

PLANNING APPLICATIONS COMMITTEE

Tuesday, 12th April, 2011

10.00 am

**Council Chamber, Sessions House, County Hall,
Maidstone**



AGENDA

PLANNING APPLICATIONS COMMITTEE

Tuesday, 12th April, 2011, at 10.00 am
Council Chamber, Sessions House, County
Hall, Maidstone

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

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

Membership (18)

Conservative (16): Mr R E King (Chairman), Mr J F London (Vice-Chairman),
Mr R Brookbank, Mr A R Chell, Mrs V J Dagger, Mr J A Davies,
Mr T Gates, Mr W A Hayton, Mr C Hibberd, Mr P J Homewood,
Mr J D Kirby, Mr R F Manning, Mr R J Parry, Mr R A Pascoe,
Mr C P Smith Mr A T Willicombe

Liberal Democrat (1): Mr M B Robertson

Independent (1) Mr R J Lees

UNRESTRICTED ITEMS

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

A. COMMITTEE BUSINESS

1. Membership
- A1 To note that Mr W A Hayton has replaced Mr K Smith on the Committee.
2. Substitutes
3. Declarations of Interests by Members in items on the Agenda for this meeting.
4. Minutes - 15 March 2011 (1 - 8)
5. Site Meetings and Other Meetings

B. GENERAL MATTERS

1. Recorded Voting at Planning Applications Committee meetings and related issues (9 - 18)

C. MINERALS AND WASTE DISPOSAL APPLICATIONS

1. Application GR/10/1127 - Temporary tunnelling logistics facility at Northfleet Works, The Shore, Northfleet; Crossrail Ltd (19 - 58)

2. Application SW/10/1436 - Variation of Conditions 12 (hours of delivery), 20 (vehicle movements), 22 (compostable waste tonnage), 26 (Materials Recycling Facility waste tonnage) and 28 (secondary aggregate recycling) of Permission SW/05/1392 at Countrystyle Recycling Site, Iwade, Sittingbourne; Countrystyle Recycling Ltd (59 - 72)
3. Application SW/10/444 - Sustainable Energy Plant to serve Kemsley Paper Mill at Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne; St Regis Paper Company Ltd and E.ON Energy from Waste Ltd (73 - 112)

D. DEVELOPMENTS TO BE CARRIED OUT BY THE COUNTY COUNCIL

E. COUNTY MATTERS DEALT WITH UNDER DELEGATED POWERS

1. County matter applications (None) (113 - 116)
2. Consultations on applications submitted by District Councils or Government Departments (None)
3. County Council developments
4. Screening opinions under Environmental Impact Assessment Regulations 1999
5. Scoping opinions under Environmental Impact Assessment Regulations 1999 (None)

F. OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

EXEMPT ITEMS

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

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

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

Monday, 4 April 2011

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, 15 March 2011.

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 P J Homewood, Mr J D Kirby, Mr S J G Koowaree (Substitute for Mr M B Robertson), Mr R J Lees, Mr R F Manning, Mr R J Parry, Mr R A Pascoe, Mr C P Smith, Mr K Smith, Mr R Tolputt (Substitute for Mr J A Davies) Mr A T Willicombe

ALSO PRESENT: Miss S J Carey Mr K G Lynes

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications Group), Mr M Clifton (Team Leader - Waste Developments), Mr J Crossley (Team Leader - County Council Development), Mr N Sarrafan (County Transport & Development Manager) Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

18. Minutes - 15 February 2011

(Item 4)

RESOLVED that the Minutes of the meeting held on 15 February 2011 are correctly recorded and that they be signed by the Chairman.

19. Site Meetings and Other Meetings

(Item A4)

The Committee noted that the next training session on Minerals and Waste matters would be held during the afternoon of 12 April 2011. It was confirmed that there would be no visit to the proposed incinerator at Charing as the application had been withdrawn.

20. Pre and Post Planning Application Charging Service

(Item B1)

RESOLVED that the content of the report be noted and that:-

- (a) the implementation of a pre and post planning application charging strategy be agreed as set out in Option 2 in paragraphs 26 to 32 of the report; and
- (b) the Head of Planning Applications Group prepare a Pre and Post Advice Protocol to accompany the charging scheme based upon the information contained in the report.

21. Application SH/08/124 - Materials Recycling Facility, Anaerobic Digestion Plant and associated office and parking facilities at Otterpool Quarry, Ashford Road, Sellindge; Countrystyle Recycling Ltd
(Item C1)

(1) Mr R A Pascoe informed the Committee that he was acquainted with some of the objectors to the application. He was also a Member of Shepway DC. He had, however, not taken part in any discussion of the application and was in a position to approach it with a fresh mind.

(2) Each Member of the Committee had received lobbying correspondence, including a DVD from objectors to the application prior to the meeting.

(3) Mrs S J Carey was present for this item pursuant to Committee Procedure Rule 2.24 and spoke. She also delivered a petition signed by some 2,000 local residents calling for the application to be refused permission.

(4) The following items of correspondence were tabled:-

- (a) a letter from Damian Collins MP dated 10 March 2011;
- (b) correspondence from the Sellindge and District Residents Association summarising their grounds for objection and suggested conditions if permission were to be granted;
- (c) correspondence from Mrs M Turton to Mr Carter, the Leader of the Council; and
- (d) the notes from the public meeting on 8 February 2010.

(5) Mr L Baxter (Sellindge Parish Council), Mr R Lello (Sellindge and District Residents Association) and Mr S Furey (CPRE) addressed the Committee in opposition to the application. Mr N Cronin (SLR Consulting) spoke in reply on behalf of the applicants.

(6) The Head of Planning Applications Group advised the Committee that, with one exception, the list of particular conditions suggested by Sellindge and District Residents' Association that they wished to be applied to any consent, would all be covered; albeit that the specific wording would need to be drafted in a manner which would ensure their enforceability. The only exception would be their first proposed condition, which called for the requirements of the Environmental Permitting Regulations to be fully met and confirmed to be so by the Environment Agency. This was because it was not a matter for the Committee, as the Environment Agency itself would determine whether a permit would be issued.

(7) Mr C P Smith moved, seconded by Mr R F Manning that the recommendations of the Head of Planning Applications Group be agreed.

(8) The mover and seconder of the motion accepted amendments which added a no left turn condition; a requirement that there should be no queuing on the public highway; and an Informative that the buildings should be lowered as far as was possible.

(9) On being put to the vote, the Motion set out in (7) above (as amended in (8) above) was carried by 14 votes to 3.

(10) RESOLVED that:-

- (a) permission be granted to the application subject to conditions, including conditions (incorporating Conditions 2 – 12 proposed by the Sellindge and District residents' Association) covering waste throughputs; daily vehicle movements; a prohibition on left turning for vehicles exiting the site; the prevention of vehicles queuing on the public highway; contamination risk assessment details; badger mitigation (construction stage and post construction); weighbridge details; access arrangements; access gates and fencing details; signage; code of construction practice; landscaping details; operating hours; noise controls; notification of commencement; a dust and odour Management Plan; and an electricity generation strategy; and
- (b) the applicants be informed by Informative of the Committee's view that the buildings should be sunk as low into the ground as possible.

22. Application DA/10/1232 -- Change of use of part of yard from open storage to increase area for waste transfer and recycling of waste; and provision of a trommel with covered waste sorting facility, partly within existing yard and partly within new extended area of yard at Lees Yard, Rochester Way, Dartford; Easy Load Ltd

(Item C2)

RESOLVED that:-

- (a) permission be granted subject to conditions including conditions covering the development being carried out within 5 years; the development being carried out in accordance with the scheme as submitted together with any subsequently approved details, including a single site access (with reserved emergency access) and the footprint of the proposed waste stockpiles on site; restriction of waste types, hours of operation, throughput and traffic movements to the level of those already permitted at the site; the Trommel and picking station being of a fixed specification and location within 1 metre of the northern site boundary; stockpile heights being no greater than the boundary fencing and below the visible eye-line; operational safeguarding measures to control noise, dust, odour, related emissions, surface run-off and drainage, light pollution and mud and debris on the road. Such measures including transitional arrangements (without undue amenity impacts) for the re-location of skip storage and vehicle parking within the 'extension' area, in favour of active waste management within the same footprint; and remediation measures to handle any unsuspected site contamination issues that may arise during the carrying out of the development; and
- (b) the applicants be informed by Informative that whilst planning and Environment Agency Permitting controls are designed to be complementary in these types of waste management settings, planning controls always preside.

23. Application MA/10/1932 - Replacement building for waste processing on Unit 6 with provision of revised access and parking at Unit 6, Detling Aerodrome Estate, Detling; D&D Waste Recycling Ltd
(Item C3)

RESOLVED that permission be granted to the application subject to conditions including conditions covering the development being carried out within five years; the development being carried out in accordance with the scheme as submitted and in accordance with the approved plans; details of the external materials being submitted and approved by the County Planning Authority; a restriction of waste types; restriction of waste processing throughput to 38,400 tonnes per annum; vehicle movements being restricted to 30 per day (15 in and 15 out); no waste processing outside of the waste building; no external storage of any waste materials; hours of operation; and operational safeguarding measures to control noise, dust, odour, vibration and mud and debris on the road.

24. Application MA/10/1931 - Change of use of land to provide for skip hire depot, including retention of existing portacabins for use as office, canteen and toilet (dual use) at Unit 13/14, Detling Aerodrome Estate, Detling; D&D Waste Ltd
(Item C4)

RESOLVED that permission be granted to the application subject to conditions including conditions covering the development being carried out within five years; the development being carried out in accordance with the scheme as submitted (together with the approved plans), for the interrelated uses of Units 13 and 14 with the adjoining Unit 6; details of the external materials being submitted and approved by the County Planning Authority; vehicle movements directed through the single and common site access for Units 6, 13 and 14 being restricted to 30 per day (15 in and 15 out); no processing or storage of waste being carried out on Units 13 and 14; hours of operation being restricted to 06:00 to 18:00 hrs Monday to Friday and 07:00 to 17:00 hrs on Saturdays; operational safeguarding measures to control noise, dust, odour, vibration and mud and debris on the road; the skips that are stored on Unit 13 not exceeding a height of 3 metres from the adjoining ground level; Unit 14 being used for no other purpose than to accommodate the existing site office, canteen facility and car parking area; the boundary palisade fencing being maintained throughout the use of the site; and landscaping along the rear boundary being maintained and replaced if necessary.

25. Proposal TW/10/434 - Redevelopment of existing school site to provide a new academy at The Skinners Kent Academy, Land east of Blackhurst Lane and between Sandown Park and Pembury Road, Tunbridge Wells; KCC Building Schools for the Future and Academy Team
(Item D1)

(1) Mr K G Lynes was present for this item pursuant to Committee Procedure Rule 2.24 and spoke;

(2) Correspondence from Mr T Draper (a local resident) and Mr J A Davies suggesting a deferment pending a Members' site visit was tabled.

(3) The Head of Planning Applications Group informed the Committee of late correspondence from Mr A J King in support of the proposal subject to appropriate conditions.

(4) The Head of Planning Applications Group informed the Committee of late correspondence from Sport England requesting a condition requiring details of the Community Use scheme prior to first use of the site; from Tunbridge Wells Environmental Health requesting that full details of the proposed biomass plant be submitted to them for consultation and requesting the inclusion of an Air Quality Assessment as an evidence base in the preparation of the school travel plan. These requests were all agreed. The Committee was also informed that Tunbridge Wells Environmental Health had requested that the travel plan should require the use of low emission school busses, but the head of Planning Applications Group did not consider it would be a reasonable requirement.

(5) The Head of Planning Applications Group summarised late correspondence from the following local residents:-

- (a) Mrs I Jackson;
- (b) Mrs J Guthrie;
- (c) Mr J Pomeroy;
- (d) Mrs B Kiely;
- (e) Mr T Draper;
- (f) Mrs M Henson; and
- (g) Advance Land and Planning Ltd on behalf of Leonard Cheshire Disability.

(5) Mr R Backhouse (local ward councillor); a resident from the Leonard Cheshire Disability Seven Springs Home; Mr Shorrick (Sandown Park and Blackhurst Lane Local Community Group); Mr D Simmonds (RPS on behalf of Mrs A Flynn – local resident); Mr J Kiely and Mr C Jackson (local residents) addressed the Committee in opposition to the application. Mr C Everett (Deputy Chair of The Skinners Company) and Mr M Page (DHA on behalf of Wilmott Dixon) spoke in reply on behalf of the applicants.

(6) The Committee specified that use of the external amphitheatre should be by the academy only. It also asked for the inclusion of an Informative that the road improvements should be installed as swiftly as possible and that they should make all reasonable effort to ensure that the works were undertaken during the School Holiday period in order to minimise the impact upon the local community and road users.

(7) On being put to the vote, the recommendations of the Head of Planning Applications Group (as amended in (6) above) were carried unanimously.

(8) RESOLVED that: -

- (a) permission be granted to the proposal subject to conditions, including conditions covering a 5 year implementation period; the development being carried out in accordance with the permitted details; junction

improvements being implemented in full (in accordance with final details to be agreed with the Highway Authority) prior to first occupation of the new Academy; details of the Community Use scheme being submitted for approval prior to first use of the site; on-site vehicles parking and turning areas being provided (as detailed within the application) prior to first occupation of the new Academy and maintained in perpetuity thereafter; coach, vehicle and cycle parking (as detailed within the application) being made available for the community use associated with Sites 1 and 2 at all times when the community facilities are in use; a pedestrian link between the main Academy car park area and Sandown Park (to access sports facilities on Site 2) being provided and maintained for users of the all weather pitch; pedestrian footway reinstatement (including full kerbing) at the two existing pedestrian entrances which are to be closed, as detailed within the application; pedestrian enhancement facilities being carried out (as detailed within the application) prior to the first occupation of the new Academy; a pre-construction highway condition survey being undertaken prior to commencement of the works in Sandown Park and Blackhurst Lane, together with a post completion survey and completion of any consequential remedial measures; measures to guard against the deposit of mud and debris on the public highway during construction/demolition operations; a requirement for the applicant to fund the reasonable installation of waiting restrictions on surrounding residential roads should they prove necessary in the future; the submission of a new School Travel Plan (including an Air Quality Assessment), its implementation and ongoing monitoring; the submission of a Code of Construction Practice; details of ground contamination; the submission of lighting details for car park/general areas for approval by the County Planning Authority; full implementation of the ecological recommendations for precautionary mitigation being carried out prior to commencement of the development; a programme of archaeological work, including a historic site survey and a watching brief on below ground works; the submission of details of external materials for approval by the County Planning Authority; the submission of acoustic details of all external plant/equipment on new the Academy building; details and specification of all fencing proposed on Sites 1 and 2 for approval by the County Planning Authority; hours of construction being limited to: Monday to Friday 08:00-18:00, Saturday 09:00-13:00, and no operations on Sunday and Bank Holidays; the submission of detailed landscape/vegetation planting schemes for Sites 1 and 2, their implementation within the first planting season following the completion of development and maintenance for a period of 5 years thereafter; tree protection details being implemented on Sites 1 and 2 in accordance with British Standard 5837:2005 (Trees in Relation to Construction); noise levels of biomass fuel deliveries being limited to ensure that the rating level emanating from the facility does not exceed the background noise level at nearby residential properties by +5 dB when assessed in accordance with BS 4142; hours of use of the floodlit MUGAs (Site 1) being limited to: Monday to Friday 08:30-22:00, Saturday 08:30-21:00, Sunday and Bank Holidays 08:30-20:00; hours of use of the all weather pitch (Site 2) being limited to: Monday to Thursday 08:30-21:00, Friday 08:30-20:00, Saturday 10:00-16:00, and no use on Sunday and Bank

Holidays; hours of use of the external amphitheatre (Site 1) being limited to Monday to Saturday 08:30-19:30 and for Academy use only, and no use on Sunday and Bank Holidays; and details of the biomass boiler being submitted for approval by the County Planning Authority following consultation with Tunbridge Wells Borough Council; and

- (b) the applicant be advised by way of Informatives of the following matters:-
 - (i) the applicant is required to seek an Environmental Permit from the Environment Agency to operate the proposed biomass boiler;
 - (ii) the Low/Medium/Intermediate pressure gas mains in proximity to the application sites;
 - (iii) that lighting for the car park/general areas should be designed to meet an average of 10 lux with a uniformity of 0.25 to meet ILE Best Practice guidelines; and
 - (iv) that the Committee considers that the road improvements should be installed as swiftly as possible and that the applicant should make all reasonable effort to ensure that the works are undertaken during the School Holiday period in order to minimise the impact upon the local community and road users.

26. County matter applications

(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 (None);
- (c) County Council developments;
- (d) Screening opinions under Environmental Impact Assessment Regulations 1999; and
- (e) Scoping opinions under Environmental Impact Assessment Regulations 1999.

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By: Chairman of Planning Applications Committee
Head of Democratic Services and Local Leadership

To: Planning Applications Committee – Tuesday, 12 April 2011

Subject: RECORDED VOTING AT PLANNING APPLICATIONS COMMITTEE
MEETINGS AND RELATED ISSUES

Classification: Unrestricted

FOR INFORMATION

Introduction

1. The Committee considered a report at its meeting on 20 January 2011. This report is included at **Appendix A** to this report.
2. The Committee resolved that:
 - (a) Selection and Member Services be requested to not consider this matter at its next meeting; and
 - (b) a further report be made to a future meeting of the Committee giving more detailed consideration of this and related issues.
3. During the meeting, Mr J A Davies produced a document setting out concerns over the proposal to record the votes of each of the Committee Members whenever the Committee voted to overturn the Head of Planning Applications Group's recommendations. Mr Davies' comments are included at **Appendix B**.
4. The "related issues" that were raised by Committee members were:
 - (a) Whether there should be a "Cooling Off period" following a vote to overturn the Head of Planning Applications Group's recommendations. This would enable the head of Planning Applications Group to prepare a report, setting out the reasons given by members for doing so, enabling her to comment on them. This, second report would be considered at the next Committee meeting, enabling the original decision to be confirmed, revised or overturned.
 - (b) Whether abstention should be a permitted option if a Member was entitled to vote on a particular application.
 - (c) Whether a vote to overturn the Head of Planning Applications Group's recommendations should be referred to the county Council.
 - (d) Whether the rules of "purdah" should be applied more rigorously during any election period (not just national or County Council elections) when deciding which applications should be reported to the Committee.

The comments of Mr Davies

5. Mr Davies' comments criticised the lack of clarity in the report, specifically the lack of clear grounds for recommending a change to the Constitution.

6. Mr Davies also raised a concern that the effect of the change could be to inhibit members from voting against the Head of Planning Applications Group's recommendations. In particular, he quoted the report and questioned why the way a Member voted could become "a matter of legal significance."

7. Mr Davies suggested that Members should be informed of the legal consequences of overturning a recommendation and that the best way to mitigate this might be for the Committee to prepare its detailed reasons during the meeting itself. If necessary, this should be done by adjourning the meeting whilst the formal wording was drafted before being brought back for approval or amendment.

Response by the Director of Law and Governance

8. The Director of Law and Governance has accepted Mr Davies' comments on the question of clarity and has made the following explanatory comments in response:

A decision which confirms the Head of Planning Applications Group's recommendations is readily defensible in the courts or at a planning inquiry. This is because the grounds for the decision are detailed and open for all to see. Should the recommendation and decision be successfully challenged, the responsibility would naturally be borne by the head of Planning Applications Group. The Committee itself would have acted in a manner which could not be criticised as it would demonstrably have had regard to the best and most professional advice available to it.

Whenever a recommendation is overturned, there is an inherent risk to the County Council associated with a challenge to the decision. The Head of Planning Applications Group is in a difficult position where she needs to justify a decision at any appeal which goes against her professional judgement. This means that the Committee has to ensure that valid Land Use Planning reasons are provided. On occasions, the Planning Inspector can conclude that it is important to establish the reasons that Committee Members voted as they did. In this regard, it is vital that the grounds for the decision are detailed and open for all to see in just the same way as if Members followed the officer advice. This necessitates an accurate record being maintained of the way in which each individual Member voted and the reasons for their decision.

The second reason for maintaining a record of the way in which Members voted is that an applicant can challenge that the decision was correctly recorded. Such a challenge automatically fails if the actual voting details are correctly recorded.

I also note that there were suggestions expressed at the January Committee meeting that individual Members might be at risk of surcharge or other penalty.

This is extremely unlikely. Providing Members have exercised their best judgment and have not broken the Member Code of Conduct (by for example, voting when they have a prejudicial interest) the risk is insignificant. This is therefore certainly not the reason for recording the vote of an individual Member. The risk identified is to the County Council rather than to any individual Member.

Mr Davies has expressed the concern that “the authority considers that it will be able to identify those who voted against a recommendation and identify the Members in order to pursue whatever course of action is open to the authority possible against those members for going against the advice of the officer.” To use the record in such a manner would be illegal as this would constitute an attempt to impinge upon the Committee Member’s duty to approach each application with a fresh mind.

9. In response to Mr Davies’ suggestion that there should be an adjournment during the meeting itself, the Head of Planning Applications Group has advised that this would be unnecessarily prescriptive. There is no expectation that all Members will necessarily have all these reasons in their minds when they vote against the recommendation.

Related Issues

10. Discussion has taken place concerning the related issues raised by Members in Paragraph (4) above. These involved the Chairman, Vice-Chairman, Liberal Democrat Group Spokesman, the Head of Planning Applications Group, and the Director of Law and Governance. The conclusions of these discussions are set out below:

(a) The disadvantages were considered to outweigh the advantages as it would lead to members of the public and the applicants having to attend two meetings where the second one could potentially overturn the decision of the first. The resulting sense of injustice would be exacerbated if the Committee make up was different on the second occasion. The Head of Planning Applications Group also advises that there would be a risk of a challenge on the basis of non-determination.

(b) There is no legal provision which can be used to force a Member of the Committee not to vote in abstention. Indeed, were pressure to be applied to prevent Members from doing so, this would inhibit their ability to approach the application with a fresh mind.

(c) The problems associated with asking the County Council to ratify a decision are considered to be prohibitive. Each Member of the County Council would have to be trained and be in a position to demonstrate that they were only considering the planning aspects of the case during that particular item.

(d) The Head of Planning Applications Group has advised that she always considers whether controversial items with considerable local interest should be reported during an election period. This consideration balances the applicant’s expectation for a timely decision against the amount of influence that

the election period might exert. This decision is taken on a case-by-case basis in consultation with the Chairman.

Conclusion

11. It is worth noting that the original report to the January Committee meeting was made following consideration of a particularly controversial application the previous month. The recommendation to amend the Constitution arose from procedural discussions around that application but was not in any way intended as a response to its outcome.

12. Mr Davies' document was written in response to the lack of clarity in the January report about the legal reasons for the change. The Director of Law and Governance has clarified, in turn, that the reasons for recording the way in which each Member votes are to demonstrate that the decision has been correctly recorded and potentially to assist the Planning Inspector during an Inquiry. It does not (for the reasons given by the Director of Law and Governance in paragraph 8 above) have the effect of making individual Committee Members personally liable for their decisions. Nor does it make Members accountable to anyone within the authority for them.

13. The Director of Law and Governance advises that the original recommendation should stand.

14. Following the discussions set out in paragraph 10 above, the strong recommendation to the Committee is that there should be no instruction to Members of the Committee not to vote in abstention and that the suggestion of referring applications to the County Council should not be pursued.

15. In respect of the suggestion of a "cooling off period", the Committee is recommended, on balance, to agree that the principle of the final decision being taken at one meeting should stand.

16. In the light of the assurances given in Paragraph 10 (d) above, the Committee is also invited to accept that consideration of whether an application should be brought forward during an election period is already taking place and that the Committee Chairman is fully involved in the process.

RECOMMENDATION:

17. The Committee is recommended to:

- (a) note the Director of Law and Governance's advice that the votes of each individual Committee Member should be recorded on those occasions when the Head of Planning Applications Group's recommendation to grant permission or refuse an application is overturned; and
- (b) agree that advice should be reported to Selection and Member Services Committee and (subject to that Committee's agreement) to the County Council for proposed adoption into the Constitution.

Peter Sass: Head of Democratic Services and Local Leadership

Officer Contact: Andrew Tait
Democratic Services Officer
(01622) 694342

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By: Chairman of Planning Applications Committee
Head of Democratic Services and Local Leadership

To: Planning Applications Committee – Thursday, 20 January 2011

Subject: RECORDED VOTING AT PLANNING APPLICATIONS COMMITTEE
MEETINGS

Classification: Unrestricted

FOR INFORMATION

The County Council's Constitution

1. Committee Procedure 2.20 of the County Council's Constitution sets out the rules for recording voting at Committee meetings as follows:-

(1) If any Member requests, the Chairman will call a vote on any recommendation or motion or amendment. The vote will be by a show of hands by members of the Committee present, including substitute Members.

(2) If the votes for and against are equal, the Chairman shall immediately declare if he is using his casting vote and, if so, whether for or against the proposal.

(3) Immediately after a vote has been taken, an individual member may ask that the way he cast his vote either for or against the proposal or to abstain be recorded in the minutes.

(4) One-third of the voting Members present may require that the way all Members cast their vote for or against or to abstain shall be recorded in the Minutes: such a request must be made before the vote is taken.

The need to vary the procedure for the Planning Applications Committee

2. The determination of each planning application is a legal decision which is open to challenge either through an appeal to the Secretary of State or Judicial Review. On those occasions where the recommendations of the Head of Planning Applications Group have been agreed, the decision is readily defensible through reference to the professional advice given in the report and at the meeting.

3. The situation becomes more complex on those occasions when the Committee overturns the Head of Planning Applications Group's recommendations. Under such circumstances, the way in which each individual Member voted can become a matter of legal significance.

4. Consequently, the Director of Law and Governance has advised that the votes of each individual Committee Member (whether for, against or in

abstention) should be recorded whenever the Committee votes against the Head of Planning Applications Group's recommendation for permission or refusal.

5. This provision would supplement Committee Procedure Rule 2.20 and would not replace it.

6. This proposed provision will be reported to Selection and Member Services Committee, which will consider it on 27 January 2011. If this recommendation is agreed, it will be considered by the County Council on 6 April 2011.

RECOMMENDATION:

7. The Committee is recommended to note the Director of Law and Governance's advice that the votes of each individual Committee Member should be recorded on those occasions when the Head of Planning Applications Group's recommendation to grant permission or refuse an application is overturned. This advice will be reported to Selection and Member Services Committee and (subject to that Committee's agreement) to the County Council for proposed adoption into the Constitution.

Peter Sass: Head of Democratic Services and Local Leadership

Officer Contact: Andrew Tait
Democratic Services Officer
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PLANNING APPLICATIONS MEETING 20TH JANUARY 2011

I have given some considerable thought to this agenda item that is for noting.

This is a paper that for me lacks clarity. It does not clearly identify the reasons for a change in the constitution not does it explain what the legal implications are for the authority, the officers and members of the committee.

I suspect the paper has been produced following the decision of the committee to go against the officer recommendation on a recent planning application submitted to this committee.

Prior to the decision I believe there was some confusion on the motion and subsequently there was initially some confusion over the voting. I will come back to this point later.

The way in which this paper is constructed could well make members reluctant to vote against any recommendation of an officer in which case what is the point of a committee that merely “rubber stamps” officers recommendations. Paragraph 2 implies that only the professional advice of the officers will stand up at appeal or a judicial review. This supports my interpretation that the committee must “rubber stamp” all applications otherwise the authority would lose their case at either of the above appeal or review.

Paragraph 3 once again stresses that it is complex when the officers recommendations are overturned. we are told that “ the way in which each individual member voted can become a matter of legal significance “ what we are not told is to whom this becomes of legal significance or why it becomes a matter of legal significance. I consider that we as members should be given this information in this paper. If this is not possible then the legal implications will need to be spelt out at each committee meeting where it is apparent that an officer’s recommendation is to be overturned. What is the purpose of identifying each member in the vote in writing when a decision is made overturning an officer recommendation. The implication is that the authority considers that it will be able to identify those who voted against a recommendation and identify the members in order to pursue whatever course of action is open to the authority possible against those members for going against the advice of the officer.

I said I would come back to the issue of confusion.

I consider that it is essential that the committee receives clear legal advice on the issues arising in the event that a committee goes against an officers recommendation either for approval or refusal. This must in addition to any advice given by the planning officers.

It is clear to me that where there needs to be clear wording it must be fully minuted and that all members must understand the wording of the reasons given for refusal or approval and this even more important when going against officers advice.

If the reasons for the decision are difficult to draft which they have been on occasions in the past then the chairman should adjourn whilst a formal wording is drafted and when this is complete it can be brought back to the committee for approval or amendment. This would avoid the confusion that has sometimes occurred in the past.

I may be alone on this issue but I would be reluctant to approve this paper in its current form and would ask that it is withdrawn for further consideration and that consideration also be given for a much more detailed planning procedure document of best practice be drafted for our consideration and possible inclusion in the authority's constitution.

How do other planning and development control authorities handle this issue? Having only received the agenda this week I have not found the time to search the web.....

John Davies - 20.01.11

SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127

A report by Head of Planning Applications Group to Planning Applications Committee on 12 April 2011.

Application by Crossrail Ltd for a temporary (2011-2016) mixed use scheme consisting of a facility for receiving, handling, processing and transshipment of excavated material and a segment casting and storage facility with ancillary facilities and infrastructure (i.e. a Temporary Tunnelling Logistics Facility) at Northfleet Works, The Shore, Northfleet, Gravesend.

