It should be noted that if the recommendation is accepted it would give rise to three new planning permissions. However, the applicant would only be likely to implement TM/09/3231 (i.e. that proposed in paragraph 61(ii)) on the basis that this would allow the largest waste catchment. It should also be noted that the applicant could appeal against the partial approval of application TM/09/3231 or the refusal of either or both of applications TM/09/3234 and TM/09/3235 (i.e. those proposed in recommendation 61(iii)).

**Recommendation**

61. I RECOMMEND that:-

- (i) PERMISSION BE GRANTED in respect of planning application TM/09/3232 (i.e. to allow waste to be sourced from Kent, Medway and Surrey) and TM/09/3233 (i.e. to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, West Sussex and Brighton and Hove) SUBJECT TO the prior completion of a modified Section 106 Agreement (Unilateral Undertaking) to repeat the existing obligations contained in the latest legal agreement relating to a liaison group, HGV routing and restoration and the conditions imposed on planning permission TM/08/3353 dated 25 August 2009, as amended by planning permission TM/09/2661 dated 11 January 2010, being repeated;
- (ii) PERMISSION BE PARTIALLY GRANTED in respect of planning application TM/09/3231 (i.e. to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove, all London Boroughs, Thurrock, Essex and Southend) SUBJECT TO the prior completion of a modified Section 106

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Agreement (Unilateral Undertaking) to repeat the existing obligations contained in the latest legal agreement relating to a liaison group, HGV routing and restoration and:-

- the waste catchment area being limited to:-
  - Kent, Medway, Surrey, East Sussex, West Sussex, Brighton & Hove for the life of the facility; and
  - LB Bromley and LB Bexley for a temporary period until 31 December 2015; and
  - Essex for a temporary period until 31 March 2014 and additionally limited to no more than 10,000tpa; and
- the other conditions imposed on planning permission TM/08/3353 dated 25 August 2009, as amended by planning permission TM/09/2661 dated 11 January 2010, being repeated;

(iii) PERMISSION BE REFUSED in respect of planning applications TM/09/3234 (i.e. to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, West Sussex, LB Bromley, LB Bexley, Thurrock and Essex), TM/09/3235 (i.e. to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, West Sussex, Brighton and Hove, LB Bromley, LB Bexley and Thurrock) and TM/09/3236 (i.e. to allow waste to be sourced from Kent, Medway, Surrey, East Sussex, LB Bromley, LB Bexley and Thurrock) for the following reason:-

1. The importation of waste from outside the South East region would be contrary to South East Plan Policies W3 and W4 as it would fail one or more of the “tests” set out in these policies and the Plan’s supporting text and could prejudice the ability of the South East region to meet the targets for diversion from landfill and recycling and composting set out in Policies W5 and W6 or discourage the provision of new facilities in London or the East of England and as there are no material planning considerations sufficient to overcome this.

Case Officer: Jim Wooldridge
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Tel. no. 01622 221060
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Background Documents: see section heading.
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**Item B1**

**Outcome of Public Inquiry into two Appeals by New Earth Solutions Limited against the Refusal of Kent County Council for the Removal of / Variation to Condition 12 of Planning Permission TM/06/762 (Restriction on Waste Sources) at New Earth Composting Facility, Blaise Farm Quarry, Kings Hill, West Malling (Ref.'s: TM/08/3350 & TM/08/3353; APP/W2275/A/09/2101443 & 2101444)**

A report by Head of Planning Applications Group to the Planning Applications Committee on 3 November 2009.

Outcome of Public Inquiry into two Appeals by New Earth Solutions Limited against the Refusal of Kent County Council for the Removal of / Variation to Condition 12 of Planning Permission TM/06/762 (Restriction on Waste Sources) at New Earth Composting Facility, Blaise Farm Quarry, Kings Hill, West Malling (Ref.'s: TM/08/3350 & TM/08/3353; APP/W2275/A/09/2101443 & 2101444).

Recommendation: For information.

Local Members: Mrs S Hohler, Mrs T Dean and Mr R Long

Unrestricted

**Introduction**

1. This report is on the outcome of a Public Inquiry held between 11 and 13 August 2009 into two Appeals by New Earth Solutions Limited (*the appellant*) against the Refusal of Kent County Council for the Removal of / Variation to Condition 12 of Planning Permission TM/06/762 (Restriction on Waste Sources) at New Earth Composting Facility, Blaise Farm Quarry, Kings Hill, West Malling.
2. I shall outline the background, the main issues identified by the Planning Inspector and then comment on the outcome of the Inquiry. A copy of the Inspector's decision is attached at Appendix 1.

**Background**

3. Planning permission (TM/06/762) for the development of a fully enclosed composting facility within the confines of the previously excavated area at Blaise Farm Quarry was granted on 19 September 2006 following the prior completion of a Section 106 Agreement. As the site was in the green belt, the proposal represented "inappropriate development" by virtue of National Planning Policy (PPG2: Green Belts). For this reason, permission was only granted as the County Council was satisfied that "very special circumstances" existed to overcome the usual presumption against inappropriate development in the green belt. The County Council was only able to accept that very special circumstances existed because:-

- there was a clearly defined need for the facility to provide additional composting capacity in Kent (specifically in the four main Districts referred to in condition 12 – i.e. Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks) to meet various waste targets and reduce the amount of waste going to landfill;
  - there were no alternative sites in urban areas and non-Green Belt locations within the four Districts, as demonstrated by the applicant's alternative site assessment exercise for these areas;
  - none of the 5 purposes of the Green Belt would be compromised by the proposal due to the location of the facility within quarry void, the lack of public access to land and the proposed temporary 20-year permission followed by removal of facility and restoration of site as part of quarry restoration; and
  - the site location accorded with the proximity principle for waste from the four Districts as demonstrated by the applicant's time / distance survey.
4. The permission was conditional on restrictions being imposed to ensure that any limitations required as part of demonstrating "very special circumstances" were secured. These included any permission being temporary (20 years) and providing for satisfactory restoration and waste primarily coming from within the four Districts and from the areas demonstrated to be proximate for the life of the site. Other conditions were imposed for various planning and environmental reasons. Condition 12 stated that:-
- "12. Waste imported to the composting facility shall only be sourced from within the Districts of Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks except in the following circumstances:
- (i) those occasions where there is sufficient capacity to handle the additional wastes at the Blaise Farm composting facility without diverting wastes from sources within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks Districts; and
  - (ii) where the additional wastes would otherwise be exported from the County or landfilled; and
  - (iii) where the additional sources of permitted waste are from within Swale, Ashford, Dartford and Gravesham Districts and the Medway Authority area.

*Reason: As the principles of Best Practicable Environmental Option (BPEO), including the proximity principle, and very special circumstances necessary to justify the Green Belt location have been accepted on the basis that waste will primarily be derived from Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks and to accord with the principles of (amongst others) Waste Strategy 2000, PPG2, RPG9 Regional Waste Strategy (revised June 2006), Kent Structure Plan (1996) Policies S1 and MGB3, Kent & Medway Structure Plan (2006) Policy WM2 and Kent Waste Local Plan Policy W1, whilst acknowledging that a number of other waste sources are similarly proximate and could be used without undermining the reason for permitting a waste management facility in the Green Belt under certain circumstances."*

The same restriction was also included in clause 5.3 of the Section 106 Agreement. A further condition (15) required that records be maintained for three years detailing quantities and sources of waste imported to the site and for these to be made available to the County Council on request.

5. The County Council approved the “pre-development” requirements (of condition 7) on 7 March 2007 and commercial composting operations commenced on 1 September 2008 (such that operations must cease by 1 September 2028, the facility be removed by 1 September 2029 and the site restored by 1 September 2030).
6. The County Council granted planning permission (TM/07/4435) for the variation of condition 14 of planning permission TM/06/762 on 26 March 2008. This increased the maximum amount of waste imported to the site each year from 50,000 tonnes to 100,000 tonnes. This permission was only granted as the County Council was satisfied that more than 100,000 tonnes per year of biodegradable waste could arise from within the main catchment area initially proposed and permitted (i.e. the four District areas referred to in condition 12 (i)) such that this need not undermine the Green Belt case for the facility being located at Blaise Farm Quarry.
7. The County Council refused planning permission (TM/08/2893) for a temporary variation of condition 12 of planning permission TM/06/762 to allow up to 15,000 tonnes of waste to be imported from Essex for composting over the 18 month period from October 2008 to March 2010 on 7 October 2008.
8. Three “Section 73” applications seeking the removal of, or variation to, condition 12 of planning permission TM/06/762 were submitted on 23 October 2008. The applications sought the following:-
  - Application TM/08/3350: Removal of condition 12 of planning permission TM/06/762 (*i.e. removal of all current restrictions on waste sources*);
  - Application TM/08/3353: Variation of condition 12 of planning permission TM/06/762 to allow waste to be sourced from all 12 Kent Districts (i.e. Canterbury, Thanet, Dover and Shepway added) and the Medway Unitary Authority area without the constraints imposed by circumstances (i), (ii) and (iii) of the current condition; and
  - Application TM/08/3351: Variation of condition 12 of planning permission TM/06/762 to allow waste to be sourced from the permitted 8 Kent Districts and the Medway Unitary Authority area without the constraints imposed by circumstances (i), (ii) and (iii) of the current condition.
9. All three applications were due to be reported to the Planning Applications Committee on 22 January 2009. However, having read the published report the applicant decided to withdraw application TM/08/3351 and the recommendation was amended accordingly. The Planning Applications Committee resolved to accept an amended recommendation on 22 January 2009 and applications TM/08/3350 and TM/08/3353 were refused. The decision notices were issued on 23 January 2009. Application TM/08/3350 was refused for the following reasons:-
  - “1. The importation of waste from other sources would be contrary to the principles of Best Practicable Environmental Option (BPEO) and contrary to paragraph 3.2 of PPG2 and Policies SS2 and WM2 of the Kent and Medway Structure Plan (2006). It would also undermine the County Council’s previous decision and lead to reduced capacity for waste arisings from within Kent or Medway (i.e. more proximate waste sources) resulting in such wastes either being transported greater distances with resultant disbenefits or pressure for additional new facilities in the Green Belt which could further undermine National Green Belt policy.

2. The applicant has not demonstrated the very special circumstances necessary to overcome the presumption against inappropriate development in the Green Belt contrary to PPG2 and Policy SS2 of the Kent and Medway Structure Plan (2006).”

Application TM/08/3353 was refused for almost identical reasons except that reason 1 was amended to reflect the difference between the proposals.

10. The appellant appealed against the decisions on 26 March 2009.

### **The main issues identified by the Planning Inspector**

11. Having regard to prevailing planning policies, the Planning Inspector considered the main issues for both appeals to be:-
  - (i) Whether the requirements of the disputed condition, other than in terms of the areas specified, satisfy government guidance on the use of conditions in planning permissions; and
  - (ii) Whether the proposals are consistent with the principles of sustainable waste management and with the protection of the green belt, whilst encouraging the provision of facilities that would meet the needs of relevant communities and reduce the rate of greenhouse gas emissions.
12. Evidence was heard on these and related points from the appellant, KCC and Offham Parish Council. The Inspector’s report considers the main issues under the following headings:-
  - The mechanics of the disputed condition;
  - The potential for harm;
  - BPEO and the proximity principle;
  - Composting capacity, location and catchment;
  - Greenhouse gas emissions;
  - Conclusions; and
  - Other conditions and other matters.
13. It is worth noting that the Kent and Medway Structure Plan (2006) was part of the development plan when the County Council determined the applications in January 2009 but ceased to be so on 6 July 2009 when the three-year saved period expired (i.e. prior to the Public Inquiry). The South East Plan was also published in May 2009 and now forms part of the development plan.

### **The outcome of the Inquiry**

14. The Inspector dismissed the appeal against application TM/08/3350 (i.e. the removal of condition 12) but allowed the appeal against application TM/08/3353 (i.e. the variation of condition 12 to allow waste to be sourced from within Kent and Medway without any pre-conditions). He therefore issued a new planning permission (TM/08/3353) for the New Earth Composting Facility which is subject to all previous conditions apart from conditions 12, 14 and 15 which are replaced by the following conditions:-
  1. Waste imported to the composting facility shall only be sourced from within the Kent County Council area and the Medway Unitary Authority area.

2. No more than 100,000 tonnes of waste shall be imported to the site for composting in any calendar year.
  3. Records detailing the quantities and sources of waste imported to the site, during the previous three years, shall be maintained for the life of the facility hereby permitted and shall be made available to the waste planning authority on request.
15. In respect of issue (i), the Inspector concluded that condition 12 was unreasonable and contrary to the advice in Circular 11/95 as only allowing waste from the “secondary” area (i.e. Dartford, Gravesham, Ashford, Swale and Medway) if sufficient capacity remained at the facility to take waste from the “primary” area (Tonbridge and Malling, Tunbridge Wells, Sevenoaks and Maidstone) effectively nullified much of the benefit of the permission and made it unduly difficult for the appellant to make good use of the facility’s capacity to handle waste.
16. In respect of issue (ii), the Inspector concluded that relaxing the disputed condition to allow material to be sourced from the entire sub-region would create a new permission for inappropriate development in the green belt which, in itself, would be harmful. However, he concluded that this would cause no direct harm to the green belt over and above that which has already been allowed and that the likelihood of any indirect harm (i.e. by encouraging the provision of further composting facilities in the green belt) was small. The Inspector stated that matters in favour of such a relaxation included the contribution it could be expected to make to sustainable waste management and to addressing the acute shortfall identified in the region’s composting capacity by driving more waste up the hierarchy and the very substantial reductions in greenhouse gas emissions that could reasonably be anticipated to flow from the new arrangements. He was satisfied that these benefits clearly outweighed the potential harm and that given the fall-back position presented by the existing planning permission and the urgent need for action on climate change there were very special circumstances to warrant a relaxation of the disputed condition. He also concluded that the development plan’s requirements would be met best by revising the disputed condition to allow sourcing of waste from across the sub-region (i.e. Kent and Medway), but no wider, and that doing so would be consistent with the principles of sustainable waste management and with protection of the green belt whilst encouraging the provision of facilities that meet the needs of relevant communities and reduce the rate of greenhouse gas emissions.
17. The Inspector also concluded that it was necessary to amend condition 14 of planning permission TM/06/762 to reflect the amended wording provided for by TM/07/4435 and to amend condition 15 to provide greater clarity.

### **Comments on the outcome of the Inquiry**

18. The dismissal of the appeal against application TM/08/3350 supports the County Council’s position in imposing some form of restriction on waste sources.
19. Allowing the appeal against application TM/08/3353 highlights:-
  - the need to more carefully consider the practical implications of imposing planning conditions that restrict development (including any potential difficulties in demonstrating compliance) and whether these are entirely reasonable in terms of government advice (i.e. the tests in Circular 11/95);
  - the need for even greater weight to be given to securing sustainable waste



management solutions that avoid landfill by moving waste up the hierarchy (including recovery);

- the need to give appropriate weight to the relevant regional and sub-regional waste policies in the South East Plan in decision making;
- the need to more fully acknowledge the importance of climate change considerations in determining waste planning applications; and
- the need for the County Council to prepare and adopt a Waste Development Framework to provide up to date development control policies to sit alongside the South East Plan that fully takes account of European, national and regional planning policies and provides greater clarity on how waste planning applications will be considered and determined.

20. The Appellant had 6 weeks in which to challenge the validity of Inspector's decision through the High Court (i.e. by 6 October 2009). Any high court challenge would have had to be on legal grounds rather than any disagreement with the planning views reached by the Inspector. No high court challenge was lodged within this period.

**Recommendation**

21. I RECOMMEND that Members receive this report for information purposes.

Case Officer: Jim Wooldridge
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Tel. no. 01622 221060
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Background Documents: Relevant planning application and appeals files
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**OFFHAM PARISH COUNCIL – 22<sup>nd</sup> February 2010**

**Applications: TM/09/TEMP/0044; TM/09/TEMP/0045; TM/09/TEMP/0046;  
TM/09/TEMP/0047; TM/09/TEMP/0048; TM/09/TEMP/0049**

**Section 73 applications to vary condition 12 of planning permission TM/08/3353 to allow waste to be sourced from areas beyond the immediate sub-region of Kent and Medway.**

Many apologies for the delay in replying to this application, the reason being that we are finding it hard to reason with it. Offham Parish Council is in total support with NESG's statement that "our principle aim is to maximise the amount of waste we divert from landfill" however, bearing in mind that we were represented at the Planning Inquiry last summer and listened to the lengthy debates on the justification, both for and against, extending the area from which waste could be imported, we are mindful of the issues raised when reading through this latest batch of applications.

Offham Parish Council (OPC) objected to the original proposal to erect a composting plant in 2004/05 on the basis that the original planning permission for the quarry in 1988 contained a condition stating that the land had to be restored, phase by phase, to agricultural and at similar levels and contours to those that existed before any work took place. We were not opposed to the principle of a composting plant but were opposed to the principle that one of the original planning conditions, and a very significant one in our eyes, was not being fulfilled. Furthermore at the time of granting the original planning permission for the quarry many reassurances were given that the site would not be used for waste management activities.

In the summer we objected to the expansion of the catchment area on the basis that the plant was originally justified on the basis as being the "BPEO" at the time for the area it was proposed to serve and, whose subsequent doubling in capacity (without and increase in floor area or HGV movements) was justified by NESG (New Earth Solutions Group) as being necessary to accommodate a more even flow of waste deliveries over the year, the original plant having been designed to accommodate seasonal peaks. There was never any suggestion that the increase in size of the plant would result in the need to source waste from outside the original permitted local area in order to keep the plant operating effectively.

However in August 2009 the Inspector ruled that the original condition 12 should be varied to "allow sourcing of waste from across the sub-region, but no wider", seemingly balancing need against demonstrable harm to the green belt in which the plant is located.

We seem to be caught in a Catch 22 situation here. On the one hand the planning justification for BPEO seems no longer to be applicable and Government policy on waste management seems to have changed significantly since planning permission for the facility was first granted. However, there must presumably be some measure by which an application, if starting afresh would be considered, and by seeking to extend the catchment area by variation of a condition rather than submitting a new planning application it seems that this "test" is being avoided. We would like the question answered as to whether or not, if the plant did not exist and an application was made to build it with no limits on catchment area, would this be likely to be granted consent when judged by current planning policies?

However, maybe as this is theoretical as the plant exists nobody actually wants to answer this question, hence the catch 22. The plant obviously does exist and therefore it is being judged on a different set of parameters. Not the ones that justified it being built in the first

place but ones that currently justify new applications for similar facilities elsewhere in the country. If catchment limits are not being currently set for such comparable plants then we can understand the argument for saying that no such limits should apply in this instance. However, we would refer back to our original question in that, if one is using these comparables to support the argument for removing and/or reducing the constraints of condition 12, on what basis were these plants granted permission in the first place, and if they too are located in the Green Belt, then even if BPEO is not being the test applied there must be some alternative measure in order to justify their release from the Green Belt if applicable? If the test is now “sub-regional self sufficiency” then it seems from the evidence submitted that this itself needs to be fully considered as there would appear to be potentially conflicting views as to what constitutes a region, a sub-region and indeed self sufficiency itself.

We believe that these questions need to be addressed as part of the consideration for relaxing or removing condition 12.

We have no doubt that the “need” for the facility from outside the approved area exists based on information in the planning submission and the information provided at the Public Inquiry in the summer which highlighted the UK’s woeful provision of this type of waste facility and, it seems somewhat unfair on NESG and wasteful to underuse the facility on the basis that the relevant authorities within the Kent and Medway are not yet maximising the separation of biowaste. However, without appearing too NIMBYish, if a relaxation on a further expansion of the catchment restriction, either in part or a whole, is justified in planning terms, could a situation arise in the future as to when Kent and Medway do increase the amount of segregated biowaste collected that they are unable to deliver it to the facility at Blaise Farm as contracts have been secured outside of the local region and they would have therefore to export it to other plants further away, as implied in paragraph 1.6 of NESG’s Planning Supporting Statement? This paragraph (1.6) is very confusing and seems to contradict itself. On one hand it seems to say that the capacity at Blaise and one other facility in Kent is “significantly less than the quantity of waste that may be expected to arise in Kent and Medway when separate collections are more widespread” but then goes on to say “the consented and planned capacity within the South East and within Kent and Medway is therefore significantly below the amount of this type of waste which is expected to arise and thus the proposals would not set back the intentions of W3 in respect of numerical self sufficiency”?. Furthermore, could such a situation give rise to future justification for further expanding the facility on the basis of need being greater than availability?

Again we believe that this issue needs to be considered and our questions answered rather than simply looking at the catchment area on the basis of county boundaries. We agree that there is no logic to excluding some areas purely on an administrative basis when geographically, if one works on travel distance from the plant to the sources of waste, they are within the same isocromes. As suggested above the definition of a region, a sub-region and indeed the wording “sub-regional self sufficiency” is open to some degree of interpretation and in this respect presumably guidance is needed from the South East Region?

In conclusion therefore, whilst we have tried to be constructive in our approach, at this moment in time we are opposed to a further expansion of the catchment area and therefore all of the planning applications until our questions raised in this response are answered and we can give the matter further consideration with the benefit of additional information and advice from both NESG and KCC.

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**Item C2**

**Construct a temporary drilling site with temporary road access. Drill well bores to evaluate hydrocarbon potential. Conduct well test to establish performance. At termination the site will be returned to agricultural use. Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

A report by Head of Planning Applications Group to Planning Applications Committee on 13 April 2010.

Application by Midmar Energy UK Limited for the construction of a temporary drilling site with temporary road access. Drill well bores to establish hydrocarbon potential. Conduct well test to establish performance. At termination the site will be returned to agricultural use. Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough (TW/10/33).

Recommendation: Planning permission be granted, subject to the prior completion of a Section 106 Agreement to secure HGV routing/management arrangements and subject to conditions.

Local Member: Mr. J. Davies

Classification: Unrestricted

**Site**

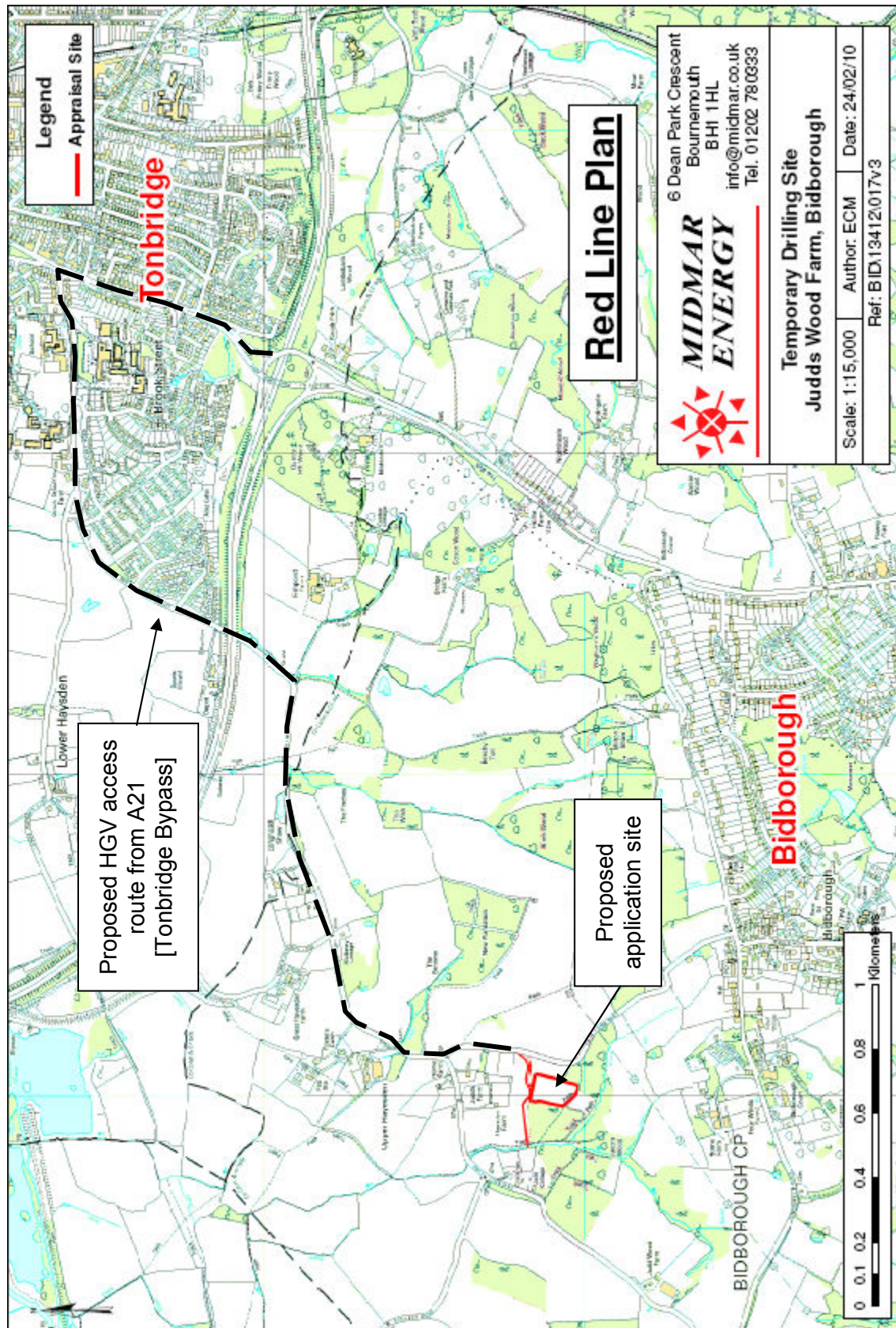
1. The application site is located approximately 700 metres to the north of the village of Bidborough. The nearest conurbations to the site are Tonbridge to the north east and Royal Tunbridge Wells to the south east. Access to the site is proposed to be gained via Gate Farm Road, which in turn leads from the A21 [Tonbridge Bypass] / Tonbridge town centre direction via Brook Street, Upper Haysden Lane and Haysden Lane. Gate Farm Road continues past the site and leads directly into Bidborough village centre onto the B2176 [Bidborough Ridge / Penshurst Road]. The application site consists of an existing agricultural field, used primarily for grazing, and is situated between two sections of Judd's Wood (a designated Ancient Woodland).
2. The application site lies within the High Weald Area of Outstanding Natural Beauty (AONB), the Metropolitan Green Belt and a Special Landscape Area. A Public Right of Way (Ref: WT59) runs along the southern boundary of the application site. *A site location plan is attached on page C2.2.*
3. The nearest residential properties to the application site are those located to the north - Haysden Herb & Honey Farm (170m), Judd's Farm (245m), The Barn (255m) and Tally Ho (270m) and those located to the west – Judd Cottage (290m) and Hillrise (290m).

**Background**

4. The applicant, Midmar Energy UK Limited, was awarded a licence by the Department of Energy and Climate Change (DECC) to explore for hydrocarbons in the area which covers Bidborough (British Grid Reference: TQ54). An oil exploration well was drilled in 1981 by Conoco which established hydrocarbons to the north of the village of Bidborough, but failed to properly test the reservoir.

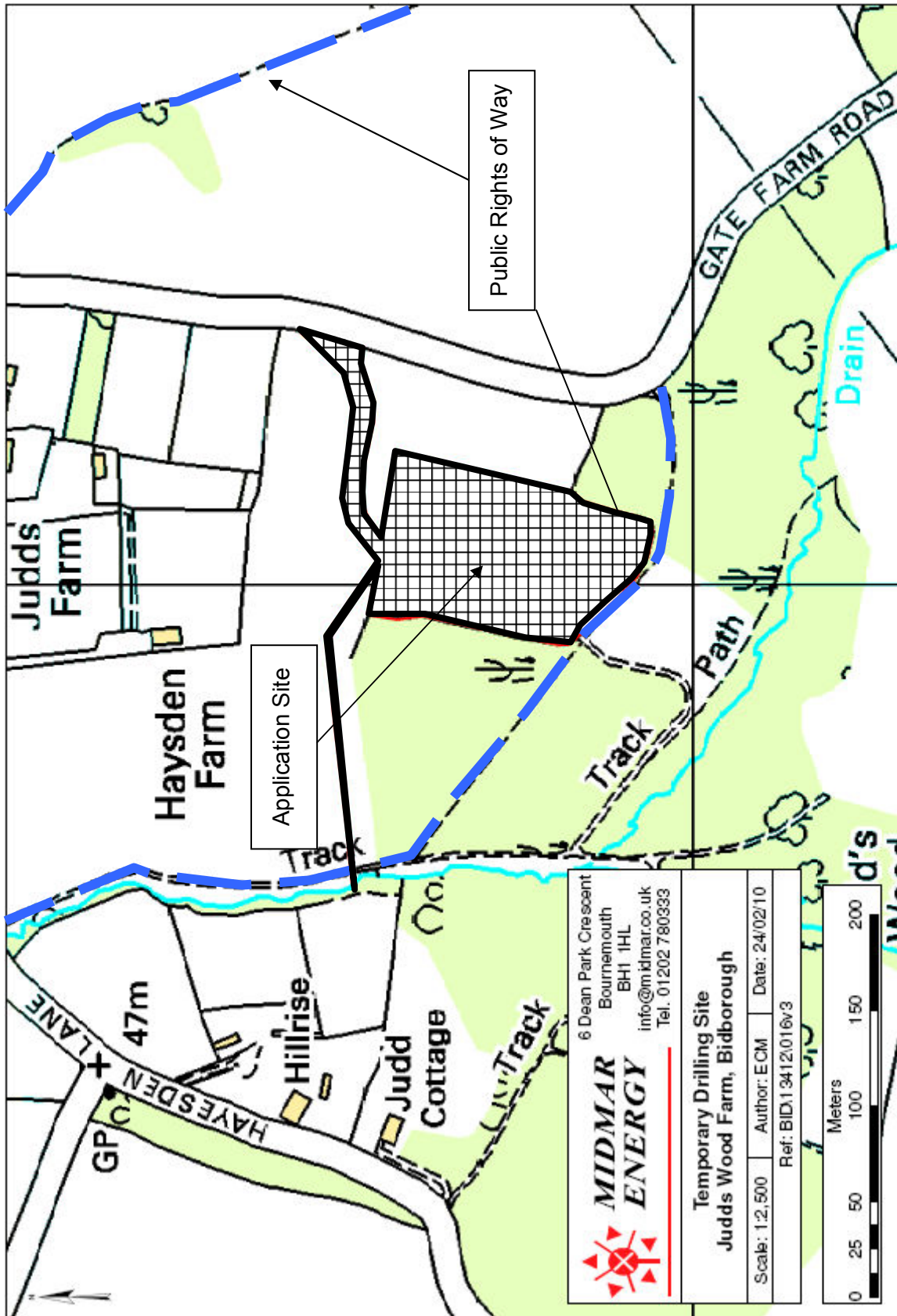
Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33

Site Location Plan



**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

**Proposed Temporary Drilling Site – Red Line Plan**

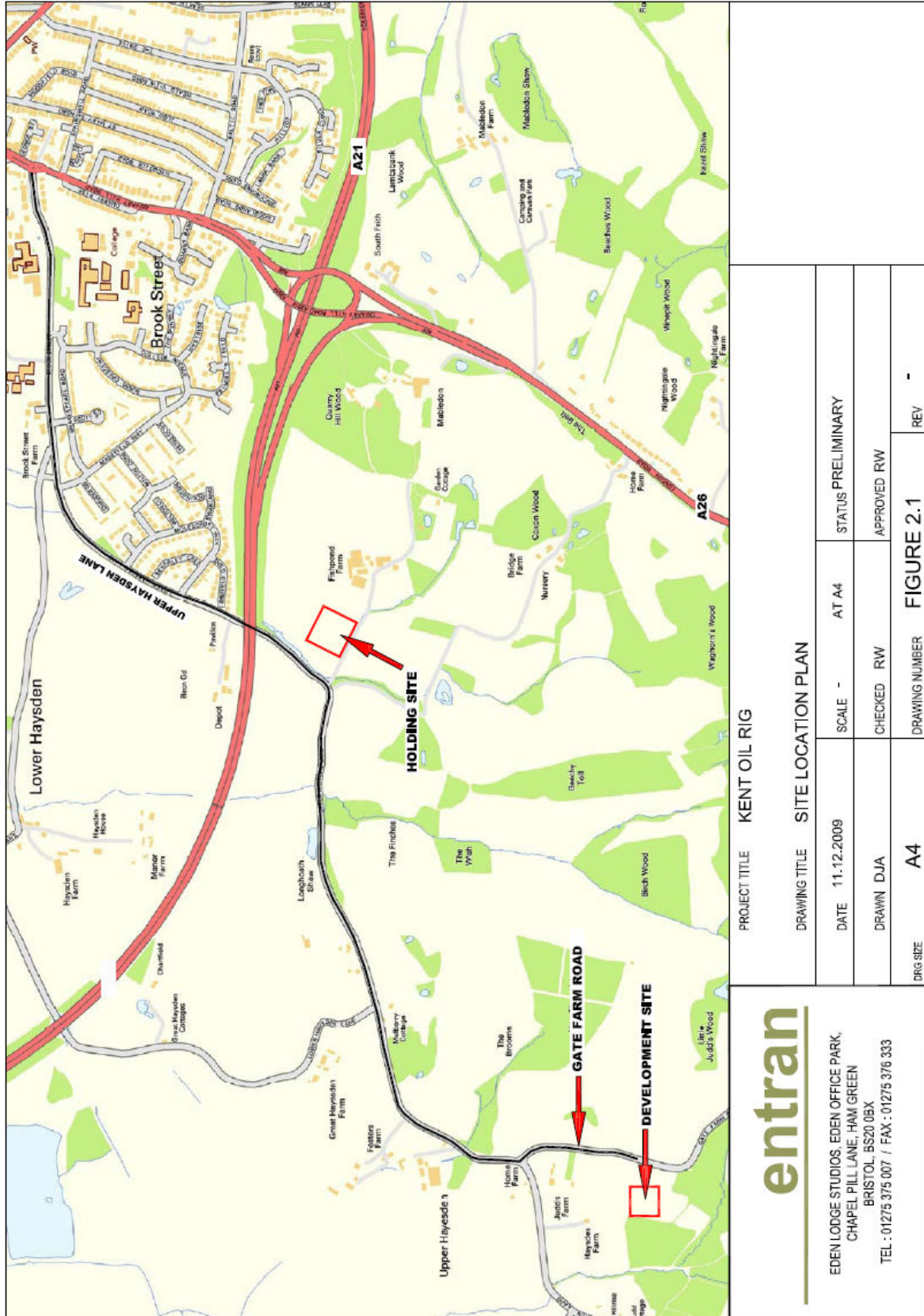






**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

**Location plan showing proposed HGV holding area in relation to development site**



**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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5. In terms of geology, Bidborough lies within the Weald Basin which extends across southwest Kent, East and West Sussex, the southern half of Surrey and most of Hampshire. It contains a number of proven hydrocarbon deposits and potential reservoirs, including large production fields of Stockbridge, Singleton, Humbly Grove and Storrington. A number of companies are already producing from the Weald Basin, with the closest site to Bidborough being Palmer's Wood in Surrey – located approximately 13 miles to the north west of the application site.
6. The applicant sought a screening opinion from the County Planning Authority under Schedule 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to determine whether an Environmental Statement was required. After a period of consultation the County Planning Authority concluded that the application was not likely to have significant effects on the environment and therefore the application for planning permission did not need to be accompanied by an Environmental Statement. A decision to this effect was issued to the applicant on 22 May 2009, under reference: PAG/DC29/09/TW/0001.
7. Further discussions took place between the applicant and officers of the County Planning Authority prior to this planning application being formally submitted.

**Proposal**

8. This application is made by Midmar Energy UK Limited and seeks planning permission for the construction of a temporary drilling site with temporary road access. The application sets out a number of phases which the applicant would undertake in order to establish whether there are commercial quantities of hydrocarbons in the prospect near Bidborough. These phases include: (a) site construction; (b) drilling operations; (c) extended well testing; and (d) site restoration. These are industry standard phases for onshore oil exploration facilities. The scope of the works involved for each of the four phases, (a) – (d), are discussed in detail below.

**Phase (a) – Site Construction**

9. This would involve the construction of a site and access from the public highway that is suitable for the drilling and testing of hydrocarbons. This phase is likely to take approximately 5 weeks to complete. Access is proposed to be made from Gate Farm Road via a specially constructed roadway. The applicant considered four potential access points: Haysden Lane; Gate Farm Road; the existing right of way from Gate Farm Road through Judd's Wood; and access adjacent to Judd's Wood. The applicant states that access from Haysden Lane was discounted on the basis that the gradient through the field would be too steep to allow HGV access to the working area, whilst access from the existing right of way from Gate Farm Road through Judd's Wood and access adjacent to Judd's Wood were both discounted due to a steep gradient and the potential for significant adverse impacts on both the public right of way and Judd's Wood (a designated Ancient Woodland). The application is accompanied by a Transport Statement which concludes that access gained from Gate Farm Road (as detailed on Page C2.4) is deemed to be the most suitable in highway safety terms.
10. An 8 metre section of hedgerow along Gate Farm Road would be removed to gain access to the site. The hedgerow is ancient hedgerow, comprises priority Biodiversity Action Plan habitat and qualifies as "ecologically important" under the Hedgerow Regulations. The application is accompanied by an Ecology Report which notes the presence of Dormice within the hedgerow and proposes suitable mitigation measures

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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to ensure the protection of these protected species during the removal of the section of hedgerow until it is replaced on restoration. These mitigation measures include persuading dormice to leave the affected area of hedgerow through the clearance of small areas of hedgerow on successive days; the construction of a dormouse bridge across the new vehicular site entrance; and the planting of new hedgerow immediately within the site boundary.

11. The initial 15 metre section of access road from the highway would be laid with a material adoptable for industrial estate roads before a gated site entrance. This would allow a HGV to pull off the main roadway entirely before stopping should the main site entrance gate be closed. The roadway to the site would be formed by moving topsoil to the lower side and placing a temporary trackway onto the prepared surface. Prefabricated sections of trackway are proposed for the access road as this would allow for rapid construction and minimise road vehicle movements to the site to bring materials for a permanent track surface.
12. Construction of the main site would be undertaken by removing topsoil and subsoil to form earth bunds on two sides of the site. Soil handling would be carried out in accordance with best practice guidelines to ensure good quality and effective restoration. Topsoil would be used to create earth bunds around the perimeter of the site, whilst subsoil would be used for fill elements during site levelling. On the eastern side of the site, where excavations would be deepest, a retaining wall would be constructed using gabions.
13. To manage any water falling onto the working area, a drainage system has been designed following discussions with the Environment Agency (EA). Any rainwater would be directed into the perimeter ditch where it would drain into a catchment pit. A Class 1 interceptor would be installed in accordance with EA guidelines, together with a sensor to detect the presence of oil. Once water quality is assured it would be routed via an underground pipe to the nearest stream where it can be released (as shown on Page C2.4).
14. An impermeable membrane would be laid over the entire site to seal the surface. This would be covered by various layers of aggregate and finished with a temporary trackway surface. A central area would be concreted to provide a stable platform for the drilling rig itself and cellars and conductors sunk into the ground to drill the wells from.
15. Finally, a green 1.8 metre high chain link security fence would be installed around the working area together with an entrance gate to the site and a cattle grid to preventing livestock using the field from escaping. A parking area within the earth bund would be created for the use of employees or contractors working on the site. A fire water tank would be installed close to the site entrance, together with an effluent tank to provide waste collection for the facilities on site. Other minor services would also be installed around the working area, namely site offices and storage facilities.
16. During construction operations, the applicant proposes that operations would be limited to the following hours:

Monday to Friday	07:00 – 18:00 hours
Saturdays	07:00 – 13:00 hours
Sundays and Bank Holidays	No operations

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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Phase (b) – Drilling Operations

17. Drilling operations would be begun with the mobilisation of the drilling unit. The drilling rig would be brought to the site using standard HGV's in approximately 15 loads. Although the applicant is not able to specify precisely the nature of the intended drilling rig, they indicate that the height of the derrick (i.e. the tallest part of the structure) is likely to be 18 metres above ground level.
18. It is proposed that two wells at latitude 51°10'29"N and longitude 0°13'49"E (TQ560441) be drilled as there are two distinct reservoirs to be evaluated. The applicant states that it is not possible to test both reservoirs from the same well bore for technical reasons and considers this to be the main reason why the well drilled by Conoco in 1981 failed to achieve a successful test. The first of the two wells would be relatively shallow and could be drilled within approximately 4 days. The second well is proposed to be deeper and would require approximately 14 days to complete. As with any drilling operations, the applicant indicates that there could be unforeseen circumstances that could extend the time taken to achieve the objectives as the rate of drilling is very much dependant on the progress made through the different geology structures.
19. Once drilling commences, the operation would continue 24 hours a day for technical and health & safety reasons (as is normal industry practice). If drilling was not continuous, there would be a strong possibility of the well bores collapsing. During drilling operations there would be very few HGV movements, and the majority of vehicle movements would be those by personnel carrying out the operation. Over any 24 hour period there could be up to 20 staff working on site, dependant on the stage of the drilling operations. On the basis that operations would continue 24 hours a day during the drilling operations, site lighting would be required for safety reasons. Site lighting would consist of ten 400W floodlights supported on 6 metre high poles, angled downwards to minimise light spill. The application proposes that once the wells have been drilled the drilling equipment would be removed from the site.
20. Once drilling operations are complete, various tests would be conducted to establish reservoir parameters to help understand the reservoir and further test programmes. These include several test measures such as 'electric logging', 'repeat formation test log' and 'drill stem test'. The basis of each set of results from these various tests would assist in determining the possibility of a valid hydrocarbon reservoir and lead to further tests prior to a decision on whether to undertake an Extended Well Test (EWT).

Phase (c) – Extended Well Testing (EWT)

21. If the testing of the well during the drilling phase is successful, the application proposes an Extended Well Test. An EWT would involve converting the site to safely handle, control and store hydrocarbons appropriately.
22. Reservoir fluid would be pumped to the surface by a pump installed at the well bore. Once pumped to the surface, fluid would pass to a treatment and processing unit on-site that injects chemicals and heats the mixture to ensure simple separation of oil, water, solids and gas which may or may not be present in varying quantities. Once sufficient fluids are produced, road tankers would be used to transport fluids off site. All storage tankers and process plant would be self banded and road tankers would utilise a tanker loading bund.

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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23. The application identifies that it would take approximately two weeks to convert the drilling site into a site suitable for producing and temporarily storing hydrocarbons. The initial site set-up and design reflects the strong possibility of a requirement to conduct a longer-term test.
24. The objective of the EWT is to establish likely production rates and obtain an estimate of reservoir size through pressure and temperature changes. DECC and the EA have set out guidelines for EWT's which detail a standard testing period of 90 days, which is standard industry practice for onshore oil exploration.
25. The nature of the EWT requires 24 hour operations to take place. Three storage tanks would be required for the storage of produced fluid, export quality oil and produced water. Each oil tank would meet the requirements of the Control of Pollution (Oil Storage) (England) Regulations 2001, which requires any tank holding more than 200 litres of oil to be bunded, amongst other requirements. In addition to these tanks, there would be a tank filled with water on stand-by as a fire safety measure. Other on-site equipment would include a Progressive Capacity Pump (to pump fluids from the reservoir to the surface), a compressor (to run pneumatics within the hazardous area), a boiler (used to provide warm fluid to aid separation of produced fluids) and a generator (for power). All equipment would be run 24 hours per day during the EWT phase.
26. Essentially the EWT is required to establish the commerciality of any hydrocarbons. Upon completion of the EWT a decision would be made by the applicant as to whether the prospect is economically recoverable. The applicant states that the application site would be considered for its ability as a development site, but information gathered during the EWT may identify a more suitable site location. If either were found to be the case (i.e. an economically recoverable prospect and/or a more suitable site location) a further planning application would be required for a production site as well as other necessary permitting requirements. In the event of commercially recoverable quantities of hydrocarbons being discovered the applicant would seek to postpone restoration of the application site pending the final outcome of a further planning application for a temporary production site.