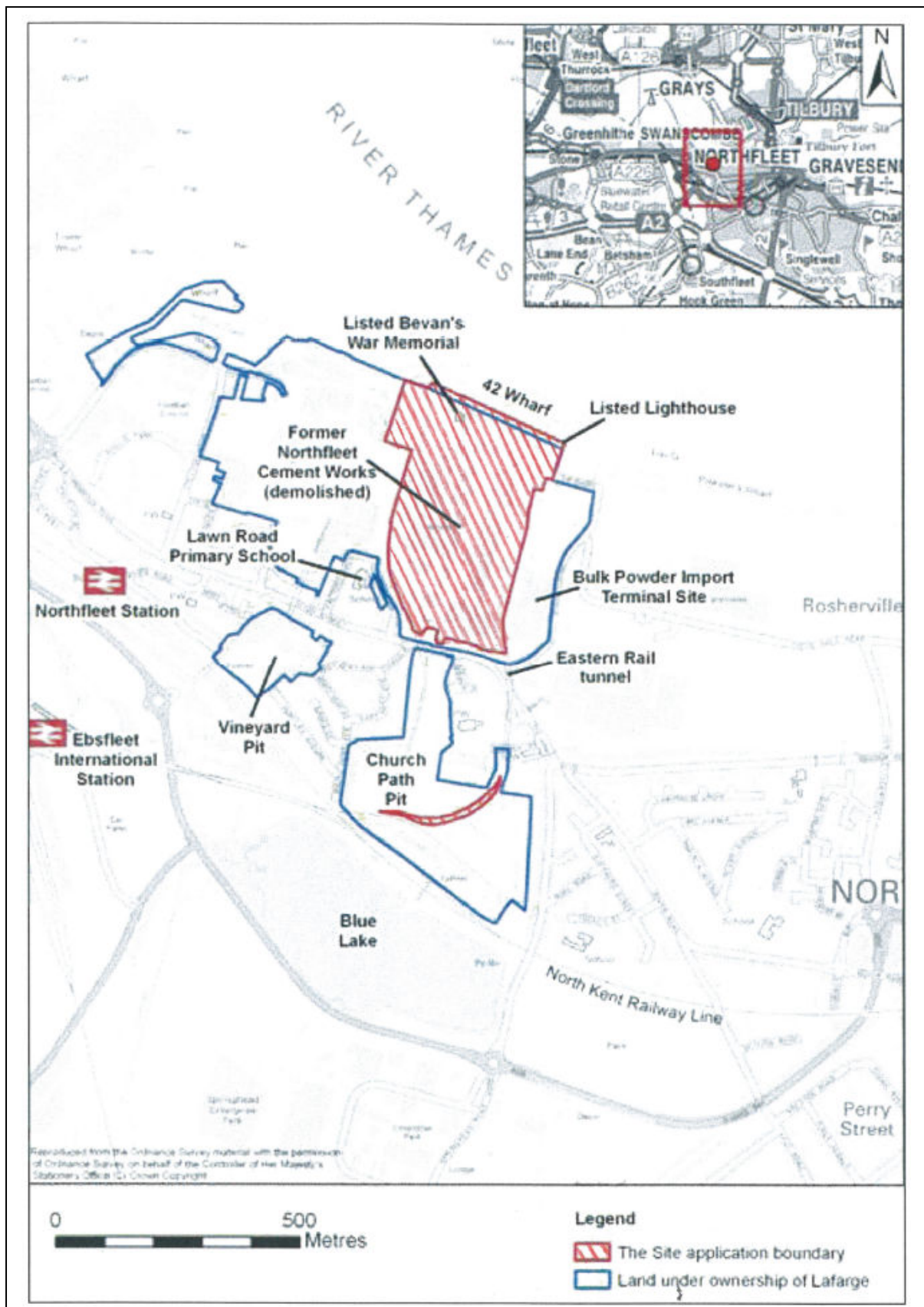
Recommendation: Planning permission be granted subject to conditions.

Local Members: Mr L Christie and Mr H Craske (Mr R Lees adjoining) Unrestricted

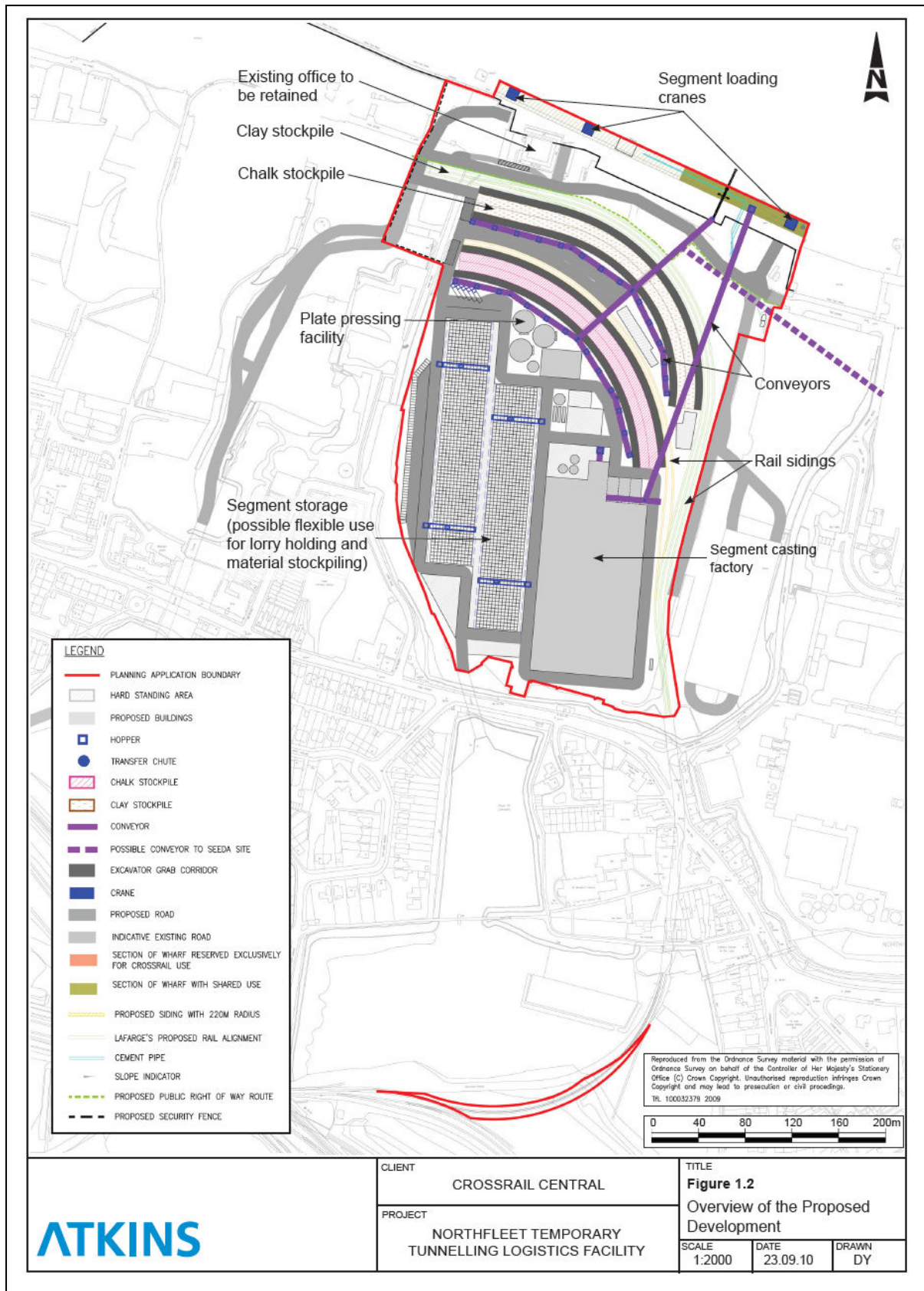
Site description and background

1. The application site occupies 13.4 hectares of the former Northfleet Cement Works site on the south bank of the River Thames in Gravesham. The site is bounded by the River Thames to the north, Lafarge Cement UK's bulk powders import terminal to the east, Northfleet High Street to the south and Lawn Road and the rest of the former cement works to the west. The application site also includes a small segment of land within Church Path Pit where the proposed rail access departs from its previous (permitted) alignment. The site location is shown on the drawing on page C1.2. The southern and majority of the western boundaries of the site adjoin high chalk cliffs such that the application site lies at least 20 metres lower than existing properties on Northfleet High Street and Lawn Road.
2. The application site is accessed via Vineyard Pit and two tunnels from the A226 Thames Way (also known as the South Thames Distributor Road 4 or STDR4), part of the Ebbsfleet Valley development. The southern road tunnel goes under the North Kent Railway line and also accommodates footpath NU7A which ascends from Vineyard Pit up to Ebbsfleet Walk. The northern road tunnel goes under Northfleet High Street and is designed for vehicular traffic only. Other road linkages exist from The Shore/Crete Hall Road to the east and Grove Road to the west. Access to the application site is also possible via Church Path Pit through disused rail tunnels and from the River Thames via 42 Wharf. Footpath NU42 passes through the site linking The Shore and Granby Road with The Creek, Lawn Road and Hive Lane (currently controlled due to health and safety issues associated with demolition and redevelopment of the site). Footpaths NU3 and NU6 (to the west of site) link footpath NU42 to The Creek and Hive Lane.

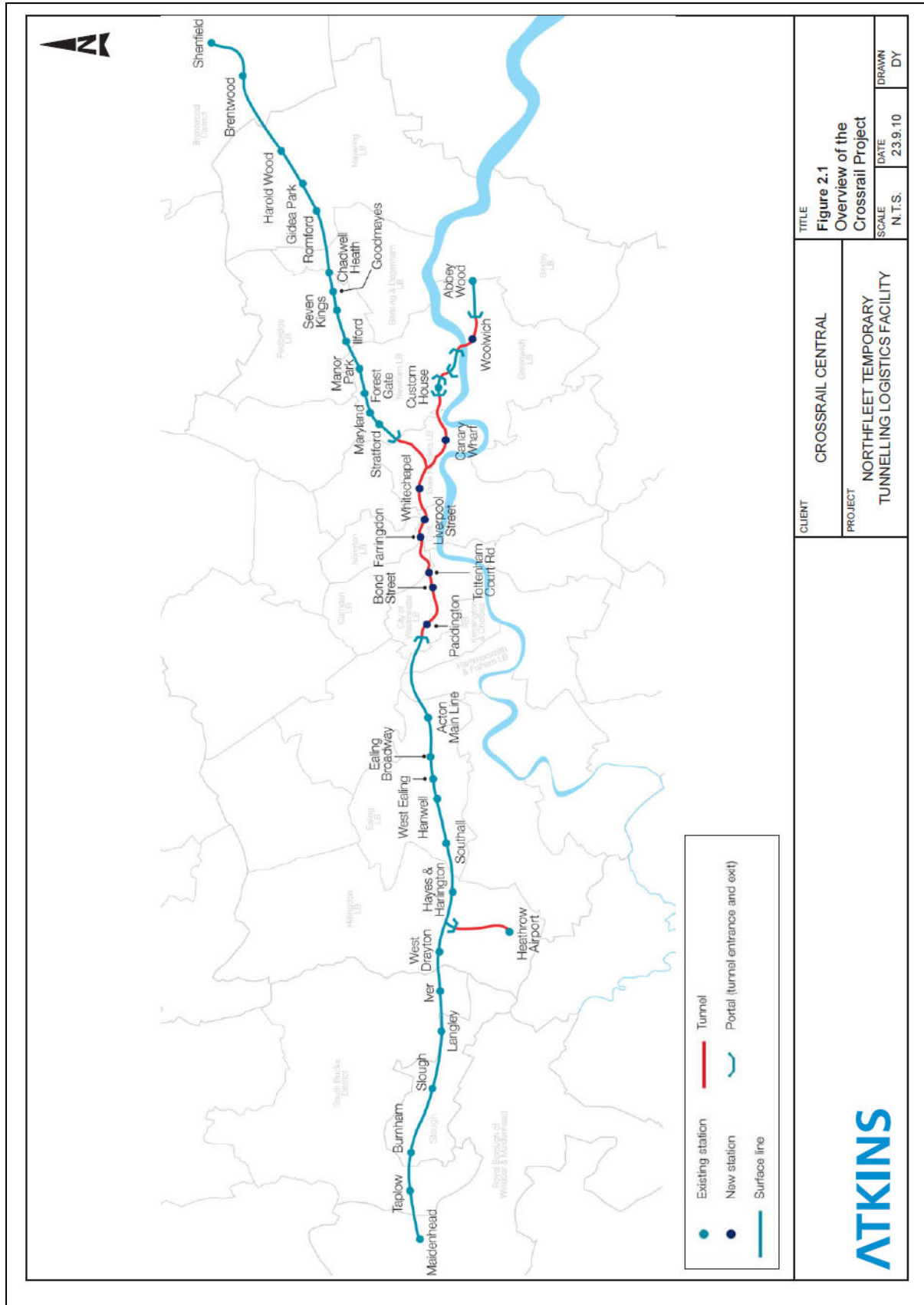
Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127



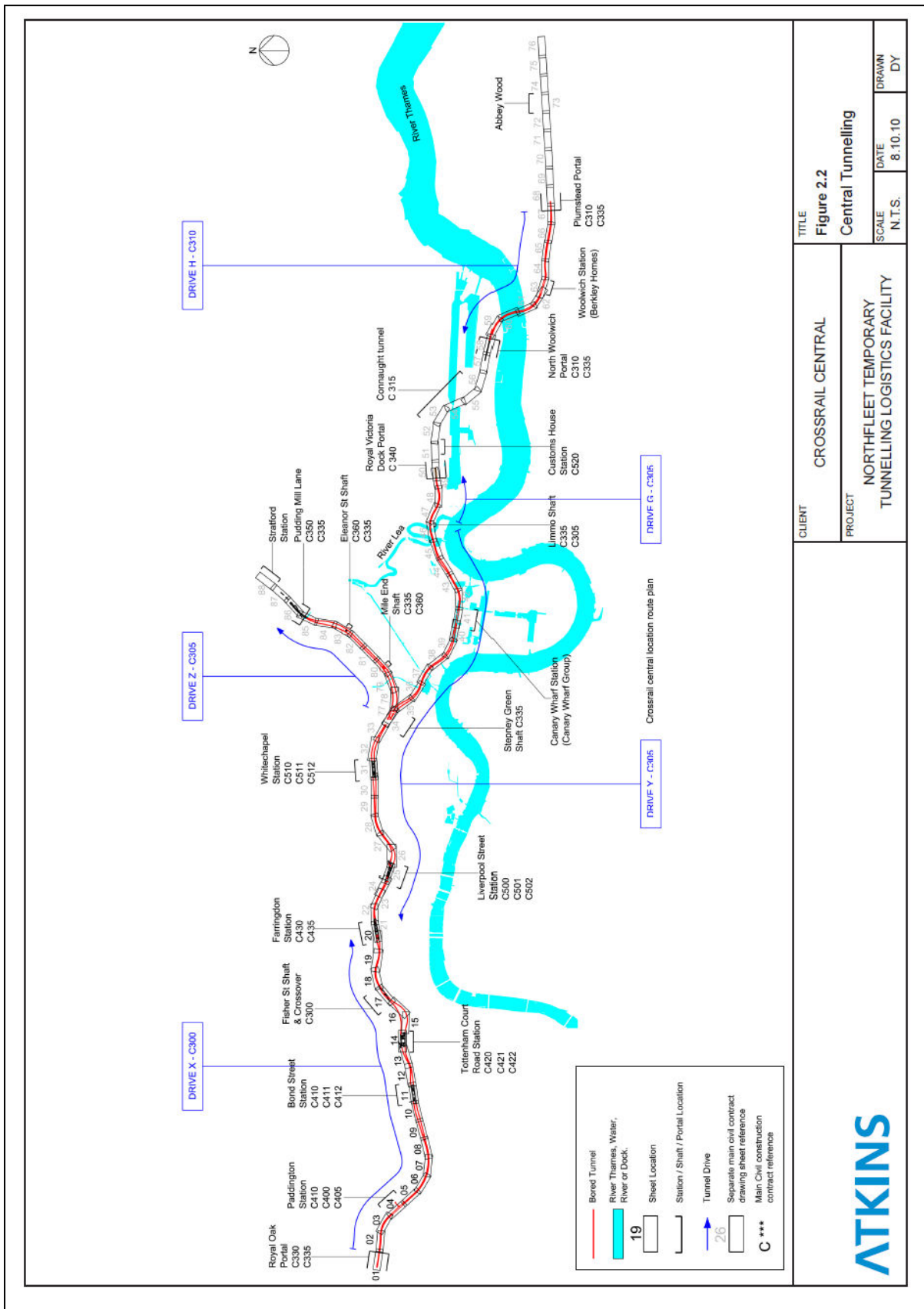
Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127



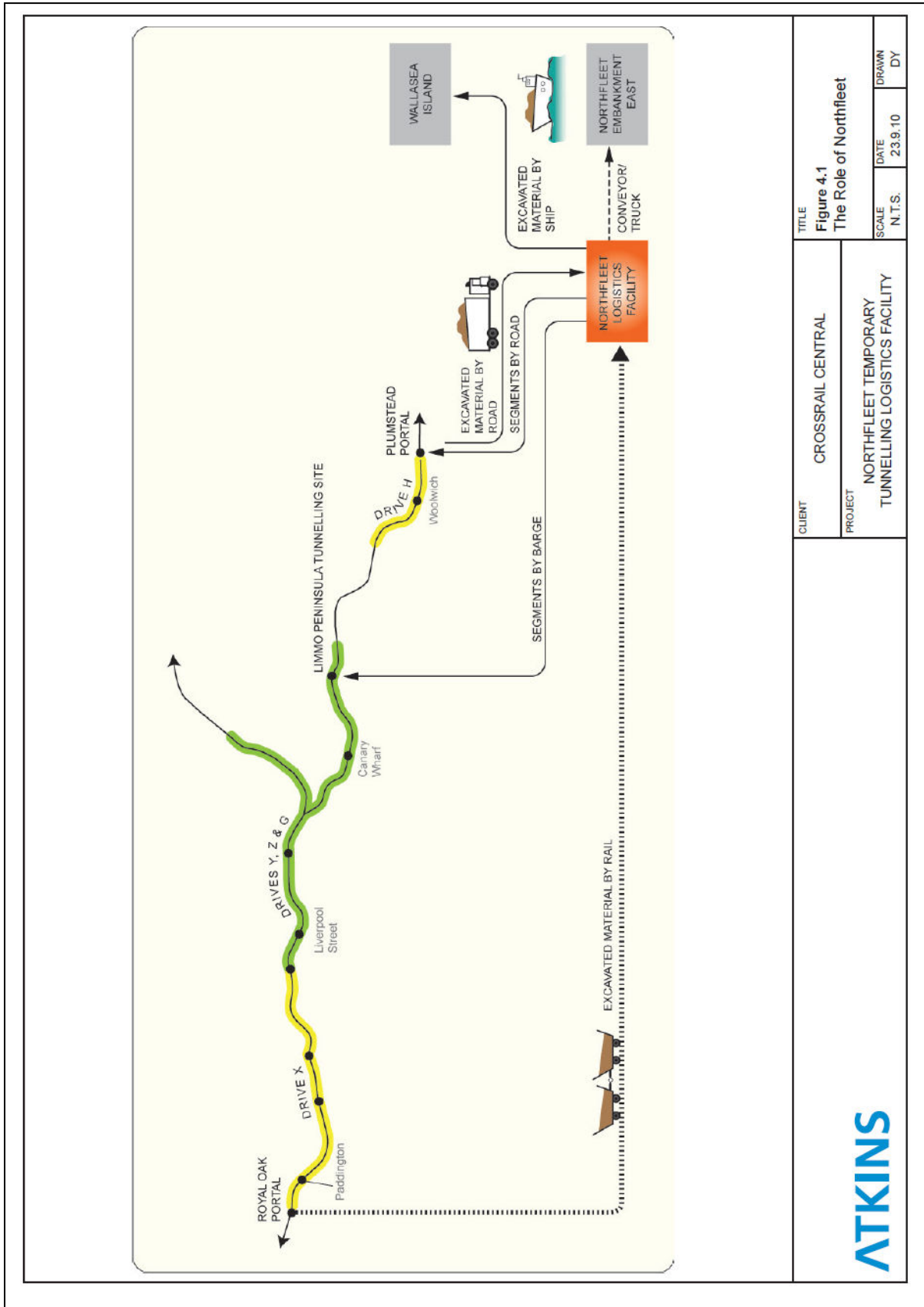
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Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127



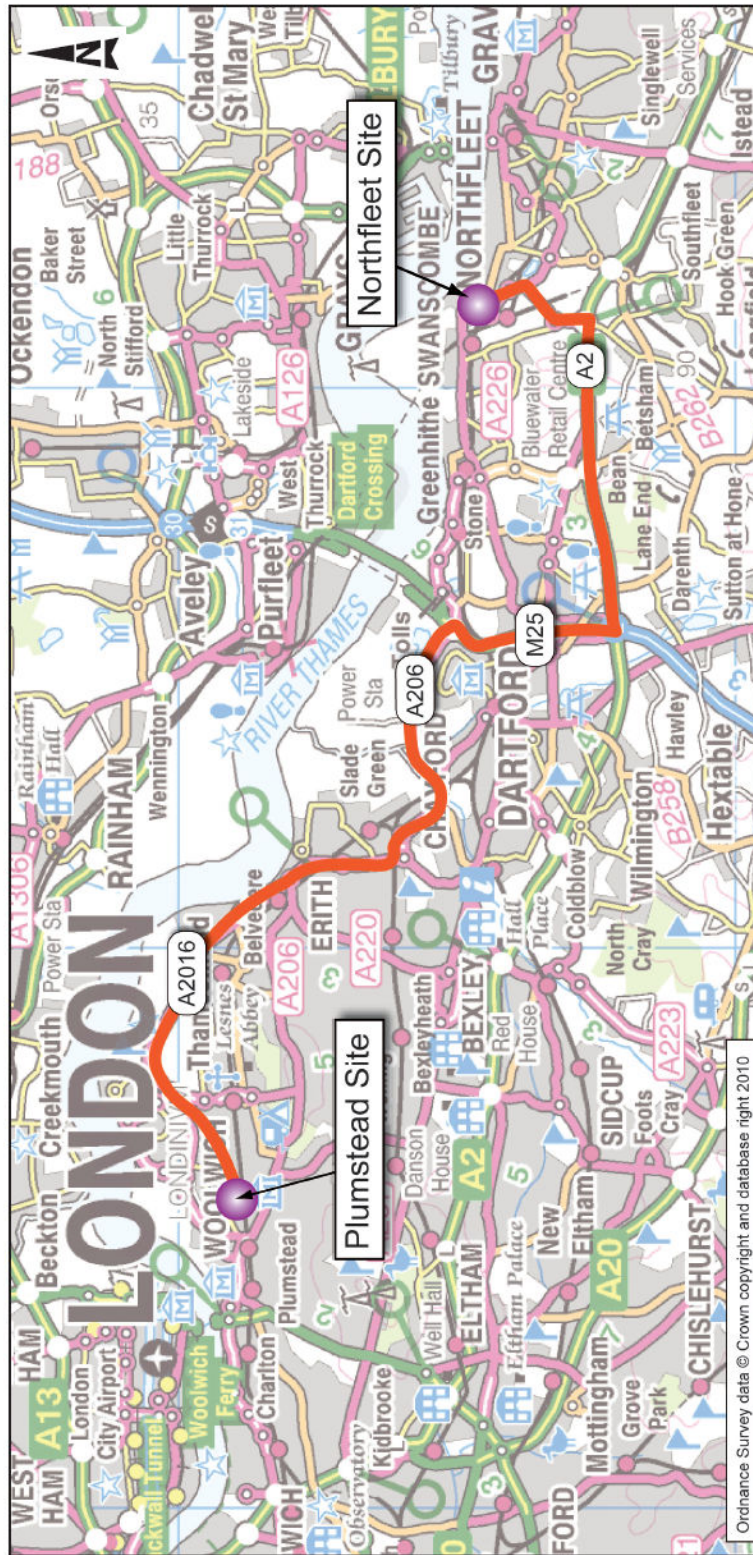
Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127



CLIENT	CROSSRAIL CENTRAL		
	PROJECT	NORTHFLEET TEMPORARY TUNNELLING LOGISTICS FACILITY	
TITLE	Figure 4.1 The Role of Northfleet		
SCALE	N.T.S.	DATE	23.9.10
DRAWN		DY	



Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127



Ordnance Survey data © Crown copyright and database right 2010

CLIENT	CROSSRAIL CENTRAL	TITLE	Figure 4.3 Proposed Lorry Route
	PROJECT	NORTHFLEET TEMPORARY TUNNELLING LOGISTICS FACILITY	SCALE N.T.S.
		DATE	23.9.10
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Application by Crossrail Ltd for a Temporary Tunnelling Logistics Facility at Northfleet Works, The Shore, Northfleet, Gravesend – GR/10/1127

3. The application site is allocated as part of an existing industrial area in the adopted Gravesham Local Plan First Review (1994) and as part of the Northfleet Cement Works / Land East of Grove Road Major Development Site in the Gravesham Local Plan Second Review Deposit Version (May 2000). It also lies within an air quality management area (AQMA) declared for industrial sources of fine airborne particles (PM₁₀). None of the site lies within any international, national or locally designated wildlife areas, although the main site access passes underneath that part of the Ebbsfleet Marshes Local Wildlife Site associated with the existing rail sidings. Northfleet Works contains two Grade II listed buildings (a war memorial adjacent to the main offices and Northfleet Lower Lighthouse located at the eastern end of 42 Wharf). A Conservation Area (The Hill), which forms the historic core of Northfleet (containing six listed buildings, including the Grade 1 listed Parish Church of St Botolph), lies just to the south of the main part of the application site on higher land at the eastern end of Northfleet High Street to the north east of Church Path Pit.
4. The County Council resolved to grant planning permission (GR/09/286) for a new Bulk Aggregates Import Terminal on the majority of the application site on 7 December 2010 subject to conditions and the prior completion of a Section 106 Agreement requiring (*amongst other things*): (i) a financial contribution towards highway schemes in the area; and (ii) a routing strategy to ensure that HGVs entering and leaving the site primarily use the A226 (Thames Way) and A2260 (Ebbsfleet Gateway) to access the A2 (Ebbsfleet Junction), avoid the A226 through the Borough of Dartford or other roads in the area where possible, do not use Grove Road and only use The Shore, Granby Road and Crete Hall Road in emergencies or for local deliveries. The Section 106 Agreement was completed on 18 February 2011 and the planning permission issued on 21 February 2011.
5. Gravesham Borough Council is dealing with three other applications on parts of the former Northfleet Cement Works which have yet to be determined:-
 - (i) an outline planning application (GR/09/238) for mixed use development (with all matters reserved for future determination) which covers the rest of the Northfleet Works site (including Church Path Pit and Vineyard Pit). This proposes up to 510 dwellings, 46,000sqm of employment floorspace, 850sqm of retail floorspace, 500sqm of public house/food and drink floorspace, 180sqm of community use, formal and informal open spaces including a footbridge link connecting Hive Lane to Factory Lane and transport infrastructure comprising reservation of land for Fastrack link (between 42 Wharf and the rest of the Bulk Aggregates Import Terminal);
 - (ii) an application (GR/09/385) for a tower, associated navigational equipment and ancillary building to house a generator, fuel tank, equipment, toilet and store to replace the navigational equipment currently on the office building at Northfleet Works; and
 - (iii) a listed building application (GR/10/612) for the relocation of the war memorial.
6. The Crossrail project, which will deliver a railway from Maidenhead (Berkshire) to Shinfield (Essex) and Abbey Wood (Greenwich), will include significant sections of tunnelling. These will primarily be north of the River Thames under central London but will also include sections further west in Hillingdon and south of the River Thames in Greenwich. Each of the sections of tunnel (constructed in “drives”) will be served from

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a construction site (and associated portal): Royal Oak in the City of Westminster (drive X); Limmo in Newham (drives Y, Z and G); and Plumstead in Greenwich (drive H). The extent of the Crossrail project and the locations of the tunnels and “drives” referred in this report are shown respectively on Figure 2.1 on page C1.4 and Figure 2.2 on page C1.5. Whilst all of the construction sites were identified and included in the Crossrail Act (such that deemed planning permission exists for their use), it has become necessary for additional sites to be identified and established for handling excavated material and casting segments to line the tunnels in support of these main sites. Although construction of Crossrail officially began in May 2009 (at Canary Wharf Station) and the main construction programme began in 2010 (including works on the Royal Oak Portal), tunnelling activity will not commence until late 2011.

7. The excavation of the tunnels will create substantial volumes of material (e.g. London clay, chalk, estuarine / marine deposits, sands, gravels and inert tunnel construction materials) for which there will be no viable options for re-use or recycling (the preferred waste management solutions set out in Crossrail’s waste management strategy) within land covered by the Crossrail Act. Whilst it had initially been intended that the materials would be disposed of at various landfill sites, Crossrail now intends to beneficially re-use the materials on other projects. The main recipient will be the RSPB reserve at Wallasea Island (Essex) where it will be used for the creation of coastal habitats in accordance with a planning permission granted by Essex County Council. Up to 6 million cubic metres (m³) of Crossrail material is expected to go to Wallasea Island. A site is therefore required to enable the onward transshipment of some of this excavated material to Wallasea Island. Other potential recipients include land at Northfleet Embankment East (between the application site and Gravesend) where SEEDA intend to raise land levels to prepare the land for future development and “future proof” the land against flooding (planning permission does not currently exist for this). The construction of the rail tunnels will also require the casting of large numbers of concrete tunnel lining segments. As there is insufficient space available for this activity at the tunnel portals, a site is also required for the manufacture and delivery of tunnel segments.
8. Crossrail seeks to transport excavated and other materials by rail and water wherever economically sustainable. Under the Crossrail Act, materials from Drive H were to be transported from Manor Wharf in Bexley. However, as that site is not rail linked, has restricted access and does not have sufficient capacity to carry out the activities required to support tunnelling activities, Crossrail needed to find a suitable alternative. The application site was selected as its preferred location for the proposed development as a result of the existing land use, rail and wharf access, train path availability, proximity to Plumstead, site size and site availability. Its proximity to the potential receptor site at Northfleet Embankment East was also a favourable factor.

The Proposal

9. The application seeks permission for a temporary mixed use logistics facility to support the construction of the Crossrail tunnels in central London. The facility would provide a flexible resource for the receipt, handling and transshipment of excavated materials and for the casting and dispatch of concrete segments to line the tunnels. As the primary use of the site is for handling excavated materials (waste), the application is being

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determined by the County Council as Waste Planning Authority. The facility would be required for 5 years (from 2011 to 2016) after which all the temporary facilities would be removed. The planning application seeks permission for:-

- Ground regrading and site preparation works;
- Canteen / welfare facilities (within the existing office building);
- Conveyors and associated plant;
- Segment loading facilities;
- Internal roads;
- Rail sidings;
- Areas for car parking and lorry holding;
- Weighbridge, wheel wash and sheeting / unsheeting areas;
- Supporting infrastructure and services (including security fencing, utilities, water treatment areas and a segregated public right of way); and
- Other minor works ancillary to the main proposals.