**Phase (d) – Restoration**

27. Restoration of the application site to its prior condition is proposed when operations are complete. Restoration would be commenced with the plugging of the wells in accordance with DECC and Health and Safety Executive (HSE) guidelines to ensure that they are permanently safe, after which all equipment would be removed from the site. The placement of subsoil and top soils would then follow in accordance with best practice guidelines, together with soil seeding as appropriate. The section of hedgerow removed to gain access into the site would be replanted to an agreed specification. An aftercare programme would follow to ensure that the application site is restored to its previous condition and managed over a period of 5 years post-restoration.
28. The applicant draws attention to the successful restoration of the well drilled in 1981 by Conoco – it was returned to agriculture and is successfully farmed for crops with no trace of the well location of any operations carried out there.
29. The application proposes that restoration of the site would begin when one of the following circumstances occur: if hydrocarbons are not economically recoverable; if an alternative development location is identified; or at the cessation of operations.

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Applicant's Justification

30. The application site covers an area of approximately 1 hectare, with the access track covering approximately 510 sq. metres and 170 metres in length from Gate Farm Road. The applicant states that when selecting the proposed site location, a number of key considerations were investigated to ensure the most suitable location was selected for the proposal. The applicant states that consistent with the Government's mineral planning advice, minerals and hydrocarbons can only be extracted from where they are found and therefore geology is one of the key limitations when identifying a site. In addition to geological considerations, the applicant considered environmental conditions of the local area. The site selection process undertaken identified that any location over the reservoir and south of a nearby geological fault line would be within the High Weald AONB and the Metropolitan Green Belt. Whilst the applicant recognises that special measures would need to be taken to ensure the protection of the environment (in terms of the character and quality of the AONB and the openness of the Green Belt) they consider that the proposals are acceptable within the locality based on the following "very special circumstances": - (i) the temporary nature of the proposal; (ii) the fact that mineral deposits can only be worked where they are found; (iii) that the site would be fully restored to its former condition; and (iv) that high environmental standards would be maintained throughout on-site operations.
31. A Transport Statement submitted with the application offers a vehicle access management plan to control all HGV movement to/from the site during Phases (a) – (d). The management plan proposes routing controls starting from the junction of the A26 and Haysden Lane requiring all HGV vehicles travelling to the site to use Haysden Lane and turn left into Gate Farm Road. After passing under the A21 HGV's would turn left into a temporary holding area (known as "Fishpond Farm") until an operator at site requests that waiting HGV's proceed to the site. Further traffic management measures proposed by the applicant include temporary traffic signal control along Gate Farm Road during the site construction phase and HGV traffic being prevented from passing along Upper Haysden Road and the A26 between the hours of 08:00 – 09:30 and 14:45 – 16:00 during school term time, except in exceptional circumstances. *The site, holding areas and routing arrangements are shown on Page C2.5.* The applicant has offered that the proposed traffic management measures be secured by way of a Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act in the event that planning permission is granted.
32. A Landscape and Visual Assessment Report accompanies the application. The Report concludes that the proposals could be carried out with minimal effects on the visual landscape due to the proposals' temporary nature and good natural screening surrounding the application site.
33. A Noise Assessment Report which accompanies the application establishes background noise levels (measured in June 2009) within the locality as well as assessing the noise levels which would be generated by the proposed activities. The Report identifies that the nearest noise sensitive residential properties are located approximately 250 metres from the proposed drilling site, with properties in the village of Bidborough some 600 metres away. The background noise level assessment indicates that typical background noise levels are in the region of 35 dB L<sub>A90</sub> during the day and 30 dB L<sub>A90</sub> at night.
34. Worst case predicted daytime noise levels have been calculated (based on predicted site operations and associated plant/equipment) at 250m, 450m and 600m distances from the site, as outlined in Table 1 below. The Report concludes that during daytime

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activities, none of the predicted noise levels would be particularly high, or unusual for a relatively small scale ground works operation of the type involved.

Stage	Duration	Hours	L <sub>Aeq,T</sub> 250m	L <sub>Aeq,T</sub> 450m	L <sub>Aeq,T</sub> 600m
Pre-operational setup	5 weeks	Daytime	54 dB	48 dB	44 dB
Site conversion for EWT	2 weeks	Daytime	43 dB	37 dB	34 dB
Restoration	10 weeks	Daytime	54 dB	48 dB	44 dB

**Table 1 – ‘Worst case’ daytime noise levels**

35. The Noise Report provides further detailed calculations for the proposed 24-hour operations (i.e. during drilling operations and the Extended Well Test). Predicted noise emissions from 24-hour operations are shown in Table 2.

Distance from site	Drilling - L <sub>Aeq, T</sub>	EWT - L <sub>Aeq, T</sub>
250 – 450 metres	37 – 42 dB	24 – 29 dB
450 – 600 metres	31 – 40 dB	18 – 28 dB

**Table 2 – ‘Worst case’ 24-hour noise emissions**

36. The Report indicates that noise emissions emanating from both daytime and 24-hour operations would not exceed those levels set out in Minerals Policy Statement 2 (MPS2).
37. The application includes a need assessment in support of the proposals. This refers to the following factors as important considerations in support of the application: the fact that the UK produces less oil than it consumes as a result of North Sea decline and a general increase in demand; increased energy security by reducing reliance on oil imports; to meet the Government targets to maximise the potential of UK oil and gas; to reduce the carbon footprint through producing oil locally as opposed to importing oil from great distances; and that any additional production would contribute to lowering commodity costs.
38. Given the various complexities of the project, and to ensure that the best possible care is applied by the applicant, the application seeks a period of 5 years in which to implement any planning consent.

**Amended Proposals**

39. Following on from the consultations undertaken, together with the views received from a local resident, the applicant has provided further information in support of its proposals and proposed a number of amendments. The further information and amendments were sent to all consultees previously notified of the original planning application on 3 March 2010. The further and amended information, together with the description of the proposals (*as outlined in paragraphs 8 – 38*) form the basis of the discussions contained within this report. The most recent consultee views are outlined in paragraphs (41) – (57), and any additional consultee views received regarding the amended proposals received prior to the Committee Meeting will be reported to members verbally. Details of the further information and the various amendments submitted by the applicant relate to the following matters:
- not possible to reinstate hedgerow as suggested by the Borough Council as the applicant has no control over the land outside of the application site and that the

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- physical planting of hedgerow would result in an unacceptable disruption of farming activities;
- offers further landscape planting along the application boundary adjoining the Public Right of Way, together with the seeding of earth bunds;
  - there is no intention to translocate dormice off-site, but instead mitigation is proposed through the installation of a dormouse bridge across the site entrance;
  - translocation of existing hedgerow is not proposed given the low rate of potential success – instead new whips would be planted upon completion of works / site restoration;
  - the ecology survey work undertaken indicates that the proposed development would not impact on breeding birds, reptiles, badgers or bats in the locality;
  - the application be amended to include a 10 metre stand-off between the proposed underground drainage channel and Judd's Wood to safeguard the area of ancient woodland;
  - gapping up of an existing access into the field to compensate for the proposed new site access would impede the agricultural use of the land, therefore causing unacceptable changes to existing farming activities;
  - the temporary nature of the proposals means that long term aftercare and woodland management is unnecessary and unreasonable; and
  - lighting and site access arrangements (*clarification / justification only*).

**Planning Policy**

40. The most relevant Government Guidance and adopted and proposed Development Plan Policies summarised below are relevant to the consideration of this application:

(i) **National Planning Policies** – the most relevant National Planning Policies are set out in PPG2 (Green Belts), MPS1 (Planning and Minerals), MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction in England), MPG7 (Reclamation of Mineral Workings), PPS1 (Delivering Sustainable Development), PPS7 (Development in Rural Areas), PPS9 (Biodiversity and Geological Conservation), PPG13 (Transport), PPG15 (Archaeology) and PPS23 (Planning and Pollution Control).

(ii) The adopted 2009 **South East Plan**:

**Policy SP5** Existing Green Belts in the region will be retained and supported and the opportunity should be taken to improve their land-use management and access as part of initiatives to improve the rural-urban fringe.

**Policy C3** High priority will be given to conservation and enhancement of natural beauty in the region's Areas of Outstanding Natural Beauty (AONBs) and planning decisions should have regard to their setting. Proposals for development should be considered in that context.

**Policy NRM1** Water supply and ground water will be maintained and enhanced through avoiding adverse effects of development on the water environment.



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**Policy NRM5** Local planning authorities shall avoid a net loss of biodiversity, and actively pursue opportunities to achieve a net gain across the region.

**Policy NRM7** Ancient woodlands will be protected from damaging development and land uses.

(iii) The adopted 1997 **Kent Minerals Local Plan: Oil and Gas (Saved Policies)**:

**Policy OG2** Proposals for exploratory drilling will normally be permitted where, having regard to geological structure, the planning authority is satisfied that the proposed site has been selected to minimise its environmental and natural resource impact.

**Policy OG5** Before granting planning permission the planning authority will require to be satisfied as to the means of control of noise, vibration, dust and gas, and waste materials particularly in respect of its potential impact on neighbouring land uses and amenity.

**Policy OG7** Proposals will not be approved by the planning authority except in accordance with schemes which provide for the safeguarding of land drainage and flood control and land stability.

**Policy OG8** Before granting planning permission the planning authority will be required to be satisfied that the earth science and geological interests of the site and its surroundings have been established, and provisions are made for the safeguarding of irreplaceable or other important geological and geomorphologic features, habitats or species of wildlife importance.

**Policy OG9** The planning authority will require details of siting, design and external appearance of plant, hard surfacing, buildings, lighting and any perimeter security fencing.

**Policy OG10** With the exception of drilling operations, the planning authority will by condition permit operations between the hours of 07:00 to 18:00 Monday – Friday and 07:00 to 13:00 on Saturday, excluding Sundays and Bank Holidays.

**Policy OG15** Planning permission will be refused for proposals which would materially affect the safety of the highway network, the character of historic/rural lanes and adversely affect the local environment.

**Policy OG16** Requires measures to prevent mud and debris being tracked onto the existing highway network.

**Policy OG17** Requires an appropriate landscaping scheme as an integral part of the development.

**Policy OG18** Requires an appropriate restoration and aftercare scheme.

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(iv) The adopted 2006 **Tunbridge Wells Borough Local Plan (Saved Policies)**:

- Policy MGB1** The openness of the Metropolitan Green Belt will be preserved and no development which would conflict with the purposes of including land within it will be permitted.
- Policy EN1** All proposals for development must, amongst others: be compatible with neighbouring uses; not cause significant harm to residential/adjoining amenity; the scale of the development be compatible with the context of the site; and not result in any significant impacts on nature conservation issues.
- Policy EN8** Proposals for outdoor lighting must, amongst others: ensure minimum lighting levels required to undertake the purpose specified; be unobtrusive in their location(s); and minimise glare and light spillage into the wider context.
- Policy EN13** Development will not be permitted if it would destroy Ancient Woodlands.
- Policy EN16** Require development proposals to have no unacceptable impact on groundwater resources.
- Policy EN26** Development proposals will only be permitted within the AONB if they protect or enhance the natural beauty and special character of the landscape.
- Policy TP4** Development proposals must be acceptable in highway safety terms.

(v) The draft (August 2009) **Tunbridge Wells Borough Local Development Framework Core Strategy**:

- Policy CP2** There will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt.
- Policy CP4** The High Weald AONB will be conserved and enhanced. Net loss of biodiversity will be prevented, and enhancement measures encouraged.
- Policy CP5** Requires sustainable design and construction measures to be applied to all development proposals.
- Policy CP15** The natural environment in rural areas will be protected for its own sake.

### Consultations

41. **Tunbridge Wells Borough Council**: Initially objected to the proposals due to the “*significant impact*” on the character and visual amenities of the landscape (albeit for a temporary period), “*significant concerns*” about the proposed lighting (which would

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adversely affect the countryside that is designated as Kent High Weald AONB) and ecological concerns. It suggested that mitigation and enhancement measures should be incorporated into the scheme to help screen the site and ensure protection of the landscape:-

- an ancient field boundary should be reinstated to help mitigate the visual impact of the development and secure longer term enhancement;
- additional tree / hedgerow planting should be required around the entrance area of the site and between the site and the PROW (to mitigate against visual impact on users of the footpath);
- site restoration should be secured for a period of 10-20 years;
- an existing access into the field should be closed off and the hedgerow gapped up to compensate for the proposed new opening in the hedgerow;
- schemes of mitigation to offset harm to dormice and impacts on bats (*due to lighting*);
- a legal agreement should be required to provide for any off-site translocation;
- a buffer zone should be provided between the site and the woodland for bat mitigation (e.g. bat boxes);
- a Woodland Management Plan should be required for the woodland area adjacent to the site (as compensation / mitigation);

It also suggested that if permission is granted, conditions should be imposed requiring: (i) noise level verification of both the construction and drilling phases to ensure that the required noise levels are achieved; (ii) the submission of a noise reduction plan to mitigate as much noise as possible and demonstrate best practical means for noise control; and (iii) the submission of a lighting plan. It further suggested that details be agreed about remedial targets of any soils treated as a result of land contamination to ensure that soil quality is maintained. It also supported Kent Wildlife Trust's preference for the proposed surface water drain to be laid at least 10 metres from the northern edge of Judd's Wood.

In response to the further information, it advised that it accepted the following key points made by the applicant: (i) the project is for a limited period (notionally around six months); (ii) the farmer wishes to maintain the viability of his farm and so schemes of alterations to his access or new dividing hedgerows are not acceptable; and (iii) that the farmer wishes to maintain the area around the test site in agricultural use as grazing land. It also stated that any permission should be time limited (as this has a significant effect on the consideration of the application and the impacts), that replacement planting or re-seeding would take time to establish such that effects of any temporary permission would extend over 1 to 5 years and that whilst the land is outside the applicant's ownership it is all within the same ownership such that mitigation outside the red line could be achieved by Grampian condition.

Taking these matters into account, it advised that some of the issues raised in its previous comments have been addressed. However, it is still concerned about the impact on dormice, bats and users of the PROW and maintains its objection on these grounds. It also notes that the lighting information does not include a Lux diagram and that the luminaries are floodlights, not directional lights. It states that this matter can and should be further controlled by condition although some light spillage will remain above and beyond what will be controlled by lighting design and the bunds.

42. **Bidborough Parish Council:** no comments received to date. Any comments received prior to the Committee Meeting will be shared with Members verbally.

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43. **Divisional Transportation Manager:** has raised no objection to the proposal subject to the applicant abiding in full with the vehicle access management plan measures detailed within their Transport Statement. He raises some concerns about the immediate point of access to the highway, where the creation of a gap in the hedge for access would afford very limited visibility, but recommends a condition be placed on any consent to the effect that a banksman should be present and control all vehicle movements from the site (unless signal control is used as an alternative). Furthermore, he notes that the alternative point of access (suggested by a neighbour) is less preferable than that proposed by the applicant in that it would involve HGV traffic travelling further along Gate Farm Road up the hill – the shortest time spent on the lane is preferable.
44. **Environment Agency:** has no objections to the application.
45. **South East England Development Agency (SEEDA):** has no comments to make on the proposal – from SEEDA's view there is no regional significance to be taken into account during the consideration of this application.
46. **South East England Partnership Board:** has no substantive comments to make on this application as there is no specific regional policy on hydrocarbons in the South East Plan. However, the minerals chapter in the South East Plan recognises that mineral working and transport can have adverse impacts on the environment. Minerals developments should therefore ensure the effective management of specific impacts such as noise and dust and encourage good site management and restoration.
47. **Campaign to Protect Rural England (CPRE):** no comments received to date. Any comments received prior to the Committee Meeting will be shared with Members verbally.
48. **County Council's Archaeological Advisor:** notes that the application site is quite large and there may be an impact on the historic landscape features or hitherto unknown archaeological remains. Works for compound creation, services, access and temporary structures may require excavations that could reveal important remains. As such, advises that a condition for an archaeological watching brief be placed on any consent.
49. **County Council's Landscape Consultant:** welcomes the applicant's incorporation of grass seeding to earth bunds and additional permanent screening from the Public Footpath directly south of the site. Advises that the applicant should submit details of seed mix and sowing rate for earth bunds, together with a detailed planting scheme which should include an appropriate native hedgerow mix together with some scattered standard trees to replicate local field boundaries in the area. Considers that an overall landscape scheme/management plan showing the site restoration including restored contours, subsoil/topsoil treatment, treatment of obsolete track, details proposals for hedgerow reinstatement along Gate Farm Road and grass or wildflower seeding mixes/rates should also be required. Overall, he considers that whilst the proposals would have a substantial localised impact on the landscape, the impacts on the wider High Weald AONB and the open character of the Green Belt would not be significant. He further advises that as the proposals would be temporary and the landscape would be fully restored to its current state, the proposals would not be unacceptable provided that the benefits of the proposal would outweigh the adverse landscape effects.

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50. **County Council's Noise Consultant:** notes that the application is accompanied by a noise level assessment which considers the likely noise impact arising from the drilling and Extended Well Test. He advises that based on the assessment and the guidance contained in MPS2, noise emanating from the facility would be acceptable. On this basis, and given the temporary nature of the facility, he does not object on grounds of noise.
51. **County Council's Dust and Odour Consultant:** notes that access would consist of a temporary road surface in order to reduce the risk of dust impacts. Considers that if any areas are to be affected by dust they should be sprayed with water to control the issue. As a result of the nature of the works and the control measures proposed within the application he considers that dust and odour are unlikely to result in detriment to the nearest residential premises.
52. **County Council's Public Rights of Way Officer:** no comments received to date. Any comments received prior to the Committee Meeting will be shared with Members verbally.
53. **Natural England:** advise that the County Planning Authority should consult with the High Weald AONB Unit (see below) and refer to Natural England's Standing Advice on Protected Species and Ancient Woodland.
54. **County Council's Biodiversity Officer:** raises no objections to the proposals, subject to the mitigation measures detailed within the application (as amended) being fully undertaken as suggested.
55. **Kent Wildlife Trust:** notes that an experienced consultancy has carried out the ecological surveys and assessments and that it has no reason to question the findings and representations contained in the Biodiversity Report. However, given the risk to protected species arising from the development, the Trust urge the Council to test the proposals against the standing advice from Natural England. The Trust has no objections to the development, subject to planning conditions being used to secure the completion of avoidance, mitigation, compensation and enhancement measures recommended in the application. The Council should also secure, by condition or agreement, the funding of an appropriate management regime for the habitat enhancement features that is responsive to the results of periodic key habitat and species monitoring.
56. **High Weald AONB Unit:** no comments received to date. Any comments received prior to the Committee Meeting will be shared with Members verbally.
57. **South East Water:** no comments received to date. Any comments received prior to the Committee Meeting will be shared with Members verbally.

**Local Member**

58. The local County Member, Mr. J. Davies, was notified of the application on the 15 January 2010. Two adjoining County Members, Mr. G. A. Horne and Mr. C.P. Smith, were also notified of the application on the 15 January 2010. All three County Members were notified of the amended details and further information submitted by the applicant on the 3 March 2010.

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**Publicity**

59. The application was publicised by the posting of a site notice, a newspaper advertisement in the Kent and Sussex Courier (Tonbridge Edition) and the individual notification of 18 residential properties within 250 metres of the application site in addition to those properties fronting the proposed HGV vehicle access route to site along Upper Haysden Lane and Haysden Lane.

**Representations**

60. To date I have received two letters of representation in respect of this application, one objecting to the proposals and one in support of the proposals. The key points of each letter are outlined below:

Objection:

- Request that the proposed site access, which necessitates the removal of a section of ancient hedgerow, is reconsidered. Despite the safeguards of a dormouse bridge I am concerned for the future of the very fragile dormouse colony on my holding;
- There is an existing gateway located to the east of the site which was closed by the landowner (at my request) following several raids on my property. Reopening this access would be a simple matter and remove the loss of habitat occupied by dormice as recorded in the Ecological Report which accompanies the application;
- Contact was made with the applicant about the alternative access point at the pre-planning stage, at the time it would have been a simple matter for the site plan to accommodate, even now it should be simple to reorganise the car park, vehicle turning circle and workshops from one side to another. It would necessitate re-grading the falls from Gate Farm Road to the proposed work area;
- Whilst the applicant's ecological consultants have been diligent in their recording of plant and animal species there have been some notable omissions, namely snakes, frogs and toads, deer and foxes. Deer for example lay up between the proposed site and the woodland to the west. They cross Gate Farm Road at the same point as do badgers, directly adjacent to the currently proposed road access. They will not be able to cross the cattle grid;
- Grass snakes, frogs and toads breed regularly at Hayesden Herb & Honey Farm to the south of the proposed site;
- If the hedge is removed as proposed then provision for the deer to exit the field containing the well site should be considered, if the original gateway is reinstated then the deer can continue as they have done;
- The dormouse bridge could as easily be established further up the road between the end of the present hedge and the adjacent woodland.

Support – (the letter in support of the proposals is from the landowner)

- Notes that it has been suggested a historic hedgerow is replanted between Judd's Wood and Gate Farm Road, as well as planting a new hedgerow between Haysden Farm and Judd's Wood. This would not be practical for me in terms of maintaining an efficient working farm due to the segregation it would cause to the land if the field was divided up as suggested. To continue farming viably, it is preferable to maintain a more open field structure owing to the larger number of livestock held and simplifying their movement around the farm.