10. The proposed activities are (in summary):-

- The receipt and short term storage of excavated materials from Drive X (Royal Oak in the City of Westminster) by rail;
- The receipt, processing and short term storage of excavated material from Drive H (Plumstead in Greenwich) by road and/or possibly rail;
- The loading of excavated material onto ships for transport to Wallasea Island;
- The casting of tunnel segments to support up to six tunnel boring machines serving some or all of Drives H (Plumstead in Greenwich), Y, Z and G (Limo in Newham); and
- The delivery of tunnel segments to Drive H (Plumstead in Greenwich) by road and/or possibly rail and Drives Y, Z and G (Limo in Newham) by water.
- It is also possible that tunnel segments could be provided to Drive X (Royal Oak in the City of Westminster) by rail although these are planned to be manufactured and delivered from elsewhere.

An overview of the proposed facility is included on Figure 1.2 on page C1.3 and the role of Northfleet in the Crossrail project is illustrated indicatively on Figure 4.1 on page C1.6.

11. Facilities for the handling of excavated materials would be located on the northern part of the site near 42 Wharf and those for the manufacture of segments on the southern part of the site. The application proposes the following buildings and structures:-

- Two sets of rail sidings emerging from a tunnel in the south east corner of the site;
- Two linear stockpiles (one for clay and one for chalk) adjacent to the rail sidings covering an area of approximately 8,700 square metres (m²). The stockpiles would be up to 6m high and on concrete paved areas, delineated with 2m concrete stub walls;
- A small quarantine hardstanding area for holding potentially contaminated material in skips pending confirmation that it is either suitable for handling with the bulk material or requires removal off-site;
- A prefabricated enclosed overhead conveyor system for the movement of

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excavated material into barges. This would comprise a central elevated conveyor which would be fed by feeder conveyors from hoppers at ground level which would be loaded with a loading shovel. The conveyor system would terminate in a discharge point provided by a ship loading facility at the edge of 42 Wharf. The ship loading facility would be supported from the existing wharf piles;

- A plate pressing facility (covering an area of about 850m²) for dewatering chalk (if required) consisting of five receiving hoppers, three storage tanks, a bank of plate/filter presses or a belt press and water treatment tank/equipment;
- A single storey factory building (about 190m long, 90m wide, 14m high at its highest point and 14.5m to eaves and covering an area of 15,632m²) for batching concrete, casting and cutting tunnel segments, the overnight storage of segments and administrative and support facilities and functions. The facility would be capable of manufacturing about 30 rings (of 8 segments each) per day. Raw materials would be stored externally in silos and aggregate bins;
- An external storage area (adjacent to the segment casting facility) to stockpile the completed segments. The segment storage areas would be on a concrete slab, served by 4 mobile gantry cranes and would occupy an area of approximately 19,400m². Segments would be stored in packs and stacked to a maximum height of 4.5m. The area would be used flexibly and may be used for lorry holding, as a general logistics area and/or for the temporary storage of overflow excavated material.
- A prefabricated enclosed conveyor linking the segment casting factory to 42 Wharf for transporting sand and aggregate arriving by ship at the wharf for use in producing concrete for the segment casting process. Three open-topped and open-fronted concrete-walled aggregate storage bins to receive the incoming aggregate. A quayside hopper would receive aggregate. This would be founded on piles and require the construction of a bridging slab or other superstructure to transfer hopper loads to the wharf piles. Three open-topped and open-fronted concrete-walled aggregate storage bins would be constructed to receive the incoming aggregate;
- There would be three points for the loading of completed tunnel segments onto barges by crane. Each segment loading facility would consist of a 35m crane erected on a superstructure supported by the existing wharf piles and shore. Segments would be loaded from vehicles parked either adjacent to the crane (where wharf loading restrictions allow) or on an extension to the superstructure (where additional loading capacity is required). The segment loading facilities may be mobile plant, to enable a single facility to serve more than one loading point. The structures would comprise an elevated deck, supported from the existing crane rails / beams and piles, together with a ramped section leading to / from the land side of the existing sheet piled quay wall. Vehicular access would be by the existing gates in the flood wall;
- The existing administration building would be refurbished with minor alterations to provide kitchen / canteen facilities on one floor and office / administration facilities in the remainder of the building. External alterations may include a ramp to provide access for people with mobility impairments and additional ventilation outlets;
- A range of support facilities would also be required (e.g. bunded fuel tanks, an oil holding tank and water treatment facilities);
- HGV unloading and temporary parking areas, a weighbridge and associated wheel wash and sheeting / unsheeting areas;

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- Parking spaces for 75 cars (4 disabled) and 5 motorcycles would be provided on the existing hardstanding to the west of the office building and on the western side of the site for Crossrail use. 10 cycle stands would also be provided; and
 - An internal road network, services / utilities, drainage and minor infrastructure such as separation fencing, signage and security gates.
12. Much of the excavated material from the Plumstead Portal is likely to be chalk slurry which would need dewatering prior to transshipment to Wallasea Island. This may be done at Northfleet or at Plumstead. All of the material from the Royal Oak Portal would be clay and is expected to be free of contamination. A total of 1.5 million m³ of excavated material from the tunnels would be delivered to Northfleet, 66% of which would come by rail from the Royal Oak Portal. The rest of the Crossrail tunnel arisings will be transported to Wallasea Island from other locations.
13. The principal road access would continue to be via the private road from the roundabout on the A226 Thames Way. Access via Grove Road / The Creek to the west and The Shore / Crete Hall Road to the east are proposed for occasional and emergency use only. Pedestrians and cyclists could continue to access the site via Granby Road, Hive Lane and the Creek. Water access would be provided by 42 Wharf. The eastern section of the wharf would be made available for use by Crossrail with parts continuing to be used by Lafarge for the adjacent bulk powders import terminal and other activities. The applicant states that a protocol would be agreed to ensure that the wharf functions effectively for all of the required operations. Rail access would be provided from the North Kent Line via the reinstated rail sidings through Church Path Pit. The applicant states that Lafarge may use the rail sidings to serve the existing bulk powders import terminal would use the sidings for the bulk aggregates import terminal once the Crossrail occupation of the site has ceased.
14. The applicant states that the clay material delivered from the Royal Oak Portal would arrive on a maximum of 4 trains a day, 7 days a week and that 5 train paths a day have been booked with arrival / departure times including late at night and early in the morning. The excavated material is programmed to arise for approximately 18 months during 2012 and 2013. The delivery of stockpiled material to Wallasea Island by barge is expected to last for about 2.5 years and result in up to 4 ships a day. Ship movements would be influenced by the tide and weather such that it would be necessary for there to be the flexibility to load ships 24 hours a day, 7 days a week. The number of HGV movements per day associated with excavated materials (from the Plumstead Portal) would depend on the progress rate of tunnelling, whether the tunnelling is in sequence or parallel, whether the material is dewatered at Plumstead and whether a proportion is transported by rail. In a worse case scenario, the average could be around 150 HGV loads per day (300 movements) with a maximum of 280 HGV loads per day (560 movements) over a 12 month period. These numbers could reduce significantly in other scenarios (including those where movements take place over a longer time period (12 to 18 months) or where materials are able to be transported by rail. Based on the programme for Drive H these HGV movements to take place (as necessary) during 2012, 2013 and 2014. The delivery of sand and aggregate for the production of tunnel segments would result in up to 2 self-unloading vessels visiting the site each day. Cementitious powders and fibres could be delivered by road in a maximum of 18 HGVs (36 movements) a day for about 2.5 years. The delivery of tunnel segments by road to the Plumstead Portal could give rise to an

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average of 12 HGV loads a day and 23 loads maximum if the tunnelling is undertaken in sequence but up to 46 loads maximum if the tunnelling is undertaken in parallel. Segments to Limon in Newham would all go by barge. On the basis of the above, the worst case for HGV numbers associated with the importation of excavated materials and cementitious powders and fibres to Northfleet and the export of tunnel segments from Northfleet could be as high as 344 loads (688 movements) a day. The applicant proposes the preparation of an HGV Management Plan and the use of a “preferred lorry route” between the Plumstead Portal and Northfleet (i.e. using the A2016, A206, M25, A2, B259, A2260 Ebbsfleet Gateway and A226 Thames Way). This route is shown on Figure 4.3 on page C1.7.

15. Crossrail tunnelling activities would be carried out 24 hours a day, 7 days a week. HGV movements associated with Crossrail construction activities would normally be between 07.00 and 19.00 hours Monday to Friday and 07.00 and 14.00 hours on Saturdays (i.e. core working hours plus an additional hour in the morning and evening). As a result of concerns expressed by Kent Highway Services during pre-application discussions about the operation of Junction 1A of the M25 during the afternoon peak (i.e. between 16.00 and 19.00 hours), the applicant has explored the option of HGV movements taking place outside normal working hours. As a result, the impact of 24 hour HGV movements was included in the noise assessment submitted with the application. Whilst the noise assessment predicts no significant noise impacts in the Northfleet area, the applicant states that further analysis is being undertaken to explore the likely noise impacts of HGV movements at night. In the event that these assessments demonstrate that night time noise impacts are within the relevant criteria, it proposes that HGV movements be permitted 24 hours a day, 7 days a week. However, the applicant has stated that it would accept a condition that only allows HGVs to enter and leave the Northfleet site between 07.00 and 19.00 Monday to Friday and 07.00 and 14.00 on Saturdays until it has been demonstrated that impacts associated with HGV movements outside these hours are acceptable. It also proposes that site set up and mobilisation activities would only be undertaken between 08.00 and 18.00 hours Monday to Friday and 08.00 and 13.00 hours on Saturdays.
16. Segment production would take place for about two years and the facility would operate 24 hours a day, 7 days a week. Activities associated with segment production that would take place outside normal working hours would generally be carried out within the factory building in order to minimise noise and disturbance. Activities that may occur outside the building outside normal working hours are the intermittent use of a loading shovel to load aggregates into hoppers (approximately 20 minutes every 2 hours), elevators to move aggregates from ground level up and into dispensing hoppers for batching and the use of a fork lift for handling bags of steel fibres. Other activities that would take place 24 hours a day 7 days a week, are the importation of excavated materials by train and export by ship, the importation of construction materials by rail or ship / barge, the export of tunnel segments by rail or barge and the loading / unloading, handling and transfer of these materials / products on site.
17. The applicant proposes to close public footpath NU42 and provide an amended alignment to connect the Shore with footpath NU3, the Creek and Hive Lane to the west. The link to Lawn Road would remain closed for the duration of the proposed facility. The footpath would be fenced with 2.4m high security fence to ensure that members of public cannot access the operational areas of the site and to provide port

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security fencing for the wharf. The realignment of the public right of way would be the subject of an Order made under the Road Traffic Regulation Act. The two listed structures on the site would be provided with appropriate protection measures to ensure that they are not damaged (e.g. the installation of Jersey barriers (concrete blocks) and 2.4m high timber hoarding). Where development is proposed within 15m of the flood defence wall on the landward side (e.g. site access roads, car parking and two conveyors and their supports) it has been designed so as not obstruct the maintenance of the flood defence wall or prevent any necessary maintenance. For example, the conveyors would be elevated in the vicinity of the wall (to heights of approximately 4.5m and 5.7m) and it would be possible to work around any conveyor supports that need to be positioned close to the flood defence wall. The applicant also states that there is the potential for a conveyor to be installed to link the site directly with Northfleet Embankment East should planning permission be obtained for this and the use of materials at that location.

18. The applicant expects the proposed development to create a range of jobs including 6 managerial posts, up to three shifts of approximately 40 operational staff carrying out industrial jobs and 10 support posts (e.g. site security, fitters / electricians, catering and administration). The exact number will be dependent on the precise range and extent of activities carried out at the site. The applicant also states that as part of its commitment to offer local people the opportunity to increase their skills and become involved in the project, it is working with Jobcentre Plus (a job brokerage service which sources job-ready candidates for contractor vacancies and supports local people in applying for jobs).
19. The application is accompanied by an Environmental Statement and a number of technical reports. It also includes the Crossrail Construction Code (a requirement of the Crossrail Act 2008) which sets out the requirements that all contractors and sub-contractors must comply with during Crossrail works, including site investigation and remediation, demolition, material delivery, excavated material disposal, waste removal and all related engineering and construction activities. It also includes generic mitigation measures identified within the environmental statement. The Crossrail Construction Code also sets out those matters which those responsible for site operations will discuss and agree as necessary with regulators (including local authorities) and the range of environmental issues that would be covered by Environmental Management Plans. Subject to the nature of the location and site these may include some or all of the following:-
 - area management plan, providing general details of implementation, including working hours, site layout and site appearance;
 - emergency plan, including pollution incident controls;
 - community liaison plan;
 - lorry and traffic management plans;
 - green travel plan;
 - noise and vibration management plan;
 - dust management plan;
 - lighting management plan;
 - site waste management plan;
 - ecological management plan; and

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- water management plan.

The Crossrail Construction Code states that the nominated undertaker will obtain consents from the relevant local authority under Section 61 of the Control of Pollution Act 1974. This provides a mechanism for detailed controls on noise and vibration to be imposed, together with the application of Best Practical Means, to minimise impacts associated with construction activities. It also provides for the imposition of monitoring and review of operations over time and could reasonably be applied for all of the proposed activities for the duration of the works. The applicant has confirmed that it would be happy to comply with the requirements set out in the Construction Code and for this to be a conditional of any planning permission granted for the proposed development.

Planning Policy Context

- 20. National Planning Policies** – the most relevant National Planning Policies are set out in PPS1 (Delivering Sustainable Development), Supplement to PPS1 (Planning and Climate Change), PPS4 (Planning for Sustainable Economic Growth), PPS5 (Planning for the Historic Environment), PPS9 (Biodiversity and Geological Conservation), PPS10 (Planning for Sustainable Waste Management), PPG13 (Transport), PPG14 (Development on Unstable Land), PPS22 (Renewable Energy), PPS23 (Planning and Pollution Control), PPS24 (Planning and Noise), PPS25 (Development and Flood Risk), Supplement to PPS25 (Development and Coastal Change).
- 21. South East Plan (May 2009)** – These include Policies CC1 (Sustainable Development), CC2 (Climate Change), CC3 (Resource Use), CC4 (Sustainable Design and Construction), CC7 (Infrastructure and Implementation), RE3 (Employment and Land Provision), T1 (Manage and Invest), T2 (Mobility Management), T8 (Regional Spokes), T10 (Ports and Short Sea Shipping), T11 (Rail Freight), T12 (Freight and Site Safeguarding), T14 (Transport Investment and Management Priorities), NRM1 (Sustainable Water Resources and Groundwater Quality), NRM2 (Water Quality), NRM4 (Sustainable Flood Risk Management); NRM5 (Conservation and Improvement of Biodiversity), NRM9 (Air Quality), NRM10 (Noise), W2 (Sustainable Design, Construction and Demolition), W3 (Regional Self-Sufficiency), W4 (Sub-Regional Self-Sufficiency), W5 (Targets for Diversion from Landfill), W16 (Waste Transport Infrastructure), W17 (Location of Waste Management Facilities), C6 (Countryside Access and Rights of Way Management), C7 (The River Thames Corridor), BE6 (Management of the Historic Environment), KTG1 (Core Strategy), KTG2 (Economic Growth and Employment) and KTG6 (Flood Risk).
- 22. Kent Waste Local Plan (March 1998)** – These include saved Policies W3 (Locational Criteria), W6 (Need), W7 (Re-use of Category A Waste), W18 (Noise, Dust and Odour Control), W19 (Ground and Surface Water Interests), W20 (Land Settlement, Stability, Land Drainage and Flood Control), W21 (Nature Conservation), W22 (Road Traffic and Access), W25 (Siting, Design and Appearance of Plant and Buildings), W25A (Re-use of Buildings and Site Features), W27 (Public Rights of Way), W31 (Landscaping Schemes) and W32 (Operation and Restoration Schemes).
- 23. Gravesham Local Plan First Review (1994)** – These include saved Policies E1

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(Existing Industrial Areas), TC0 (General Townscape, Conservation and Design), TC1 (Design of New Developments), TC2 (Listed Buildings), TC3 (Development Affecting Conservation Areas), TC5 (Archaeological Sites), TC6 (Scheduled Ancient Monuments), TC7 (Other Archaeological Sites), TC10 (Landscaping), C8 (Sites of Nature Conservation Interest), LT8 (Public Rights of Way), T0 (General Policy for Transport), T1 (Impact of Development on the Highway Network), T3 (Development not well related to the Primary and District Distributor Network), T14 (CTRL), R1 (The Commercial Riverside – Maintenance of the River Frontage for Water Transport) and R2 (The Commercial Riverside – Wharves).

24. **Gravesham Local Plan Second Review Deposit Version (May 2000)** – These include Policies MDS3 (Major Development Site – Northfleet Cement Works / Land East of Grove Road), T1 (Location of Development), T12 (New Access on Highway and Public Transport Network), T14 (Freight), T15 (Construction Traffic), T16 (Car Parking Standards), E1 (Existing Employment Areas), E4 (New Employment Areas), E6 (Trees and Landscaping within New Developments), NE7 (New Landscaping and Wildlife Enhancement Initiatives), NE12 (Statutorily Protected Species), NE15 (Contaminated Land and Landfill Sites), NE16 (Air Quality), NE19 (Noise-Generating Development), NE20 (Artificial Lighting), NE21 (Water Quality), NE23 (Tidal Flood Risk Area), NE24 (Energy Efficiency), BE1 (Townscape, Conservation and Design), BE2 (Conservation Area Designation, Review and Protection), BE4 (New Development Within or Adjacent to Conservation Areas), BE7 (Statutorily Listed Buildings), BE9 (Scheduled Ancient Monuments, Sites of Archaeological Interest and other Historic Sites), BE10 (Locally Important Archaeological Sites), BE12 (Design of New Development, Extensions and Alterations), TR3 (Public Access to the Riverside), TR4 (Thames Tidal Defences), LT11 (Development Affecting a Public Right of Way) and LT12 (Improvements to the Public Rights of Way Network).

Consultations

25. **Gravesham Borough Council** – No objection to the principle of the proposed development subject to the imposition of planning conditions and other satisfactory safeguards to control the use and limit impacts in relation to potential harm to local amenity and traffic using local highways. Requests that the conditions set out in Appendix 1 be imposed.
26. **Dartford Borough Council** – No objection subject to the HGV Management Plan being implemented in accordance with the details set out in the application.
27. **London Borough of Bexley** – Has expressed concerns about the impact of up to 280 HGVs each (12 hour) day for 18 months travelling between Plumstead and Northfleet on roads in Bexley. Has suggested that the impact could be diluted by extending the operating period but explained that any HGV movements between 21.00 and 07.00 hours Monday to Friday (including Friday night / Saturday morning) and between 13.00 on Saturday and 07.00 hours on Monday on excluded routes under the London Lorry Control Scheme (e.g. the A2016 Eastern Way and Western Way) would require the consent of London Councils. Has advised that many of the junctions within Bexley along the proposed route already suffer from congestion, that the proposals would exacerbate the problem to the detriment of local residents and that no assessment of

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these junctions in Bexley has been carried out. It also points out that the Crossrail Act proposed to transport material from the Plumstead portal via Manor Wharf at the northern end of Norman Road such that fewer roads in Bexley would be affected (and those to the east would not have been affected at all). Implores the applicant to seek to move the maximum amount of excavated material from, and to deliver tunnel segments to, the Plumstead site by rail. In summary, it is concerned that the proposal would result in additional impact on the Borough's roads to the detriment of the environment and residents.

28. **London Borough of Greenwich** – No objections.
29. **Essex County Council** – No objection. Has confirmed that planning permission was granted on 9 July 2009 for the importation by sea and the disposal of 7.5 million cubic metres of high quality recovered inert material for landraising at Wallasea Island, Rochford. It states that the Section 106 Agreement associated with this permission requires the majority of the imported waste materials to be from the Crossrail tunnelling project and that the material must be clean, inert and uncontaminated. Material must be imported via the River Crouch and not via the public highway and for the site to be completed and reinstated by 31 December 2019. It also states that there are currently no proposals for wet chalk slurry to be imported although details of dewatering basins have been approved in the event that this facility is required and that a Shipping Management Plan has been approved (including sailing times to be avoided and mechanisms for communicating with the Crouch Harbour Authority) and would need to be complied with.
30. **Swanscombe and Greenhithe Town Council** – Has requested that all necessary consultations are undertaken and taken into account and that the proposed development does not add to or increase the amount of traffic using London Road (given the local problems with traffic on that road).
31. **Highways Agency** – No objection. Has requested that a suitable HGV Management Plan be required by condition and be implemented.
32. **Kent Highway Services** – No objection subject to the following:-
 - 5-year temporary planning permission;
 - no more than 688 HGV movements (344 in and 344 out) associated with the development per day;
 - no development to take place until an HGV Management Plan has been submitted and approved by the County Council;
 - no operations to take place until a Travel Plan has been submitted to and approved by the County Council – this Plan to state what actions will be taken to minimise traffic impact in the peak period (e.g. by encouraging walking, cycling, use of public transport, lift sharing, etc);
 - no operations to take place until an entrance to the facility from the re-opened right of way between The Shore and The Creek has been provided (to enable workers and visitors access the site on foot and cycle);
 - wet excavated materials must be transported by lorries with water-tight load compartments (to avoid the risk of wet slippery deposits on the carriageway);

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- all vehicles to have their wheels washed when exiting parts of the site used for unloading excavated materials, stockpiles, plate-pressing, segment storage and factory work; and
- the applicant funding the optimisation of the traffic signals at the junction of the A226 Thames Way and A2260 Ebbsfleet Gateway if excavations are to be brought from the Plumstead portal by road on the basis that the applicant's own modelling work shows that the junction is likely to be over capacity, that traffic associated with the proposed development would clearly contribute to the problem, that the modelling indicates that the junction can be brought back within capacity by optimising the traffic signal times on the three arms of the junction and as optimisation would reduce delays to the development traffic. Suggests that this could be secured under Section 278 of the Highways Act 1980.

Also advises that as the traffic modelling has used growth factors for Northfleet rather than the higher growth factors for the Borough of Dartford (which were specifically requested since most of route between the site and the A2 lies in Dartford) the traffic volumes are somewhat under-estimated and queues will be longer than predicted. On this basis, and to minimise congestion and environmental impact elsewhere, Crossrail should be encouraged to transport the maximum possible amount of excavated material and tunnel segments by rail.

Also advises that the HGV Management Plan should (amongst other things) set out the approved access route(s) between Crossrail tunnels and the development site (main access road through Vineyard Pit, A226 Thames Way, A2260 Ebbsfleet Gateway, A2, M25 Junction 1A), permitted diversion routes (B255 St Clements Way and A206 Crossways Boulevard if there is a blockage on the M25 and Crete Hall Road and Rosherville Way if there is a blockage on the main access road), prohibited routes (e.g. A226 Galley Hill Road, Springhead Road, College Road, A226 Overcliffe and B261 Old Road West), approved access route for export of excavations to other parts of Northfleet Embankment: via The Shore, Granby Road and Crete Hall Road (if permitted), arrangements for dealing with emergencies / road closures, instructions for drivers, arrangements for investigating and dealing with contraventions, marking of Crossrail HGVs, recording and provision of HGV movements, avoidance of convoys, HGV sheeting and the provision of signage at key junctions on the A226, A2260 and A2 to encourage the use of the approved route.

33. **Port of London Authority** – No objection subject to conditions to:-

- limit the height of any loading crane or other structure on the wharf to no more than 20m (as opposed to the 35m initially proposed); and
- require the submission to and approval by the County Council of a detailed lighting scheme which ensures no adverse impacts on navigation (to be implemented and maintained thereafter).

It has also sought the imposition of a condition(s) designed to maximise the use of the River Thames for the transportation of materials to and from the site.

34. **Environment Agency** – No objection subject to conditions to:-

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- address all aspects of potential contamination at the site;
- prevent piling or other foundation designs using penetrative methods or infiltration of surface water drainage into the ground unless it has been demonstrated that there is no resultant unacceptable risk to groundwater or controlled waters;
- the development not commencing until a scheme to identify and provide a safe route into and out of the site to an appropriate safe haven has been submitted to and approved in writing by the County Council (to be implemented and maintained thereafter).

Has also commented that despite the presence of tidal flood defences, the proposed development could be subject to inundation following a breach of the defences or from groundwater and provided advice on waste, fuel / chemical storage and the need for its prior approval for works or structures within 15m of the bank of the River Thames.

35. **KCC Noise, Dust and Air Quality Consultant (Jacobs) – Dust / air quality:** Advises that the air quality assessment indicates that the increase in traffic as a result of the proposed development during construction and operation would have an insignificant impact upon the nearby sensitive receptors and that the detailed modelling (ADMS) of the air pollutant concentrations of nitrogen dioxide and particulate matter remain well below the air quality objectives such that no further action is required. Also advises that whilst the on-site operations would generate some dust, the design of the site and the dust minimisation measures as set out in the Crossrail Construction Code would alleviate possible dust nuisance.

Noise: Advises that the environmental statement and associated appendices demonstrate that the proposed development could take place within the noise limits set out in the Crossrail Act and that noise (and vibration) impacts could be satisfactorily controlled by the implementation of the measures set out in the Crossrail Construction Code, including the prior approval of related operations through submissions made to Gravesham Borough Council under Section 61 of the Control of Pollution Act 1974.

36. **Natural England** – No comments.
37. **KCC Biodiversity Projects Officer** – Has advised that the mitigation proposed in the environmental statement relating to bats and black redstarts must be carried out to minimise the potential impact on these protected species and that further monitoring must also be undertaken. Has also advised that the proposed foraging habitat (including a new song post) should be created and established prior to works that may affect black redstarts. Notes that the Crossrail Construction Code proposes that these and related issues would be addressed by the submission, approval and implementation of an Environmental Management Plan.
38. **KCC Rights of Way (Countryside Access Service)** – Has no objection to the proposals as they reflect the approach agreed during various meetings and discussions with Lafarge and Crossrail. Has advised that:-
- footpaths NU3 and NU6 have been re-opened following clearance / site preparation works by Lafarge;
 - a further 12 month extension for the closure of footpath NU42 has been sought to

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allow the rail sidings and other works to be completed;

- any footpath should be 2m wide (for pedestrians);
- further discussions are required on the best means of control for vehicles crossing footpath NU42 (this could be manned or preferably signalised);
- the footpath link would need to be achieved by means of a traffic regulation order (and provision of the alternative route) or a diversion order (costs to be borne by Crossrail or Lafarge); and
- cycle access could be provided whereby those who ride to work could use the access road and then walk over the footpath or Lafarge (as landowner) could give a permissive right of access for cyclists. In the latter case, the footpath would need to be widened to at least 2.5m.

Also notes that the footpath route would be subject to further change (including the provision of a cycle path) when the bulk aggregates import terminal and mixed use proposals are implemented.

39. **English Heritage** – No objection subject to the protection of the Bevans War Memorial and Northfleet Lighthouse (both Grade 2 Listed) and KCC Heritage Team considering the archaeological implications of the proposed development. Has also commented that any impacts on The Hill Conservation Area and other heritage assets should be considered and minimised as far as possible.
40. **KCC Archaeology and Conservation** – No objection subject to a condition to secure the implementation of an approved watching brief to monitor and record (as necessary) any works close to the former quarry sides, along the access routes and close to the river near the listed lighthouse. Is satisfied with the assessment of heritage issues and notes the significant level of previous disturbance to the site.
41. **Southern Water** – Has provided information on the positions of a public sewer and water distribution mains and advised that no excavation, mounding, development or tree planting should be located within 3m of the centre of line of these without its consent and that all existing infrastructure should be protected during construction works. Has advised that initial investigations indicate that there is currently inadequate capacity in the local network to provide foul sewerage disposal to service the proposed development and as the proposed development would increase flows to the public sewerage system this could increase the risk of flooding. As the public sewer is a combined system (receiving foul and surface water flows), it suggests that the problem could either be addressed by removing some of the existing surface water from the system (to provide additional foul flows) or by improvements to existing or off-site sewerage systems. Since connection to the public sewer requires consent from Southern Water, it advises that the applicant contact it to discuss these matters. It has also requested that if permission is granted, conditions should be imposed to protect the public sewer and public water supply main and to require the submission and approval of details of foul and surface water sewerage disposal before development is commenced.
42. **Southern Gas Networks** – Has provided information on the positions of its apparatus in the area and various precautions that should be followed when working in the area.

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- 43. **UK Power Networks** – No objections.
- 44. No responses have been received from SEEDA, Network Rail, Kent Wildlife Trust and BT (Openreach).

Representations

- 45. The application was publicised both by site notices and newspaper advertisement and 627 local residents / business properties were notified. A public exhibition on the proposals was held by the applicant at Lawn Road Primary School, Northfleet on 5 October 2010. This had been publicised by a mail shot to 894 households and Kent and Gravesham councillors.
- 46. At the time of writing this report 3 letters of representation have been received. One letter of objection has been received from a local business (Dignity Funerals Ltd at 10/11 The Hill, Northfleet). The objections relate to increased traffic, noise and dust and the likely impact of these on its business and clients.
- 47. A letter from the Ramblers requests that footpaths NU3, NU6 and NU42 should be open and available for use prior to determination of the application and a temporary Footpath Diversion Order confirmed for the alignment of NU42. It also states that the re-aligned NU42 may need to be enclosed within the site and gates and barriers erected at crossing points in the interests of safety and security. Kent Fire and Rescue Service has advised that access for fire appliances must be designed to meet the requirements of the County of Kent Act Section 53 and also Approved Document B5.

Local Members

- 48. County Council Members Mr Christie, Mr Craske and Mr Lees were notified in December 2010.

Discussion

- 49. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the development plan policies outlined in paragraphs 21 to 24 are of greatest relevance. Material considerations include the Planning Policy Statements and Planning Policy Guidance set out in paragraph 20.
- 50. Members will be aware that the weight to be afforded to the South East Plan remains uncertain as a result of the Secretary of State's attempts to abolish regional spatial strategies prior to the enactment of the Localism Bill and the court case associated with Cala Homes' ongoing attempts to ensure that the Plan remains and significant weight is afforded to it pending any new Act. Current advice is that decision makers should have regard both to the policies of the South East Plan (as part of the development plan) and the Government's intention to abolish regional spatial strategies (as a material planning consideration) and determine the weight that should be afforded to each. Members will be updated appropriately if further relevant

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information on this issue becomes available prior to the committee meeting.

51. The main issues to be considered in this case include:-

- the need for the proposed development;
- the suitability of the site for the proposed development;
- transportation issues (e.g. junction and road capacity and the sustainability of the proposals in terms of water, rail and road use);
- noise, dust, vibration and air quality impacts (from the development on site and associated transportation);
- groundwater and surface water impacts (including any ground contamination);
- biodiversity impacts;
- landscape and visual impact;
- impacts on archaeology and buildings and other features of historic interest (including scheduled ancient monuments, listed buildings and conservation areas); and
- rights of way.