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**Discussion***Introduction*

61. The application seeks planning permission for the construction of a temporary drilling site with temporary road access. Broadly speaking there are four main project phases – including site construction, drilling operations, an extended well test (EWT) and restoration. The application is being reported to the Planning Applications Committee as a result of the objections received from Tunbridge Wells Borough Council (*as detailed in paragraph 41*) and a local resident (*as outlined in paragraph 60*). In considering this proposal, regard must be had to the most relevant Government Guidance, together with adopted and proposed Development Plan Policies outlined in paragraph (40). 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. In my opinion, the key planning considerations in this particular case can be categorised under the following headings:
- the impact of the proposals on the openness of the Metropolitan Green Belt and whether the proposals represent “inappropriate development” within such land;
  - the visual impact of the proposals on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB) and Special Landscape Area;
  - the impact of the proposals on the local highway network and associated highway safety considerations;
  - the impact of the proposals on local amenity in terms of the potential for adverse noise and light pollution;
  - the impact of the proposals on ecological interests, including European Protected Species;
  - the impact of the proposals on an adjoining Public Right of Way (Ref: WT59);
  - the impact of the proposals on archaeological interests; and
  - any other issues.

*Metropolitan Green Belt*

62. Members will note that the application site is located within the Metropolitan Green Belt. Government guidance expects that all planning applications for development in the Green Belt will be subject to the most rigorous scrutiny, having regard to the fundamental aim of Green Belt policy as set out in Planning Policy Guidance Note 2 (PPG2) that is to prevent urban sprawl by keeping land permanently open. The openness of Green Belts is considered to be their most important attribute and therefore there is a general presumption against inappropriate development, which is by definition harmful and should not be permitted, unless it can be justified by ‘very special circumstances’. Therefore in the context of National Planning Policy and Development Plan Policies that apply, consideration needs to be given to whether or not the proposal involves ‘inappropriate development’, and if so, whether there are ‘very special circumstances’ that would warrant setting aside the general presumption against development.
63. That said, mineral extraction need not be ‘inappropriate development’ or conflict with the purposes of including land in Green Belts provided that high environmental standards are maintained throughout operations and that the site is well restored upon completion of mineral extraction. Furthermore, guidance contained within MPS2 recognises that minerals and hydrocarbons can only be extracted from where they are

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found, resulting in the underlying geology of a potential site being a key determining factor in terms of site selection.

64. The application explains that a site selection process was undertaken to identify various potential sites above the reservoir and within the licence area awarded to the applicant by DECC. That selection process identified that any potential location for an oil exploration site over the reservoir and south of a nearby geological fault line would have to be within the Metropolitan Green Belt and the High Weald AONB. For reasons set out elsewhere in this report, I am satisfied that the proposals meet the tests required for mineral development in the Green Belt summarised in paragraph 63 above and are therefore not 'inappropriate development' in this instance. On this basis, it is not necessary for 'very special circumstances' to be demonstrated. For these reasons, together with the conclusions drawn below, I consider that the proposals accord with National Green Belt and Minerals Policies, together with Development Plan Policies covering Green Belt land, notably South East Plan Policy SP5, Local Plan Policy MGB1 and draft Core Strategy Policy CP2.

High Weald AONB / Special Landscape Area Designations

65. The application site is located within a nationally designed sensitive landscape, the High Weald AONB. It is also located within a Special Landscape Area (SLA). National minerals planning policy contained in MPS1 recognises that major mineral proposals should not be permitted within AONB's (amongst other important designated sites) except in exceptional circumstances. Due to the serious impact that major mineral developments may have on these areas of natural beauty, applications for these developments should be subject to the most rigorous examination. That examination should include an assessment of: the need for the development, including in terms of national considerations of mineral supply and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for making available an alternative supply from outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated. Furthermore, MPS1 states that planning authorities should ensure that for any planning permission granted for major mineral development in designated areas, the development and all restoration should be carried out to high environmental standards and be in character with the local landscape and natural features.
66. Given the limited scale and temporary nature of the proposals, I do not consider the development to constitute 'major' mineral development as defined in national minerals policy. Accordingly, MPS1 sets out that proposals not considered to be 'major' mineral developments should be carefully assessed, with great weight being given in decisions to: the conservation of the natural beauty of the landscape and countryside; the conservation of wildlife and the cultural heritage; and the need to avoid adverse impacts on recreational opportunities.
67. The application site itself is visually constrained from some views by characteristic undulating landform and woodland blocks, albeit there are some long distance views towards the site from the north-west and from the east. Close views of the proposed development would be experienced from the PROW network immediately south of the application site, as well as from adjacent farms to the north. Whilst I accept that there would be a noticeable visual impact arising from the proposals on the adjacent PROW and some other locations close to the site, existing vegetation, topography and the mitigation proposed by the applicant (including earth bunding / seeding and additional permanent landscape planting along this boundary) would minimise these. On this



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- basis, I consider that these impacts are acceptable. Given that that site consists of a parcel of agricultural land, I do not consider that the proposed development would have any adverse impact on wider recreational opportunities within the High Weald AONB.
68. Various development locations were discussed within the existing field parcel at the pre-application stage with officers from the County Planning Authority. In my opinion, the current application site represents the best possible location for the drilling operations within the field parcel available to the applicant in visual terms considering the sensitive AONB and SLA designations.
69. The application is accompanied by a Landscape and Visual Assessment Report. The Report mapped a zone of visual influence covering an area of 1 kilometre which identified locations that may be in view of the proposed site. It identifies that the most substantial visual change on the landscape would be visible from the adjacent Public Right of Way. However, these views would be restricted due to topography and woodland vegetation. Furthermore, the Report concluded that from the majority of visual viewpoints within 1 km of the application site, there would be limited views of the proposed development, with the exception of the very top of the derrick (the drilling rig – proposed to be 18 metres high). I note that the County Council's Landscape Consultant (*see paragraph 49*) considers that whilst the proposals would cause a substantial localised impact on the landscape, he considers that the wider High Weald AONB and the open character of the Green Belt would not be significantly affected, subject to the site being fully restored to its current state on completion of operations.
70. An important consideration in terms of the development's impact on the AONB and SLA aside from 'built development' is the impact of proposed site lighting within the wider sensitive landscape. The Borough Council has expressed concerns about such impacts. I note that floodlighting would be operational on an 'as required' basis during 24-hour periods as part of the drilling and EWT phases given the need to provide safe working environments for site operatives. Whilst I note that the lighting during night time periods would be visible from wider views within the AONB, I consider it to be acceptable given its temporary nature. Lighting issues are addressed further in paragraph 83 (in terms of their local amenity considerations).
71. Members will note that Kent Wildlife Trust requested that a ten metre stand off between the proposed surface water drainage pipe and the northern edge of Judd's Wood be provided to ensure no damage to trees and vegetation within the area of ancient woodland during construction activities. To this effect, the applicant has amended the proposals to provide the recommended ten metre separation distance. Based on this amendment, I consider that the proposals would safeguard the ancient woodland and are therefore acceptable and in general conformity with Development Plan Policies – notably South East Plan Policy NRM7 and Local Plan Policy EN13 which seek to preserve and enhance areas of ancient woodland.
72. The applicant has offered to seed the proposed earth bunds surrounding the application site, recognising the importance of preserving the visual quality of the surrounding sensitive landscape. This temporary mitigation measure is considered to be beneficial and could be secured by condition in the event of planning permission being granted.
73. In accordance with Kent Minerals Local Plan: Oil and Gas Policies OG17 and OG18, the application proposes that the site would be fully restored to its previous condition at the end of the EWT phase. Given the need to ensure the restoration of the site in a

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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timely manner on the basis of the sensitive nature of the landscape, I propose that site restoration be commenced within 12 months from the date of the commencement of the site construction phase, unless otherwise agreed in writing by the County Planning Authority. This requirement could be controlled by way of an appropriately worded planning condition. A five year aftercare scheme is proposed to ensure the management of the land by the applicant for subsequent years following initial restoration. Broadly speaking, restoration of the site would comprise of the removal of all equipment from the site, the grading of the land to previous contour levels through the placement of subsoils and top soils in accordance with best practice handling techniques, followed by grass seeding. The section of hedgerow along Gate Farm Road would be replanted using native hedgerow species to an agreed specification. I consider that the general principles of restoration and aftercare proposed are in conformity with Development Plan Policy, and would serve to minimise any temporary harm caused to the Metropolitan Green Belt, High Weald AONB and SLA. Furthermore, I consider that effective restoration in accordance with the current landform and landscape character would assist in ensuring that the sensitive landscape of the High Weald AONB is conserved, a key consideration in terms of the rigorous assessment of minerals proposals within nationally designated landscapes, as set out in MPS1. Therefore I consider the proposals to be acceptable subject to securing appropriate restoration and aftercare schemes by condition.

74. Having visited the site on several occasions and considered the wider visual impact of the proposals on the High Weald AONB and SLA, I concur with the views expressed by the County Council's Landscape Consultant in so far as he notes the substantial localised visual impact the proposals would be likely to generate. That said, given the temporary nature of the proposal, its limited scale, the minimal impact on recreational opportunities, ecological and archaeological interests (as discussed below) and final restoration to high environmental standards consistent with the original landform, I do not consider the proposals to warrant a planning objection on the grounds of an unacceptable impact on either the High Weald AONB or the SLA. For this reason, I consider that the proposal is in general conformity with the principles contained in national minerals policy together with Development Plan Policies, most notably South East Plan Policy C3, Kent Minerals Local Plan: Oil and Gas Policy OG18, Local Plan Policies EN8 and EN26 and draft Core Strategy Policy CP4.

#### Highway Issues

75. Access to the application site is proposed to be obtained via Gate Farm Road which leads from the A21 [Tonbridge Bypass] / Tonbridge town centre direction via Brook Street, Upper Haysden Lane and Haysden Lane. Once leaving the built up confines of Tonbridge, Upper Haysden Lane and Haysden Lane are predominantly rural country lanes consisting of single direction carriageways. Gate Farm Road consists of a rural country lane, passable in its majority by single file traffic only.
76. I note that the issue of an appropriate point of access into the application site has been raised by a local resident (*see paragraph 60*). To this effect, the resident has suggested that the applicant consider using an existing gateway to the east of the site which was closed by the landowner following a number of unauthorised entrances to his land. The resident has considered that reopening this access would negate the need for the removal of a section of hedgerow currently proposed, ultimately removing the need for ecological mitigation measures such as the proposed dormouse bridge. Whilst in principle this approach would seem logical, there are a number of technical reasons why such approach would not be considered as a favourable alternative. Firstly, the alternative point of access would be situated further along Gate Farm

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Road, a narrow country lane, resulting in HGV's being required to remain on the highway for an increased length of time. From the Divisional Transportation Manager's point of view, the shortest time spent by HGV's on Gate Farm Lane is preferable. Secondly, the alternative point of entry/exit is located on a sharp bend requiring site vehicles to turn across the oncoming traffic at the bend where oncoming traffic is descending from an uphill location, thus likely to be travelling at higher than average speeds. Furthermore, the applicant recognises that whilst they accept that there is already a gap in hedgerow at this location, this would not be sufficient to bring in a safe entrance/exit given the need for large visibility splays on an existing sharp bend. The applicant also notes the very steep changes in level at this point, preventing the easy movement of vehicles to the operational site area. Therefore, the requirement for the removal of hedgerow would still be necessary, together with appropriate mitigation measures.

77. Whilst I note the views and suggestions of the local resident in this instance, I consider that there are various sound planning and highway reasons why such alternative point of access would not be more desirable than the access arrangements proposed by the applicant. In particular, I note the professional advice received from the Divisional Transportation Manager in which he states that the point of access put forward by the applicant is the most preferable. My acceptance of this is conditional on the satisfactory resolution of the ecological issues associated with the removal of hedgerow as discussed below.
78. On the basis of the rural characteristics of the local highway network, the applicant proposes a vehicle access management plan to control all HGV movements to/from the site during all phases of development. The management plan would place routing controls starting from the junction of the A26 and Haysden Lane requiring all HGV vehicles travelling to the site to use Haysden Lane and turn left into Gate Farm Road. Shortly after passing under the A21 HGV's would be required to turn left into a temporary holding area (at "Fishpond Farm") until an operator at site requests that waiting HGV's proceed to the site. Other management measures offered by the applicant include temporary traffic signal control along Gate Farm Road during the site construction phase, and restricting HGV traffic to outside of school hours during term time, except in exceptional circumstances. Members should note that the Divisional Transportation Manager (*see paragraph 43*) has raised no objections to these management measures, subject to an appropriate mechanism being put in place to ensure that the applicant fully abides by the measures offered up. To this effect, I propose that should planning permission be granted, the applicant be required to complete a legal agreement to secure these various traffic management measures, pursuant to Section 106 of the Town and Country Planning Act. The applicant has indicated its willingness to provide an appropriate Unilateral Undertaking to secure the traffic management measures in this instance.
79. On the basis of the professional highway advice received from the Divisional Transportation Manager and having considered the suggestions put forward by the local resident regarding an alternative site access in this instance, I consider that subject to the completion of a Section 106 Agreement to secure HGV traffic management measures, the proposals are acceptable in highway terms as they are broadly in accordance with the Development Plan, namely Kent Mineral Local Plan: Oil and Gas Policy OG15 and Local Plan Policy TP4.

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*Amenity Considerations and Operational Hours*

80. There are a number of amenity considerations to take into account when determining this proposal. The most significant of the impacts associated with the proposed operations would be those arising from 24-hour operations during the drilling and EWT phases. During these phases, the key issues are those specifically relating to noise and lighting impacts.
81. In terms of noise impacts, as detailed above, the application is accompanied by a Noise Assessment Report which establishes background noise levels within the locality to be typically between 35 dB L<sub>A90</sub> during the day and 30 dB L<sub>A90</sub> at night. The Report goes on to identify 'worst case' daytime noise levels during the various phases of operations (see *Table 1 – Page C2.11*) and concludes that during daytime periods, noise associated with the proposed operations would not be particularly high or unusual for a relatively small scale ground works operation of the type involved. The Report provides predicted noise levels for the proposed 24-hour operations (i.e. those operations proposed during the drilling and EWT phases) (see *Table 2 – Page C2.11*) and concludes that noise emissions during both daytime and night-time periods would not exceed the recommended levels as set out in MPS2.
82. The applicant's Noise Assessment Report has been independently assessed by the County Council's Noise Consultant (see *paragraph 50*) who has concluded that noise emanating from the facility would be acceptable and accord with the guidance contained in MPS2. Members will note that the Borough Council have requested noise level verification be a requirement by condition in the event that planning permission is granted. I consider that this level of control is unwarranted in this particular instance, but instead would seek to ensure, by condition, that noise levels are appropriately secured to those levels set out in the application. On the basis of the professional advice received in respect of noise matters, I consider that the proposals are acceptable on noise grounds as they are in accordance with Development Plan Policy, notably Policy OG5 of the Kent Minerals Local Plan: Oil and Gas.
83. The Borough Council has expressed concerns about light spillage and resultant adverse impacts. I note that the application proposes 24-hour operations during the drilling and EWT phases. During these periods, site lighting would be required on an 'as required' basis during day-time periods and at all times during night time periods to maintain health and safety requirements for on-site working. I note that site lighting would consist of ten 400 W floodlights supported on 6 metre high poles, angled downwards to minimise light spill. Whilst I recognise that site lighting would be noticeable during night-time periods, I am satisfied that there would be no detrimental levels of light intrusion into nearby residential dwellings given the separation distances and existing well-established vegetation belts between the site and nearest residential properties. To this effect, I consider the proposals to be acceptable in terms of lighting impact and local amenity, as they broadly meet the policy requirements of Kent Minerals Local Plan: Oil and Gas Policy OG9 and Local Plan Policy EN8. However, I consider that a condition should be placed on any consent requiring site lighting to be switched off when not required for health and safety reasons.
84. In terms of operational hours, I note that during the drilling and EWT phases operations would take place on a 24-hour basis. For all other phases (i.e. site construction and restoration) operations would take place between the following hours – Monday to Friday: 07:00 – 18:00, Saturdays 07:00 – 13:00 and no working on Sundays or Bank Holidays. With the exceptions of 24-hour operations, these hours are consistent with Kent Minerals Local Plan: Oil and Gas Policy OG10. The scope for

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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reducing 24-hour operations during drilling and the EWT phase is not possible for technical and health and safety reasons, as set out in paragraphs (19) and (25) above. Accordingly, subject to operational hours being limited to those applied for by planning condition, I consider the hours proposed to be acceptable in this instance.

Ecological Issues

85. The site construction phase involves the removal of an 8 metre section of hedgerow along Gate Farm Road to make way for a dedicated site access. This hedgerow is ancient hedgerow, comprises priority Biodiversity Action Plan habitat and qualifies as “ecologically important” hedgerow under the Hedgerow Regulations. The application is accompanied by an Ecological Report which notes the likely presence of dormice (a European Protected Species) within this section of hedgerow and therefore proposes mitigation measures to ensure the protection during on-site operations. The mitigation offered by the applicant includes the installation of a dormouse bridge across the proposed site entrance. Given the presence of European Protected Species, the applicant would also need to apply for a European Protected Species Licence from Natural England prior to any removal of hedgerow.
86. The Borough Council has raised concerns about potential adverse impacts on dormice and bats and considers that further long term mitigation should be provided if the development is to be undertaken, even if this would have no direct impact during the development itself. Examples suggested include bat boxes and additional tree and hedgerow planting.
87. The County Council’s Biodiversity Officer has assessed the Ecology Report accompanying the application and, based on the further information submitted by the applicant, does not raise an objection to the proposals subject to the mitigation measures being undertaken as stated within the application (*see paragraph 54*). I note the advice offered by Natural England (*see paragraph 53*) to refer to their Standing Advice on Protected Species and Ancient Woodland, and to take into account the advice of the County Council’s in-house ecologist. Furthermore, Kent Wildlife Trust (*see paragraph 55*) have raised no objections to the development, subject to planning conditions being imposed to secure the completion of avoidance, mitigation, compensation and enhancement measures recommended in the application. On the basis of the professional ecological advice received, I consider that the proposals are acceptable in terms of ecology, that the additional mitigation suggested by the Borough Council is unnecessary and that the development is broadly in accordance with the general thrust of South East Plan Policy NRM5. Furthermore, I note that the proposals would ensure that wildlife is conserved, an important consideration for mineral proposals within sensitive designated landscapes.

Public Right of Way

88. The application site is located immediately to the north of an existing PROW, the safeguarding of which is a material planning consideration. As part of the further information submitted by the applicant, it has offered additional planting along the boundary of the application site with the PROW network to supplement that existing. This additional planting is supported by those who have commented on it and, if planning permission is granted, should be secured by condition as part of the overall landscaping proposals. Notwithstanding this, the Borough Council is still concerned about potential impacts on users of the PROW.

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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89. In terms of the impact of the proposed operations on the existing PROW network, I do not consider that there would be any significant adverse impact on the ability of users to continue a reasonable enjoyment of the right of way, including indirect impacts. This is consistent with national minerals planning policy in terms of assessing the impacts of minerals proposals on important designated landscapes. On this basis, I consider the proposed development to be acceptable in terms of public rights of way.

Archaeological Interests

90. Members will note that the County Council's Archaeological Advisor has recommended that a watching brief be placed on any forthcoming planning consent on the basis that on-site operations have the potential to uncover hitherto unknown archaeological remains. This can be secured by condition.

Other Issues

91. Kent Minerals Local Plan: Oil and Gas Policy OG7, South East Plan Policy NRM1 and Local Plan Policy EN16 all require water supply and groundwater quality to be maintained by avoiding adverse effects of development on the water environment. Discussions have taken place at an early stage between the applicant and the Environment Agency to establish pollution prevention measures, and members will note that the Environment Agency do not raise any objections to the application on the basis of the details proposed by the application. Given the Agency's technical advice, I consider the proposals to be acceptable in terms of ground and surface water interests.
92. Members will note that the Borough Council has also raised concerns about potential land contamination and suggested that details be agreed about remedial targets of any soils treated as a result of land contamination to ensure that soil quality is maintained. The applicant has agreed to undertake baseline soil analysis prior to any works that can be used as the agreed soil quality target on restoration. This can be secured by condition.
93. Members will note that given the complexities of the project, the applicant has sought that a period of 5 years in which to implement the development is provided for in any planning consent. In principle, a 5 year implementation period is consistent with recent Government advice regarding the greater flexibility of planning permissions. On this basis, I consider that a 5 year implementation period is acceptable in this instance.
94. Members will note that the Borough Council requested that the applicant enters into a Woodland Management Plan for Judd's Wood as an additional ecological compensatory/mitigation measure. However, given the scale and nature of the temporary proposals being considered in this instance, together with the ecological mitigation already proposed by the applicant, I do not consider that a Woodland Management Plan could be justified in this case.

**Conclusion**

95. The proposal seeks planning permission for the construction of a temporary oil exploration site with associated facilities within a sensitive nationally designated landscape, the High Weald AONB. The application site is also within the Metropolitan Green Belt and a Special Landscape Area (SLA). The development would be carried out in four main phases (i.e. site construction; drilling operations; extended well

**Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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testing; and site restoration to the original landform/landscape character). In assessing the development's impact on the AONB against the advice in MPS1, I consider that the proposals do not constitute 'major' mineral development. On this basis, the proposals need to be assessed having regard to: (i) the conservation of the natural beauty of the landscape and countryside; (ii) the conservation of wildlife and cultural heritage; (iii) and the need to avoid adverse impacts on recreational opportunities.