The need for the proposed development

52. Crossrail is a key national infrastructure project that is designed to significantly increase the capacity of the rail network into and across London and relieve congestion and overcrowding and meet growth demands, as well as support economic development and regeneration in areas such as the Thames Gateway. The delivery of Crossrail is provided for in the Crossrail Act (2008). Crossrail is identified as a priority project in Policy T14 of the South East Plan which also states that development plans should include policies to safeguard such investment proposals. South East Plan Policies T1 and T2 relating to management and investment and mobility management and Policies T8 and SP2 relating to regional spokes / hubs can also be relied on for policy support. The Gravesham Core Strategy and Development Management Policies Issues and Options consultation document includes the long term aspiration for the extension of Crossrail to the Borough. The objectives of the Crossrail project are also supported by policies in PPS4 and PPG13 relating to the economy and sustainable transport.
53. PPS10 states that the overall objective of Government policy for waste is to protect human health and the environment by producing less waste and using it as a resource wherever possible. It also states that planning authorities should help deliver sustainable development through driving waste management up the waste hierarchy and looking to disposal as the last option. The proposed receipt and onward transportation of the tunnel arisings to either assist in delivering the permitted development at Wallasea Island or for other enabling development in Kent would meet these objectives and is therefore supported in principle.
54. Facilities to assist in the sustainable management of waste arising from the creation of the tunnels and to manufacture tunnel segments used to line these are essential elements of the Crossrail proposals. As explained in paragraph 8, the arrangements originally proposed at Manor Wharf in Bexley are no longer suitable and the Northfleet site is now proposed.

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The suitability of the site for the proposed development

55. The application site is not identified for any waste management use in the Kent Waste Local Plan (1998) nor is it allocated for any other purpose in the Plan but is allocated as part of an existing industrial area in the adopted Gravesham Local Plan First Review (1994) and part of the Northfleet Cement Works / Land East of Grove Road Major Development Site in the Gravesham Local Plan Second Review Deposit Version (May 2000). The emerging Gravesham Core Strategy and Development Management DPD, which will replace the Gravesham Local Plans and is expected to be adopted in August 2011, envisage the redevelopment of Northfleet Works as a major regeneration opportunity (part of Northfleet Embankment West).
56. Paragraph 24 of PPS10 states that waste management facilities proposed on sites not allocated for such use should be considered favourably when they are consistent with the policies set out in PPS10 and a range of criteria. These criteria include the physical and environmental constraints on development (including existing and proposed neighbouring land uses), the capacity of existing and potential transport infrastructure to support the sustainable movement of waste (seeking modes other than road transport where practicable and beneficial) and giving priority to the re-use of previously developed land. Policy W17 of the South East Plan states that sites for waste management development should be assessed against the following criteria:
- Good accessibility from existing urban areas or major new or planned development;
 - Good transport connections including, where possible rail and water;
 - Compatible land uses such as previous or existing industrial land use; and
 - Be capable of meeting a range of locally based environmental and amenity criteria.
57. Policy W3 of the Kent Waste Local Plan states that proposals which only involve waste processing and transfer at locations outside those identified on the proposals map will not be permitted unless they can avoid the need for road access, or can gain ready access to the primary or secondary route network and preferably have potential for a rail or water transport link and are located within or adjacent to an existing waste management operation or within an area of established or proposed general industrial use. Policy W7 states (amongst other things) that proposals to prepare Category A waste for re-use (e.g. tunnelling arisings) will be considered against whether they:
- would minimise impacts on the local and natural environments;
 - have or could secure ready access to the main road network, or have a rail or water link provided that there is acceptable access to an appropriate road network; and
 - are within or adjacent to existing waste management facilities or are part of a location within an established or committed general industrial type area.
58. Policy E1 of the adopted Gravesham Local Plan First Review (1994) states that priority will be given to the need for employment and where employment development will normally be permitted. Active reclamation (of derelict sites) is also sought by Policy M1. Policy R1 states that there will be a preference for development in the commercial

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riverside adjacent to the river which requires a riverside location and makes use of the river as a means of transport and that any new buildings should be set back sufficiently from the water's edge to enable access to the river for wharfage purposes. Policy R2 states that applications for the expansion of port related traffic at existing wharves fronting the commercial riverside and the development of new wharves on sites fronting the commercial riverside will be supported in principle subject to the surrounding road system being adequate to deal with additional traffic. Policy MDS3 the Gravesham Local Plan Second Review Deposit Version (May 2000) proposes the site be used for mixed use development including port related and distribution employment uses. Policy E4 also encourages businesses able to benefit from rail and sea connections. The emerging Gravesham Borough Council Local Development Framework Core Strategy and Development Management DPD emphasise the importance of wharf capacity and road and rail access to the river in the context of sustainable transport.

59. The application site already has good road and wharf access and is in the process of being reconnected to the North Kent Line (rail) following the recent permission for the bulk aggregates import terminal. The proposed use of the application site at Northfleet for both the waste and manufacturing elements of the proposals would appear capable of complying with all of the above policies provided that it meets the detailed "tests" associated with the various environmental, operational and other policies addressed elsewhere in this report. Given the temporary nature of the proposal, which could be assured by a condition limiting the duration of the development, it would not prejudice the permanent use of the site as a bulk aggregates import terminal or other long term employment uses. The proposed development could also operate satisfactorily alongside the existing bulk powders terminal such that it would not prejudice the ongoing benefits of that operation.

Transportation issues (e.g. junction and road capacity and the sustainability of the proposals in terms of water, rail and road use)

60. The use of sustainable transport (particularly by rail and water) is promoted in PPS1, PPS10, PPG13, Policies T2, T10, T11, T12, KTG1, W4, W16 and W17 of the South East Plan, Policies W3 and W7 of the Kent Waste Local Plan and Policy T14 of the Gravesham Local Plan Second Review Deposit Version (May 2000). Policy MDS3 of the Gravesham Local Plan Second Review Deposit Version (May 2000) also specifically proposes that any development at Northfleet Works addresses possible rail connection to the North Kent Line via Church Path Pit / St Botolph's Pit.
61. Policies W3, W7 and W22 of the Kent Waste Local Plan require good access to an appropriate road network, whilst Policy W22 also requires that proposals should not materially adversely affect the safety or capacity of the road network or the local environment and should ensure that any necessary off-site highway improvements are completed at the developers expense. Policies T0, T1 and T3 of the adopted Gravesham Local Plan First Review (1994) seek to achieve the most effective use of the existing highway network, highway safety and improvement measures and ensure that new development is only permitted where it would be adequately served by the highway network and is well related to the primary and secondary distributor network. These requirements are also reflected in Policies T1 and T12 of the Gravesham Local Plan Second Review Deposit Version (May 2000), where Policy T1 additionally

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requires contributions towards the improvement of highways and green travel plans. These issues are also addressed in the emerging Gravesham Borough Council Local Development Framework Core Strategy and Development Management DPD.

77. Kent Highway Services is satisfied that the proposed development is acceptable in terms of highway safety and capacity and has no objection subject to those measures set out in paragraph 32 being secured. A number of these are included in the Crossrail Construction Code. The Highways Agency has no objection to the proposals subject to a suitable HGV Management Plan being implemented. The measures sought by Kent Highway Services and adherence with the Crossrail Construction Code would also satisfactorily address many of the highway issues raised by Gravesham (e.g. lorry routing and signage and use of wheelwash by HGVs) and Dartford Borough Councils and Swanscombe and Greenhithe Town Council. I am satisfied that all the measures proposed by Kent Highway Services are reasonable and necessary and that they can all be secured by the imposition of conditions (in cases by reference to the Crossrail Construction Code) and / or directly through a Section 278 agreement between the applicant and Kent Highway Services. The applicant has agreed in principle to fund the optimisation of the traffic signals at the junction of the A226 Thames Way and A2260 Ebbsfleet Gateway if excavations are to be brought from the Plumstead portal by road if any over capacity is attributable to its HGVs and has indicated its willingness to adhere to the requirements of the various conditions proposed.
78. Gravesham Borough Council has also sought conditions that would require: (i) all excavated materials being transported from the site by river (unless agreed by the local planning authorities), (ii) adequate parking and lorry parking areas on site, (iii) no HGV movements outside normal working hours unless it has been demonstrated that impacts associated with HGVs outside these hours is acceptable; (iv) a maximum of 5 train paths in and out of the site per day; (v) agreement on the percentages of material brought into the site by road, rail and river, (vi) a limit on the maximum amount of material brought to the site; and (vii) a limit on HGVs during peak hours. Whilst it is Crossrail's intention to transport the majority of excavated materials from the site by river to Wallasea Island, any contaminated materials that could potentially arrive at the site may need to be removed to a suitable disposal site by road. With this exception, a condition to cover (i) would be desirable. This would not preclude excavated materials being exported by other means to the SEEDA site on Northfleet Embankment East or elsewhere, but would require further details of how they would be transported to be submitted for consideration and approved unless this were to be specifically addressed as part of a further planning permission granted by either the County or Borough Council. It should also be noted that any conveyor link between the application site and the SEEDA site would require planning permission. I also consider that conditions to cover (ii) and (iii) would be desirable. I do not accept that conditions should be imposed to cover (iv), (v), (vi) and (vii) on the basis that they would either be unnecessary due to the restriction on the maximum number of HGV movements per day, since Kent Highway Services has not considered them to be necessary or as they would be unreasonable and unnecessarily restrict operations.
79. The London Borough of Bexley has expressed concerns (paragraph 27) about HGV movements between Plumstead and Northfleet for up to 18 months and stated that the proposed use of Northfleet would lead to a greater impact on Bexley than would have

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been the case if Manor Wharf were used as originally intended. It notes that many of the junctions within Bexley already suffer congestion and that no assessment has been provided for impacts on these. It has also expressed some support for extending the operational period for HGVs to dilute the impact but advised that this would require the consent of London Boroughs under the London Lorry Control Scheme. Notwithstanding this, I note that it has not objected to the proposals and encourages the applicant to maximise rail use to minimise road impacts in Bexley. I also note that the proposed route through Bexley (i.e. the A2016 Western Way, Eastern Way and Bronze Age Way and A206 Queens Road, Northend Road, Thames Road and University Way) is on A-class roads and that the vast majority is dual carriageway.

80. One local business (a funeral parlour) located at The Hill, Northfleet, has objected to the proposal due to (amongst other things) perceived adverse impacts on its business and clients. However, since all HGVs would (apart from in emergencies) use the main access to the site via Vineyard Pit to and from the A226 Thames Way and none would use Northfleet High Street or The Hill, I do not believe that this objection can be substantiated. Kent Fire and Rescue Services' request that access to the site must be designed to meet its requirements would be addressed under the Crossrail Construction Code.
81. Members will recall that in permitting the bulk aggregates import terminal, specific limits were imposed on the amount of materials that could be exported from the site by road in order to ensure that the sustainable credentials of the proposed development were secured (particularly in encouraging the implementation of the rail sidings and link to the North Kent Line). In this instance, the Port of London Authority has sought to maximise the amount of materials entering and leaving the site by water and Gravesham Borough Council has sought agreement on the percentage of material to be brought to the site by road, rail and water. Given the temporary nature of the proposed development and the emphasis placed on sustainable transport as part of the Crossrail project, I do not consider that specific limits should be imposed on particular transport modes in this case apart from the maximum number of HGV movements per day sought by Kent Highway Services. It is clear from the proposal that sustainable transport was a key factor in the selection of the site and that rail and water would be used where possible. It is also clear that there would be a strong financial incentive to use rail and water transport where possible (particularly once the rail link is reinstated).
82. Members will also recall that the reinstatement of the rail link to the North Kent Line was not a pre-condition of development for the bulk aggregates import terminal. However, as the current proposals are largely based on the importation of significant amounts of tunnel arisings by rail I do consider that such a requirement is necessary in this case. I am satisfied that this can be addressed by the imposition of a "Grampian" condition that only allows excavated materials to be imported to the site once the rail link is reinstated and available for use unless approval is first obtained from the County Council.
83. Subject to the above matters being secured by conditions (or by agreement between the applicant and Kent Highway Services), I am satisfied that the proposed development would be acceptable in terms of transportation issues and would accord with the above policies.

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Noise, dust, vibration and air quality impacts (from the development on site and associated transportation)

84. PPS23 and PPG24 respectively set out policies on pollution control (e.g. air quality, including AQMAs) and noise that should be considered when determining planning applications. PPS23 states that the relevant pollution control authority should be satisfied that potential releases can be adequately regulated under the pollution control framework, that the effects of existing sources of pollution in and around the site are not such that the cumulative effects of pollution when the proposed development is added would not make the development unacceptable and that decisions on individual cases must always be justified on the facts applying to those cases. PPG24 makes it clear that the planning system should not place unjustifiable obstacles in the way of development for the creation of jobs and the construction of essential infrastructure that will generate noise. However, it also states that planning authorities must ensure that development does not cause an unacceptable degree of disturbance and gives guidance on how this can be done. Policy NRM9 of the South East Plan seeks to protect and enhance air quality and reduce the environmental effects of traffic. Policy NRM10 seeks to minimise noise impacts.
85. Policy W18 of the Kent Waste Local Plan states that before granting planning permission the planning authority must be satisfied as to the means of control of noise, dust, odour and other emissions, particularly in respect of its potential impact on neighbouring land uses and amenity. Policy W25 states that when considering details relating to the siting, design and external appearance of processing plant, hard surfacing, buildings and lighting, planning authorities should (amongst other things) seek to minimise noise intrusion. Policy NE16 of the Gravesham Local Plan Second Review Deposit Version (May 2000) states that development likely to result in emissions to the air (by reason of operational characteristics or traffic generation) will only be allowed if it does not have an unacceptable effect on health, amenity or the natural environment, taking into account the cumulative effects of other existing and proposed sources of air pollution in the vicinity and that consideration will also be given to whether or not the proposed development would cause current national air quality standards to be exceeded. Policy NE19 states that noise generating development will only be allowed if it does not have a significant adverse noise impact on noise-sensitive uses or if it is not located in an area with low background noise levels which is important for its quiet recreational, amenity or wildlife value. These issues are also addressed in the emerging Gravesham Borough Council Local Development Framework Core Strategy and Development Management DPD.
86. Gravesham Borough Council has no objection to the proposals but has requested that conditions be imposed to secure various matters relating to noise, dust, vibration and air quality if planning permission is granted. Some are already addressed in terms of their transport implications in the above section. Others include: (i) development to comply with the Crossrail Construction Code (the Code shall ensure that there is an adequate public complaint system to address environmental and lorry routing issues); (ii) construction activities to be undertaken in accordance with agreed hours; (iii) controls are imposed over construction vibration; (iv) mitigation of night time use including that doors to buildings are kept closed and no door sirens to be employed; (v) mitigation to be implemented in relation to rail activities; (vi) a mitigation

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methodology for curtailing wheel squeal effects to be agreed and employed; (vii) additional mitigation to be implemented where necessary arising from complaints received within a prescribed distance from the new rail alignment; (viii) details of operational lighting to be submitted for approval; and (ix) mitigation measures are implemented to address emissions of both nitrogen dioxide and particulate matter (PM10) from both traffic and site operations sources including monitoring of the necessary mitigation.

87. KCC's Noise, Dust and Air Quality Consultant is satisfied that the proposed development is acceptable if the various mitigation proposed in the environmental statement and Crossrail Construction Code are secured by conditions.
88. The one formal objection raised by the local funeral business includes concerns about the potential noise and dust impacts associated with the proposed development. However, as Gravesham Borough Council and KCC's Noise, Dust and Air Quality Consultant are both satisfied that the proposed development could proceed (subject to conditions) without leading to significant adverse effects in terms of noise, dust and air quality impacts I do not consider that an objection on these grounds could be substantiated.
89. The Crossrail Construction Code includes measures and associated mechanisms that are capable of satisfactorily addressing potential noise, dust, vibration and air quality impacts, including those raised by consultees. In terms of dust and air quality (including vehicle emissions), the Crossrail Construction Code requires a series of detailed measures and monitoring to be undertaken. The applicant has confirmed that Northfleet would be subject to the most onerous ("Tier 3") procedures given the nature of the proposed facility and I am satisfied that the implementation of these measures would serve to provide satisfactory controls on dust and air quality. This would also address Gravesham Borough Council's point (ix) above.
90. The Crossrail Construction Code states that the nominated undertaker will obtain consents relating to noise and vibration (including hours of working) from the relevant local authority under Section 61 of the Control of Pollution Act 1974. As the relevant local authority for the purposes of Section 61 of Control of Pollution Act 1974 is Gravesham Borough Council, the determining planning authority and relevant pollution control authority would be different in this case. However, there is nothing to prevent the applicant seeking the proposed Section 61 consents from the Borough Council (Environmental Health), as proposed. Given the level of control provided for in the Crossrail Construction Code and which is possible under Section 61 of the Control of Pollution Act, I consider that it would be appropriate in this case for noise and vibration impacts to be controlled through the Section 61 process rather than by the submission to and approval of further schemes by the County Council. This would avoid unnecessary duplication and potential conflict between any submission(s) made under the two regimes. I therefore propose that the County Council include a planning condition requiring adherence with the Crossrail Construction Code and for Section 61 consent to have been obtained before related works commence and complied with thereafter unless formally varied under that process. This would also address Gravesham Borough Council's points (i) to (xii) above. Although working hours would be addressed in the Crossrail Construction Code and under the Section 61 process, I propose that a specific condition be imposed to restrict HGV movements to between

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07.00 and 19.00 hours Monday to Friday and 07.00 and 14.00 hours on Saturdays (as set out in paragraph 78). Discussions with relevant planning and environmental health officers at Gravesham Borough Council since its formal response was received clearly indicate that the Borough Council is happy with this approach and would work closely with the County Council before issuing any approvals under Section 61.

91. As planning permission already exists for rail access to the site, there is technically nothing to prevent its reinstatement and use on the same alignment. However, as noted in paragraph 1 the proposed alignment is slightly different. This amendment is intended to maximise the radius of the horizontal track curvature in Church Path Pit as far as possible and thereby reduce noise (e.g. wheel squeal) associated with trains entering and leaving the site. A number of other measures were proposed for the track as part of the bulk aggregates import terminal designed to minimise noise and vibration associated with the rail link. These included using modern track and components, resilient pads, stiffer rail sections, new ballast, a reduction in joints (welding where possible), improved alignment at any joints, a new automatic water sprinkler system to lubricate the rails, a regular maintenance and replacement system, speed limits, modern rolling stock (bogied as opposed to fixed wheels) and new diesel locomotives. As Lafarge has indicated that it intends to rely on implementation of the rail link and sidings to implement the bulk aggregates import terminal permission, it will be necessary for these measures to be included for use by Crossrail. The Crossrail Construction Code and any submissions made under Section 61 of the Control of Pollution Act would also serve to minimise any adverse impacts associated with use of the rail link.
92. Subject to the above matters being secured by conditions, I am satisfied that the proposed development would be acceptable in terms of noise, vibration, dust and air quality issues and would accord with the above policies.

Groundwater and surface water impacts (including any ground contamination)

93. The main national planning policies relating to groundwater and surface water interests (including flooding and ground contamination) of relevance to the proposals are set out in PPS23 and PPS25. PPS23 sets out policies on pollution control (including those relating to water resource interests) that should be considered when determining planning applications and emphasises the need for close working between the planning and pollution control authorities. PPS23 also states that the potential for contamination to be present must be properly assessed and any necessary remediation or subsequent management measures secured when permissions are granted. Annex 2 to PPS23 sets out more detailed requirements for this. PPS25 sets out policies on appraising, managing and reducing the risk of flooding (tidal, fluvial or other) and emphasises the need to consult the Environment Agency on applications in order to avoid inappropriate development in areas at risk from flooding. Policies NRM1 and NRM2 of the South East Plan respectively seek to ensure that water supply and ground water and water quality are maintained and enhanced. Policy NRM4 seeks to ensure that flood risk is properly assessed and existing flood defences are protected from development. Policy KTG6 seeks to ensure appropriate flood protection and surface water drainage.
94. Policies W19 and W20 of the Kent Waste Local Plan respectively state that the

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planning authority will need to be satisfied that surface and ground water resource interests will be protected and land drainage and flood control have been satisfactorily taken into account. Policies NE21 and NE23 of the Gravesham Local Plan Second Review Deposit Version (May 2000) respectively state that development will only be allowed if it does not result in a deterioration of quality of groundwater or surface water and that development within the tidal flood risk area will only be allowed if it can be demonstrated that it does not harm the integrity of any flood defence structure or the ability to carry out any flood control or maintenance work and provides a means of escape for non-residential uses in the event of a flood. Policy TR4 also specifically states that development that would affect the integrity of, or impinge on access to, the Thames tidal defences will not be permitted and that all works affecting these defences should be appropriately managed, designed and implemented. Policy NE15 of the Gravesham Local Plan Second Review Deposit Version (May 2000) states that development on or in the vicinity of land known or suspected to be contaminated shall be accompanied by the findings of an investigation and assessment identifying the extent and nature of contamination and outline remedial measures to avoid risk to future occupiers and the environment and that any agreed remedial measures must be satisfactorily implemented.

95. The Environment Agency has no objection to the proposals in so far as they relate to groundwater and surface water issues (including potential flooding and ground contamination) subject to conditions designed to ensure that these interests are protected (paragraph 34). Southern Water has no objection subject to conditions to protect the public sewer and public water supply main and require the submission and prior approval of details of foul and surface water sewerage disposal (paragraph 41). Gravesham Borough Council has requested that conditions be imposed to secure: (i) the implementation of suitable mitigation measures to deal with potential contamination (as identified in the Crossrail Construction Code – Contaminated Land); (ii) groundwater monitoring to be undertaken periodically during the operation of the development and at the decommissioning of the temporary works to be reported separately from the verification report; and (iii) a flood risk management plan shall be implemented for the operational phase of development. All of these issues are capable of being addressed by conditions.
96. Subject to the imposition of the conditions to address those matters raised by the Environment Agency, Southern Water and Gravesham Borough Council, I am satisfied that the proposed development would be consistent with the above policies.

Biodiversity impacts

97. The main national planning policies relating to ecology are set out in PPS9. Paragraph 1 states that the aim of planning decisions should be to prevent harm to biodiversity interests and secure appropriate mitigation as necessary. Policy NRM5 of the South East Plan states that planning authorities should avoid a net loss of biodiversity and actively pursue opportunities to achieve a net gain across the region. Policy C7 seeks to conserve and enhance the nature conservation resources of the River Thames Corridor through the protection and management of its diverse plant and animal species and habitats.
98. Policy W21 of the Kent Waste Local Plan states that the planning authority will need to

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be satisfied that the ecological interests of the site and its surroundings have been established and provisions made for the safeguarding of species of wildlife importance. Policy C8 of the adopted Gravesham Local Plan First Review (1994) seeks to protect habitats or features of importance for nature conservation. Policy NE12 of the Gravesham Local Plan Second Review Deposit Version (May 2000) seeks to protect wildlife habitats and protected species.

99. The application site is all previously developed and the majority comprises hardstanding associated with the remains of the cement works (now largely demolished apart from the main multi-storey office building). Other areas include the operational wharf, the road access and a small section of rail link within Church Path Pit. Natural habitats are very limited and are restricted to the periphery of the site. Although the proposal would have some impact on black redstarts and bat foraging areas, the environmental statement indicates that such impacts would not be significant.
100. No objections have been raised by KCC's Biodiversity Projects Officer subject to various conditions to secure appropriate mitigation, including that set out in the environmental statement (paragraph 37). Natural England has no comments and Kent Wildlife Trust has not responded.
101. I am satisfied that the proposed development is acceptable in terms of its biodiversity impacts and would meet the requirements of the above policies subject to the imposition of a condition to secure an appropriate Ecological Management Plan (which would also address bat and mitigation strategies as necessary).

Landscape and visual impact

102. The main national planning policies relating to landscape and visual impact of relevance to the proposals are set out in PPS1. PPS1 promotes sustainable development, the protection and enhancement of the environment and the quality, character and amenity value of urban areas. Policy C7 of the South East Plan seeks to maintain and enhance the landscapes and waterscapes of the River Thames Corridor in terms of their scenic and conservation value and overall amenity.
103. Policy W25 of the Kent Waste Local Plan seeks to ensure that the siting, design and external appearance of processing plant, hard surfacing, buildings and lighting is carefully controlled to minimise visual intrusion and assist integration into the local landscape. Policies W31 and W32 respectively seek appropriate schemes of landscaping and operation (with restoration as appropriate). Policy TC1 of the adopted Gravesham Local Plan First Review (1994) states that the design and massing of buildings should normally be in keeping with their surroundings. Policy TC10 states that details of landscaping proposals will normally be required for new developments. Policies MDS3, NE6 and BE1 of the Gravesham Local Plan Second Review Deposit Version (May 2000) are also relevant. Policy MDS3 states that proposals for the redevelopment Northfleet Cement Works should include open space and landscaping. Policy NE6 states that development on sites containing or directly adjacent to trees or hedgerows of amenity, wildlife or landscape value will only be allowed if these landscape features are protected and retained in the long term and all proposals for new development must incorporate new landscaping as an integral part

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of the scheme. Policy BE1 states that priority will be given to conserving and enhancing the built environment in urban areas and particular importance will be attached to the design of new development and environmental improvement schemes.

104. In considering the landscape and visual impact of the proposed development, regard must be had to the former use of the site as a cement works as well as existing, permitted and proposed development in the area. The former cement works comprised very large older industrial and office buildings and built structures which were located at a lower level than much of the surrounding land. The bulk aggregates import terminal would also include large elements of built development and external plant, structures and machinery. The mixed use development proposals include additional large buildings within the Crossrail application site. The bulk powders facility to the east also comprises a large industrial building. The proposed tunnelling logistics facility would comprise buildings and structures of a similar scale and nature to those described above and would have less landscape impact than the former cement works.
105. No landscape or visual impact objections have been raised to the proposed development. As set out in paragraph 86, Gravesham Borough Council has requested (point (viii)) that details of any operational lighting be submitted for approval. This would ensure that any adverse visual and landscape impacts are minimised and would also address the Port of London Authority's concern about potential effects on navigation.
106. Subject to the imposition of a condition to secure a suitable lighting scheme and the development being implemented as applied for, I am satisfied that the proposed development would be consistent with the above policies.

Impacts on archaeology and buildings and other features of historic interest (including scheduled ancient monuments, listed buildings and conservation areas)

107. The main national planning policies relating to the historic environment (including archaeology, scheduled ancient monuments, listed buildings and conservation areas) are set out in PPS5. This contains a number of development management policies (HE6 to HE12) that set out the information required from applicants to enable an assessment of proposals, the principles for determining applications relating to all heritage assets or their settings (designated or otherwise) and the role of recording information relating to such assets. Policy BE6 of the South East Plan seeks to protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to local and regional distinctiveness and sense of place. Policy C7 states that local authorities should seek the conservation and improvement of the historic built environment that is part of the heritage and setting of the River Thames.
108. Policies TC0, TC1, TC2, TC3, TC5, TC6 and TC7 of the adopted Gravesham Local Plan First Review (1994) are all relevant. These (*variously*) seek to conserve and enhance the built environment, protect listed buildings, conservation areas and scheduled ancient monuments and their settings and promote the identification, recording, protection and enhancement of archaeological sites, ancient monuments and historic landscape features and their educational, recreational and tourist potential through management and interpretation. Policies BE1, BE2, BE4, BE7, BE9 and

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BE10 of the Gravesham Local Plan Second Review Deposit Version (May 2000) are also relevant. These effectively cover the same issues as the adopted Plan.

109. No objections have been received from KCC Archaeology and Conservation subject to conditions to secure the implementation of a watching brief (paragraph 40). English Heritage has no objections subject to the protection of the listed war memorial and lighthouse (paragraph 39).
110. It is important that the listed lighthouse and war memorial are protected and I am satisfied that this can be secured by condition. The war memorial will ultimately be relocated as part of the mixed use development proposals (and subject to listed building consent).
111. Subject to the above matters being secured by condition, I am satisfied that the proposed development would be acceptable in terms of archaeology and heritage issues and would accord with the above policies.

Rights of way

112. The main national planning policies relating to rights of way of relevance to the proposals are set out in PPS1, PPG13 and PPG17. PPS1 seeks to promote sustainable development by various means, including through the provision of access that avoids the need for vehicular transport. PPG13 promotes walking and cycling together with other measures designed to increase accessibility and reduce reliance on cars. Paragraph 32 of PPG17 states that rights of way are an important recreational facility which local authorities should protect and enhance and that opportunities to provide better facilities for walkers and cyclists by adding links to existing rights of way networks should be sought. Policy C6 of the South East Plan states that public rights of way should be maintained and enhanced and, where possible, new routes should be made multi-functional.
113. Policy W27 of the Kent Waste Local Plan states that where proposals could adversely affect a public right of way, the County Council will secure the interests of its users. Policy LT8 of the adopted Gravesham Local Plan First Review (1994) seeks to maintain and improve the public rights of way network and, as opportunities arise, seek to provide new recreational footpaths and cycleways in the Borough. Policy R1 states that development in the commercial riverside should provide a public riverside walkway or riverside access where appropriate and consistent with safety. Policies LT11 and LT12 of the Gravesham Local Plan Second Review Deposit Version (May 2000) respectively state that development affecting a public right of way will only be allowed if it includes either its maintenance or diversion on a route no less attractive, safe and convenient for public use and proposals to improve and extend the existing network will be positively encouraged where they provide a shorter or more convenient route (in both cases, they should positively contribute to the Green Grid network and objectives). Policy TR3 also promotes public access to the riverside through the protection of existing rights of way and the provision of new footpaths and cycleways, including green grid connections.
114. As set out in paragraph 2 above, two public rights of way (footpaths NU42 and NU7A) are affected by the proposed development. Whilst Footpath NU7A would not be

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directly affected, HGV and other traffic would continue to use the tunnel between Thames Way (A226) and Vineyard Pit immediately adjacent to it and users would continue to experience impacts associated with this. This would be the case regardless of the outcome of this application. Footpath NU42 is currently closed to allow the implementation of the rail sidings permitted as part of the bulk aggregates import terminal and other works to be completed. As set out in paragraph 17, the application proposes that footpath NU42 be provided on an amended alignment to link with the Creek via footpath NU3 and NU6 (footpaths NU3, NU6 and parts of NU42 are outside the application site and outside the applicant's control). That part of footpath NU42 providing a link to Lawn Road (most of which is outside the application site and outside the applicant's control) would remain closed pending further re-development works. Issues relating to those footpaths outside the application site and outside the applicant's control would need to be addressed by the landowner (Lafarge).