96. Although the development would have some visual impact on the AONB (particularly in terms of localised impacts), it would be temporary in nature and the site would be restored to its original landform on completion of operations thereby maintaining landscape character. For these reasons, and as high environmental standards would be maintained during operations, I am satisfied that there would be no significant long-term impact on the natural beauty of this nationally important landscape. I am also satisfied that there appears to be no alternative site outside the AONB from which the exploration could be undertaken. I therefore conclude that the proposals are acceptable in terms of the conservation of the natural beauty of the landscape and countryside. For similar reasons, I also conclude that the proposals do not represent 'inappropriate development' in the Green Belt and that it is not necessary for there to be 'very special circumstances' to justify the development. However, if such circumstances were required, the justification put forward by the applicant could be viewed favourably in this context. Although European Protected Species are present within the general development area, I am satisfied that there would be no significant adverse impacts on wildlife habitats given the mitigation proposed and as further controls would be required as part of any protected species licence issued by Natural England. I am also satisfied that cultural heritage issues (archaeology) are capable of being addressed. On this basis, I consider the proposals to be acceptable in terms of the conservation of wildlife and cultural heritage. Whilst there would be some indirect impact on users of the adjacent PROW, which would be minimised by the proposed landscaping measures, they would still benefit from reasonable a reasonable level of enjoyment of the right of way network. There would be no adverse impacts on recreational opportunities.
97. I am satisfied that the proposals are acceptable in all other respects and are generally consistent with relevant planning policies subject to the proposed HGV routing / management regime being adhered to and conditions to address those other matters outlined elsewhere in this report. I therefore recommend accordingly.

**Recommendation**

98. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO the prior completion of a Section 106 Agreement to secure HGV routing / management arrangements AND conditions to cover (amongst others) the following:
- 5 year implementation period;
  - the development to be carried out in accordance with the permitted details;
  - prior notification of the start date of each phase of operations;
  - baseline soil analysis to be used as the soil quality target for restoration;
  - hours of working restricted to those applied for;
  - ecological mitigation;
  - seeding of earth bunds;
  - noise limits;
  - archaeological watching brief;

## **Item C2**

### **Oil exploration site at Bidborough Well Site, Judd Wood Farm, Gate Farm Road, Bidborough – TW/10/33**

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- measures to prevent mud and debris being tracked onto the public highway;
- submission of detailed site access arrangements (implementation as approved);
- floodlighting be switched off when not required for the safe operation of the site.
- submission of detailed site restoration scheme (including planting between site and PROW);
- site restoration within 12 months of commencement of construction phase, unless otherwise agreed in writing by the County Planning Authority;
- submission of 5 year aftercare scheme;

Case officer – Julian Moat    01622 696978
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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**

**Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20**

A report by Head of Planning Applications Group to Planning Applications Committee on 13 April 2010

Application by Kent Highway Services for a cable stay footbridge over the M20 Motorway to the east of Junction 9 between Eureka Leisure Park and Warren Retail Park, Ashford – AS/10/20

Recommendation: Subject to the views of Ashford Borough Council if received by the Committee Meeting, permission be granted subject to conditions

**Local Members:** Mrs E Tweed

**Classification:** Unrestricted

**Site**

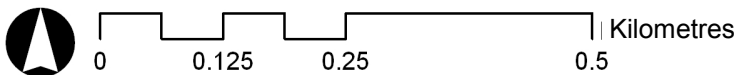
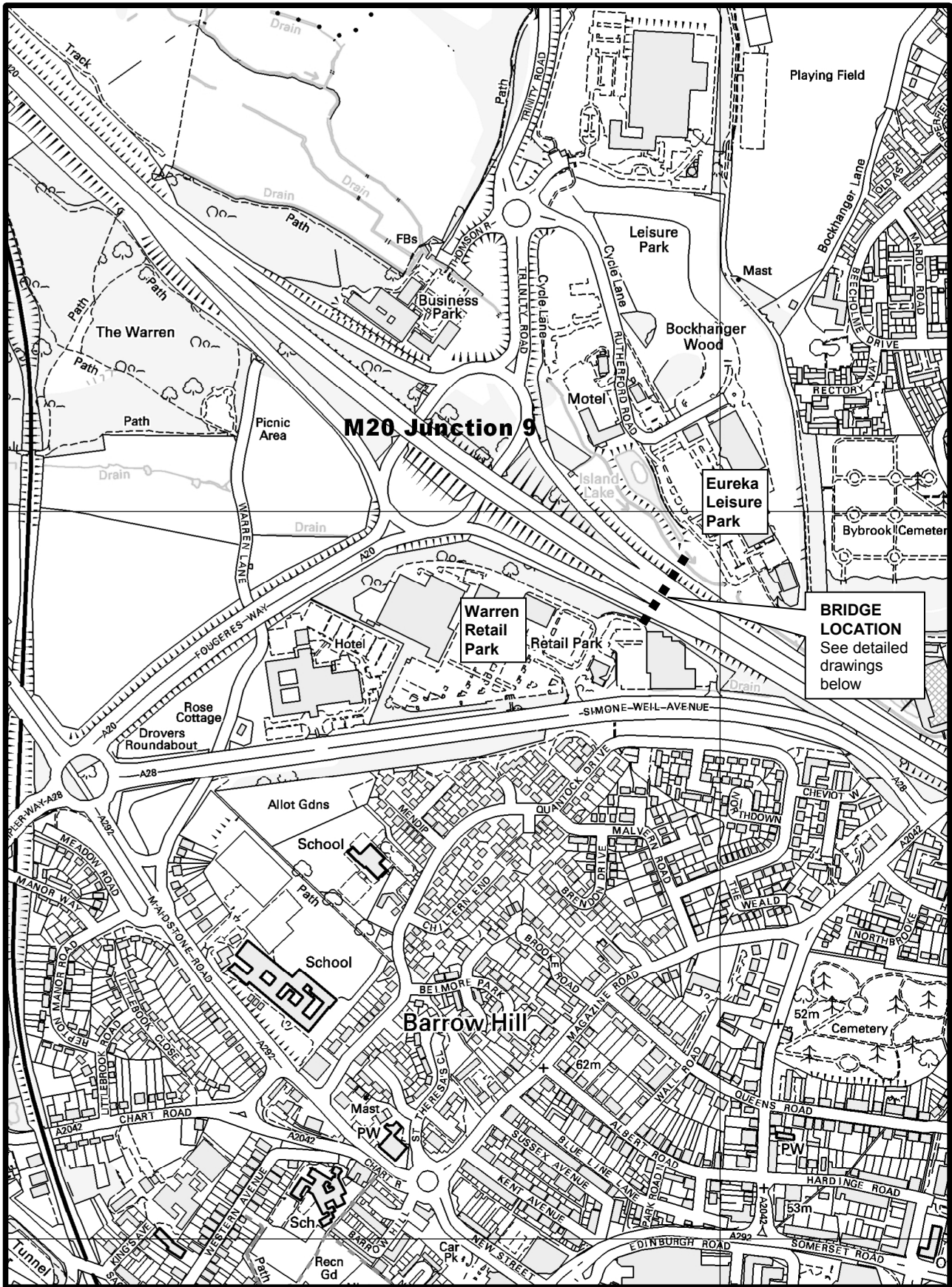
1. The application site, an area of 2.04 hectares, encompasses part of Warren Retail Park, Eureka Leisure Park and a section of the M20 northwest of Ashford town centre. Warren Retail Park, which includes a Sainsbury's superstore is located to the south and Eureka Leisure Park to the north of the M20 which rises towards the northwest and is approximately 60m wide at the proposed bridge crossing. At this point the M20 is lower than the general level of Warren Retail Park but higher than Eureka Leisure Park. Warren Retail Park is bounded on its south side by Simone Weil Avenue a dual carriageway with residential properties on the opposite side. A site location plan is attached.
2. Both Warren Retail Park and Eureka Leisure Park have been developed on relatively flat landforms, with a mixture of large scale retail outlets and commercial units of various styles and forms situated around car parks and linked by a network of access roads. Areas of existing scrub and trees are scattered throughout the area together with some landscaped planting. Large mature trees and embankments located along the edge of the M20 create a sense of enclosure to this road corridor. Between the M20 and Eureka Leisure Park the topography drops into a low level area characterised by dense scrub, a watercourse (the Bockhanger Dyke) and a pond to the north. Land north of the M20 at Bockhanger which includes Eureka Leisure Park is identified in the Ashford Borough Local Plan for business/employment uses to complement or as an extension to the Science and Business Park.
3. Existing cycle routes run along Simone Weil Avenue and through Eureka Leisure Park. These cycle routes intersect Canterbury Road, which leads into the town centre to the southeast of Junction 9.

**Background and Proposal**

4. The applicant sets this proposal in the context of Ashford being one of the Government's designated growth areas in the Adopted Regional Spatial Strategy for

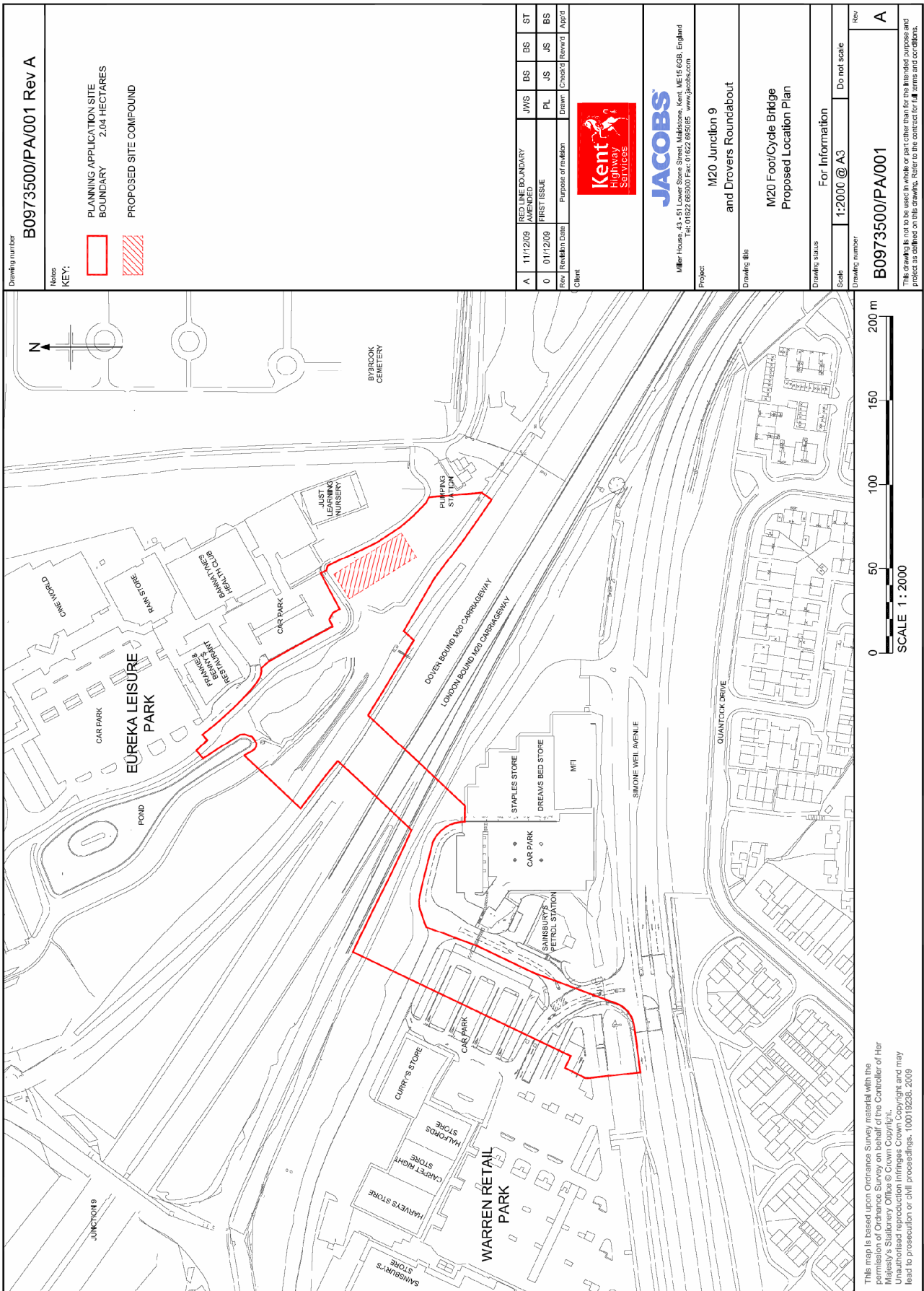
# Item D1

## Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20



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**Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20**





**Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20**

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South East England – The South East Plan 2009. The following background is therefore provided to explain the need for and benefits of the proposed foot/cycle bridge:

The transport modelling work that supports Ashford's master plan for growth, identifies the need for a number of road improvements to be carried out by 2016, in order to avoid the growth plan and the housing trajectory (*forecast for delivery of housing targets*) set out in the Local Development Framework (LDF) being constrained by the lack of road capacity. All of these road improvements support the proposed SMARTLINK (bus rapid transit system) and proposed park and ride provision as well as providing strategic walking and cycling route connections to link new and existing development with the town centre.

The first need is for improvements to the capacity of M20 junction 9 and Drivers roundabout. As part of the M20 Junction 9 improvements the existing pedestrian/cycle facilities are being removed.

The proposed foot/cycle bridge is required to provide alternative pedestrian/cycle facilities and create a link between new developments to the north of the M20 including Eureka Business Park, and existing retail facilities in the town centre.

The proposed bridge would provide a new user friendly, safe and visually interesting pedestrian and cycle route over the M20 between Warren Retail Park and Eureka Leisure Park, creating a north/south community linkage integrated with the existing infrastructure. For drivers on the M20 the bridge would act as a landmark reinforcing an awareness of Ashford's presence within the national trunk road system.

The new pedestrian and cycle link provided by the bridge would help support and sustain the retail and leisure businesses locally by providing greater connectivity across the M20. This in turn could act as a catalyst to further development.

5. The proposed bridge would be a 4 metre wide cable stay structure with a span of 69 metres across the M20, at a height of 5.7 metres above the motorway, to the east of Junction 9 between The Warren Retail Park and Eureka Leisure Park. There would be new shared pedestrian/cycle facilities created through the Warren Retail Park to link with existing facilities on Simone Weil Avenue on the south side, and on the north side the bridge would tie directly in with an existing pedestrian/cycle route that runs through the Eureka Leisure Park. The landing on the north side is proposed to be on an earth mound so that it fits more sensitively with the surrounding environment, but would require a short realignment of the existing Bockhanger Dyke. The application also includes proposals for landscaping, an area to provide for a shallow excavation for an identified loss of flood storage capacity which would also provide for some environmental enhancement to the project, and an area of adjoining land to be used for a construction compound.
6. The design of the proposed bridge and approaches consist of the following elements:

- i. Southern Approach

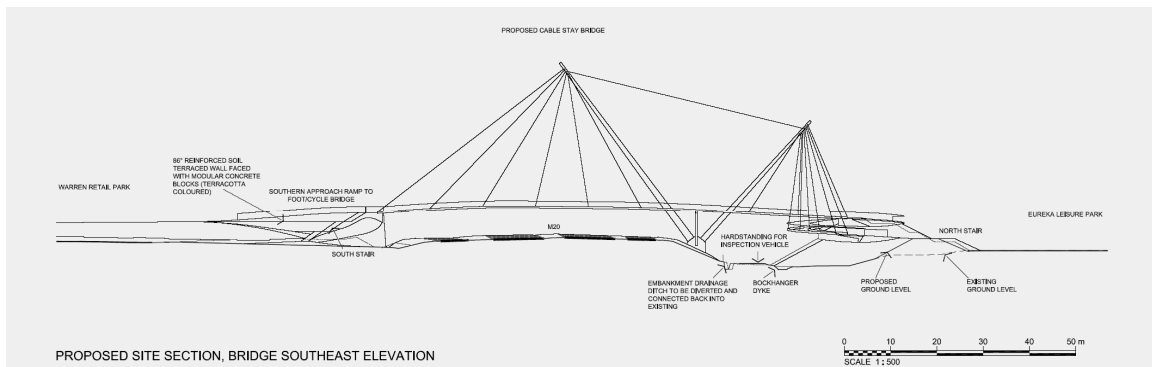
A new dedicated pedestrian/cycle route from Simone Weil Avenue to link with the new bridge through the Warren Retail Park. The extent and visual impact of approach ramping is minimised by exploiting the natural elevation of the topography and integrating the ramp into the landscape. Any perception of intimidating enclosure is reduced by opening views and vistas of the forthcoming crossing. The south face of the ramp would be constructed using terracotta coloured concrete block retaining walls in

**Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20**

combination with soft landscape planting to ensure the earthworks for the ramp embankment are limited in width. The south abutment north facing wall is proposed to be finished in a terracotta concrete block and red brick.

**ii. Bridge Structure**

A double mast, two span structure with an additional lower level subsidiary span, allowing the construction of a slender deck thus reducing the elevation of the bridge and unnecessary approach ramp lengths. The plan shape responds to the desire lines of the crossing and contextual constraints.



*Proposed bridge crossing site section above and visualisation below*

The form of the inclined, tapered steel support masts which relates to the optimum suspension arrangement would create a unique and dynamic visual composition as seen from both the M20 and the Retail Parks. The masts are inclined from a support on the North side of the motorway slip road. The main mast is cable stayed back to the second mast which supports a span continuing onto the North mound. The second mast would also support a section of the ramp which passes under the footbridge and is of similar construction to the main deck.

The applicant states that by using a cable stayed bridge form of structure, a relatively slim deck depth can be achieved and a visual impression of lightness created. The masts would be painted white and the rods supporting the deck formed from stainless steel. The deck would be constructed from a steel plate clad with a durable, light coloured, anti-slip material and the parapets would be constructed using stainless steel components.

**Cable stay foot/cycle bridge, east of Junction 9 of the M20 Motorway, Ashford – AS/10/20**

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ii Northern Approach

A landscaped mound would be formed to create an interesting and practical feature within the Leisure Park whilst providing the necessary ramping and integrated stairways. The mound pathways would enjoy a series of changing view and vantage points, landscaped experiences and engage with the existing watercourse, pond and retained natural environment. The mass, form and sculptured nature of the mound has been resolved to reduce as far as possible the physical impact on the adjacent dyke. It is proposed that retaining walls on the mound would be reinforced soil walls with beige coloured concrete block facings and red brick up stands in appropriate locations.

7. The applicant has explained that the objectives of the lighting strategy are to increase community safety and create a feeling of wellbeing, minimize energy consumption and reduce the opportunity for vandalism. Additionally the lighting design endeavours to eliminate light pollution, assist with way finding and orientation of users and complement and enhance the bridge structure and landscape design. Therefore the proposed lighting on the footbridge would be sufficient to make users feel safe after dark and thereby encourage its use, whilst minimizing the impact of the lighting on the traffic on the motorway below. To achieve that, it is proposed to light the bridge deck by using LED light fittings mounted within the handrail and projecting down towards the footway. This has the advantage of being substantially obscured from the view of motorists by the structure itself and from the maintenance point of view the LED's should last for at least 12 years before replacement. LED's can be aimed extremely accurately thereby creating no spill light outside of the structure and no upward light into the night sky. In order to enhance the after dark appearance of the structure it is proposed to provide low power LED coloured lights mounted close to the cables and mast supports. These would be aimed at glancing angles to the supports to highlight the design of the structure after dark.
8. The application is accompanied by a Design and Access Statement, Planning Statement, Statement of Community Involvement, Ecological Scoping Survey, Reptile Report, Bat Report, White-clawed Crayfish and Water Vole Report, Great Crested Newt Report, River Corridor Survey, Aquatic Ecology Report, Preliminary Ground Investigation Report, Flood Risk Assessment Report, Pre Development Tree Survey and Site Waste Management Plan.

**Planning Policy**

9. The national planning policy guidance that is relevant to this application includes:

**Planning Policy Statement 1 - Delivering Sustainable Development.** This sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 27(v), states that planning authorities should aim to: "Provide improved access for all to jobs, health, education, shops, leisure and community facilities, open space, sport and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car".

**Planning Policy Guidance 13 – Transport.** This sets out how the Government seeks to integrate planning and transport through the planning system. The central themes of this guidance include the promotion of more sustainable transport choices for both people and for moving freight, accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and reducing the need to travel, especially by car.

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**Planning Policy Statement 25 – Development and Flood Risk.** This sets out the Government's aims and approach to ensure that flood risk is taken into account at all stages of the planning process to avoid inappropriate development in areas at risk from flooding, and to direct development away from areas at highest risk.

**10. The South East Plan:**

Identifies Ashford as one of 22 Regional hubs, where amongst other objectives, priority will be given to measures that increase the level of accessibility by public transport, walking and cycling to support and develop the role of regional hubs.

- Policy CC1 Seeks to achieve and maintain sustainable development in the region.
- Policy CC6 Seeks sustainable and distinctive communities that respect the character of settlements and landscapes, and achieve a high quality built environment.
- Policy CC7 States that the scale and pace of development will depend on sufficient capacity being available in existing infrastructure to meet the needs of the development. Where this cannot be demonstrated the scale and the pace of the development will be dependent on additional capacity being released or the provision of new infrastructure.
- Policy NRM4 Confirms that the sequential approach to development in flood risk areas set out in PPS25 will be followed.
- Policy T2 States that development plans should include policies that aim to achieve a rebalancing of the transport system in favour of sustainable modes by an integrated package of measures, including improvements to the extent and quality of pedestrian and cycle routes.
- Policy S1 Supports measures for developing and shaping healthy sustainable communities, including healthier forms of transport by the incorporation of cycle lanes and safe footpaths in planned developments.

**11. The Ashford Borough Local Development Framework Core Strategy 2008:**

- Policy CS1 Sustainable developments and high quality design are at the centre of the approach to deciding planning applications, the key objectives of which include a wider choice of easy to use forms of sustainable transport to serve developments.
- Policy CS9 Development proposals must be of high quality design and address issues such as character, distinctiveness, sense of place, permeability, ease of movement, legibility, mixed use and diversity, continuity and enclosure, quality of public spaces, flexibility, adaptability and liveability, richness in detail and efficient use of natural resources.
- Policy CS11 Seeks protection of biodiversity and provides for maintenance, enhancement, restoration and expansion through creation or restoration of semi-natural habitats and ecological networks to sustain wildlife.
- Policy CS15 Promotes public transport and other non-car based modes of travel including measures to encourage cycling. Amongst other matters also seeks the earliest possible implementation of highway and other schemes that would remove serious impediments to growth and/or secure important environmental benefits.
- Policy CS19 Sets out the approach to all development coming forward within Flood Zone 3.
- Policy CS20 All developments should include appropriate sustainable drainage systems for the disposal of surface water.



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12. The adopted **Ashford Borough Local Plan**:

- Policy S26 Land north of the M20 at Bockhanger is proposed for business/employment uses to complement or as an extension to the Science and Business Park. Amongst other criteria proposals should:
- protect existing important habitats (including the trees and watercourses) wherever practical and provide new habitat links,
  - provide a development layout which can be served conveniently by public transport and associated facilities along with a network of pedestrian and cycle routes which link into the wider network and important destinations outside the site; and
  - built development should be set back from Bockhanger Dyke to keep it out of land which is likely to flood.

**Consultations**13. **Ashford Borough Council** views are awaited and will be reported verbally at the committee meeting.

**Highways Agency** on behalf of the Secretary of State for Transport under the Town and Country Planning (General Development Procedure) Order 1995 has directed that conditions be imposed, to ensure that the M20 motorway continues to be an effective part of the national system of routes for through traffic and to satisfy the reasonable requirement of road safety, covering the following:

- the development to be built in accordance with the approved plans;
- no works to commence until a construction method is submitted and approved, and construction to be carried out in accordance with the method statement as approved;
- no works to commence, other than site clearance, until structural and earthworks technical approvals, and approvals for all relevant departures from the standards within the design Manual for Roads and Bridges have been approved;
- no works to commence, other than site clearance, until a method statement for maintenance of the works has been submitted and approved; and
- no works to commence, other than site clearance, until the applicant has demonstrated that safe and satisfactory access can be provided for the purposes of maintaining the development in accordance with the method statement for maintenance of the works.

**Environment Agency** has commented on diversion of the Bockhanger Dyke, the proposals for flood storage compensation, the submitted land contamination report, drainage, piling foundations and maintaining access along the watercourse for water voles. It raises no objection to the application subject to conditions covering approval of a method for piling foundations, a water vole survey, a water vole protection and mitigation plan, a scheme for compensatory flood storage, and contamination. It also provides advice relating to the need for licences in respect of protected species and fish, and fuel, oil and chemical storage.

**South East England Development Agency** unreservedly supports the application

**South East England Partnership Board** (officers on behalf of the board) have reviewed the application against the final South East Plan (May 2009) and on the basis that the principal of the proposed development has been established through the Ashford Core Strategy (2008) process have no substantive comments to make.

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The Divisional Transportation Manager raises no objection.

County Landscape Adviser (Jacobs) comments as follows:

Visual Impact

The visual impact of the foot/cycle bridge is likely to be relatively local in effect. Key visual receptors would be generally restricted to users of the leisure and retail parks either side of the M20, and vehicle travellers moving along the motorway and crossing the M20 via the A28 Canterbury Road to the south east. Views from further afield such as the surrounding housing to the south and east would be generally restricted by buildings within the leisure and retail parks and the intervening framework of vegetation which is well established along road corridors and around the leisure and retail parks. Some slight views of the upper portions of the bridge may be possible but would not be intrusive in the suburban context of the view.

Distant views from the Kent Downs Area of Outstanding Natural Beauty are unlikely to be significantly adversely affected. Only the elevated scarp face of the Downs, some 7km distant, would be likely to have views of the structure. At this distance it would be a very small element within a broad panorama and seen in the context of the urban backdrop of Ashford and the heavily trafficked M20. Lighting on the bridge would not cause any significant adverse night time effects because this area of townscape is already well lit.

Townscape Impacts

The proposed M20 foot/cycle bridge would add slightly to the visual complexity of the local townscape, providing another feature in a built environment which currently hosts a variety of development styles. However, it is a strong and interesting 'landmark' design which would be an appropriate addition to the townscape and would give a suitable focus to the area.

Loss of vegetation

There would inevitably be some loss of vegetation to accommodate the bridge and access steps and ramps. However the vegetation to be lost is mostly relatively immature and no specimen mature trees would be lost. Appropriate planting to reinstate the character of the landscape is shown on the planting proposals. However the construction of the new cycleway to the north west of the Sainsbury's Petrol Station would lead to the loss of a strip of shrub planting and several semi mature trees which usefully break up the car parking and road network. Planting alongside the cycleway would also make it more attractive as a route and I recommend that the applicant looks at the opportunities for reinstating this planting (e.g. by remodelling the existing car park or road layout) to provide suitable landscaping to soften the environment.

Detail Design Issues

I have some concerns over the materials to be used for the retaining walls and parapets, especially the combination of terracotta and beige concrete block work with red brick on the proposed mound and ramps (see Dwg B0973500/PA/005). Further details of the actual bricks and blocks are required and elevations showing the detailing of materials should also be submitted. I also recommend that the handrails, balustrade and lighting on the ramps should be of a related design/materials to that used for the main span of the bridge to give continuity and strength of design overall.

County Archaeologist has requested a condition be imposed requiring the implementation of a programme of archaeological work to ensure that features of archaeological interest are properly examined and recorded.

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**Biodiversity Project Officer** notes that there are still some ecological aspects of the scheme's impacts which require further survey work and/or mitigation strategies to be agreed, which includes:

- Reptile mitigation strategy;
- Water vole survey and mitigation strategy;
- Badger survey and mitigation strategy if appropriate.

In addition, seeks clarification on the following points:

- Any impact of change in scheme design on trees with bat roost potential;
- Enhancement measures to be undertaken.

**Local Member**

14. The local County Member, Mrs E Tweed, was notified of the application on the 13 January 2010.

**Publicity**

15. The application was publicised by an advertisement in a local newspaper and the posting of site notices and the individual notification of 35 neighbouring commercial and residential properties.

**Representations**

16. No representations to the application have been received as a result of publicity. However, one letter of representation was received in response to the applicant's notification of landowners. Agents writing on behalf of the owners of units 1-4 on the Warren Retail Park have commented that whilst their client is generally supportive of future transport initiatives in Ashford, they are concerned that the proposed foot/cycle bridge could lead to increased anti-social behaviour at the Warren Retail Park, particularly outside of opening hours. In addition they are concerned that that it may lead to a 'rat run' for cyclists, resulting in conflicts between road users (both customers and service vehicles) and users of the new bridge. They therefore request that any measures to reduce these potential conflicts are fully investigated and assessed before the application is determined.

**Discussion**Introduction

17. This application is being reported because it relates to development that would be carried out by Kent Highway Services whose Director reports to the Managing Director of Environment, Highways and Waste. In the circumstances, determination of the application is not delegated to officers and should be determined by the Planning Applications Committee.
18. The proposal arises from the requirements to improve the capacity of M20 junction 9 and Drovers roundabout to cater for planned future development at Ashford. As a part of these works the new foot/cycle bridge is needed to mitigate the potential severance impacts of the scheme at M20 Junction 9 and the related provision of an additional carriageway lane on the A20 Fougères Way southbound to Drovers Roundabout, which would necessitate the removal of the existing footway/cycleway through the Junction 9 roundabout. The applicant states that all of these improvements support the proposed

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SMARTLINK (bus rapid transit system) and proposed park and ride provision as well as providing a strategic walking and cycling route connection to link new and existing development within the town centre.

19. It is proposed that the bridge would be provided before the Junction 9 improvement scheme commences construction. The applicant recognises that for some journeys severance would still increase, because of a need to make a more circuitous journey; however for other journeys the distance travelled would be reduced significantly. In addition, the applicant considers that the perception of road safety should be enhanced because there would no longer be a need to cross the fast moving lanes of traffic associated with the slip roads at M20 Junction 9. The applicant has stated that the main alternative solution of a subway is not economically viable and would not be a pleasant environment for pedestrians or cyclists.
20. I accept the need for the replacement cycle and pedestrian routes across the M20 arising from the planned improvements to junction capacity and related works. I also consider that the bridge is a preferable option to the alternative of a subway and to the existing cycle/pedestrian facilities. In terms of its location, although I accept (as acknowledged by the applicant) that some cyclists and pedestrians could be disadvantaged compared with the current route, overall I consider that it would provide an acceptable crossing point over the motorway and improve opportunities for cycling and walking between the existing and proposed developments north of the M20 and Ashford Town Centre. Therefore, in my view, the proposal would accord with the aims and objectives of national and regional policies for an integrated approach to sustainable transport, and more particularly those set out in the Development Plan relating to Ashford's future growth, the need for certain transport infrastructure improvements, and provision for other modes of travel, including attractive safe facilities for cycling and walking as an alternative to the private car for local journeys. The provision of improved cycle/pedestrian links is also supported by the site specific policy outlined in paragraph 12, above relating to land, which includes part of the application site, being identified for business and employment uses. Issues relating to the Bockhanger Dyke are discussed below, and as the application site is on the margins of the land identified, I do not consider that it otherwise conflicts with that policy. Taking into account the above factors, I therefore consider that in principle the proposal should be supported. Nevertheless, there are a number of other matters arising from the proposal that need to be considered in determining the application. The main issues are therefore discussed below in the context of the planning policy considerations outlined in paragraphs 9 – 12 above and the responses to consultation summarised in paragraph 13 above.

**Landscape and visual impact**

21. Any structure of the nature proposed would inevitably result in a noticeable change in the landscape/townscape, particularly to local views which would also be affected by the loss of trees/vegetation on the approaches either side of the bridge. It is nevertheless, the applicant's intention that the foot/cycle bridge does make a significant visual contribution as a gateway landmark for Ashford.
22. The County Landscape Adviser's assessment of the proposed development in paragraph 13 above will be noted. In summary, he considers that adverse visual impacts are local in effect and would not be significant from adjoining housing or the Kent Downs Area of Outstanding Natural Beauty. Overall he considers that the 'landmark' bridge would contribute to the local townscape and that the landscape proposals would generally replace lost vegetation. He has however suggested the

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redesign of some sections of foot/cycleway through the Warren Retail Park to incorporate a suitable landscaping strip to replace that which would be lost. In response, the applicant has stated that the layout of this part of the route has been constrained by requirements of the landowners to maintain the existing parking provision, so it has not been possible to provide replacement planting for this area. Although it would be preferable for replacement planting to be accommodated, I do not consider it to be overriding given that the impact of not doing so would be limited to within the retail park. With regard to the comments about the materials to be used and detailing, some clarification has been provided about the choice of blocks and bricks and confirmation provided that that the light columns, and handrails throughout the ramp areas are to be finished in stainless steel to match the main bridge materials. If planning permission is granted these detailed matters could be covered by appropriate conditions.

23. In my view, the design of the bridge and its approaches together with the proposed landscaping are appropriate and would accord with the objectives of the Development Plan Policies which require development to be of a high quality design, have regard to context and to respect its setting.

Lighting

24. Lighting would be required for the convenience and safety of pedestrians and cyclists, and although full details are not provided at this stage the general approach set out in the application would be to direct the light to where it is needed and to ensure light pollution can be minimised. It is also proposed to use lighting to emphasise the structure of the bridge after dark. In principle, whilst I would not raise objection to the proposed lighting, if permission is granted it would be appropriate to reserve details by condition so that the type and position of the lighting can be controlled.

Flood risk and drainage issues

25. The proposed foot/cycle bridge would be located in the flood plain of the Bockhanger Dyke in an area assumed to be at high risk of fluvial flooding (Flood Zone 3) but is considered to be essential transport infrastructure. The flood risk assessment demonstrates that both the Sequential and Exception Tests meet the requirements of PPS25. The flood risk assessment also looks at the potential flood risks to the proposed development and surroundings and proposes mitigation measures.
26. The results of hydraulic modelling and assessment indicate that the proposed foot/cycle bridge landing area is in Flood Zone 3 and therefore prone to inundation during a 1 in 100-year flood event. The maximum flood depth is not expected to cause any problems for the structure itself but there would be a small loss of flood plain storage resulting in a potential small impact on downstream areas that requires mitigation. It is proposed that an area of compensation storage would be provided downstream of the bridge within the application site. It would provide both a storage volume equal to that lost to the footprint of the bridge landing area and an environmental enhancement to the project.
27. There would also be a need to realign a section of the dyke to accommodate the north eastern landing area of the proposed foot/cycle bridge within the available space. The replacement dyke would be designed with features to maintain and enhance the existing biodiversity interest.

28. The Environment Agency has not raised an objection to the proposal subject to conditions covering amongst other matters the approval of a scheme for compensatory

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flood storage. It also notes that a Land Drainage Consent Application would need to be submitted to the Stour Internal Drainage Board for diversion work to the Bockhanger Dyke. In the light of the Environment Agency's views and subject to the relevant conditions and informatives, I do not consider that there are any grounds for an objection on the basis of flood risk, loss of flood storage capacity or to the diversion of the dyke.

Ecology

29. There are still some ecological aspects of the scheme's impacts which require further survey work and/or mitigation strategies to be agreed as referred to in paragraph 13 above. I am expecting further information from the applicant in response to the comments made by the Biodiversity Project Officer. I consider that these matters can be addressed or otherwise covered by appropriate conditions, including those requested by the Environment Agency in respect of Water Voles. Similarly any reasonable requirements for biodiversity enhancement could also be covered by condition.

Archaeology

30. The County Archaeologist has asked that if planning permission is granted that a condition be imposed securing the implementation of a programme of archaeological work because of the potential for ground works affecting the Alluvial deposits. Otherwise there are no archaeology issues at this stage.

Construction

31. The Highways Agency on behalf of the Secretary of Transport under the Town and Country Planning (General Development Procedure) Order 1995 has directed that a number of conditions be imposed, to ensure that the M20 motorway continues to be an effective part of the national system of routes for through traffic and to satisfy the reasonable requirement of road safety. The detailed wording of the conditions may need to be discussed further with the Highways Agency as a result of some concerns that the applicant has about the discharge of these conditions holding up the start of works that do not affect the motorway, for example, within Eureka Business Park.
32. As with any construction activity there would be some disruption and potentially noisy activity. The main bridge construction works would be some distance away from the nearest residential properties which are to the south of the Warren Retail Park. However I consider that if planning permission is granted it would still be appropriate to impose a condition restricting hours of construction. I would suggest in this particular case that it would be reasonable for these to be between the hours of 0700 and 1900 Monday to Friday and between the hours of 0800 and 1300 on Saturdays, with no operations on Sundays and Bank Holidays, unless otherwise approved by the County Planning Authority. In addition, conditions should be imposed requiring measures to be implemented to control dust and to prevent mud and debris being taken onto the public highway, details of the site compound and temporary accommodation for contractors, and provision being made for the parking of contractor's vehicles.

Issues raised by a third party

33. In response to the points raised by an agent on behalf of the landowner referred to in paragraph 16 above, the applicant has provided comments to clarify matters, which have also been forwarded to the agent, as follows:

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“It is proposed to provide new lighting along the proposed route, along with appropriate route signing for pedestrians and cyclists. We have tried where possible to minimise any potential conflicts between vehicles using the site, and pedestrians and cyclists using the new route through the retail park.

The route would utilise the existing crossing facility on the entrance to the main car park, although the existing refuge island would be enlarged to afford better protection for pedestrians and cyclists crossing the road at this point.

The other road crossing is across the rear delivery access road, where it has not been possible to provide a refuge island due to insufficient width, but at this location vehicle speeds are expected to be very slow adjacent to the mini roundabout junction, and all round visibility for motorists, pedestrians and cyclists is good.

Bollards are also proposed at the end of the parking bays adjacent to the footway/cycleway, to avoid conflict with vehicles using those bays.

Ant-social behaviour is always a concern with these types of projects, and whilst it can never be ruled out, it is hoped that with the improvements being made, particularly to the lighting along the route, together with the existing security measures that are in place on both sides of the bridge, the risk is reduced.

It should also be noted that facilities are open late into the night on the Eureka Leisure Park, and on the Warren Retail Park, the Sainsburys store is open until midnight weekdays and 10pm Saturdays, with the petrol filling station open 24 hours a day apart from Sundays when it closes at midnight.”

**Conclusion**

34. This proposal arises within the wider context of planned growth at Ashford, and an integrated approach to providing necessary transport infrastructure. The proposed bridge is needed to provide a safe crossing point across the M20 motorway to allow junction/road improvements that necessitate removal of the existing cycle/pedestrian routes through the junction. It would also result in much improved cycle and pedestrian linkages between existing and proposed development to the north and south of the motorway. As such, it should assist in the promotion of more sustainable modes of transport and bring environmental benefits. In addition, I consider that the bridge’s ‘landmark’ design would enhance the local townscape and provide a focal point for the crossing. I am of the opinion that the proposed development would be in accordance with the general aims and objectives of the relevant Development Plan Policies and therefore subject to appropriate conditions and to the views of Ashford Borough Council recommend that planning permission be granted.

**Recommendation**

35. SUBJECT TO the views of Ashford Borough Council if received by the Committee Meeting, I RECOMMEND that PLANNING PERMISSION BE GRANTED SUBJECT TO conditions, including conditions covering:
- the standard time limit,
  - the development to be carried out in accordance with the permitted details,
  - details of all materials, finishes, signage and lighting,

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- submission for approval of details, implementation and subsequent maintenance of landscaping proposals,
- no works to commence until a construction method is submitted and approved, and thereafter construction to be carried out in accordance with the method statement as approved,
- no works to commence, other than site clearance, until structural and earthworks technical approvals, and approvals for all relevant departures from the standards within the design Manual for Roads and Bridges have been approved,
- no works to commence, other than site clearance, until a method statement for maintenance of the works has been submitted and approved,
- no works to commence, other than site clearance, until the applicant has demonstrated that safe and satisfactory access can be provided for the purposes of maintaining the development in accordance with the method statement for maintenance of the works,
- submission for approval of a method for piling foundations,
- submission for approval of a scheme for compensatory flood storage,
- drainage,
- ground contamination,
- a water vole survey, protection and mitigation plan,
- other outstanding protected species surveys, mitigation, monitoring and management, as appropriate,
- biodiversity enhancement, monitoring and management, as appropriate,
- submission for approval of specifications and implementation of a programme of archaeological work,
- measures to be implemented to control dust and to prevent mud and debris being taken onto the public highway,
- details of the site compound and temporary accommodation for contractors, and
- details of parking for contractor's vehicles.

36. I FURTHER RECOMMEND THAT the applicant BE ADVISED of the following informative:

- Account should be taken of Environment Agency's advice relating to diversion of Bockhanger Dyke, the need for licences in respect of protected species and fish, and fuel, oil and chemical storage.

Case officer - Paul Hopkins	01622 221051
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Background documents - See section heading
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**Item D2****Extension of the existing car park at Woodlands Infant School, Higham School Road, Tonbridge TM/09/3102**

A report by Head of Planning Applications Group to Planning Applications Committee on 13<sup>th</sup> April 2010.

Application by Woodlands Infant School and Kent County Council Property Group for the extension of the existing car park at Woodlands Infant School, Higham School Lane, Tonbridge (Ref: TM/09/3102)

Recommendation: Permission be granted subject to conditions.

**Local Member(s): Mr G Horne & Mr C Smith**

**Classification: Unrestricted**

**Site**

1. Woodlands Infant School lies to the north of Tonbridge in an area known as Higham Wood. The school is accessed via the Higham School Road off Hunt Road. The Infant school is located within a shared site with the Woodlands Junior School and Roselands Nursery. All sites use the same entrance and internal access road. The Infant school lies to the south of the Junior School and Nursery. The Nursery site has no parking provision and the Junior and Infant school have separate parking provision.
2. The application site is located to the west of the existing car parking for Woodlands Infant School, in front of the main entrance to the school in a raised area, currently grass and trees (see figure 4). A pedestrian pathway from school entrance gates to the Infant school and to the Junior School and Nursery at the site runs to the south alongside the application area (see figure 3). The vehicular access to all schools at the site runs to the north of the application area (see figure 1). A site location plan is attached.
3. There are a number of trees around the school site, including within the application area.

**Background**

4. There has been a number of planning applications relating to the schools and nursery that occupy this site in recent times, the latest of which related to the installation of an overlapping triangle shade structure on the school field (TM/08/3576) and erection of a white flagpole (TM/07/3706). In 2007, permission was granted for the relocation of the nursery to a new modular building (TM/07/3003) and amendments to the location and design (TM/08/3575) of this proposal were granted in 2008. In 2005, permission was granted (reference TM/05/1293) for the removal of a timber hatted double classroom and replacement with a permanent single storey 2 classroom building at the Infant School site. Also in 2005, permission was granted (reference TM/04/4409) for a two storey extension to the main school building at the Junior School.
5. The Infant School currently has 10 car parking spaces within the site and does not have formal access to any of the car parking spaces provided for the Junior School.

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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**Proposal**

3. This proposal seeks to increase the existing car parking provision of 10 spaces for the infant school by an additional 10 spaces. At the same time, the applicant aims to improve pedestrian access to the site and improve health and safety arrangements in relation to separating pedestrians from vehicular traffic.
4. The proposal would involve some amendments to the existing car parking arrangement. A disabled parking bay would be provided and marked in the existing car park in the location nearest to the school main entrance. Two of the existing spaces would be removed in order to allow an access from the existing car park to the new car park which would be an area approximately 16.5m by 14m although this would still be a slightly higher level to the existing car park. The area would have a tar-macadam surface and be laid to falls and connected to the existing surface water drainage system for the existing car park.
5. A tree survey has been carried out by the Applicant in order to establish how the proposal would affect trees located at the site. The proposal would involve the removal of 5 trees at the application site, two of which are oak and three of which are damson. The applicant has proposed replacement planting of two trees, in grounds adjacent to the site and new hedging to the southern and western edge of the site. Existing benches at the site would be relocated and existing verges built up.
6. It is not intended that the car parking area would be shared by the Junior School or the Nursery at the site.