115. Gravesham Borough Council has requested that details of the realigned footpath NU42 be submitted for approval, including how this will link with the remaining footpath in Lawn Road. It has also requested that the realigned footpath be of high environmental quality suitable for cyclists and pedestrians and with the provision of lighting. Kent Highway Services has also requested that cycle access be provided to the site from footpath NU42. The Ramblers has requested that footpaths NU3 and NU6 be re-opened and that issues relating to footpath NU42 be properly addressed. KCC Rights of Way has no objection to the proposals but advises that further discussions are needed with Crossrail and / or Lafarge in respect of the design of the realigned footpath and means of providing safe crossing between the main site and 42 Wharf and that the necessary traffic regulation orders must be secured.
116. The majority of the above issues have either already been secured (i.e. re-opening of footpaths NU3 and NU6) or can be satisfactorily addressed by condition(s) (realignment, design and means of crossing footpath NU42 within the application site). It is not possible for any permission granted for the Crossrail proposals to secure the reinstatement of footpath NU42 to Lawn Road as this is on land outside the applicant's control. This and other issues relating to rights of way outside the application site will need to be addressed with the landowner (Lafarge). Discussions between relevant parties indicate that satisfactory solutions can be agreed to resolve these issues.
117. Subject to footpaths NU7A and NU42 within the application site being kept free of obstruction and available for public use or suitable alternative arrangements being provided (such as those described above), I am satisfied that the proposed development would be consistent with the above policies.

Other issues

118. Ground stability (e.g. tunnels and cliffs): The main national planning policies relating to ground stability of relevance to the proposals (i.e. the potential instability of tunnels and cliffs) are set out in PPG14. PPG14 makes it clear that applications should include appropriate information on actual or potential instability, that decisions should have regard to these issues and that conditions should be used to secure any necessary controls or measures. Policy W20 of the Kent Waste Local Plan requires land stability to have been satisfactorily taken account of. There are no specific ground stability policies in the Gravesham Local Plans.

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119. The application is supported by the same land stability statement submitted in support of the bulk aggregates import terminal and mixed use development proposals. This recommends a range of active management and mitigation measures designed to ensure the continuing stability of the cliff faces. It also proposes the sealing and backfilling of tunnels not required for the proposed development. For those tunnels that would be retained as part of the development proposals, the statement recommends that detailed assessments of the condition and remaining design life be undertaken in order that the need for repair or further support and reinforcement can be established. The statement further recommends that a full investigation of the location, depth and condition of all sub-surface structures (including basements and tunnels) should be undertaken once demolition of existing structures has been completed and that a risk-management strategy for their backfilling to ensure long term stability is developed as part of the detailed design for the site. The applicant states that works to survey and maintain the cliffs will form part of Lafarge's ongoing management of the Northfleet Works site and that a detailed survey of the cliffs adjacent to the application site and rail tunnel is to be undertaken and the results submitted to the County and Borough Council.
120. Given the temporary nature of the Crossrail proposals, as there have been no significant problems relating to the cliffs, rail or road tunnels and as the long term implications of tunnels and cliff stability will be addressed as part of the permanent bulk aggregates import terminal and mixed use development proposals, I am satisfied that there is no need to impose additional measures other than to require the mitigation set out in the land stability statement which accompanies the application.
121. Economic development (employment benefits): The main national planning policies relating to economic development of relevance to the proposals are set out in PPS4. Policy EC10 states that local planning authorities should adopt a positive and constructive approach towards applications for economic development and that applications that secure sustainable economic growth should be treated favourably.
122. The proposed development would provide up to 136 full time equivalent jobs capable of being filled by local people (paragraph 18) and assist in securing the successful implementation of the overall nationally significant Crossrail project.
123. I consider that the proposed development can be viewed favourably in terms of the employment benefits and recent Government statements on the need for a positive approach to securing economic development and employment. I also consider that as well as offering new or continuing employment opportunities for local people, many of those who are employed would be well placed to take up future employment associated with the bulk aggregates import terminal or employment elements of the mixed use development proposals.
124. Gravesham Borough Council has requested that a condition be imposed requiring the applicant to undertake a local recruitment and skills and training initiative for new employees for both the construction and operation phases. The applicant has responded to this by saying that whilst it does not oppose the principle of local recruitment and intends to adopt procedures that would assist local people obtain employment on the project, any condition requiring local recruitment could be contrary

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to European law (and by implication ultra vires). To avoid this possibility, and as the Crossrail contracts include measures designed to promote local employment opportunities, I propose that an informative be attached to any planning permission encouraging Crossrail and its contractors to recruit locally wherever possible and implement job vacancy and related practices designed to facilitate this.

125. Port of London Authority (navigational equipment): The Port of London Authority has requested that the height of any crane or structure on the wharf be limited to no more than 20m (as opposed to the proposed 35m) in order not to ensure that its navigational equipment can continue to operate properly. The applicant has confirmed that the facility could operate with this restriction and I am satisfied that the matter can be addressed by condition.
126. Cumulative impact: Given the temporary nature of the proposed development and as it would take place in advance of, as opposed to alongside, the proposed bulk aggregates import terminal and employment elements of the mixed use development proposals I am satisfied that any cumulative impacts would not be significant.

Conclusion

127. For the reasons set out in paragraphs 60 to 126, I am satisfied that the proposed development meets the relevant detailed “tests” associated with the various environmental, operational and other policies such that the use of the application site at Northfleet for both the waste and manufacturing elements of the proposals complies with the policies set out in paragraphs 55 to 58. On this basis, I am satisfied that subject to various conditions, the proposed development accords with relevant development plan policies and that there are no material planning considerations that mean that planning permission should be refused. I am also satisfied that this would remain the case even if the South East Plan were no longer part of the development plan. I therefore recommend accordingly.

Recommendation

128. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO conditions covering amongst other matters: 5-year temporary planning permission and removal of plant, materials and buildings at end of this period; site to only be used for receiving processing and storing excavated material arising from the London Crossrail tunnelling activities and for the construction and distribution of tunnel segments for the London Crossrail project; no more than 688 HGV movements (344 in and 344 out) per day; HGV management plan; travel plan; access from footpath NU42 via The Shore and The Creek by foot and cycle; water-tight load compartments for HGVs when transporting wet excavated materials; use of wheel wash; all excavated materials being transported from the site by river (apart from any contaminated materials that could potentially arrive at the site and need to be removed to a suitable disposal site by road or unless otherwise agreed or if a further planning permission is obtained); no HGV movements outside normal working hours (i.e. between 07.00 and 19.00 hours Monday to Friday and 07.00 and 14.00 hours on Saturdays) unless it has been demonstrated that impacts associated with HGVs outside these hours is acceptable; excavated materials only being imported to the site once the rail link is reinstated and

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available for use unless approval is first obtained from the County Council; noise; vibration; dust; air quality; compliance with the relevant parts of the Crossrail Construction Code (including a complaints system to address environmental and lorry routing issues); no development to take place until “Section 61 consent” has been obtained under the Control of Pollution Act and any consent complied with thereafter (unless formally varied under that process); groundwater protection; potential contamination of the site; foul and surface water management scheme; protection of public sewer and public water supply main; flood risk management plan; biodiversity management (e.g. for black redstarts and bats); lighting scheme; archaeological watching brief; protection of listed war memorial and lighthouse; detailed scheme for footpath NU42 (including cycle access); ground stability (cliffs and tunnels); and limiting height of cranes and structures on 42 Wharf to 20m unless otherwise approved by the County Council.

Case Officer: Jim Wooldridge

Tel. no. 01622 221060

Background Documents: see section heading.
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APPENDIX 1 TO ITEM C1**Planning conditions requested by Gravesham Borough Council**

1. Temporary permission to expire after five years and all plant, materials and buildings to be removed.
2. Site to be used only for receiving processing and storing excavated material arising from the London Crossrail tunnelling activities and for the construction and distribution of tunnel segments for the London Crossrail project.
3. Heritage assets within the site to be preserved; details of protection for the two listed buildings to be agreed.
4. The applicants to undertake a local recruitment and skills and training initiative for new employees for both construction of the facility and its subsequent operation.
5. Adequate area for parking and lorry parking to be provided within the site.
6. All HGV's to use wheelwash facilities within the site.
7. Lorry routing to be agreed with the planning and highway authorities and to include signage of routes.
8. Maximum of five train paths in and out of the site per day.
9. Unless with the agreement of the planning authorities all excavated material exported from the site shall be transported by river.
10. Agreement over percentage of material to be brought in to the site by road, rail and river transport during the construction and operational phases of the development.
11. Agreement over maximum amount of material to be brought on to the site during the operation of the tunnelling logistics facility.
12. Limitation on numbers of HGV movements to the site during peak hours.
13. No HGV movements outside of normal working hours unless and until it has been demonstrated that impacts associated with the running of HGVs outside these hours are acceptable.
14. Development to comply with the Crossrail Construction Code; the code shall ensure that there is an adequate public complaint system to address environmental and lorry routing issues.
15. Construction activities to be undertaken in accordance with agreed hours.
16. Controls are imposed over construction vibration.
17. Mitigation of night time use including that doors to buildings are kept closed and no door sirens to be employed.
18. Mitigation to be implemented in relation to rail activities.
19. A mitigation methodology for curtailing wheel squeal effects to be agreed and employed.
20. Additional mitigation to be implemented where necessary arising from complaints received within a prescribed distance from the new rail alignment.
21. Details of operational lighting to be submitted for approval.
22. Mitigation measures are implemented to address emissions of both nitrogen dioxide and particulate matter (PM10) from both traffic and site operations sources including monitoring of the necessary mitigation.
23. Suitable mitigation measures to deal with potential contamination shall be implemented as identified in the Crossrail Construction Code – Contaminated Land (CCC).
24. Groundwater monitoring to be undertaken periodically during the operation of the development and at the decommissioning of the temporary works to be reported

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- separately from the verification report.
25. Details of the realigned public footpath within the site to be submitted for approval including how the footpath will link with the remaining footpath in Lawn Road; the realigned footpath should be designed to a high environmental quality suitable for use by cyclists and pedestrians and with the provision of lighting.
 26. A flood risk management plan shall be implemented for the operational phase of development.
 27. An archaeological watching brief shall be implemented during the construction phase of the development.

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Item C2

Variation of conditions 12 (hours of delivery), 20 (vehicle movements), 22 (compostable waste tonnage), 26 (Materials Recycling Facility waste tonnage) & 28 (secondary aggregate recycling) of Planning Permission reference SW/05/1392 at Countrystyle Recycling Site, Iwade, Near Sittingbourne, Kent – SW/10/1436.

A report by Head of Planning Applications Group to Planning Applications Committee on 10 May 2011.

Application for Variation of conditions 12 (hours of delivery), 20 (Vehicle movements), 22 (compostable waste tonnage), 26 (MRF waste tonnage) & 28 (secondary aggregate recycling) of Planning Permission reference SW/05/1392 at Countrystyle Recycling Site, Iwade , Near Sittingbourne, Kent – SW/10/1436.

Recommendation: Planning permission be granted.

Local Member: Mr. M. Whiting and Mr. A. Willicombe

Unrestricted

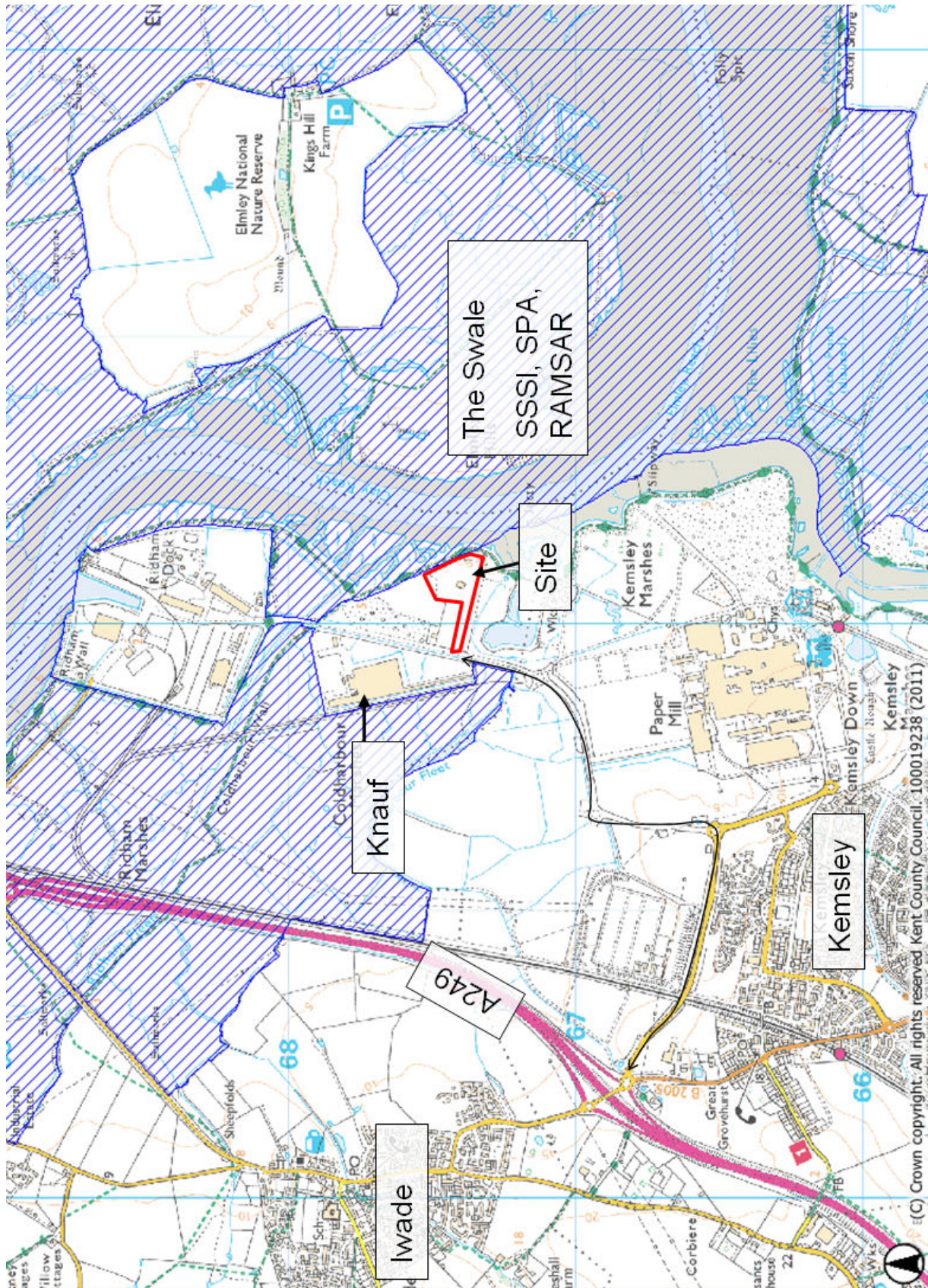
Background

1. Planning permission was granted in 2006, for a material recovery facility (MRF), in-vessel composting facility and the continuation of secondary aggregate recycling operations at the Countrystyle Recycling Ltd (CRL) site, Ridham Dock, under planning consent reference SW/05/1392. Planning permission was granted in 2010, under permission reference SW/09/894, for the installation of a small scale biomass power plant within the existing MRF building which would process low grade wood waste for the generation of renewable energy, however this has yet to be fully implemented with the exception of the shredding of low grade wood waste. Under the current consent the site is permitted to handle some 31,000 tonnes of compostable waste and 35,000 tonnes per year of recyclable waste through the MRF. Whilst the permission also allows for the continuation of 10,000 tonnes per annum of secondary aggregate recycling, this activity appears to have all but ceased and replaced the wood shredding activity.

Site Description and Proposal

2. The existing operational site, at some 3ha, lies some 2km north of Kemsley, 2.1 km to the east of Iwade and 1.2km to the east of the A249. The site is located within the existing industrial land forming the larger Ridham Dock area and is accessed by the industrial estates purpose built access route from the Junction of the A249, to the west. The existing CRL site lies close to habitats which form part of the Swale SSSI, SPA and Ramsar. A site location plan is attached.

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Application for Variation of conditions 12, 20, 22, 26 & 28 of
Planning Permission reference SW/05/1392 at Countrystyle
Recycling Site, Iwade, Near Sittingbourne, Kent – SW/10/1436



C2.2

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3. Since the site has become fully operational the applicant considers that a number of operational changes are required in order that the site be managed more efficiently. The applicant also considers that having established his business successfully there is some scope for additional waste capacity. A planning application has therefore been submitted, for the variation existing conditions which currently restrict the hours of delivery to the site, the number of vehicle movements and tonnage restrictions. These are set out in more detail below.
4. The application seeks to vary conditions 12, 20, 22, 26 and 28 of planning permission SW/05/1392 which are set out as follows:-

Condition 12 – waste delivery hours

5. Condition 12 currently states:

“12. Waste deliveries and transportation of materials off site shall only take place between the following hours;

*05.30 – 18.00 hours Monday to Friday; and
05.30 – 18.00 hours on Weekends and Public Holidays (excluding Christmas, Boxing Day and New Years Day).*

No operations other than the processing of compostable material within the in vessel system shall take place outside these hours except for essential plant maintenance up to 23.00 hours between Monday and Saturdays only.”

6. In order to manage operations more effectively on site, the applicant seeks a variation of condition 12 which currently restricts waste deliveries to the site to between 05.30 and 18.00 hours on weekdays, weekends and public holidays in order to allow for waste to be delivered to the site until 20.00 hours. Vehicles delayed in rush hour traffic are often unable to enter the site after the specified time which can result in loaded vehicles having to park outside the site overnight. In addition waste sorting activity within the existing MRF is restricted to the current hours specified above therefore the applicant seeks to allow for 24 hour waste processing within the existing enclosed MRF building.

Condition 20 – vehicle movements

7. Condition 20 currently states:

“No more than a combined total of 132 vehicle movements (66 in/66 out) associated with the operations hereby permitted shall enter or leave the site in any one day;”

8. Having regard to what the applicant considers to be the appropriate waste capacity at the existing site and in order to reflect the proposed waste throughput increases through the MRF and IVC facilities, the applicant seeks to increase the number of vehicle movements to and from the site to a maximum of 210 movements which would equate to an additional 78 movements (i.e. 39 in and 39 out). The applicant stresses however that this figure would only be reflective of when the site is running at its

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maximum capacity and during busy times of the year. It is useful to note that the permitted waste catchment area would not alter from that currently permitted at the site currently. In particular gypsum waste currently processed on site would be transported directly to the nearby Knauf factory for re-use as an insulation product rather than transported out of the County to landfill.

Condition 22 – compostable waste throughput

9. Condition 22 currently states:

“The maximum throughput of compostable waste shall not exceed 31,000 tonnes per annum.”

10. The existing IVC facility was originally designed with the capacity to process up to 45,000 tonnes of compostable waste per year which the applicant states would be achievable without any changes to existing operations or the current site layout. The applicant therefore seeks to increase the processing of compostable waste to 45,000 tonnes per annum.

Condition 26 – MRF waste throughput

11. Condition 26 currently states:

“The maximum throughput of the Materials Recycling Facility (MRF) shall not exceed 35,000 tonnes per annum.”

12. The existing MRF facility is located within a purpose built fully enclosed building within the confines of the existing permitted site. The applicant states that the 35,000 tpa restriction imposed on the original planning permission was reflective of the amount the applicant anticipated they would process rather than for any recognised amenity or site capacity issues.

13. The applicant has states that the MRF has been designed and constructed to manage significantly more than 35,0000 tonnes of waste per annum and are seeking to use the MRF to manage up to 110,000 tpa and would typically consist of the following:

- c.30,000 tpa of gypsum waste;
- c.30,000 tpa wood for the biomass boiler;
- c.50,000 tpa of bulky waste i.e wooden furniture, metal etc.

14. The applicant indicates that this would also allow them to process gypsum waste from the nearby Knauf plasterboard factory, a site located within the existing Ridham Industrial Complex. This in his view would have particular sustainability benefits as this waste is currently transported to alternative treatment sites further afield. The applicants would bring in the gypsum waste to their site process it and return the product to the Knauf site for re-use, facilitating a reduction in vehicle mileage and removing these vehicles from the wider Highway network. The applicants recognise that the proportion of each type of waste may peak and trough as the market dictates

Application for Variation of conditions 12, 20, 22, 26 & 28 of Planning Permission reference SW/05/1392 at Countrystyle Recycling Site, Iwade, Near Sittingbourne, Kent – SW/10/1436

therefore they seek to vary condition 26 to allow for an increase in the total tonnage to a maximum of 110,000 tpa.

15. The applicant refers to policy 8 of the Kent Joint Municipal Waste management Strategy (2007) which seeks a pooled recycling and composting target of 40% for recycling and composting for 2012/2013. Policy 12 states that the Kent Waste Partnership would work to secure composting capacity, including IVC, to enable authorities in Kent to provide an efficient and cost effective service. The Kent Waste Strategy seeks to compost more waste, therefore the applicant considers that the additional IVC capacity proposed would make a material contribution to this target.

Condition 28 – removal of aggregate recycling activity

16. Condition 28 currently states:

“Secondary aggregate recycling shall not exceed a throughput of 10,000 tonnes per annum”.

17. The applicant states that they no longer process aggregates at this site. Accordingly, it is proposed that condition 28 of SW/05/1392 be removed.
18. The application is accompanied by a traffic and transport assessment, noise assessment, odour management plan and bio-aerosol assessment.

Planning Policy Context

19. **National Planning Policy:** PPS1 (Delivering Sustainable Development), PPS9 (Biodiversity and Geological Conservation), PPS10 (Planning and Waste Management) and PPG13 (Transport).
20. **South East Plan (2009):** Policies NRM9 (Air Quality), NRM10 (Noise), W3 (Building Recycling Capacity), W5 (Targets for Diversion from Landfill), W6 (Targets for Recycling and Composting), W7 (Waste Management Capacity requirements), W16 (Waste Transfer Infrastructure) and W17 (Location of Waste Management Facilities).
21. **Kent Waste Local Plan (March 1998):** Policies W3 (Locational Criteria), W6 (Need), W9 (Waste Separation and Transfer), W10 (Composting), W18 (Noise, Dust and Odour), W22 (Road Traffic and Access) and W25 (Lighting, etc).
22. **Swale Borough Local Plan (February 2008):** Policies B2 (new employment uses), B10 (existing committed employment sites), E6 (Protection of countryside), E12 (Protection of European designated sites).

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23. Consultations

Swale Borough Council: Raise no objection to the proposals subject to the rewording of condition 20 to allow 210 vehicle movements (105 in, 105 out).

Iwade Parish Council: Raise objections to the proposals on highway capacity grounds and note that the Ridham area is rapidly developing with new proposals and expansions to existing sites coming forward. An objection is raised to an increase in opening hours on Public Holidays. They consider that these proposals along with other applications, proposed at Kemsley Mill and Ridham Dock would lead to waste being brought to the site from outside Kent contrary to the “proximity principle”. However they acknowledge the sustainability merits in taking gypsum waste from Knauf’s plant. No objection to the removal of condition 28.

Bobbing Parish Council: Raise strong objections to an increase in traffic movements through their Parish. In particular they are concerned over traffic related noise which has increased significantly in recent years.

Concerns are also raised over highway capacity and safety on the local road network. Bobbing state that the proposal would increase congestion at the Stockbury roundabout, which they consider suffers from traffic queuing back to the Key Street slip roads. Concerns are also raised in relation to safety of the roundabout from the Groveshurst slip road due to recent accidents.

Highways Agency: raise no objections.

Divisional Transport Manager: raises no objection to the proposal.

Natural England: raise no objection to the proposal.

Environment Agency: Have no comments to make on the application.

Biodiversity Projects Officer: raise no objection to the proposal having regard to the implication of the proposed variations on the designated sites.

Jacobs (Noise, dust and odour): raise no objection. The noise advisor comments that the noise assessment provided with the application indicates that the noise generated by the operation of the development would have no significant effect upon residential properties or the local environment.

Local Members

24. The local Members Mr. M. Whiting and Mr. A. Willicombe were notified of the application on 15 November 2010. No comments have been received to date.

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Representations

25. The application was advertised in a local newspaper and by way of a site notice. To date no letters of representation have been received.

Discussion

26. 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.
27. The principle of developing this site as a waste management facility has already been established through the granting of planning permission SW/05/1392 and latterly planning permission SW/09/894 for a Biomass Plant therefore I do not consider it necessary to reconsider the principle of the use at this particular location. The proposal seeks the variation of a number of conditions of planning permission SW/05/1392 for capacity and operational reasons, I therefore consider the main determining issues, as a result of those variations, to be as follows:-
- Increase in waste throughput
 - Noise impact from increased traffic and 24 hour MRF operation
 - Highways Impact from additional HGVs
 - Dust and odour considerations
28. In order to operate the site more effectively and utilise its capacity, the applicant is seeking to vary a number of conditions imposed on the existing permission under reference SW/05/1392. The conditions identified, with the exception of the removal of condition 28, are interrelated and will need to be considered against the above issues, the relevant development plan policies and any other material planning considerations.

Increase in Waste Throughput

29. There is planning policy support within PPS10, the South East Plan (2009) and Kent Waste Local Plan for building capacity within the county for recycling and composting of Municipal Solid Waste and Commercial and Industrial waste streams to meet diversion from landfill targets.
30. The Countrystyle Recycling Ltd site is an existing facility with spare capacity to increase waste recycling rates to assist in meeting targets for diversion of waste from landfill. Therefore the applicant proposes variations to conditions 22 and 26, which currently restrict the annual waste throughput in relation to both the in vessel composting (IVC) and materials recycling (MRF) facilities. The applicant states that whilst current restrictions on waste capacity of the site were limited to what the applicant had previously applied for, both the IVC and MRF facilities were designed and built to deliver a higher capacity throughput.

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31. An increase in waste throughput from 35,000tpa to 110,000tpa via the existing MRF is sought in order to accommodate the existing waste processed on site, along with the low grade wood waste required as fuel for the biomass plant. In addition the applicant considers that there would be sustainability benefits from processing some 30,000tonnes of gypsum waste generated by the nearby Knauf Plasterboard factory in order to avoid the need for it to be transported and processed elsewhere. The benefits of this are acknowledged by both Parish Councils. The application also proposes to increase the throughput of the green waste composting facility from 31,000tpa to 45,000tpa.
32. The site lies adjacent to the Swale SSSI, SPA and Ramsar. No objections have been raised by technical consultees to the proposed increase in waste throughput, including from the Environment Agency (EA), Natural England (NE) and the County Councils Biodiversity projects officer. I am therefore satisfied that the increase in throughput will not give rise to unacceptable impacts upon protected biodiversity interests. However concerns have been raised by both Iwade and Bobbing Parish Council's who are concerned with the cumulative impact with other development proposals currently with the County Council for determination occurring in the Ridham Dock area and who claim that the proposed increases would lead to waste being sourced from outside the County taking into account future proposals in the Ridham area. The operator does not propose any alterations the current waste catchment areas permitted under the existing planning permission which currently brings waste to the site from Kent's household waste householder recycling centres. Recycled plasterboard that would have previously been transported outside of the County however, would as a result of this proposal be transported directly to the nearby Knauf plasterboard factory for reuse as an insulation product. This in my view represents a benefit and reduction in vehicle travel.
33. Whilst there are no changes to existing processes nor any alteration to the waste source given the site close proximity to the Knauf factory I remain of the view that the proposal proximate to the site. In my view in the event that Members are minded to grant planning permission for additional capacity, the need for gypsum waste currently travelling longer distances would be greatly reduced which would in my opinion contribute positively on the wider highway network.

Noise

34. Notwithstanding the sites existing waste capacity, in the event that an increase in waste throughput is supported, there are objections from the Parish Councils who raise concerns in relation to the potential noise impact from additional traffic visiting the site and from the 24 hour operation of the MRF as well as a concern over highway capacity.
35. The applicant seeks to allow for 24 hour waste processing activity within the existing MRF building along with an increase in the number of vehicle movements delivering waste to the site by a further 2 hours, i.e. up until 2000 hours Monday to Sunday and on Public Holidays. The Parish Councils have raised an objection to the proposed

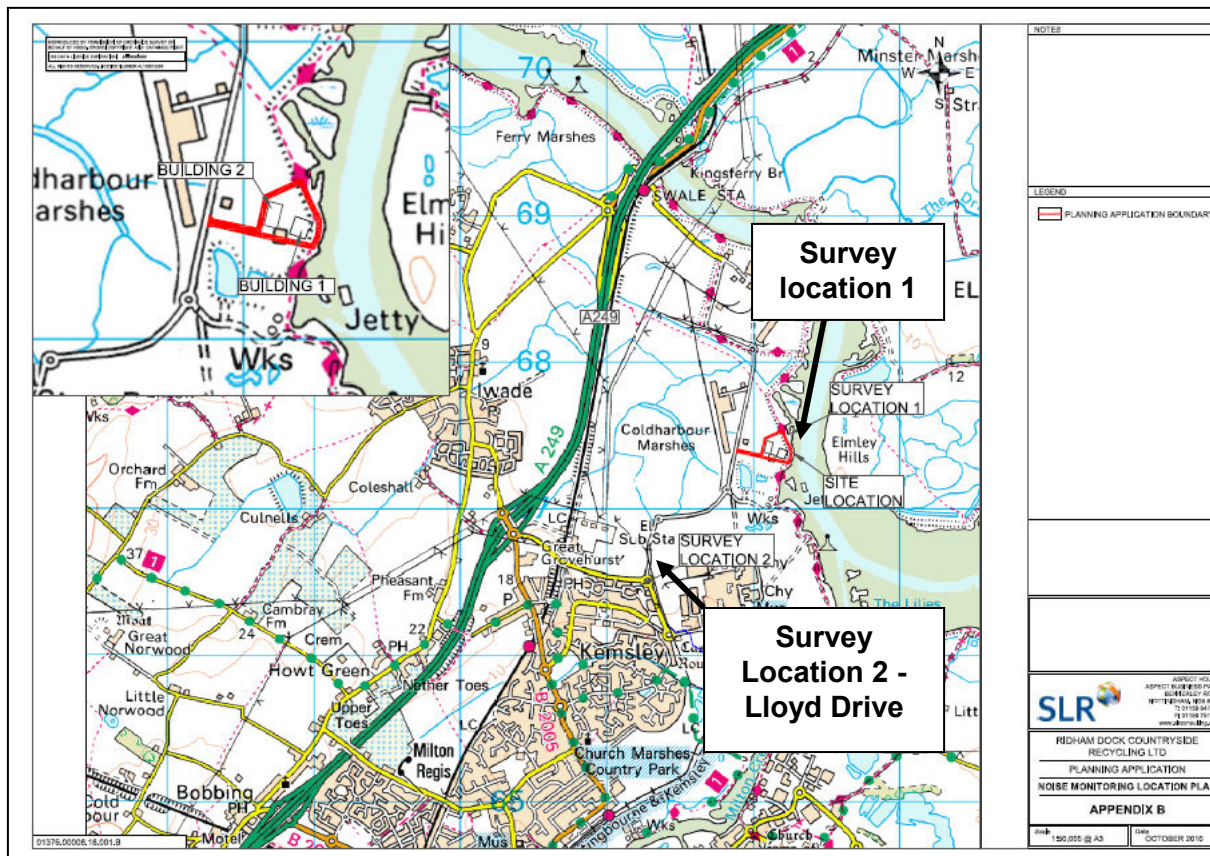
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variations on the basis that an increase in traffic has resulted in an increase in noise generally in recent years.