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

**Site Location Plan**

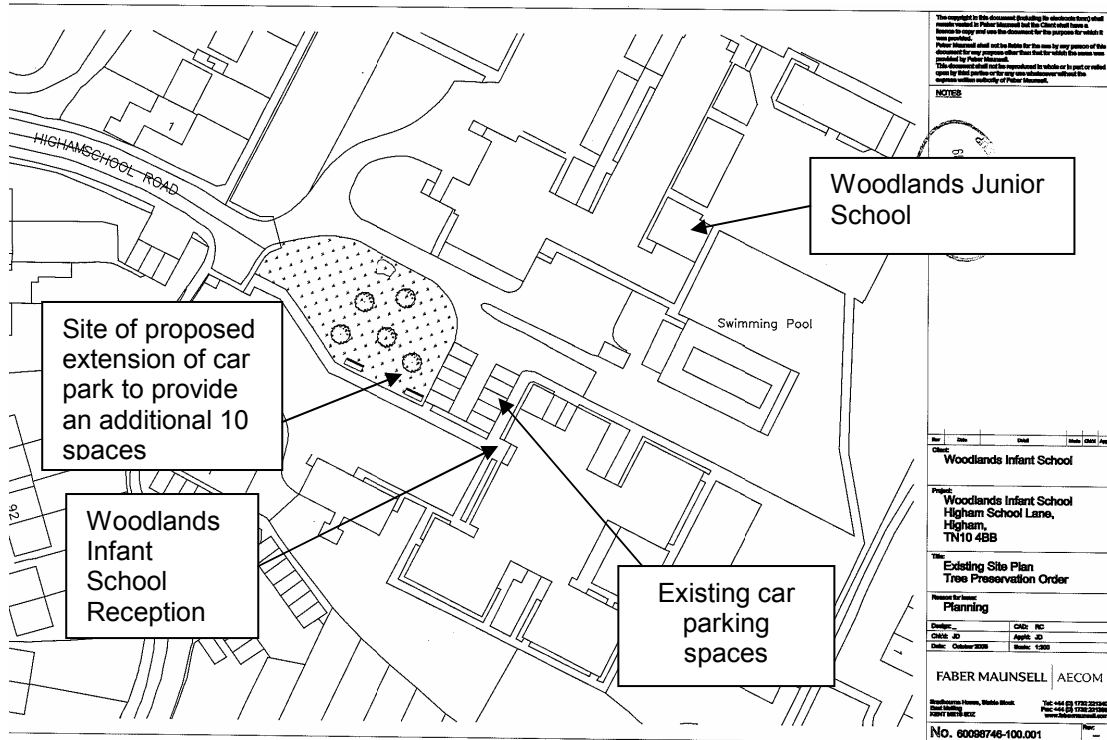


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**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

**Location of proposed extension of existing car park within the Site**



**Figure 1 – view showing the vehicular access gates from Higham School Road into the school site and other trees adjacent to the site which would not be affected by the proposal**

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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**Figure 2 – view showing vehicular access into existing car park for Woodlands Infant School in front of Infant School main reception. Five of the trees shown would need removal**



**Figure 3 – view showing the pedestrian access between the Infant school and the main entrance at Higham School Road**

## Item D2

### Extension of the existing car park at Woodlands Infant School Higham School Road, Tonbridge

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**Figure 4 – view showing the site of proposed extension to car park**



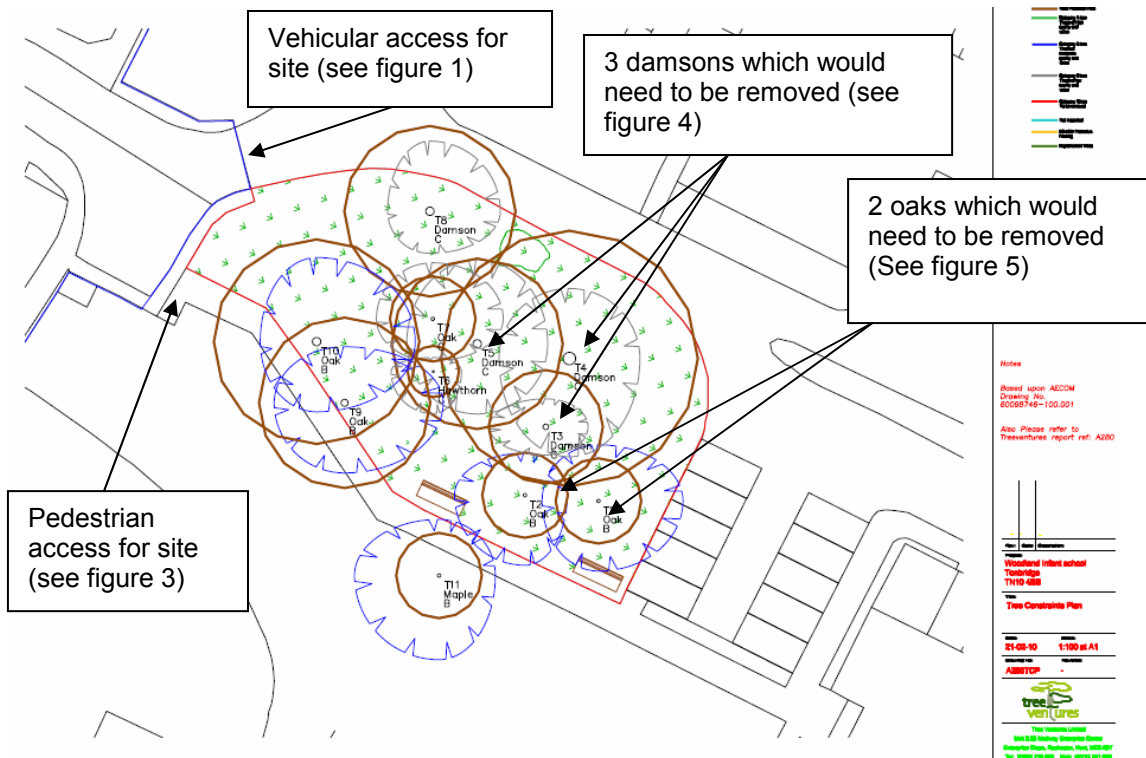
**Figure 5 – view showing the existing car park and the two oak trees which would be removed in order to create the car park extension**

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

**Proposed layout of car park extension**



**Plan showing trees within the site**



**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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**Planning Policy**

8. The Development Plan policies summarised below are relevant to consideration of the application:

(i) **The South East Plan (2009):**

- Policy CC1 Seeks to achieve and maintain sustainable development in the region.  
Policy CC4 Seeks to avoid adverse impacts from developments on the built and natural environment.  
Policy CC6 Seeks to create sustainable and distinctive communities via development which respects the character and distinctiveness of settlements and promotes a high quality built environment.  
Policy BE1 Seeks to promote and support design solution opportunities with new development that are relevant to context, local character and distinctiveness and sense of place.  
Policy T2 Seeks to manage mobility.  
Policy T4 Seeks to manage car parking provision at sites and set maximum parking standards in line with PPG13 Transport.  
Policy T5 Seeks to encourage the development of travel plans.  
Policy S1 Seeks to support healthy communities via the incorporation of cycle lanes and safe footpaths.  
Policy S6 Encourages the provision of community infrastructure such as appropriate education facilities.  
Policy NRM7 Seeks to manage the impact of development on woodlands.

(ii) **Tonbridge & Malling Borough Council Local Development Framework Core Strategy 2007:**

- Policy CP1 Seeks proposals for new development that will result in a high quality sustainable environment.  
Policy CP2 Seeks to encourage new development that generates a significant number of trips to be well located relative to public transport, cycle and pedestrian routes, make use of a choice of transport modes, be compatible with the character and capacity of the highway network and ensure accessibility.  
Policy CP24 Seeks to encourage development to be well designed and high quality and respect the site and its surroundings in terms of scale, density, layout, siting, character and appearance.

**Consultations**

9. The **Environment Agency** raises no objections to the application.

The **Upper Medway Internal Drainage Board** raises no objections to the application.

**Tonbridge and Malling Borough Council** raises objections to the application as it would require the removal of two oak trees from the site, which in their view, should be retained. They suggest that if possible the parking layout should be rearranged to accommodate retention of these trees.



**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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**Divisional Transport Manager** commented that any additional parking on site will help to alleviate pressure on the surrounding road network.

**Local Member(s)**

10. The local County Members Mr G Horne and Mr C Smith were notified of the application on the 7<sup>th</sup> December 2009.

**Publicity**

11. The application was publicised by the posting of a site notice and the individual notification of 14 residential properties within 90m of the proposal.

**Representations**

12. No neighbour representations have been received in relation to the proposal.

**Discussion**

13. This application is being reported to the Planning Applications Committee as an objection has been raised by Tonbridge and Malling Borough Council.

14. Development Plan policies require proposals to be acceptable in terms of the site, context, design and impacts. Decisions are required to be in accordance with the Development Plan unless material considerations indicate otherwise. The relevant South East Plan and Tonbridge and Malling Borough Local Development Framework policies are set out above. There are no site specific or area based planning policies in relation to the site.

16. The proposal would require the removal of five trees at the site in order to allow sufficient space for the parking layout proposed. In my opinion, the main determining issues for this application relate to the impact of the proposal on these established trees at the site, and the value of these trees to visual amenity, arboriculture and ecology.

17. The Tree Survey carried out by the applicant indicated that three of the trees were damson. These were classified as "category C" trees of "low quality and value" (according to BS5837 "Trees in Relation to Construction, 2005") and would require regular maintenance in order to improve their quality. However, two of the trees are oak and were classified as "category B" trees of "moderate quality and value". These are young trees, approx. 10m high and in good condition. None of the trees are affected by a Tree Preservation Order.

18. The Survey indicated that there was no evidence of nesting birds or bat roosts on the site although recommended that further inspection would be needed prior to the commencement of any work to trees at the site. This work could be controlled by a planning condition.

19. Six other trees were surveyed near to the site, three of which were "category C" trees and three of which were "category B" trees. Two of the category B trees are larger oaks and are part of a "group" of trees. These trees lie between the site access and the

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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proposed location for the car park extension. Retention of these trees would in my view assist in the screening of the school site. The proposal has the potential to affect the roots of a hawthorn one of the “category C” trees. The information submitted indicates that no other trees are likely to be affected by the proposal.

20. There are a significant number of other trees, beyond the application site which were not surveyed. The Tree Survey indicates that these trees would be unlikely to be affected by the proposal because of the distance from the proposal.
21. British Standard BS5837 indicates that the design of the proposed development where feasible should take account of the retention of “category B” trees, although if this is unavoidable, suggests that consideration should be given to replacement planting to compensate for the loss. Tonbridge and Malling Borough Council also indicate that they would prefer to see the two oak trees retained at the site and the parking layout reconfigured to accommodate retention.
22. The applicant has carried out a Feasibility Study looking at traffic calming, landscaping, parking, drainage and other services, lighting and safe access for emergency vehicles at the site as well as other possible locations for hard standing car parking at the site. One other possible location for the proposal was considered at the site. Whilst this was close to the school on an area currently grassed and considered to be less intrusive, because it would not require the removal of any trees at the site, that option was rejected in favour of the proposed location. That was both because the area was used by the School for pupil activities during the summer months (being the Infant School’s only clear flat grassed area at the site) and also because the area could not provide enough parking within the site area nor a clear divide between pedestrians using the site and general traffic at the site.
23. The proposed location for the car park was therefore considered by the applicant to be the most feasible location because it involved minimal disturbance when compared to other options within the site which contains a significant number of trees ranging from young to mature, including groups of trees, and trees that are also subject to Tree Preservation Orders.
24. I am therefore satisfied, based on the information provided by the applicant that other options have been considered within the site and that these have not been feasible options due to constraints caused by underground services, health and safety, space and protection of other trees at the site which are of greater amenity value.
25. Whilst the proposed location involves the removal of five trees at the site, two of which are of moderate quality and value, this needs to be balanced against the need to provide sufficient car parking at the site as well as improved safety arrangements for the pedestrian and vehicular traffic flows around the site. I am satisfied that based on the information provided by the applicant, it is not feasible to rearrange the parking layout in order to accommodate retention of these two young oak trees.
26. The applicant proposes replacement planting which would be two oak trees, in the grounds to the south of the site next to another “category B” tree which is a Maple, in order to compensate for the loss of the two oak trees. New hedging would also be planted in order to create natural barriers between pedestrian and vehicles at the site.

**Extension of the existing car park at Woodlands Infant School  
Higham School Road, Tonbridge**

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27. South East Plan (2009) policies CC6 and BE1 and Tonbridge and Malling Local Development Framework Core Strategy (2007) policies CP1 and CP24 seeks development that incorporates high quality design solutions that respect the character and distinctiveness of the surroundings and that are relevant to context, local character and distinctiveness of places. I am satisfied that this proposal is in accordance with these Development Plan policies and appropriate to this site.
28. The School currently has a School Travel Plan and is seeking to make improvements to safety and accessibility within the school grounds. Within the school site parking provision is clearly limited. Whilst this proposal seeks to increase parking provision at the site, the provision of car parking for the Infant School at this site would remain below the Kent County Council Parking Standards set for new educational developments and there is an under provision of car parking. I am therefore satisfied that the proposal accords with South East Plan (2009) policy T4 which seeks to manage the provision of car parking at sites. The maximum guideline parking standard at new educational sites is 1 space per member of staff plus 10%. This proposal would increase existing provision from 10 to 20 spaces in total for 48 staff at the Infant School. I am satisfied that the additional parking provision within the school grounds will assist in alleviating pressure on the surrounding highways network.

**Conclusion**

29. I consider that the proposal is in accordance with general principles and objectives of the Development Plan Policies. Whilst the proposal requires the removal of five trees at the site, this development is to meet the needs of an established use of the site. The removal of two young oaks at the site is regrettable, but within the context of a site which has many trees within the boundary, I consider that the loss is unlikely to have significant adverse impacts on the amenities and character of the area, nor on biodiversity interests.

**Recommendation**

30. I RECOMMEND that permission BE GRANTED, SUBJECT TO CONDITIONS including conditions requiring ecological inspection prior to removal of any trees at the site, installation of tree protection measures prior to works commencing for trees that are to be retained at the site and replacement planting and maintenance to be carried out.

Case officer – H Mallett	01622 221075
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Background documents - See section heading
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**Item D3****Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green – DO/09/1189**

A report by Head of Planning Applications Group to Planning Applications Committee on 13 April 2010

Application by Kent County Council Youth Services for the existing gates to entrance of campsite to be moved approximately 6 metres into premises and painted green, Kearsney Campsite, Kearsney Avenue, Kearsney, Dover, Kent, CT16 3BU (Ref: DO/09/1189)

Recommendation: Planning permission to be granted, subject to conditions.

Local Member: Mr B Cope

Classification: Unrestricted

**Site**

1. Kearsney Campsite is located to the north of Dover, in an area known as Whitfield Valley. The campsite is accessed off Kearsney Avenue, near to the junction with Woodside Close. The access road into the site is 90 metres in length and is approximately 4 metres wide. The access road also runs parallel to Woodside Close. There is a fence between the access road and Woodside Close, but this is now in a poor state. A site location plan is attached.
2. The campsite operates exclusively for any organisation that works with or for young people and has a maximum capacity of 120 people. The campsite is officially open between 1 April and 30 September each year, with some very occasional, low level usage in March and October. As the campsite is mainly used by young (school aged) it is used mainly during the holiday period and during weekends through term time. There is also some occasional usage of the campsite at weekends during October and November by groups carrying at the Duke of Edinburgh Awards. Dover Rugby Club also use the sports pitch at the campsite every weekend during the times that the campsite is shut for the winter period.

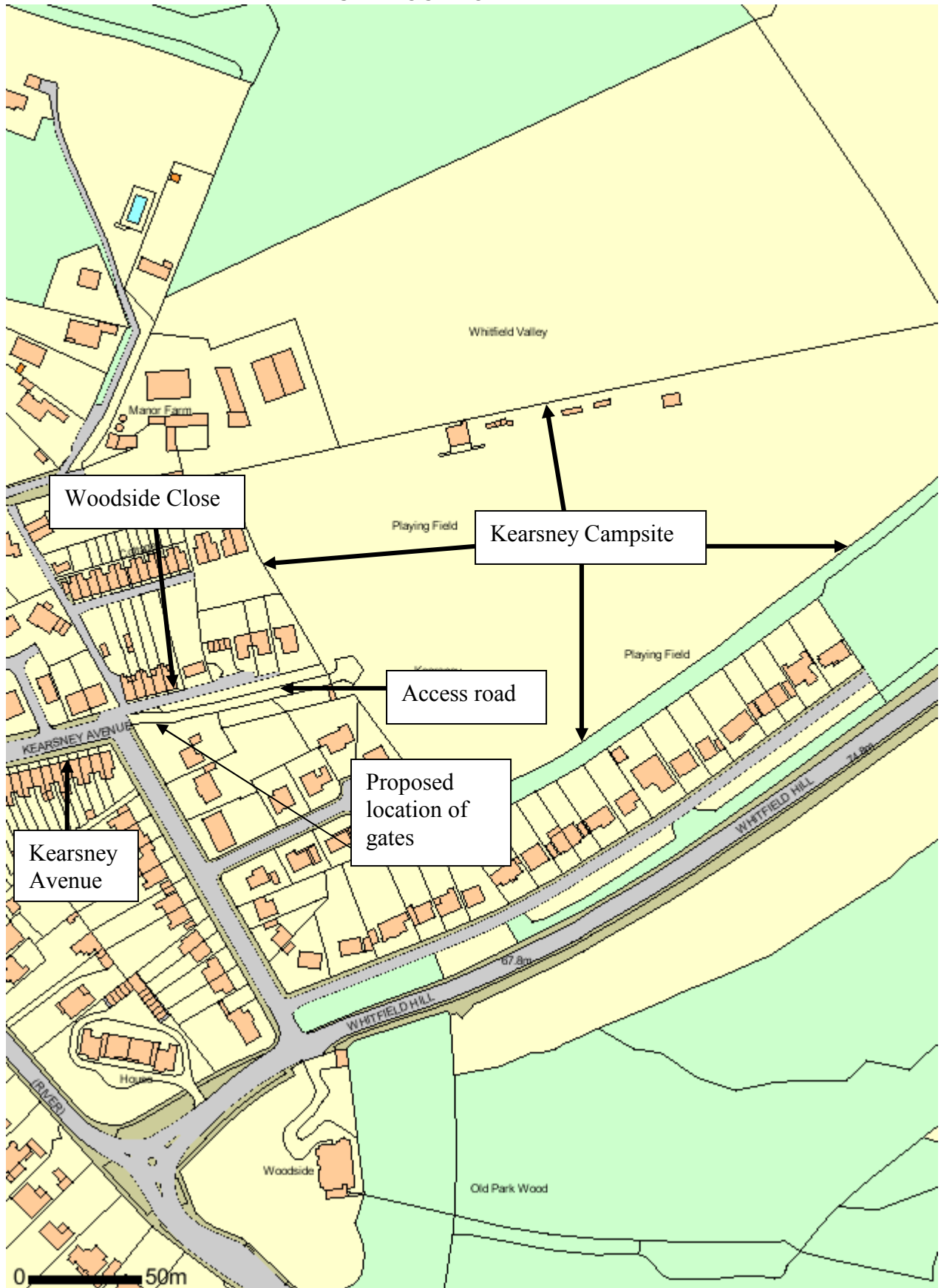
**Background**

3. The campsite used to have old timber gates located right at the end of the access road but these were in poor condition and were not able to be kept securely locked to prevent unauthorised access. These gates were also relatively low and could be breached without much effort. As the timber gates were old and beyond economic repair and were no longer fit for purpose, it was decided to replace them with new galvanised steel gates that are 1.8 metres in height. These steel gates were located along the same line as the old timber gates although they are a bit wider than the previous gates. The new gates were erected on 9 September 2009. Kent Youth Services, the owners of the site, were not aware of the need to apply for planning permission for the new steel gates, as they are higher than the previous gates, until a complaint about the gates was made to the County Council. Advice was also given that the gates needed to be moved 6 metres into the site (see paragraph 4 below for further information) so as not to cause a highway obstruction.

### Item D3

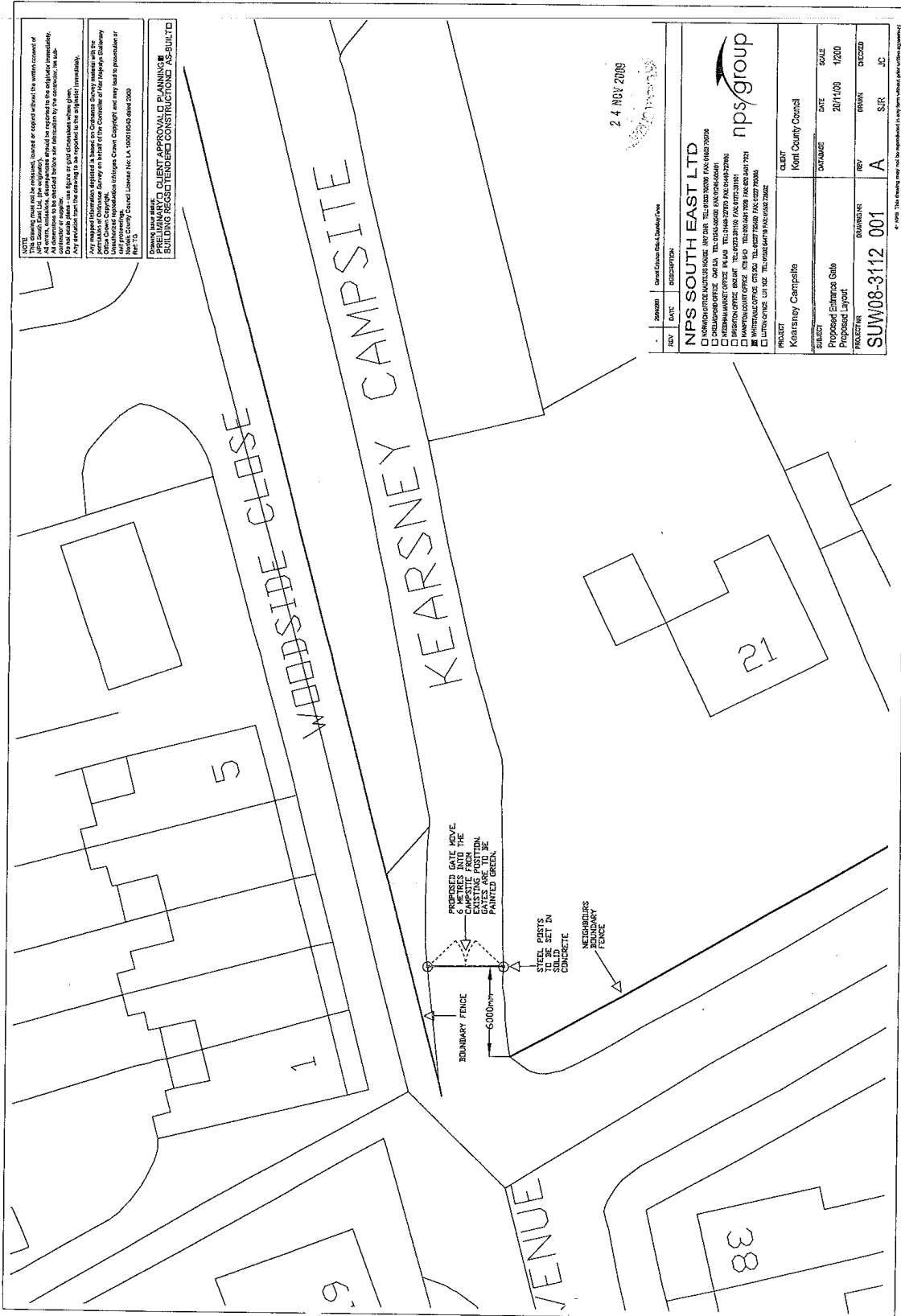
**Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.**

SITE LOCATION PLAN





Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.



**NOTE**  
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Client Name: **Kearsney Campsite**  
 PRELIMINARY CLIENT APPROVAL PLANNING BUILDING REGISTERED CONSTRUCTION AS-SUITED

REV	DATE	DESCRIPTION
1	24 NOV 2009	ISSUED FOR CONSTRUCTION

**NPS SOUTH EAST LTD**  
 NEWCASTLE BUSINESS HOUSE, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009  
 100, MARKET STREET, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009  
 100, MARKET STREET, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009  
 100, MARKET STREET, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009  
 100, MARKET STREET, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009  
 100, MARKET STREET, NEWCASTLE, TEL: 01670 707000 FAX: 01670 707009

**nps group**

PROJECT	Kearsney Campsite	CLIENT	Kent County Council
SUBJECT	Proposed Entrance Gate Proposed Layout	DATE	20/11/09
PROJECTOR	SUW08-3112 001	REV	BRWN
		DATE	1/2010
		REV	JK



### **Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.**

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#### **Proposal**

4. This is a retrospective planning application, which proposes to move the existing 1.8 metre high-galvanised steel double gates from the current location at the end of the access road to the campsite, to a location 6m into the access road. This would allow any vehicle to pull off the public highway before stopping to open or close the gates. Currently any vehicle that needs to open or close these gates must park in Kearsney Avenue and potentially block this road. It is also proposed to paint these gates a green colour to blend into the surroundings better.

#### **Planning Policy**

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

(i) The adopted 2009 **South East Plan**:

**Policy CC1**                      The principle objective of the Plan is to achieve and maintain sustainable development in the region.

**Policy CC6**                      Actions and decisions associated with the development and use of land will actively promote the creation of sustainable and distinctive communities.

**Policy C4**                        Outside nationally designated landscapes, positive and high quality management of the region's open countryside will be encouraged and supported by the local authorities and other organisations, agencies, land managers, the private sector and local communities, through a combination of planning policies, grant aid and other measures.

(ii) **Dover District Council Local Plan 2002**

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

#### **Consultations**

6. **Dover District Council** – Raises no objection.

**Temple Ewell Parish Council** – Raises no objection.

**Divisional Transportation Manager** – Raises no objection. He also makes the following comments:

The relocation of the gates is acceptable and subject to the gates opening inwards to prevent problems with vehicles waiting to enter and having to reverse back into the highway. The relocation of the gates 6 metres back into the entrance is looked as betterment in highway terms as it allows vehicles to stop off the public highway. This distance could be extended to 10 metres to accommodate caravans. I would not wish to see it set back any further than 10 metres as a longer set back, in the absence of

### **Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.**

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turning facilities would cause a highway hazard with vehicles having to reverse back out on to Kearsney Avenue.

#### **Local Member(s)**

7. The local County Member Mr Bryn Cope was notified of the application on the 18 December 2009.

#### **Publicity**

8. The application was advertised by the posting of a site notice and the notification of 38 neighbouring properties.

#### **Representations**

9. 3 letters of representation have been received in response to the proposal. The main planning reasons for objection can be summarised as follows:
  - The metal gates make a lot of noise when being opened or closed.
  - Unhappy about proposed location of gates as would be located directly outside No. 2 Woodside Close's lounge window.
  - The gates are unsightly and galvanised metal is what you expect to see in an industrial estate.
  - Unacceptable hours of leaving and entering the site.
  - The users of the campsite have no respect for neighbouring properties.
  - Would like to see the gates moved to the end of the access road where it would not affect any residents in Woodside Close or if this is not practical then to a location half way along this access road.
  - There is currently a lot of late night disturbance with campers unlocking and locking the padlock, and noisy car and mini bus engines left running whilst the gates are opened or closed.
  - If the gates were repositioned to the end of the access road then there would be no need to replace the damaged fencing that runs along the side of the access road.

#### **Discussion**

10. A retrospective application seeks planning permission for the replacement of old timber gates with new 1.8 metre high steel gates and to move them 6 metres into the site access, from their current location at the end of the access road. These gates are also to be painted green. The application is being reported to the Planning Applications Committee as a result of the objections received from 3 local residents, as outlined in paragraph 9, above. In considering this proposal, regard must be had to the Development Plan Policies outlined in paragraph 5. 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. Therefore the proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material considerations arising from consultation and publicity. In my opinion, the key material planning considerations in this particular case relate to the visual impact and location of the new steel gates and the potential noise from the steel gates.

**Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.**

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## Design and location

11. 3 objections have been raised by local residents as to the location of the proposed steel gates and that they have been changed from the existing old timber gates. It is claimed that the proposed steel gates are unsightly and better suited to an industrial estate rather than residential area. It has also been suggested by these residents that rather than the gates being moved 6 metres into the access road, that the gates are moved all the way to the end of the access road to the campsite, where it would not affect any residents of Woodside Close and there would also not be the need to replace the old fence that runs along the boundary between Woodside Close and the access road.
12. Through discussions with the Divisional Transportation Manager, it has been suggested that the steel gates are moved 6 metres into the access road, so allowing vehicles to pull off the public highway and to open or close gates without causing an obstruction. These gates could be relocated 10 metres into the site access, as suggested by the Divisional Transportation Manager which would allow caravans to pull off the public highway safely. However as no caravans come to the site, it has been agreed to maintain the proposed 6 metre distance. The Divisional Transportation Manager has commented that they would not wish to see the gates relocated right to the end of the access road as there are no turning facilities at the end of this access road and there is not the available road width to create one. Vehicles would thus have to reverse all the way down along the access road, which is 90 metres in length and this could also create a highway hazard with vehicles having to reverse back out onto Kearsney Avenue. Kent Youth Services, who manage the site, also do not wish to see the gates relocated to end of the access road as it would leave the access road to the campsite open and could lead to illegal parking along this access road thus blocking access to the campsite. This access road is approximately 4m wide, so it would be very difficult for two vehicles to pass each other safely. This is an important point as many of the vehicles that arrive at the campsite are mini buses.
13. The applicant advises that steel gates were erected rather than timber gates because the old timber gates were beyond economic repair and on health and safety grounds. There was also the need to secure the site and prevent unauthorised access to the site. The height of the gates was also increased to prevent unauthorised persons from being able to climb over the gates. This application proposes to paint the colour of the gates from its current finish, i.e. galvanised steel, to a green colour. I consider that this would help the gates to blend in better into the surrounding area, and reduce their visual impact. On this basis I would not raise a planning objection to the visual appearance of the gates.

## Noise

14. The applicant advises that the gates to the campsite are closed and padlocked at all times. The keys to the gate are held by Kent Youth Services and the campsite manager meets each group upon arrival to the campsite and issues the keys to the Group Leader. The Group Leader then retains the keys for the duration of their stay and thus has to open and close the gates every time they enter or leave the site. The keys are returned at the end of the visit. As the campsite operates exclusively for organisations that work with or for young people it must be noted that Kearsney Campsite does not operate like a public campsite, where campers arrive individually and can enter or leave the campsite whenever they want to, up until the campsite's curfew times. At Kearsney Campsite the users tend to arrive together in mini buses.

## Item D3

### **Application for the existing gates to campsite entrance to be moved approximately 6 metres into premises and painted green.**

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So even though the capacity of the campsite is 120 people, most of the campers arrive in groups of 12-15 people, so this number of people is moved through the gates in one operation rather than in individual vehicular trips. .

15. There are currently no time restrictions when campers can enter or leave the site but the campsite is used by young people who are supervised by their respective leaders and have strict guidelines for entering and leaving the site and times for 'lights out'.
16. The objectors to this application claim that the steel gates make a 'clanging' noise every time the gates are opened or shut. These new steel gates were erected on 9 September 2009. The new gates, simply by their construction will be noisier than the old ones. However I am advised that there are products available that can be fitted to the gates that would reduce the 'clanging' noise when the gates are opened and closed. The applicant has been looking at products such as nylon based materials that can be used at the hinges and a mixture of nylon and dense rubber that can be used on the leading edges of the gate and locking mechanism. The applicant is willing to arrange for these products to be fitted to the gates as soon as possible. I consider that such measures would help mitigate the 'clanging' sound experienced and subject to this being covered by an appropriate condition would not raise a planning objection.

### **Conclusion**

17. The proposal seeks to replace the old timber gates with 1.8 metre high-galvanised steel gates, which are also proposed to be painted green, and to move the gates 6 metres into the campsite access road. This proposal is seen as an improvement by the Divisional Transportation Manager as it allows vehicles to stop off the public highway and not to cause an obstruction when opening or closing the gates. The height and type of gate is dictated by the fact that the campsite needs to be made secure from any unauthorised access to the campsite. The location of the gates 6 metres into the access road is also necessary to prevent motorists from parking unrestricted along the campsite access road and thus blocking vehicular access to the site. With the proposed addition of nylon and dense rubber materials to the gates, hinges and locking mechanism, the 'clanging' sound of the gates opening and closing can be mitigated so as not to cause an unacceptable noise disturbance to local residents. I therefore see no overriding reason to raise an objection to the development and consider that it would accord with the general aims and objectives of the relevant Development Plan Policies. I therefore recommend that retrospective planning permission be granted for the gates as set out in paragraph 18 below.

### **Recommendation**

18. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO CONDITIONS, including conditions to cover the following aspects:
  - the standard time limit;
  - the development be carried out in accordance with the permitted details;
  - materials are fitted to the gates hinges, leading edges, locking and closing to reduce the noise of the gates opening and closing; and
  - the gates are painted in a green colour to be agreed

Case officer – Lidia Cook	01622 221063
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Background documents - See section heading
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**E1 COUNTY MATTER APPLICATIONS AND DETAILS PURSUANT PERMITTED/APPROVED/REFUSED UNDER DELEGATED POWERS - MEMBERS' INFORMATION**

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

**Background Documents** - The deposited documents.

- |                         |  |
|-------------------------|--|
| SH/09/1190              | Application to extend the time limit for the implementation of planning permission SH/06/1219 (extraction of sand and gravel).<br>Land at Allens Bank, off Dennes Lane, Lydd, Romney Marsh   |
| SW/93/626/R11           | New landfill gas flare pursuant to condition (11) of planning permission SW/93/626.<br>St Regis Paper Co. Ltd, Kemsley Mill, Kemsley, Sittingbourne  |
| SW/09/1323              | Extension of the existing operating area by approximately 900 square metres to give householders a more accessible and improved facility.<br>Stoneyard HWRC, Bridge Road, Sheerness  |
| TM/09/1888/R3, R8 & R26 | Approval of annual report required by condition (8) of planning permission TM/09/1888 outlining proposed restoration works for 2010 and proposed installation of pin well quenching systems pursuant to condition (3) of planning permission TM/09/1888.<br>Offham Landfill Site, Teston Road, Offham, West Malling  |
| TW/09/3332              | Proposed improvements to the North Farm HWRC and Waste Transfer Station, including construction of a new vehicle access, widening of existing vehicle access to accommodate a new weighbridge and extending the existing surfacing in the southern area of the site.<br>North Farm Waste Transfer Site, Dowding Way, North Farm Industrial Estate, Tunbridge Wells |

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

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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.

MA/10/254                      Provision of new ramps, steps & landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge & the closure of 1 existing subway, relocation of the cannon & its placement on a new plinth, removal of 4no. existing Plane Trees & their replacement with 8 no. Cherry & no. Hornbeam Trees, provision of illumination for the Queens monument, the relocated canon & other listed buildings & ancillary works thereto, together with other works including the realignment & repaving of carriageways & pedestrian areas & crossing points, the relocation of bus stops & shelters, taxi ranks, loading bays & disabled parking bays & the removal/relocation and/or provision of new street furniture including benches, lighting, leaning posts, telephone boxes, removal of planters & shrubs & the relocation of the existing CCTV pole by the canon

Town Centre Redevelopment, High Street, Maidstone

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

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

**Background Documents** – The deposited documents.

AS/10/13                      Replacement school entrance/reception extension and alterations. Ashford St Mary's CEP School, Western Avenue, Ashford

CA/08/316/R2B                Non-material amendment to planning permission CA/08/316 to allow retention of single storey building for use as a caretakers area. Herne Bay High School, Bullockstone Road, Herne Bay

CA/09/898/R3, R4, R5, R6 & R7                Details Pursuant to conditions 3, 4, 5, 6 & 7 of planning permission CA/09/898. Diocesan & Payne Smith CE Primary School, Broad Street, Canterbury

CA/10/83	Renewal of planning consent for a Timber Demountable classroom. Adisham CEP School, The Street, Adisham, Canterbury
CA/10/167	Construction of an observatory and games equipment store with five, 3.5m light poles with 70w lamps. Alternative location to planning application ref: CA/08/672 Simon Langton Grammar School for Boys, Nackington Lane, Canterbury
CA/10/186	Removal of existing wooden fencing and replacement with chain link, galvanised fencing to rear of property Herne CEI School, Palmer Close, Herne Bay
DA/09/193/R2	Application for a non-material amendment; extension of the external services compound to the east of the MUGA. Longfield Academy, Main Road, Longfield
DA/10/119	Proposed free standing pergola to rear reception play area West Hill Primary School, Dartford Road, Dartford
DA/10/252	Installation of a new maintenance access from Church Hill into the grounds of Oakfield Community Primary School. Access to be located in the same location as the temporary site access used during the construction of the school. Oakfield Community Primary School, Oakfield Lane, Dartford
DO/10/81	Extension to school to provide a larger office space for headteacher and provision of an additional learning/meeting room. St Martin's School, Markland Road, Dover
DO/10/99	Installation of perimeter fencing (2.4 metre high palisade) to rear playing fields. The removal of 3 no. trees and crowning of trees. Green Park Community School, The Linces, Dover
GR/07/792/R3 & R4	Details of external lighting pursuant to condition (3) and landscaping works pursuant to condition (4) of planning permission GR/07/792. Gravesend Grammar School, Church Walk, Gravesend
GR/08/154/R11	Details of an acoustic barrier to the northern boundary. Thamesview School, Thong Lane, Gravesend
GR/09/193/R2 & R3	Details of external materials and details of new planting pursuant to conditions 2 & 3 of planning permission reference GR/09/193 - single storey modular building with flat roof and brick clad external walls including canopies to the front and rear, 3 parking spaces (revision of planning permission GR/07/591) Shears Green Infant School, Packham Road, Northfleet, Gravesend
GR/10/80	To remove the existing 1.4 metre high black railings and 1.3 metre high chain link fence and install 1.8 metre high black powder coated steel palisade security fence to the east boundary and part of the south boundary. St Botolph's CE Primary School, Dover Road, Northfleet, Gravesend

MA/08/1700/R5	Details of a school travel plan. New Line Learning Academy, Boughton Lane, Maidstone
MA/09/1014/R	Application for a non-material amendment following the grant of permission - changes to the car park layout Maidstone Grammar School For Girls, Buckland Road, Maidstone
MA/09/2293	Proposed floodlighting of the two 3-court multi-use games areas (Approved under consent reference MA/08/1700) New Line Learning Academy, Boughton Lane, Maidstone
MA/10/182	Erection of a 2.4m high galvanised metal security fence to replace existing derelict fence South Borough Primary School, Postley Road, Maidstone
SE/09/1287/R2A	Non-material amendment to front extension to include an additional door. Lady Boswell's CE Primary School, Plymouth Drive, Sevenoaks
SE/10/146	Proposed extension to provide single storey office and reception space with associated flat roof canopy to form part of proposed children's centre. West Kingsdown Primary School, Fawkham Road, West Kingsdown
SH/08/502/R2	Details of revised School Travel Plan for construction of additional classroom Bodsham Church Of England Primary School, Bodsham, Ashford
SH/09/27/R8	Details of external lighting pursuant to condition (8) of planning permission SH/09/27. Christ Church CEP School, Brockman Road, Folkestone
SH/10/125	The erection of a wooden shelter for outdoor teaching and to provide a waiting area for parents, including the removal of a section of fencing Elham CEP School, Vicarage Lane, Elham, Canterbury
SW/09/1230/R4	Details of a scheme of tree/shrub planting pursuant to condition (4) of permission reference SW/09/1230 for a multi use play area. Rodmersham Primary School, Rodmersham Green, Rodmersham, Sittingbourne
SW/10/4	Proposed entrance and toilet extension, classroom extension and internal alterations Lynsted & Norton Primary School, Lynsted Lane, Lynsted, Sittingbourne
TH/10/65	Replacement of 131 aluminium windows with 50mm frame uPVC windows St Joseph's Catholic Primary School, 53 St Peters Park Road, Broadstairs
TH/10/77	Erection of 1.8m high mesh fence, installation of new gates with access control and motorised vehicle gate St Anthony's School, St. Anthony's Way, Margate



TH/10/83	Construction of sand filled synthetic training pitch with fencing and floodlights, goal storage recesses and macadam spectator area. St. George's CE Foundation School, Westwood Road, Broadstairs
TH/10/120	Section 73 Application for removal or variation of condition 2 of planning permission TH/08/534 (Demolition of the existing hall and the erection of a creative arts block, roofing over the internal quadrangle to the main building and the creation of a new multi use games court to the rear of the sports hall, and associated works) to allow the retention of the west wing of the main block that was previously being demolished The King Ethelbert School, Canterbury Road, Birchington
TH/10/171	Section 73 application for variation to condition (2) of planning permission TH/08/534 (Demolition of the existing hall and the erection of a creative arts block, roofing over the internal quadrangle to the main building and the creation of a new multi use games court to the rear of the sports hall, and associated works) to enlarge the store slightly to accommodate requirements for a new use (hub room) The King Ethelbert School, Canterbury Road, Birchington
TM/08/2857/R10	Details of external lighting – erection of a new special school, parking, play area, landscaping and ancillary works. Wrotham School, Borough Green Road, Wrotham, Sevenoaks
TM/10/386	Proposed single storey lean-to extension to the Technology Block. Hillview School for Girls, Brionne Gardens, Tonbridge
TW/09/3998	A new Sixth Form Centre located between the Performing Arts Centre and the Music Building. Tunbridge Wells Girls Grammar School, Southfield Road, Tunbridge Wells

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

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### **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:-

AS/10/TEMP/0002 – The extension of Wyvern Special School to form a new Primary School wing, the construction of a Multi Agency Specialist Hub for disabled children and the construction of a Multi Agency Specialist Hub for disabled children and the construction of a Specialist Early Years Centre/Nursery, together with associated access roads and car parking. The Wyvern School, Great Chart Bypass, Ashford.

SE/10/TEMP/0006 – Removal of external fire escape and erection of new two storey entrance hall. Construction of a single storey lean-to structure incorporating WCs and small music room. Replacement of temporary timber reception classroom with permanent single storey structure. Construction of single storey timber link between new entrance hall and new reception classroom. St Lawrence CE Primary School, Stone Street, Seal, Sevenoaks.

TH/10/TEMP/0010 - The construction of a Multi Agency Specialist Hub for disabled children, a specialist early years nursery and associated access roads and car parking. Land annexed from Garlinge Primary School and Nursery, Westfield Road, Margate.

TW/10/TEMP/0004 – Erection of a telescopic pool enclosure over an existing outdoor swimming pool. Brenchley & Matfield CEP School, Brenchley Road, Brenchley, Tonbridge

- (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

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

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

**Background Documents** -

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

DC29/10/SW/0001 - Request for a scoping opinion in respect of proposed removal of restrictions of operations at Rushenden Marshes Dredging Disposal Area, Isle of Sheppey

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