Noise Impact from HGVs

36. In terms of potential noise impact from HGVs visiting the site, the applicant considers that the proposed increase in HGVs visiting the site along with a variation in operating hours would not create a noise nuisance to the nearest sensitive residential receptors (as identified as location 1 and 2 on the plan below) when considered against the existing noise levels. In support of the application, a noise assessment has been carried out which assesses the potential effect of vehicle movements on the ambient noise levels at the closest receptor, which is considered to be Lloyd Drive.



37. The applicant states that the predicated noise levels generated by site related HGVs would have no impact on the existing ambient noise levels when assessed at the nearest residential noise sensitive receptors. This is shown in the table below:

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Table 5.4¹
**Assessment of Heavy Goods Vehicle movements against Ambient Noise Levels
free-field dB**

Location	Period	Measured Ambient Noise Level L _{Aeq}	Predicted HGV Noise level L _{Aeq}	Predicated Future Ambient Noise level	Change	Impact
1. Mud Flats	Daytime	47.0	24.8	47.0	0.0	No Impact
2. Lloyd Drive		59.1	38.4	59.1	0.0	No Impact

38. Jacobs, our noise consultants have been consulted on the proposal and concur with the findings of the assessment indicating that in their view an increase in traffic movements from and to the site is considered to have an insignificant impact upon the local network and adjacent residential properties (at some 1km distant) with noise from the A249 remaining the dominant local noise source. I consider noise from HGVs would remain at an acceptable level.

Noise impact from the MRF Operation

39. The applicant also seeks to remove the restriction upon operations within the Materials Recycling Facility Building to allow for the processing of waste 24 hours a day. Deliveries of waste are proposed to cease at 20.00hours as proposed under the variation of condition 12 set out above, therefore only waste processing and sorting activity would be restricted to within the existing fully enclosed existing building. The existing site sits within the existing Ridham Industrial Estate within which a number of other businesses, namely Knauf, Morrison’s Regional Distribution Centre and Kemsley Mill operate on a 24 hour basis. Whilst there have been no objections from technical consultees, the Parish Council have raised an objection to an increase in operating hours, particularly on a public holiday.

40. A noise assessment was carried out by the applicant who undertook noise measurements at two locations, being Lloyd Drive and the mudflat are immediately to the east of the site and which was in dominated by industrial noise. The results table below indicates that the predicted rating levels from fixed plant at the site would lead to a situation between marginal significance and a positive indication that complaints would be unlikely during both the daytime and night-time periods for both locations.

¹ Page 9, SLR Noise Assessment (October 2010)

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Table 5.2²
BS4142 Assessment, free-field dB

Location	Period	Measured Background Noise level, L _{A90}	Predicted Rating Noise Level L _{Ar,T}	Difference
1. Mud Flats	Daytime	44.6	35.1	-9.5
2. Lloyd Drive	Daytime	47.3	20.6	-26.7
1. Mudflats	Night-time	43.8	35.1	-8.7
2. Lloyd Drive	Night-time	40.3	25.5	-14.8

41. In considering any potential noise impact on the nearby Special Protection Area (SPA), Ramsar site and Special Site of Scientific Interest (SSSI), from the 24 hour operation of the MRF and the additional 2 hours of vehicle movements on this site, the existing MRF building is an insulated industrial building, the doors to which would remain closed after the last deliveries of waste to the site at 2000 hours. The In-vessel composting building currently on site already operates on a 24 hour basis and no changes to this are proposed.
42. The applicant has supplied a noise assessment with further addendums investigating the impacts of noise from the 24 hour operation of the MRF on the SPA along residential receptors. This concluded that the noise generated from the operation of the facility would not raise noise levels above the existing background level at the SPA boundary. The proposed operations would therefore not have a significant impact upon the SPA, SSSI and have no impact upon the nearest residential properties which are over 1km away from the site.
43. Natural England and the County Council's own Biodiversity Officer have been consulted specifically in relation to the impacts of this facility on the designated sites and have raised no objection to the proposals. Advice has been sought from Jacobs, the County Council's noise advisors in relation to the potential impact of a 24 hour MRF operation on the local environment. Jacobs concur with the findings of the noise assessment provided by the applicant and are satisfied that the proposed variation would not have any significant impact upon the local environment in terms of noise. Jacobs also note that the existing noise from road traffic on the existing road network would prevail as the dominant noise source. Having regard to the views of the above consultees I am satisfied that the proposed variation of condition 12 would not result in an unacceptable adverse impact on residential amenity nor on the nearby designated sites and is therefore consistent with Policy NRM10 of the South East Plan and Kent Waste Local Plan policy W18.

Highways Impact

44. As part of the proposal the applicant seeks to vary the current restriction on vehicle movements in order to reflect the proposed increase in waste throughput, through

² Page 8, SLR Noise Assessment (October 2010)

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both the MRF and IVC facilities, being handled at the site. Condition 20 of planning permission SW/05/1392 currently restricts the site to a combined total of 132 movements (i.e. 66 in/66 out). Linked to an increase in waste throughput the applicant would also be required to increase vehicle numbers visiting and leaving the site by some 78 movements per day (i.e. an additional 39 in/39 out). This would ultimately equate to a total of 210 (105 in, 105 out) movements per day overall.

45. The site is currently accessed from a designated industrial route directly from the junction with the A249 which is classed as a primary trunk road. In support of the application a traffic and transport statement has been submitted which examines the impacts of the proposed increase on the existing highway network. The Assessment states that the waste would be sourced locally and as such is already being transported on the local highway network but being processed further afield, also the proposals would include importation of gypsum waste from the nearby Knauf Drywall facility, a site located within the existing Ridham Industrial Estate complex.
46. The applicant indicates that proposed figures reflect a maximum figure which would be reached infrequently and particularly after busy periods such as bank holiday weekends. The applicant also recognises that the site could not operate at this level on a regular basis as it would soon exceed the waste throughput limits imposed upon the site under conditions 22 and 26.
47. Bobbing Parish Council have raised concerns over the impact the proposed increase in vehicle movements would have upon traffic at the slip roads to the A249. The Divisional Transport Manager (DTM) and the Highway's Agency (HA) have been consulted and have raised no objection to the proposal in relation to capacity and impact on the A249. Having regard to the Parish Council's concerns however, further advice has been sought from the DTM who confirms that he does not consider that the proposed variation would have a significant impact upon the slip roads or the local road network provided the re-worded condition imposed on the planning consent stipulates an upper limit of 210 movements as applied for. The DTM concludes that in reality there would only be a small increase in vehicle movements which would have no real impact upon the local highway. Having regard to the Parish Council's concerns on 'cumulative impacts' I would comment that both the DTM and Highway Agency have been consulted and that neither have raised objections to this proposal nor the proposed development at Kemsley Paper Mill (submitted under reference SW/10/444). On this basis I would find it difficult to sustain an objection to the proposal on highways grounds. I consider that the proposed variation of condition 20, which would set an upper limit to 210 combined movements accords with the principles set out in PPS10, PPG13, the South East Plan (2009) and Policy W22 of the Kent Waste Local Plan which aims to ensure waste facilities have ready access onto the primary route network, and do not cause detrimental impacts to highway safety and amenity.
48. In summary, I would concur with the views of the DTM who considers that the proposed increases to the maximum throughputs, increases to hours of operation and the increased upper limit to total vehicle movements are all acceptable in terms of highway capacity and for their impact upon local highway network. The DTM notes that the Traffic and Transport Assessment supplied with the application argues that the vehicles movements are already on the local highway network, and that there are

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benefits with the processing of locally generated wastes such as the gypsum waste from Knauf's plasterboard manufacturing plant.

Amenity Considerations

49. Whilst the application proposes to increase the throughput green waste composting at the existing facility, no specific concerns have been raised concerning potential odour or bio-aerosol emission issues. The operator has worked closely with the EA to produce an odour management plan for the site which forms part of the requirements of the existing environmental permit. With the exception of the final maturation area, the IVC facility is operated within a fully enclosed building, kept under negative pressure and operates an odour masking misting spray. A Site Specific Bio-Aerosols Risk Assessment (SSBRA) has been submitted, which seeks to ensure that any risks associated with the sites operation, are investigated and controlled as part of everyday operations. The EA and Jacobs, the County Council's odour and dust advisors, have been consulted and have raised no technical objections to the proposal. Odour and bio-aerosols emissions are operational matters already controlled by the EA under the existing permitting regime. I am therefore satisfied that odour and bio-aerosol emission levels are acceptable and that adequate controls are already in place at the site to accommodate the increase in throughput. I do not consider that any increase in throughput would lead to unacceptable impacts on local amenity or the local environment as a result of odour or bio-aerosols.

Aggregate Recycling

50. Condition 28 of planning permission SW/05/1392 currently restricts aggregate recycling on site to 10,000tpa. The applicant seeks to formally delete this condition as it is no longer relevant to activities occurring on site. No objections or concerns have been raised in with regard with this deletion. On this basis I consider this to be acceptable in planning terms.

Conclusion

51. Countrystyle's waste recycling facility at Ridham Dock has been operating for the past 4 years. The principle of this development at this location has been established under the SW/05/1392 planning permission. The operator now seeks to achieve the capacity to which the site was designed.
52. The site is located within an existing industrial area, some 1.2 km from the nearest sensitive residential receptor. The site is accessed by a designated industrial route from the A249 trunk road. There have been no technical objections made to any of the proposed variations. Iwade Parish Council and Bobbing Parish Council have objected to the proposals due to the proposed increase in vehicle movements and potential cumulative impacts upon the area due to future planning applications. Both the Highways Agency and the Divisional Transport Manager do not consider that the proposed increase in daily vehicle movements from 132 to 210 movements would

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have a significant impact upon the local highway network. The matter of other planning applications in the area is not relevant to this case as these have not yet been considered and in determining those new applications the committee would need to take the impacts of this proposal into consideration. This site is an existing operating site which is seeking to expand its operations to meet existing need for waste recycling and composting facilities within the County. The proposals do not require any additional built development or mitigation measures to control the proposed increases as satisfactory measures to control noise, dust and odour are already in existence at this facility. These matters would also be controlled through the any revisions to the sites environmental permit.

53. Having considered the views of consultees and relevant material planning considerations I am satisfied that the proposed variations to the conditions would not lead to unacceptable adverse impacts either individually or cumulatively and would accord with adopted development plan policies. I therefore recommend accordingly.

Recommendation

54. I RECOMMEND that PERMISSION BE GRANTED for the proposed variations to conditions 12, 20, 22 and 26 of planning permission SW/05/1392. And that they shall now read as follows:

- (12) Waste deliveries and transportation of materials off site shall only take place between the following hours;

05.30 – 20.00 hours Monday to Sunday and Public Holidays (excluding Christmas Day, Boxing Day and new Years Day)

No operations other than the processing of compostable material within the in vessel system and processing of materials within the MRF building shall take place outside these hours except for essential plant maintenance up to 23.00 hours between Monday and Saturdays only.

- (20) No more than a combined total of 210 vehicle movements (105 in/105 out) associated with the operations hereby permitted shall enter or leave the site in any one day.
- (22) The maximum throughput of compostable waste shall not exceed 45,000 tonnes per annum.
- (26) The maximum throughput of the Materials Recycling Facility (MRF) shall not exceed 110,000 tonnes per annum.

Case Officer – Shaun Whyman/Angela Watts	Tel no. 01622 221055
Background Documents - see section heading	

Item C3**SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.**

A report by Head of Planning Applications Group to Planning Applications Committee on 12 April 2011.

SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill, comprising Waste Fuel Reception, Moving Grate technology, Power Generation and Export Facility, Air Cooled Condensers, Transformer, Bottom Ash Handling Facility, Office Accommodation, Vehicle Parking, Landscaping Drainage and Access. Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent. St Regis Paper Company Ltd and E. ON Energy From Waste Ltd. (MR. 922 665)

Recommendation: Planning permission be granted subject to conditions.

Local Member: Mr. M. Whiting and Mr. A. Willicombe

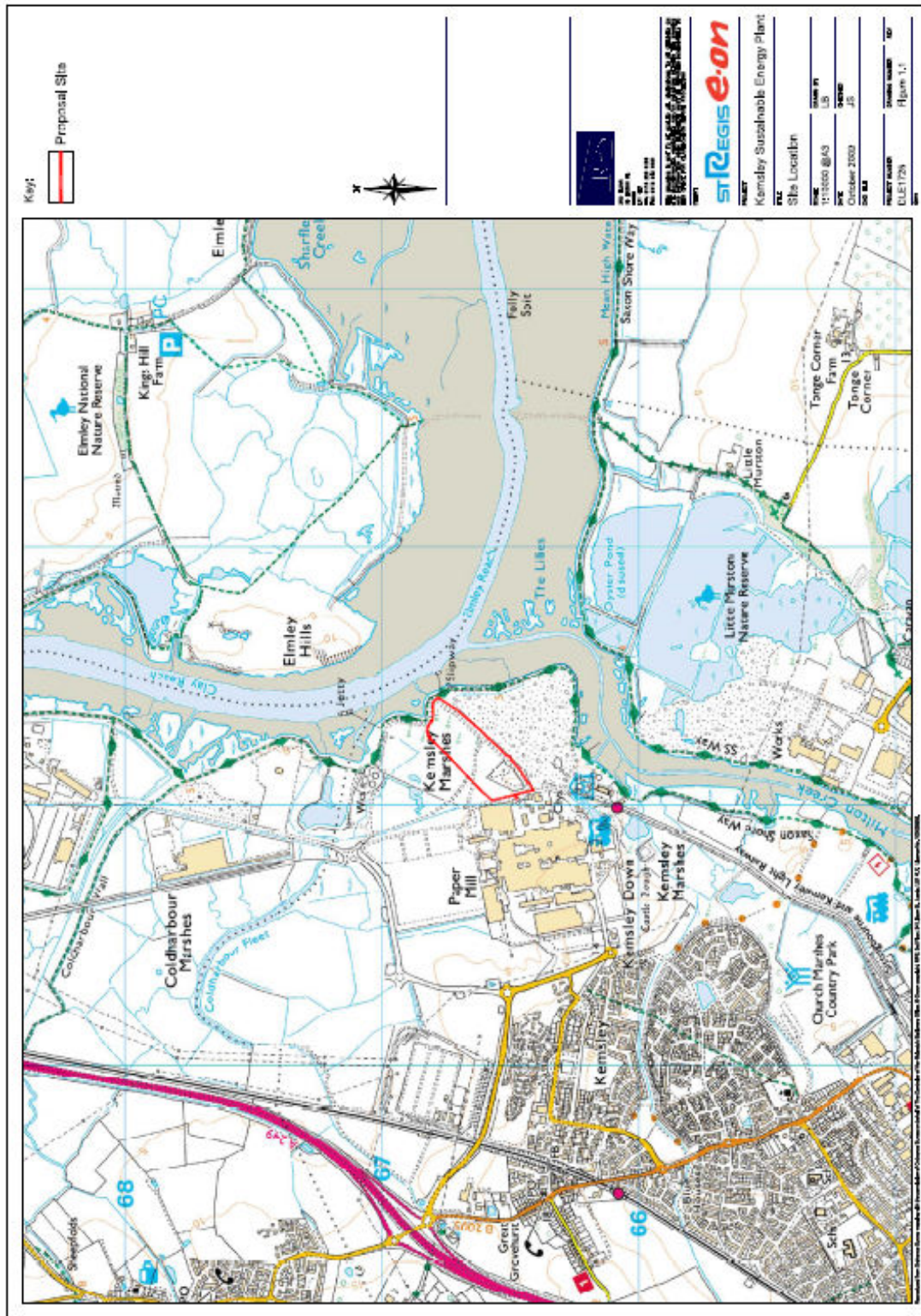
Unrestricted

The Site and Background

1. The proposed site is located to the north east of Kemsley, some 2 kilometres south east of Iwade and the A249. It adjoins the north eastern side of the existing Paper Mill and lies close to habitats which form part of the Swale SSSI and the Medway Estuary and Marshes SSSI. These SSSIs are part of the Swale SPA and Ramsar Site and the Medway Estuary and Marshes SPA and Ramsar Site. The majority of the site is currently disused however the southern corner of the site contains a small area of storage for materials and vehicles with associated access tracks. Whilst there are no public rights of way which cross the site the Saxon Shore Way, a nationally important long distant footpath, runs along its northern boundary. See site location plan and aerial photograph below.
2. Members visited the site in July last year when they were able to hear the applicants explain the overall context of the proposed scheme and view the site in the context of the wider surroundings. (A note of the visit is attached under Appendix 1).

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Site Location



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Aerial View of Site

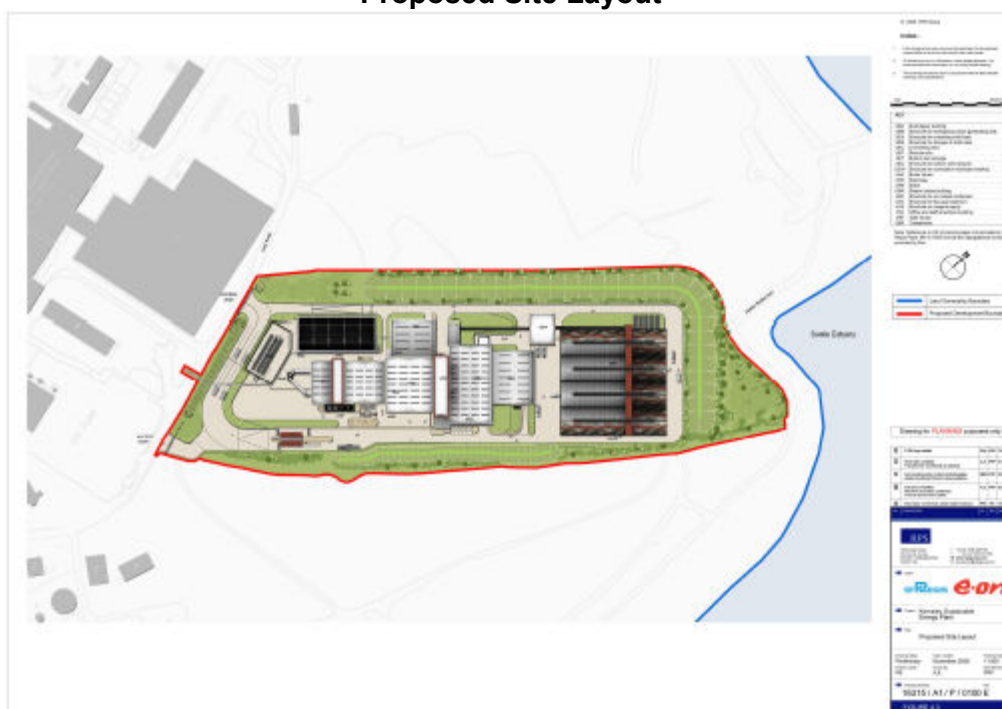


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Proposal

- It is proposed to construct a Sustainable Energy Plant (SEP) within 7.0 hectares of land at the existing Kemsley Paper Mill Site, Sittingbourne, Kent. The proposed development footprint comprising of the plant and associated facilities would occupy some 4.6 ha in total (see site layout and elevational details), and consist of a reception hall and bunker, boiler house, 2 stacks (90m), flue gas treatment, air cooled condensers, Bottom Ash (BA) building, disabled car parking landscaping, and access. The main bulk of the building would extend to a height of some 50 metres.

Proposed Site Layout



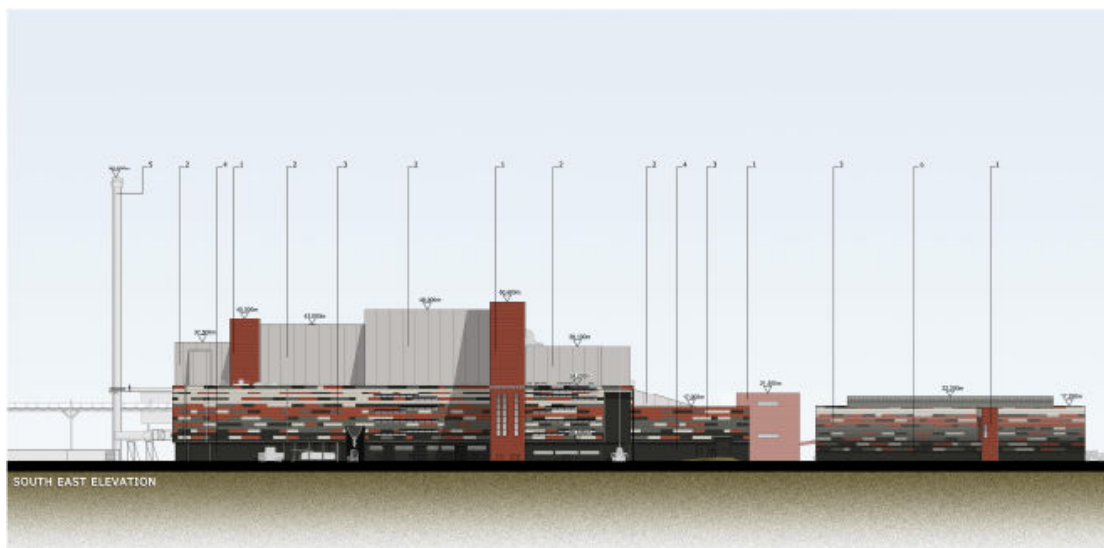
- The application site has previously been found to contain protected species. Although there would be a net loss of the existing habitat on site it is proposed that as part of the development new habitat would be created around the outside of the development footprint consisting of attenuation lagoons into which clean surface water would drain in order to encourage the colonisation by species consistent with the UK Biodiversity Action Plan. Also, prior to site construction, any existing species found present would be translocated onto newly formed habitat on an adjoining area which has been subject to previous landfilling with waste from the Paper Mill. In addition it is further proposed to provide around 1 hectare of reedbed habitat in a more remote area considered suitable for use by the breeding Marsh Harrier.
- The applicants propose to use approximately 500,000 to 550,000 tonnes of pre treated waste per annum as a fuel source. Waste would comprise Solid Recovered Fuel Waste, Commercial and Industrial waste and pre treated Municipal Solid Waste, which may include up to 25,000 tpa of waste plastics arising from the adjoining paper making process. It is intended that the waste would be sourced from within Kent, with the

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balance from London, the South East and elsewhere in the UK subject to commercial viability. The SEP would use the waste as a fuel to recover energy producing some 48.5 MW per hour of electricity and provide in excess of 50 MW per hour of steam to the mill.

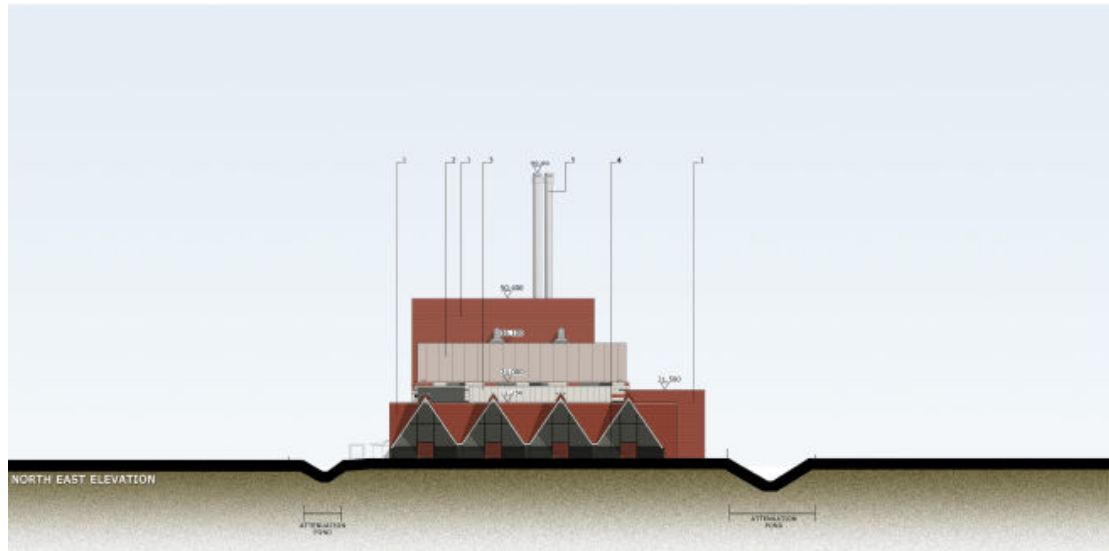
6. The energy requirements at Kemsley paper mill are currently met on site by a Combined Heat and Power (CHP) plant which is fuelled by natural gas, a fossil fuel based energy source, and by a Waste to Energy plant which burns rejects from the paper making process. The applicants state that the mill's energy cost is some £50m per annum representing 25% of turnover. With the pricing of natural gas having become extremely volatile in recent years and with the European market less de-regulated than the UK, the applicants claim this has put Kemsley Mill and other UK operators at a disadvantage to their European competitors, as a result of which 22 paper mills have closed in the UK over the last 5 years including 3 in Kent. With the UK becoming more reliant upon imported natural gas, the applicants are concerned about the future supply of natural gas on which their operations currently rely.
7. Although natural gas will remain as a significant source of energy for the mill, the applicants argue there is a clear need for Kemsley Mill to diversify its fuel source and, in so doing, to reduce its reliance on fossil fuel based energy sources. They claim the proposed SEP would therefore ensure a greater degree of energy supply security and improve the competitive position of the mill.

South East Elevation

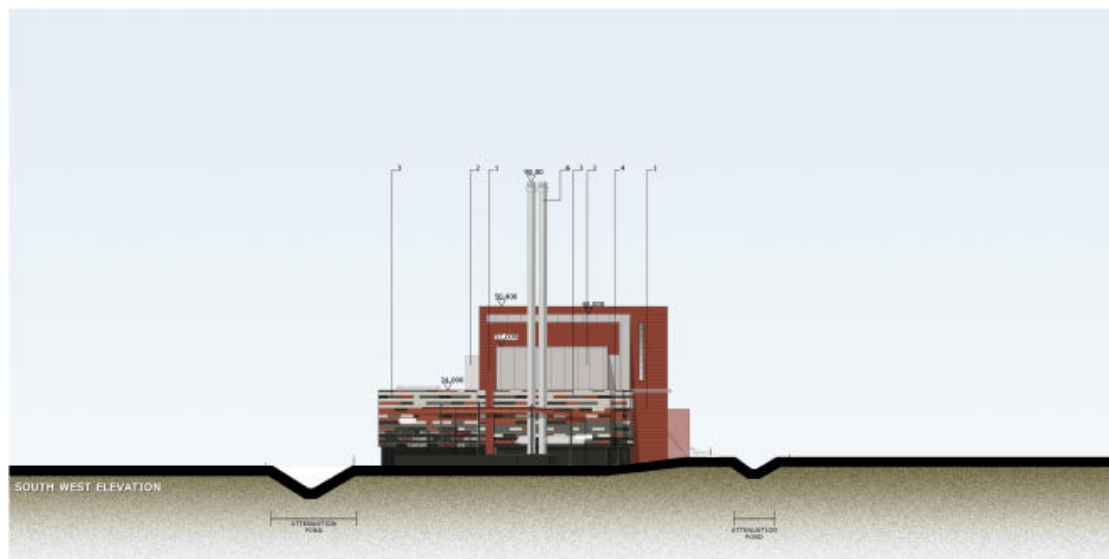


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North East Elevation

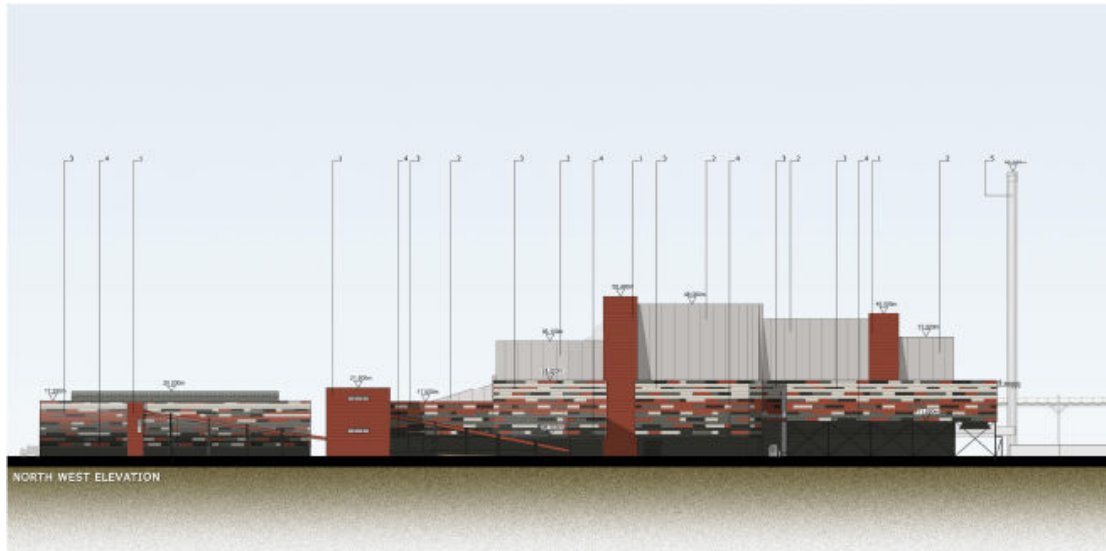


South West Elevation



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North West Elevation

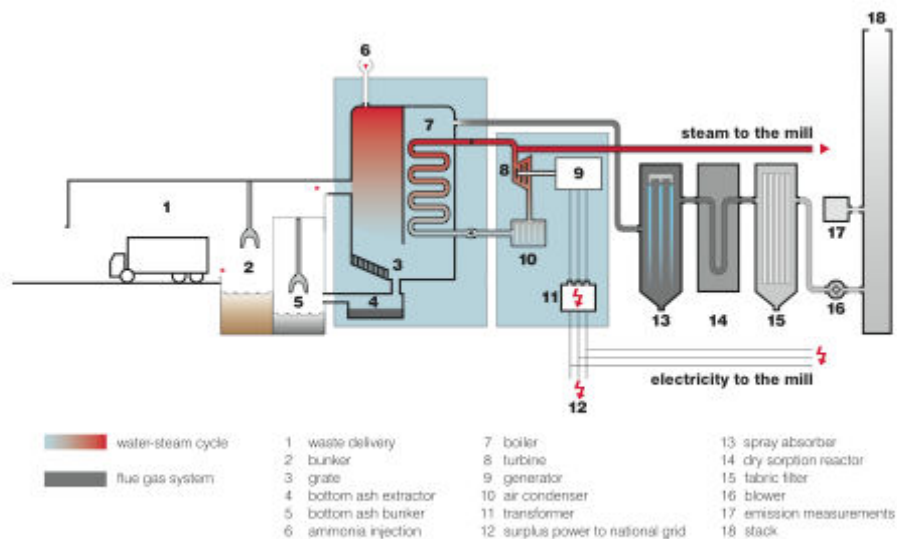


Process

8. Waste would be delivered to the plant by Heavy Goods Vehicles within enclosed containers. Loads would be weighed upon entry to the site at a weighbridge located at the site entrance and then vehicles directed to a reception hall using a dedicated circulatory access road within the site. The waste would be tipped into a bunker which is designed to accept up to 3000 tonnes per day, and processed through a thermal treatment process at a rate of up to 2 x 37 tonnes per hour. Within the bunkers the waste fuel would be mixed by two hydraulic grabs to provide an homogenous mix to the plant before being fed into charging hoppers which in turn feed the grate stoker furnace located within the boiler house.

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Flow diagram of the SEP process



9. The fuel bunker would be ventilated under negative pressure by the primary air fan. During normal operation the exhaust air would be fed into the incineration system. During downtime the extracted air is ventilated through a separate activated charcoal filter and discharged through a vent pipe on the roof of the bunker.
10. The combustion grate is where the combustion of the waste would take place. The charging hopper passes into a shaft, the fuel in this shaft would work as a gas tight seal between the combustion chamber and the bunker. Hydraulically driven ram feeders are used to evenly distribute the incinerator charge along its extent and transport it to the grate area. The grate is designed as a multi line sliding grate/feed stoker and longitudinally consists of four separate grate zones.
11. The ash hoppers beneath the grate discharge into a water quench slag extractor. The burnt up slag at the end of the grate falls into the water quench via the bottom ash hopper. A slat conveyor carries ash and slag out of the water quench to a slag bunker via a belt conveyor.
12. Back up burners fuelled by light fuel oil would be located above the grate and would allow for start up from a cold state and as a supplementary firing means to ensure a minimum operating temperature of 850 °C as necessary.
13. Primary combustion air will be fed into the furnace through the underside of the grates by a primary air fan. Secondary air will also be injected at high velocity through nozzles positioned in the walls of the combustion chamber above the level of the waste. This will create turbulence, which assists in mixing the secondary air and combustion gases to achieve complete combustion of the gases. The volume of both primary and secondary air would be regulated by an automatic combustion control system.

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14. The steam generation system is located above the grate. The steam generating environment operates within a pressure of 48bar and 410°C. This minimises chloride corrosion to the heating surfaces. The pipe walls of the first, second and third exhaust flue as well as those of the horizontal flue constitute the evaporator heating surfaces, where at first saturated steam would be generated. The horizontal flue would contain a convection, heating surfaces suspended in the flue gas flow and super heater and feed water heater (Economiser). The flue gas would be ventilated from the grate via the four passes in to the flue gas treatment system behind the horizontal flue.

Energy Recovery

15. The steam produced would be used to drive a steam turbine which in turn would drive a generator producing electricity transformed to a voltage distribution of 400V and to 700V to supply the plant itself. Surplus electricity would be exported from the plant and fed to the grid via a transformer at 132kV. Low pressure steam would also be extracted for use as process steam within the paper mill. The steam would be fed to the mill over a bridge which crosses the internal site road to the west of the proposal site.

Flue Gas Treatment

16. Combustion gases would be cleaned before they are released to the atmosphere. The flue gas treatment system is a dry conditioned flue gas treatment system. The final configuration and design of the abatement plant would be agreed with the Environment Agency as part of the Environmental Permitting authorisation process. The flue gas treatment (FGT) system would be designed to be compliant with the EC Waste Incineration Directive and which would be enforced by the Environment Agency through conditions attached to the facilities Environmental Permit. The proposed flue gas treatment process is able to precipitate acid components to a minimum. The flue gas from the grate is cleansed of any acids or other compounds by a process which turns nitrogen oxides (NOX) produced during combustion by non catalytic conversion to nitrogen and steam. The reducing agent used is ammonium hydroxide, which reacts with nitrogen dioxide of the flue gases within a temperature range of 850 - 950oC. Approximately 20% by weight of the total ash produced by the sustainable energy plant would be in the form of fly ash and reaction product FGT. Thus assuming a 90% load factor it is expected that approximately 28,000 tonnes of fly ash and reaction FGT residue will be produced per annum.
17. Once collected, the ash will be loaded into sealed containerised vehicles and transported from the site for disposal within a permitted facility.
18. Bottom ash would represent around 20% to 25% of the waste throughput equating to up to 138,000 tonnes per annum. Ash from the slag bunker would be transported to a separate slag treatment system on site where it would be crushed into a graded material. Ferrous and non ferrous metals would be recovered together with any un-burnt material being returned to the fuel bunker. The ash would be graded and stored in rows within an enclosed building for a period of three months during which time it would mature improving its ability to be used for construction purposes off site. Any ash not sold would be treated as a waste product and also be removed off site to an authorised facility.

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19. Clean exhaust gas would be directed to the stack by an induced draft fan and an exhaust silencer would control sound emissions at the stack outlet. The applicant indicates that each processing line would be served by a stack with a height of 90 metres located at the south western end of the building. The applicant states that the height has been determined through dispersion modelling of emissions and evaluation of the resulting dispersion plumes so that ground level concentrations of key pollutants are maintained within acceptable levels under all operating conditions.

Access to the Site

20. The applicants proposal assumes all waste would be delivered to the site by road, however they indicate that they are pursuing other options for delivery by water and/or rail should this be found to be practicable and viable. There are two points of vehicular access available to the existing Kemsley Paper Mill. The southern access is via Ridham Avenue to the south of the mill site. The other site access is located at the north-east corner of the site and is accessed via Barge Way. It is proposed that staff and visitors would use the existing southern access and that HGVs accessing the site delivering waste would use the existing northern access. It has been assumed that all HGVs would travel from junction 5 of the M2 via the A249 and Swale Way. Overall, the SEP would generate some 258 daily HGV movements which would equate to 22 movements per hour.

Proposed Working Hours

Construction Stage

21. Construction work would include civil engineering works associated with the plant construction and the process work involved in the mechanical and electrical equipment installation, fit out and commissioning of the plant. The applicants propose that construction activities would take place between:

0700 and 1900 Monday to Friday, and
0700 and 1600 Saturday and Sunday

with the exception of non-intrusive activities which would take place outside of the above.

Operational Stage

22. The applicants are seeking permission to enable the SEP to operate on a continuous 24 hour basis, 7 days a week. However waste deliveries would be restricted to between the following times:

0700 and 1800 hours Mondays to Fridays, and
0700 and 1300 hours on Saturdays

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23. The application is accompanied by an environmental statement which includes an assessment of the possible effects of the proposed development in relation to the existing conditions on site and its surroundings. Having regard to the specified information as required under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (as amended), the following key matters have been taken into account;

- (i) Need
- (ii) Traffic
- (iii) Air Quality
- (iv) Landscape and visual Impact
- (v) Nature Conservation
- (vi) Hydrology
- (vii) Noise
- (viii) Socio Economic Impacts

National, Regional and Local Planning Policy Context

24. The original members briefing note initially set out the relevant policy considerations in relation to the proposed development. The South East Plan (SEP) referred to in that note in the meantime was abolished and later reinstated pending the enactment of the Localism Bill. Members will be aware that that they have to have regard to the policies in the SEP and the Government's intention to abolish the Regional Spatial Strategies (RSS) as material considerations. However, the weight to be accorded is a matter for the decision makers. Members should also note that Cala Homes has been granted leave to appeal the recent High Court judgement and are seeking clarification on how much weight should be given to the RSS in the light of the intention to revoke.

25. The key National and Development Plan Policies most relevant to the proposal are summarised below:

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development - Encouraging decisions taken on planning applications to contribute to the delivery of sustainable development. The Supplement to PPS1 – Planning and Climate Change sets out how planning should contribute to reducing emissions and stabilising climate change. Tackling climate change is a key government priority in the planning system.

Waste Strategy 2007 – aiming to reduce waste by making products with fewer natural resources, breaking the link between economic growth and waste growth; products should be re-used or their materials recycled. Energy should be recovered from other waste where possible.

Planning Policy Statement 7 (PPS7): Biodiversity and Geological Conservation – This sets out planning policies on protection of biodiversity and the geological conservation through the planning system.

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management – Underlines the importance of planning for and consenting the necessary number and

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range of facilities in order to ensure that adequate provision is made for the future management of our waste.

The key aim of moving waste management up the 'waste hierarchy' forms the underlying objective of national policy. The proximity of waste disposed and 'self sufficiency' are also expected to represent the fundamental key to securing such objectives to ensure that communities take responsibility for their own waste.

Through more sustainable waste management, moving the management of waste up the 'waste hierarchy' through the descending order of reduction, re-use, recycling and composting, using waste as a resource of energy and only disposing of waste to landfill as a last resort, government aims to break the link between economic growth and the growth of waste.

Planning Policy Statement 22 (PPS22): Renewable Energy – This sets out the valuable role that renewable energy can play in meeting Governments' commitment to addressing the impacts of climate change and maintaining reliable and competitive energy supplies. Renewable energy will contribute to the Governments' sustainable development strategy by meeting energy needs, reducing greenhouse gas emissions and the impact of climate change, the prudent use of natural resources and a reduction in the reliance on fossil fuels. Development proposals should demonstrate any environmental, economic and social benefits as well as how environmental and social impacts have been minimised through careful consideration of location, scale and design.

In decision making local planning authorities should also have regard to the following key principles. Renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be satisfactorily addressed : development plan policies should promote and encourage such development ; the wider environmental and economic benefits of renewable energy projects irrespective of scale should be given significant weight in decision making ; assumptions about the technical and commercial feasibility of the project is not a consideration and developments should demonstrate any environmental, economic and social benefits as well as how any environmental benefits have been minimised through location, scale and design considerations.

Planning Policy Statement 23 (PPS23): Planning and Pollution Control – LPAs must be satisfied that planning permission can be granted on land use grounds taking full account of environmental impacts. This will require close co operation with the E.A. and or the pollution control authority and other relevant bodies. It states that controls under the planning and pollution control regimes should compliment and not duplicate each other. In considering proposals LPAs should take account of the risks of pollution and land contamination and how these can be managed or reduced. The policy advice is clear in that the Planning System should focus on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than the control of those processes or emissions themselves. Planning Authorities should work on the assumption that the relevant control regime will be properly applied and enforced . The need to avoid duplication in regulatory processes is reiterated in the supplement to PPS1 Planning and Climate Change.

Planning Policy Statement 24 (PPS24): Planning and Noise – Outlines the consideration to be given to those developments with the potential to generate noise and the

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need to ensure that adequate mitigation can be put in place to prevent any adverse effects on nearby noise sensitive land uses.

Planning Policy Statement 25 (PPS25): Development and Flood Risk – The aim of planning policy should be to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding and to direct developments away from areas at high risk. Where new development is necessary in such areas policy aims to make it safe without increasing flood risk elsewhere.

26. The South East Plan May 2009

- Policy CC1:** The principle objective of the Plan is to achieve and to maintain sustainable development in the region by prioritising amongst other matters; sustainable levels of resource use, reducing greenhouse gas emissions and ensuring the South east is prepared for the inevitable impacts of climate change.
- Policy CC2:** Measures to mitigate and adapt to climate change implemented through the application of local planning policy and other mechanisms recognising that behavioural change will be essential in implementing this policy.
- Policy NRM1&2:** Seek to protect groundwater supply avoiding adverse effects on water Quality.
- Policy NRM5:** Avoidance of net loss of biodiversity
- Policy NRM9:** Improvements in air quality.
- Policy NRM11:** Gives support for renewable energy and encourages LPAs to promote and secure greater use of renewable energy in new development.
- Policy NRM13&14:** Set out regional renewable energy targets and sub regional targets for electricity generation.
- Policy NRM16:** Requires LPAs to support in principle the development of renewable energy and to take into account what contribution new development could make towards meeting renewable energy targets and carbon dioxide savings.
- Policy W3:** Requires Waste Authorities and waste management companies to provide management capacity sufficient to achieve regional self - sufficiency together with a declining amount of waste from London.
- Policy W4:** Requires Waste Authorities to aim for net sub-regional self-sufficiency.

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- Policy W5:** Targets for diversion from landfill. A substantial increase in recovery of waste and a commensurate reduction in landfill is required in the region.
- Policy W12:** Support for other recovery and diversion technologies including the combined generation and distribution of heat and power.
- Policy W17:** Waste development documents will, in identifying locations for waste management facilities, give priority to safeguarding and expanding suitable sites with an existing waste management use and good transport connections. The suitability of existing sites good accessibility from existing urban areas or major new or planned development, good transport connections, compatible land uses, including previous or existing industrial land use, contaminated or derelict land and be capable of meeting a range of locally based environmental and amenity criteria.

27. Kent Waste Local Plan Saved Policies (Adopted March 1998)

- Policy W11:** Identifies this site as being suitable in principle for a Waste to Energy Plant
- Policy W17:** Requires regard to be had to air quality and its cumulative effects such that emissions will not adversely affect neighbouring land uses
- Policy W18:** Before granting permission for a waste management operation the planning authority will require to be satisfied as to the means of control of:-
- (i) noise
 - (ii) dust, odours and other emissions
 - (iii) landfill gas
- Particularly in respect of its potential impact on neighbouring land uses and amenity.
- Policy W19:** Before granting permission for a waste management facility, the planning authority will require to be satisfied that surface and groundwater resource interests will be protected and that where necessary a leachate control scheme can be devised, implemented and maintained to the satisfaction of the planning authority.
- Policy W20:** Before granting planning permission for a waste management facility the Planning Authority will need to be satisfied that proposals have taken account of drainage and flood control.
- Policy W21:** Before granting permission for a waste management proposal the planning authority will need to be satisfied that the earth science and

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ecological interests of the site and its surroundings have been established and provisions made for the safeguarding of irreplaceable and other important geological and geomorphological features, habitats, or species of wildlife importance. Where an overriding need requires some direct loss or indirect harm to such features, habitats or species, where practicable suitable compensatory mitigation measures should be provided.

Policy W22: When considering applications for waste management facilities the planning authority will:-

- (i) normally refuse permission if it is considered that the proposed access, or necessary off-site highway improvements or the effects of vehicles travelling to and from the site, would affect in a materially adverse way:-
 - (a) the safety (or would exceed the capacity) of the highway network
 - (b) the character of historic rural lanes
 - (c) the local environment including dwellings, conservation areas and listed buildings.
- (ii) ensure that any off-site highway improvements considered to be necessary to secure acceptable access are completed, if necessary in stages related to the development of the site, before specified operations on site commence and provided at the development's expense.

Policy W25: When considering details relating to the siting, design and external appearance of processing plant, hard surfacing, buildings and lighting, the planning authority will ensure that:-

- (i) facilities are grouped to prevent sprawl and the spreading effects, and to assist screening.
- (ii) Advantage is taken of topography and natural cover.
- (iii) Designs and means of operation minimise visual and noise intrusion.
- (iv) Appropriate colour treatment is provided, to reduce their impact and to assist their integration into the local landscape.

Policy W27: Securing and considering the interests of users of the Public Right of Way

28. Swale Borough Local Plan

Policy SP2: In order to provide a robust, adaptable and enhanced environment, planning policies and development proposals will protect and enhance the special features of the visual, aural, ecological, historical,

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atmospheric and hydrological environments of the Borough and promote good design in its widest sense.

Development will avoid adverse environmental impact, but where there remains an incompatibility between development and environmental protection, and development needs are judged to be the greater, the Council will require adverse impacts to be minimized and mitigated. Where a planning decision would result in significant harm to biodiversity interests, which cannot be prevented or adequately mitigated against, appropriate compensation measures will be sought.

Policy E12: Sites designated for their importance to biodiversity or geological conservation.

Policy B2: Providing for new employment.

Policy U3: Renewable Energy - The Borough Council will permit proposals for renewable energy schemes where they demonstrate environmental, economic and social benefits and minimise adverse impacts. Before planning permission is granted, the Borough Council will consider such matters including the contribution to the regional requirement for

Policy B10: Ridham as an existing committed employment site.

Policy B11: Identifies the area in which the application site falls as having outline permission for a mix of employment uses including general industrial and storage and distribution. In this context the Borough Local Plan considers the area to be of strategic importance and considers it is unique within the borough and the wider sub-region for the range of plot sizes it can accommodate.

29. Consultations

Swale Borough Council: No objection subject to conditions covering landscaping, construction materials. investigation of use of rail infrastructure, fuel source, hours of working.

Iwade Parish Council: Considers the application remains speculative at this stage given that the source of the waste has yet to be determined. The application does not meet the general principles of Best Practicable Environmental Option given that it raises ecological issues would include waste imported from London and the south east and elsewhere contrary to the proximity principle and generate greenhouse gases through increased lorry movements in the area. Adverse impact from lorry traffic on the local road network. Latest government targets for recycling and composting reduces the need for incineration. Adverse effects from stack emissions.

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Bobbing Parish Council: Raise concerns over the impacts from traffic on the local highway network together with concerns over air quality impacts from stack emissions and also odours. Considers scale of the proposed building would be out of character with the area especially when viewed from the Nature Reserve at Elmley. Asks whether there would be any need for additional pylons to accommodate the grid connection.

Minster Parish Council: Whilst they feel a modern Waste to Energy Plant would help improve the environment rather than the old gas fired power station their two main concerns relate to types of emissions and traffic. Asked for alternative ways of transporting waste to the site to be explored (e.g. by rail). The scale of the operation is unknown and the Parish Council would need a definitive answer on the waste catchment area.

Tonge Parish Council: Views awaited.

Bapchild Parish Council: Views awaited

Queenborough Parish Council: Views awaited

Environment Agency: Raise no objection to the proposal subject to a number of issues that would first need to be addressed including further consideration of alternative site location, more use of waste arisings on site (i.e. paper sludge etc) reducing the need to import, further analysis of the net carbon balance deriving from the use of the intended waste stream, impacts from emissions on air quality cannot be assessed pending the receipt of an Environmental Permit Application. Conditions on any future permission to include ground contamination assessment together with any associated remedial works in the event that contaminants are found present on site, development to be undertaken in accordance with the recommendations set out in the submitted flood risk assessment, fuel storage, restriction on piling or other foundation designs using penetrative methods without the express written consent of the LPA and the provision of a buffer zone between the development and surrounding watercourses

Health Protection: Considers this is a new installation which has from a public health point of view a limited potential for causing concern at this stage. However would stress that they would expect regular monitoring results for air quality as well as regular dust and odour inspections/monitoring to be forwarded to the regulators, both during construction and the operational phases, in order to ensure that the potential for any nuisance or health issues is as limited as the monitoring data suggests.

Divisional Transport Manager: Agrees with the conclusions of the traffic impact that the development would have negligible impact on the local Highway network.

Highways Agency: No objection

Lower Medway Internal Drainage Board: No objection provided all surface water drainage discharging from the site is attenuated for the 1:100 year return storm with a limited discharge of 7 l/s/ha or the equivalent run off from the Greenfield site for the 1:2 storm. The application meets with the Environment Agency requirements.

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Jacobs (noise): Considers that noise levels during both site construction and operation of the plant will fall below existing background levels measured at the nearest housing. Recommends any future permission should be conditioned to this effect.

Jacobs (landscape): Considers the environmental impact assessment underestimates the significance of the visual impacts which will need to be carefully balanced against the other beneficial and adverse effects of the scheme.

County Archaeologist: Considers it may be possible that archaeological remains are present on site. Therefore advises that any future permission includes a condition requiring the implementation of a programme of archaeological investigations.

SEEPB: Considers the proposal is not entirely consistent with policies W3 and W4 of the South east Plan given the source of the waste is stated as Kent with the balance from London, the South East and elsewhere in the UK subject commercial viability. Whereas Policies W3 and W4 seek net regional and sub - regional self sufficiency with London's exports restricted to landfill and from 2016 limited residues. However, accepts there may be less certainty of supply of C & I waste from within Kent and therefore arisings may not be accessible to the plant, resulting in an insufficient supply which will affect the commercial viability of the proposal. It is therefore important that in considering the application, the county council considers these issues.

CAA: The proposed structure(s) would not formally constitute an aviation en-route obstruction. Recommends that an aviation warning light is installed at the highest practicable point of each chimney.

English Heritage: Do not wish to offer any comments and recommends that the application is determined in accordance with national and local policy guidance on the basis of the county councils specialist conservation advice.

Natural England: Whilst originally raised an objection to the application pending further information being submitted to enable the effects on the nearby ecological designations to be determined have since withdrawn their objection following the submission of further supporting information. Given in their view the proposal is likely to have a significant effect on the Swale SPA and Ramsar site and also has implications for the Swale SSSI, considers that an 'Appropriate Assessment' needs to be undertaken by the County Council as the competent authority under Regulation 61 of the Habitats Directive. However, also considers that the proposal would not have an adverse effect on the integrity of the Swale SPA and Ramsar and should not damage the interest features of the Swale SSSI subject to the imposition of appropriate conditions on any future permission.

RSPB: Whilst originally raised an objection pending further discussion and clarification of the effects of the proposal on the local bird population, have since withdrawn their objection subject to the imposition of appropriate conditions to secure mitigation measures set out in further supporting information.

Kent Wildlife Trust: Originally considered that the application failed to adequately evaluate the ecological value of the site and expected a development of this scale to contribute towards the enhancement of the biodiversity. Considered the reptile survey of the

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site was out of date and therefore a new survey should be undertaken in order for a mitigation strategy to be developed. However, have since withdrawn their objection subject to the imposition of conditions to secure mitigation measures set out in further supporting information.

County Biodiversity: The enhancements to the mitigation receptor area must be carried out before the translocation of reptiles from the application site. Improving the management of surrounding ditches would be more beneficial for wildlife. Lighting arrangements must be carried out in accordance with the details set out in the environmental statement. The effect of lighting on bats should be undertaken. Reptile monitoring should be carried out at the development site a year after offsite translocation has taken place and the development site shall be maintained unsuitable for reptiles until such time as the development is completed. No information on the management plan and monitoring of the mitigation area has been provided. A mitigation strategy must be submitted and include details of proposed works and timings.

EDF: No objection

CPRE: Whilst supporting the general principles of a waste to energy CHP Plant objects on the grounds of the cumulative effects of other similar proposals in the area, the proposal would reduce the incentives for recycling although any reduction in landfill would be welcomed. Given the existing large volumes of traffic on the local road network the importation of waste by other means should be explored. Recognise there is a known demand for power at the Paper Mill and that local employment is an important issue.

National Grid:

Public Rights Rights of Way:

County Conservation Officer:

MOD:

} Views awaited.

Local Members

30. The two local members Mr Willicombe and Mr Whiting were formally notified of the proposal on 15 April 2010, to date I have not received any written comments from them.

Representations

31. The application has been advertised in the local press and notices posted on site and in the surrounding locality, I also wrote to some 2,400 nearest local residents. To date I have received 28 letters of representation, 1 in support of the proposal from Unite the Union who purport to represent some 450 members of the 800 locally employed staff at the Paper Mill site. They draw attention to the need for the Mill to remain competitive and that the proposal would help secure a sustainable future for the mill and protect local jobs. The other 27 letters raise objections to the proposal on the grounds of:

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- Traffic impacts
- Adverse effects from stack emissions
- Visual intrusion
- Adverse impacts on nature conservation

Discussion

32. 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.
32. Prior to the publication of PPS10 and Waste Strategy 2007, former advice required planning authorities to consider whether waste planning applications constituted the Best Practicable Environmental Option (BPEO). Case law established that consideration of BPEO against individual applications should be afforded substantial weight in the decision making process.
33. The new advice in PPS10 moves the consideration of BPEO principles to the Plan making stage where it is to be considered as part of the Sustainability Appraisal (SA)/Strategic Environmental Assessment (SEA) process applied to the Plan. However, where planning authorities' current waste policies have not been subject to the SA/SEA process (as is the case with the Kent Waste Local Plan), it is appropriate to consider planning applications against the principle of BPEO.
34. Until such time as the **Kent Waste Development Framework** (WDF) reaches a more advanced stage, applications will be considered against relevant saved Kent Waste Local Plan Policies and other development plan policies. This is fully consistent with the approach Local Planning Authorities are advised to adopt as set out in PPS10.
35. Policy exists at both the national, regional and local level which give support in principle for the establishment of alternative waste management facilities to landfill. These include Waste to Energy Plants, particularly where they also involve combined heat and power generation (CHP), where waste should be recovered as a resource to produce energy. Such objectives also support the aim of how planning should contribute towards reducing the carbon footprint by lowerimng emissions and stabilising climate change.
36. The current energy requirements at Kemsley Paper Mill are already partially met on site through a combination of a CHP, albeit fuelled by natural gas, together with a Waste to Energy Plant which burns rejects from the paper making process. The site at Kemsley is also identified under Policy W11 of the saved policies of the Kent Waste Local Plan as being suitable in principle for a Waste to Energy Plant.

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Main determining issues

37. In the light of the above policy considerations and the issues raised, I consider the key determining issues to be:
- Traffic
 - Air Quality
 - Water Quality and Floodrisk
 - Landscape
 - Nature conservation and ecology
 - Noise
 - Employment
38. Furthermore, account will need to be taken of the source of the waste arisings, taking account of the proximity principle (i.e. where waste should be dealt with as close to where it occurs in order to reduce vehicle journey distances) and having regard to both current regional and local development plan policies which aim to achieve regional and sub-regional net self-sufficiency, and the existing and future waste capacity requirements for Kent.

Traffic

39. Access for the delivery of waste to the site would be by road from the west assuming vehicles would exit at junction 5 of the M2 via the A249 and Swale Way. The applicant predicts that when operating at full capacity the proposal would generate a maximum of 258 daily HGV movements which would equate to some 22 movements per hour. Whilst it is currently assumed all waste would be delivered by road the applicants have indicated that they are pursuing other options for delivery by water and /or rail should this be feasible.
40. Concerns have been raised over the adverse impacts from lorry traffic on the local road network in terms of the existing capacity available. Particular concerns have also been raised by one of the local County Members over what he considers to be problems encountered at the small roundabouts at the A249/Grovehurst Road Junction. In his opinion visibility is poor and could be improved by reducing the size of the central island, and asks whether such improvements could be secured if Kemsley were to be permitted. He also asked whether it would be appropriate to seek a financial contribution from the applicant towards the construction of the remainder of the Sittingbourne Northern Relief Road (SNRR).
41. The Transport Assessment submitted in support of the proposal is considered by the Divisional Transport Manager (DTM) to give a robust indication of the traffic expected to use the local highway. This takes account of other committed development, the proposal itself along with the effects of the opening of the next section of the SNRR. The proposal is shown to generate relatively insignificant increases on the local network as a whole and the DTM concurs with the conclusion that the development would have a negligible impact on the local highway network. With regard to the layout of the small roundabouts at the A249/Grovehurst Road junction he has confirmed that there is no crash history associated with these and although HGVs squeeze the path

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of other vehicles as they negotiate the first roundabout drivers appear to be aware of the need to give HGVs a wide berth as they enter at this location. Whilst reducing the size of the roundabout may provide more room for HGVs to manoeuvre around the central island, in his opinion this would also reduce the amount of deflection that vehicles would need to steer around to enter the junction. The result of this would be higher vehicle entry speeds such that this could result in accidents. The DTM has raised no objection to the application subject to the imposition of appropriate conditions including wheel cleaning measures, vehicle parking and completion and use of the access in accordance with the details submitted with the application.

42. With regard to other stretches of the carriageway that would serve access to the site, which includes junction 5 exit from the M2 and the slip roads onto the A249 leading to the large gyratory roundabout providing access to the internal haul roads, this is the responsibility of the Highways Agency who have raised no objection to the application.
43. With regard to the question of a financial contribution from the applicant to the construction of the remainder of the SNRR I am mindful that the necessary funding to complete these works has already been secured.
44. Having regard to the above comments and in the absence of any objections from the Highways Agency and DTM, I do not feel an objection on highway grounds is justified.

Air Quality

45. Concerns have been raised over the potential impacts from the proposal on air quality both in terms of stack emissions and their effects on health and the surrounding ecological designations, together with the effects from vehicle exhaust fumes. The environmental statement which accompanied the application has assessed the potential effects on air quality through detailed dispersion modelling. It includes the effects of both stack and vehicle exhausts and dust emissions having regard to existing baseline conditions, and has assessed their potential impacts on human health and the nearby habitats which form part of the Swale SPA, Ramsar site and Swale and Medway Estuary SSSI's. The assessment has been undertaken based on a number of worse-case assumptions which it considers is likely therefore to result in an over-estimate of the contributions that would arise from the operation of the plant. The assessment concludes that with appropriate mitigation measures in place, emissions from all three sources when measured against existing background levels would fall below EU Directive limits and local air quality standards.
46. The mitigation recommended includes the employment of dust controls such as the use of water bowsers during site construction and that all vehicles associated with this particular activity to switch off their engines to avoid vehicles idling and all deliveries entering and leaving the site to be covered. Residual impacts from the operational phase both from stack emissions and traffic are also considered negligible and not likely to exceed EU Directive emission limits or local air quality standards. Accordingly residual impacts on human health risk and ecological impacts are not considered significant.

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47. The Health Protection Agency has raised no objection to the proposal and considers that from a public health point of view the proposal has a limited potential for causing concerns at this stage. However, they would expect regular monitoring and inspections monitoring for air quality as well as regular dust and odour monitoring inspections to be forward to the regulators in order to ensure that the potential for any nuisance or health issues is limited as the monitoring data set out in the environmental statement suggests.
48. In their initial response, whilst raising no objection the E.A indicated that in the absence of having received an application for an Environmental Permit they were unable at that time to form a final view on potential impact to air quality, human health, designated habitats or the control of nuisance impacts (e.g. noise/odour). Since then matters have progressed and an application for a Permit was submitted to the E.A. towards the end of last year on which the County Council were formally consulted. As part of their assessment of the application the E.A. looked not only at the potential effects as a result of the emissions from the proposed development itself but also the combined effects of new and existing permissions, plans and projects that are relevant to an area protected under the Habitats Regulations due to the close proximity of the site to the various habitats which form part of the SPA/SSSI/Ramsar. Whilst the E.A. have yet to form a final view and are continuing to have discussions with various consultees including N.E. they have undertaken an audit of the Air Quality Modelling submitted with the Permit application. The audit concludes there is no risk to Human Health from the proposal. The National Permitting Service has also indicated that this is supported by the Health Protection Agency.
49. The policy advice set out in PPS23 is clear in that the planning and pollution control regimes should compliment and not duplicate each other. Most fundamentally Planning Authorities are asked to work on the assumption that the relevant control regime will be properly applied and enforced. In this context, having regard to paragraph (40) above I am satisfied that there are no material reasons to justify refusing the application on the grounds of adverse effects on air quality.

Water Quality and Flood risk

50. The applicant has assessed the likely impact the development may have on hydrology, controlled waters and human health given the current ground conditions. The site was previously used as a coal store and refuse tip and is now largely derelict with some stockpiled material in the west. The site is characterised by made up ground and alluvial clays that immediately overlie London clays with silty sands beneath. Perched water was found at a shallow depth in the London clay which is separated from the true groundwater found in the granular deposits at depth. The flow of water in both bodies is towards the Swale to the east where it ultimately discharges.
51. Baseline assessments of pollutants found elevated concentrations of brown asbestos, nickel, selenium and sulphates within the shallow elevated groundwater. These concentrations were considered acceptable for an industrial/commercial end use and would not represent a risk to construction workers. Elevated concentrations of nickel and sulphate found at a deeper level in what is considered to represent the true

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- groundwater are considered representative of the natural baseline concentrations associated with the underlying strata compared to the surface contamination detected.
52. The principal concerns following the baseline assessment relate to the risk to human health caused by groundwater ingress to deep excavations, the lateral migration of contaminated shallow groundwater towards the Swale and asbestos found in the shallow soils and groundwater. To address this it is proposed to target those specific areas within the site where such contaminants are found present, as part of a Construction Environmental Management Plan.
53. The E.A. consider that the proposals to deal with any contamination on site are acceptable in principle, however they would wish to see further consideration of whether there is a link between the contamination found in the shallow groundwater and the adjoining landfill site. In order to address this issue along with how contamination found present at the site will generally be dealt with the E.A. have recommended that conditions be imposed on any future permission requiring the submission of a preliminary risk assessment along with details of any remedial measures proposed to deal with any contaminants found present on site. I am satisfied that provided such conditions are imposed on any future permission this would ensure that appropriate measures are put in place to prevent any risk to human health or adjoining ecological interests from groundwater pollution.
54. The applicant has also produced a Flood Risk Assessment (FRA) in support of the application, the scope of which was previously agreed with the E.A. having regard to advice set out in PPS25. The site lies partially within Flood Zone 2 and 3a and therefore has a 1 in 200 annual probability of flooding from tidal sources in any one year. The Swale Estuary is located to the east of the site, flowing in an easterly direction until it meets with the North Sea approximately 16km to the east of the site.
55. Following re-profiling of the development site to 5.8m AOD (i.e. some 0.6m above the 5.2m critical flood level), the development will have been uplifted outside the flood plain falling entirely within Flood Zone 1, with less than 0.1% probability of flooding from tidal sources. Given that the site does not form part of the functional floodplain, the effect on flood storage capacity is considered to be negligible. The site would incorporate a surface water drainage system which drains into surrounding surface water attenuation ponds as a means of regulating discharges to the surrounding watercourses. This, together with the elevated platform that would be created, would in the applicants' opinion protect the site from risk of flooding to a 1 in 100 year standard from on-site flooding.
56. The E.A. have raised no objection to the application on the grounds of flood risk provided that a condition is imposed on any future permission requiring the development to be carried out in accordance with the FRA submitted as part of the application. On this basis I am satisfied that there are no overriding objections on the grounds of risk from flooding.

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Landscape

57. The proposed site is located immediately adjacent to the eastern side of the Kemsley Paper Mill Complex which lies in between the application site and Kemsley. Kemsley Paper Mill and the application site also form part of a much larger area identified in the Swale Local Plan for future employment use and which has outline permission for the development of mixed industrial uses. For this reason the borough Local Plan considers the area is strategically important and it can therefore be expected that other major development proposals will come forward in the future. In addition to the Paper Mill the area also contains a number of other major developments including the Knauf Plaster Board factory and the Morrisons distribution depot. Members may recall when they visited the site that officers pointed out these developments commenting in particular that the Knauf building was of a similar scale and height to the proposed development at Kemsley Paper Mill.
58. The applicants have undertaken a landscape and visual appraisal of the proposal which includes an assessment of the visual impact in the landscape when viewed from various locations surrounding the site considered most sensitive to the development. This included various views taken along the Saxon Shore Way which runs along the northern boundary of the site and also Kemsley residential edge, along with more distant views from the general surroundings. The more distant views demonstrate that the area is already dominated by large industrial buildings including the existing Kemsley Paper Mill, and in my opinion the additional visual impacts from the proposed development would not therefore significantly alter this industrial landscape. When in close proximity to the site, particularly when viewed from the Saxon Shore Way, the impact would be more severe. However, this impact has to be considered against what can already be seen which is currently dominated by Kemsley Mill which is of a similar scale and height.
59. In order to help mitigate the visual impact of the proposed development particularly when viewed from a distance, the applicants propose that the external finish of the building is graduated such that at the lower level the colour would reflect that of the marshland in the foreground with a lighter grey colour being used in the upper levels when viewed above the skyline.
60. Having regard to the comments made by the County Council's landscape consultants Jacobs, in my opinion the mitigation measures proposed by the applicants represent a satisfactory balance when considered against other benefits that would derive from the proposal. The external finish of the building would in my opinion help absorb the development into what is an industrialised landscape particularly when viewed at a distance. This view is also likely to become more predominant as further industrial development becomes established given the strategic importance of the area for future employment as reflected in those policies set out in the Swale Borough Local Plan do not therefore consider there are any overriding landscape objections to the proposal.

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Nature Conservation and Ecology

61. Whilst the site itself is not covered by any statutory nature conservation designations it lies near to habitats which form part of the Swale SSSI and the Medway Estuary and Marshes SSSI. These SSSIs are part of the Swale SPA and Ramsar Site and the Medway Estuary and Marshes SPA and Ramsar Site. Natural England (N.A.) have advised that based on the information contained in the application it is their view that the proposal is likely to have a significant effect on the Swale SPA and Ramsar Site, alone or in-combination with other plans and projects and that there are also implications for the Swale SSSI. In this context they draw attention to Regulation 61 of the Habitats Regulations which requires 'competent authorities' , before deciding to give any consent to a project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) not directly connected with or necessary to the management of the site, to undertake an Appropriate Assessment of the implications for the site in view of its conservation objectives.
62. Notwithstanding the above however, N.E. agree that the proposal will not have an adverse impact on the integrity of the Swale SPA and Ramsar Site and should not damage the interest features of the Swale SSSI provided conditions are imposed on any future permission requiring; the submission of a detailed Environmental Management Plan with Construction Method Statements, Work on the drainage outfall not to take place during the over-wintering bird season October to March inclusive, a lighting strategy to be submitted for the approval of the LPA and provision of a 1ha reedbed habitat offsite to offset any potential affect to breeding Marsh Harrier.
63. The methodology used by the applicant for assessing the potential impacts on ecology and nature conservation involves 4 key stages namely; baseline studies, identification of valued ecological receptors, identification and characterisation of potential impacts and assessment of impact significance. The survey methodology included a desk based study together with walkover surveys of the site and surrounding areas. These surveys sought to identify: Reptiles, Invertebrates, Birds, Water Voles, Otters, Badgers and potential Bat roosts. The results of the surveys revealed that with regard to Otters, Badgers and Bats there was no evidence of their presence on the development site. Whilst offsite feeding signs of Water Voles in adjacent ditches were indicated.
64. The most likely potential significant impacts from the development were identified as being the direct impacts resulting from the loss of suitable habitat for reptiles and invertebrate from the development site, together with offsite impacts from noise, dust and stack emissions on the breeding bird population and surrounding features of ecological interests.
65. In order to address concerns raised by consultees the applicant submitted supplementary information in respect of both on-site and offsite mitigation. With regard to the direct impacts on the development site, in addition to the enhanced areas of habitat which include the surface water attenuation ponds, it is also proposed that a further 3.1 ha of suitable habitat would be created on the adjoining former landfill site to the east into which species from the development site would be translocated. The County Council's Biodiversity Projects Officer has drawn attention to the need to

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ensure that the habitat to be created is satisfactorily completed before any translocation exercise from the development site takes place and that reptile monitoring continues to take place on the development site until such times as construction takes place. This is also supported by N.E. who whilst welcoming the additional habitat to be created considers that a detailed strategy should be submitted and approved before the commencement of any works. They also consider it is important that the long-term management of this area is also secured by way of condition or Section 106 Agreement.

66. Offsite mitigation measures include the provision of a 1 ha site in a more remote area considered suitable for use by the breeding Marsh Harrier population of the Swale SPA. The applicants propose to agree the detailed design of the habitat with the RSPB, N.E. and SEEDA. Such offsite mitigation would need to be secured by a separate Legal Agreement the draft terms which I consider would need to be covered are set out under Appendix (2).
67. Other offsite mitigation proposed includes measures to prevent any adverse noise impacts from construction activities. The main noise source is considered to be from piling. In order to avoid any adverse impacts from piling on the breeding bird population a more detailed piling strategy has been developed which provides for the use of augered piling where practical and impact driven piles only where absolutely necessary. It is also proposed that impact piling would only commence on site at the end of August to avoid any disturbance to breeding birds.
68. With regard to Air Quality Impacts in terms of deposition levels at the nearby sensitive receptors, the assessment undertaken by the applicant concluded that the habitats were considered to be relatively insensitive to acid deposition and therefore unlikely to affect the integrity of the Swale SSSI/SPA/Ramsar. However, during discussions with N.E. they indicated that they have been looking at the issue of NO_x in respect of this application in view of monitoring that has been undertaken on Elmley having revealed high levels of background concentrations. However it was due to the uncertainty of the figures and that currently there is little research on the long-term effects of elevated levels of NO_x on grazing marsh and inter-tidal habitats that partly led to them withdrawing their original objection to the application. Nevertheless they recognise that the applicant would still need to apply for an Environmental Permit from the E.A. and confirm that they have highlighted their concerns with the E.A. Whilst not a requirement for this application, in view of the monitored hotspots for air pollutants on Elmley, N.E. have requested that any future proposals for development in the area should undertake a more robust analysis of air quality. Meanwhile due to the increasing number of NO_x emitting facilities in the Ridham Dock area the applicant has voluntarily agreed to form part of a long-term air quality monitoring programme for the area. The details of the programme will be compiled through discussions with N.E., Swale Borough Council and the E.A.
69. As advised by N.E. the County Council as the competent authority, in tandem with its consideration of the application has undertaken a separate Appropriate Assessment in accordance with Regulation 61 of the Habitats Directive. The formal record of the Appropriate Assessment is set out under Appendix (3) which concludes that provided certain mitigation measures are put in place the proposal would have no adverse effects on the integrity of the sites of interest.

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Noise

70. A Noise Assessment submitted in support of the application has been undertaken. The methodology employed included a comparison of the existing daytime and night time background noise levels at what are considered to be the nearest noise sensitive receptors with those both during the site construction activities and when the site becomes operational. Four locations were identified, three of which, at Reams Way (*along the haul Road to the site*), Walsby Drive (*the nearest residential properties in Kemsley*) and within the centre of a reedbed adjoining the northern boundary of the site considered representative of the potentially noise sensitive ecological habitats, were subject to long term noise monitoring over a 24hr period. The fourth location was at the Saxon Shore Way adjacent to the northern boundary of the site where a 15 minute measurement was taken.
71. Noise levels when measured at the nearest residential properties are not predicted to rise above the existing background levels either during site construction activities or when the plant becomes operational. Noise levels when measured along the Saxon Shore Way are predicted to rise when the plant becomes operational to between 52 and 60 dB and will therefore be noticeable to walkers as they pass the site. For comparison based on guidance provided by the World Health Organisation general daytime levels of 55 dB are desirable to prevent any significant community annoyance. The figure of 55dB has been taken to be free-field and therefore no adjustments have been made for road and rail traffic noise. However, these receptors are temporary and transitory and the applicant considers it is not therefore appropriate to apply the same criteria as that which would apply to long term outdoor amenity receptors. The applicant therefore considers that it would not be unreasonable to expect walkers to tolerate noise levels around 60dB for a limited period whilst passing the site and it is unlikely therefore that walkers would be significantly adversely affected by noise associated with the operation. I would concur with these conclusions. Similar noise levels are predicted to occur at the Reedbed location during site construction with noise levels during the operational phase varying between 30 to 35dB at the intertidal area of Milton Creek where the majority of watering birds would be expected to congregate. On this basis I do not consider that noise from the proposal would cause any unacceptable disturbance to the local bird population.
72. The County Council's noise advisor Jacobs concurs with the applicant that noise levels both during construction and operation of the plant would fall below existing background levels when measured at the nearest housing and recommends that any future permission be conditioned to this effect. In my view having regard to the conclusions of the Noise Assessment and the comments made by Jacobs I do not consider there are any overriding noise objections to the proposal.

Employment

73. Kemsley Paper Mill currently employs around 800 staff many of whom the applicants claim live locally. In addition, there are a further 205 contractors working full-time many of whom are also employed locally. The Mill is clearly therefore a major local employer in the area.

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74. The current proposal would generate additional employment both at the construction stage and also when the plant becomes operational. The applicants estimate that up to 500 staff would be required during the construction phase. One of the key issues at the construction phase would be the extent to which main contractors and sub-contractors attempt to use local labour or that from outside. Normally this is a combination of the two with imported labour more likely to consist of workers with specialist skills, and locally sourced labour consisting of unskilled and semi-skilled labour. Construction workers, especially those with specialist skills are known to travel significant distances to sites for which the construction period may be of a limited duration.
75. Once the site becomes operational the applicant's estimate that some 50 full time jobs would be created, some of which would require particular management and technical skills which may not necessarily be able to be sourced locally. However, in my view there would still be scope for at least some of the additional labour force to be sourced from the local area. In addition the applicants have indicated that an average of 100 contractors would be employed for planned shutdowns. The applicant's state that that such skills need not be acquired in the waste industry industry or in a plant of this nature and that suitable personnel could be recruited from industries with similar characteristics. Notwithstanding the clear need for people with appropriate skills, it seems likely that the required labour could be sourced without difficulty in the immediate area and from Sittingbourne itself. This is especially so given the high proportion of manufacturing jobs in the area and the average distance people already travel to work.
76. The Mill is clearly therefore already a major employer in the area and in my opinion the current proposal represents an opportunity to play a significant role in increasing the local labour market.
77. Members may be aware of an announcement made in the coalition government's Budget last month when the Chancellor of the Exchequer issued a call to action on growth, publishing an ambitious set of proposals to help rebuild Britain's economy. The Government's top priority is to promote sustainable economic growth and jobs, and as a fundamental means to achieve this considers the planning system has a key role to play by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. Government's clear expectation therefore is that there should be a strong presumption in favour of development except where this would compromise the key sustainable development principles set out in national planning policy.
78. In order to achieve government's aspirations, notwithstanding the applicants have argued the proposal would not only help safeguard existing jobs at the Paper Mill but also provide the potential to create additional local employment, I consider that it would be appropriate to have some form of legally binding commitment from them that where possible employment would be sourced locally. In my opinion this is best secured by way of a separate Legal Agreement and should members be minded to grant permission I would strongly recommend this approach.
79. In support of their proposal the applicants have argued that the primary driver is to meet the future energy requirements of the Paper Mill in a viable and sustainable

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manner, thereby reducing its dependence on fossil fuel, improving the carbon footprint of the mill, ensuring a degree of energy supply security, improving the mill's competitive position and most importantly as discussed above, safeguarding and securing employment in the locality. The energy requirements at the mill are currently met on site by a CHP plant fuelled by natural gas and by a Waste to Energy Plant which burns reject materials from the paper making process. The applicants claim that the mill is a major energy consumer the cost of which represent 25% of the annual turnover. With continuing volatile gas prices and other European markets being less regulated this has put Kemsley Mill and other UK operators at a disadvantage resulting in 22 paper mills in the UK having closed over the past 5 years 3 of which were in Kent.

80. The applicants argue that rather than being a stand alone proposal the proposed plant at Kemsley is unique in that it would be specifically designed to meet the needs of the mill using residual waste as a fuel (i.e. waste which has been subjected to some form of pre treatment) with the secondary benefit of providing new capacity for Kent's non-municipal waste arisings. The proposed throughput of 500,000 to 550,000 tonnes per annum of waste used as a fuel has been specifically designed to meet the energy requirements of the mill in parallel with a reduced reliance upon the existing gas fired CHP Plant.
81. The waste used as a fuel would comprise Solid Recovered Fuel (SRF) Waste and Industrial and pre treated Municipal Solid Waste which may include up to 25,000 tpa of waste plastics arising from the paper making process at the mill. It is intended that the waste would be sourced from London, the South East and elsewhere in the UK subject to commercial viability with approximately 100,000 tpa of Kent's non municipal waste arisings. The applicants argue that in order to secure the necessary funding to build the plant, they would need to demonstrate to the Financial Institutions the security of the revenue stream which they claim is typically in the order of 80% of the incoming waste stream and which would need to be tied to long term contracts. MSW contracts led by Waste Disposal Authorities are typically long term, often between 25 to 30 years. This, the applicants claim provides certainty to lenders in funding schemes of this nature. All of Kent's MSW arisings is currently tied to long term contracts. On this basis if the applicants were to include an element of MSW as part of their waste source this would have to be sourced from outside the County. Whereas C & I waste streams, the majority of which currently goes to landfill, are characterised by short term contracts, typically less than 3 years. Accordingly if the applicants were to rely solely on these contracts they would not provide the long term security to the Financial Institutions for them to lend the money to fund the project. Whilst the applicants consider their proposal would contribute to diverting some 100,000 tonnes of such waste from landfill equating to some 20% of the plant's capacity, such sources originally included residual C & I waste from Kent and its immediate hinterland, which the applicant identified as being Medway, Bexley, Bromley, Thurrock and Tandridge. As explained above, the security of the revenue stream that underwrites the facility, which is typically in the order of 80% of the incoming waste stream will need to be tied to long term contracts. Inevitably given that all of Kent's MSW is contractually committed, if the project is to succeed this implies 80% of the waste consisting of SRF will need to be sourced from outside the County.

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82. Policy W3 of the South East Plan requires Waste Authorities to provide capacity sufficient equivalent to the amount of waste arising and management within the region's boundaries, plus a declining amount of waste from London. Currently provision for London's exports are limited to landfill and by 2016, new permissions will only provide for residues of waste that have been subject to recycling or other recovery processes.
83. Policy W4 requires Waste Planning Authorities (WPAs) to plan for sub-regional 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 that a degree of flexibility should be used in applying the sub-regional self sufficiency concept where appropriate consistent with Policy W3. This does not therefore preclude cross border flows across regional and sub-regional boundaries.
84. Policies W3 and W4 of the South East Plan reflect advice set out in PPS10 which suggests that WPAs should not arbitrarily restrict the movement of waste across borders. The underlying objective of PPS10 is to move waste management up the 'waste hierarchy ' using waste as a resource and to consider disposal as the last option. Having regard to the current proposal, as one of a number of means to secure sustainable energy supplies which reduce the reliance on the use of fossil fuels and hence helps meet the climate change agenda, provided it can be demonstrated that the waste to be used as a fuel in the plant at Kemsley will arise from treated sources, then in my opinion this is fully consistent with the objectives of PPS10. However, having regard to Policies W3 and W4 of the South East Plan I consider it is important that the potential for dealing with Kent's waste is also maximised.
85. Following discussions with the applicants over waste sources in the context of the above policy considerations the applicants agreed to revise the hinterland catchment area for residual C & I waste by excluding the London Boroughs of Bromley and Bexley. Further, the applicant has also supported a restriction such that all waste used as a fuel at the site other than that arising in Kent would be required to be pre treated so as not to preclude any untreated waste arising from within the County being processed at the site. With such restrictions in place I am satisfied that the proposal is consistent with those policy considerations as set out in paragraphs (74) to (76) above.

Conclusion

86. Whilst this application has been considered as a 'waste matter ' and considered against those relevant policies as set out in national and regional guidance along with the relevant development plan policies, the proposal is clearly primarily driven by the need to meet the future energy requirements of Kemsley Paper Mill as opposed to the need for a waste treatment facility per se. On this basis whilst it has been appropriate to consider how the facility could fulfil a role in providing future waste management capacity, in my opinion the argument put forward by the applicant for the need for the Paper Mill to remain competitive in the light of European competition, and most fundamentally in order to safeguard local jobs with the potential for creating additional local employment opportunities, is a major factor when weighed against other material considerations. Should permission be granted however, I would wish to ensure that in the event that the facility is no longer required to meet the needs of Kemsley Mill then

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alternative users of the power generated should be sought. I would recommend that this is secured by way of condition.

87. I am satisfied that having regard to consultees comments and having considered the proposal against the relevant national and regional guidance along with those relevant development plan policies, provided appropriate conditions as recommended are imposed on any future permission together with the completion of a Legal Agreement to secure those matters as set out in the Draft Heads of Terms set out under Appendix (2), there are no overriding objections to the proposal.

Recommendation

88. I RECOMMEND that SUBJECT TO the satisfactory completion of a legal agreement to secure the Draft Heads of Terms as set out under Appendix (2) PERMISSION BE GRANTED subject to conditions covering amongst other matters; hours of working, vehicle movements, noise restrictions, ground contamination, flood risk, fuel storage, surface water discharge, archaeology, lighting, ecology, alternative users of power generation, landscape planting and construction materials, investigation of alternative use of rail and waste sources.

89.

Case Officer – Mike Clifton	Tel no. 01622 221054
Background Documents - see section heading	

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Appendix 1

APPLICATION SW/10/TEMP/0016 – SUSTAINABLE ENERGY PLANT TO SERVE KEMSLEY PAPER MILL AT LAND TO THE EAST OF KEMSLEY PAPER MILL, KEMSLEY, SITTINGBOURNE ME10 2TD

NOTES of a Planning Applications Committee site meeting at Kemsley Paper Mill on Wednesday, 7 July 2010.

MEMBERS PRESENT: Mr R E King (Chairman), Mr J F London (Vice-Chairman), Mr C Hibberd, Mr J D Kirby, Mr R J Parry, Mr R A Pascoe, Mr M B Robertson and Mr C P Smith.

OFFICERS: Mrs S Thompson and Mr M Clifton (Planning); and Mr A Tait (Legal and Democratic Services).

SWALE BC: Cllrs C Foulds, B Stokes, R Truelove and G Whelan.

IWADE PC: Mr P Wilks

THE APPLICANTS:

St Regis Paper Company Ltd: Mr C Rosser and Mr W Faure Walker;
E.On Energy from Waste UK Ltd: Mr N Badri and Mr N Chan;
RPS Consultants: Mr J Standen.

(1) The first part of the meeting was held in the Offices of St Regis paper Company.

(2) The Chairman opened the meeting by explaining that its purpose was to enable Members of the Planning Applications Committee to gather the views of interested parties and to familiarise themselves with the site.

(3) Mr Clifton said that he would introduce the application at the application site. He then invited the applicants to explain the overall context.

(4) Mr Faure Walker (Divisional Commercial Director – St Regis Paper Company) said that St Regis Paper Company Ltd was one of the largest paper companies in the UK. It owned 4 paper mills of which Kemsley Mill was the largest. St Regis recovered 1.3 million tonnes of recycled paper per annum and, in turn produced 1.1 million tonnes which was used for packaging, plasterboard liner amongst other end products. They worked in partnership with E-On Energy From Waste who had a high reputation gained from running 17 waste plants in Europe.

(5) Mr Faure Walker then turned to Kemsley Mill itself. He said that it had been running since 1925 and now had a total capacity of some 800,000 tonnes of paper and pulp per annum. This represented tremendous exponential growth since St Regis had acquired the operation in 1988.

(6) The entire paper industry had struggled in recent times, partly due to escalating and volatile gas costs. Twenty mills had closed over the last few

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years. For this reason, St Regis intended to diversify its power source whilst reducing its carbon footprint. Since 1993, Kemsley Mill had been powered by a Combined Heat and Power Plant (CHP) which had been developed by E-On to replace a coal-based plant.

(7) Mr Faure-Walker concluded his presentation by saying that the construction of the Sustainable Energy Plant (SEP) was a major strategic project which would enable St Regis to compete on an even playing field with continental companies. It would enable the applicants to safeguard the 800 mainly skilled jobs at the mill as well as adding another 50 to run the plant. The building phase would provide employment for 500 construction workers.

(8) Following the presentation, Members were taken to the application site. They travelled along the route that would be used by HGVs along Barge Way to the proposed northern entrance.

(9) Mr Clifton introduced the application itself. It was for a Sustainable Energy Plant containing a waste incineration facility and associated developments. The development site would be within an area of 7 hectares, with the plant area taking up 4.6 hectares.

(10) Mr Clifton then pointed out the footprint of the proposed plant itself, including the boundary of the former landfill site to the east and the area where the grass became a darker shade of green to the west.

(11) Mr Clifton said that the site contained protective species. The applicants would therefore be required to provide attenuation ponds to encourage wildlife and a translocation scheme for reptiles to the former landfill site.

(12) When operating at maximum capacity, the plant would use up to 555,000 tonnes per annum of pre-treated waste as a fuel source. The majority of the waste would arise in Kent, although some would come from London and the rest of the South East. It would consist of pre-treated commercial and industrial waste as well as municipal solid waste.

(13) Mr Clifton said that the main building would be 52 metres in height (about the height of the Knauf building to the north of the site). The top half of the building would be painted a lighter colour to reduce its visual impact. The stack would be similar in design to that at Allington and would be 90 metres high. This was some twenty metres higher than those in the paper mill.

(14) Fly ash arising from the flue gas treatment would be loaded into sealed container vehicles and transported for disposal within a permitted facility. The bottom ash would be weathered and made available as secondary aggregate. Any bottom ash that could not be sold would be disposed of in the same way as the fly ash.

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(15) Waste fuel deliveries would be between 7am to 6pm on Mondays to Fridays and from 7am to 1pm on Saturdays. The plant itself would have to operate on a continuous 24 hour basis throughout the week.

(16) Mr Clifton then said that the statutory consultees had raised issues relating to stack emissions and traffic impacts. Natural England, RSPB and the Kent Wildlife Trust had raised concerns relating to the impact of the proposed development on the various designated areas (SSSIs, SPA and Ramsar sites). These issues were the subject of ongoing consultation.

(17) Mr Clifton concluded his presentation by saying that some 2,500 local residents had been written to. Twenty seven letters of representation had been received objecting to the proposal on the grounds of traffic impacts, stack emissions, visual intrusion and adverse impacts on nature conservation.

(18) Mr Robertson asked for further detail on the weathering process for the bottom ash. Mr Clifton said that it would be graded and stored in rows within an enclosed building for some three months. . This meant that the process would be completely dry.

(19) Mr Robertson then asked how many lines of operation there would be. He knew that that the main problems faced by the Allington incinerator had arisen on those occasions when there had been a complete shutdown. Mr Chan (E-On) said that there would be two boilers but that only one of them would be running for 96% of the time. Mr Badri (E-On) added that the plant would operate at 95% availability. All waste brought onto the site would be kept completely covered within an enclosed building. In the event of a shut down, the boilers would be *completely* emptied.

(20) Mr Wilkes (Iwade PC) said that the application needed to be considered in the light of the recently-permitted biomass power plant at Ridham Dock and two other current applications for incinerator plants in the vicinity. Iwade PC was concerned about the cumulative impact of emissions if all four were permitted. In respect of this particular application, there was concern over the proximity of the site to the local RAMSAR site on the other side of the nearby sea wall.

(21) Mr Clifton said in reply to Mr Wilkes that the applicants had needed to undertake a Dispersion Modelling exercise to determine the height that the stack would need to be in order to prevent impacts on the designated sites. He confirmed that the County Planning Authority would determine all three of the outstanding waste to energy applications, taking into account the cumulative impacts.

(22) Mr Wilkes then said that the site contained species, such as Great Crested Newts that were protected by Law. Mr Clifton replied that this had been recognised by a survey that had been undertaken in 2007. Any permission granted would contain a condition requiring translocation.

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(23) Mr Truelove (Swale BC) asked whether there was a risk of contaminated waste being brought on site. Mr Clifton said that the type of waste brought on site would be determined by the contractor. It would be stored in sealed containers after having been pre-treated. Possible methods of pre-treating included shredding and recycling. Whatever biological, thermal or chemical process was used, the waste that would be used in the plant would be residue that was incapable of recycling.

(24) Mr Parry asked what proportion of the mill's power would be supplied by the plant and also how many lorry movements would be needed to transport the residual ash off the site.

(25) Mr Faure Walker replied to Mr Parry by saying that the plant would provide 48.5 megawatts of power capacity. This would equate to around one third of the mill's heat demand, with the other two thirds being provided by the CHP. The plant would actually have the capacity to provide all of the mill's power. Mr Standen (RPS Consultants) added that the removal of residual ash was included in the estimated 258 daily lorry movements (22 per hour).

(26) Mr Robertson asked what the total energy recovery percentage was expected to be and how much carbon would remain in the ash. Mr Badri replied that the recovery rate was expected to be in excess of 70% and that the intention was to remove all the energy (including carbon) from the ash before it left the site.

(27) Mrs Thompson said that the earliest date for the application to be reported to Committee was October 2010.

(28) The Chairman thanked everyone for attending. The notes of the meeting would be appended to the report to the determining Committee meeting.

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Appendix 2

DRAFT HEADS OF TERMS

For Agreement in connection with Planning with Planning Application SW/10/444 –Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.

Prior to the issue of the Planning Permission the applicant shall enter into all of the necessary legal agreements required to secure the following matters at no cost to the County Council;

1. The Developer will not commence development on the application site until:-
 - (a) the freehold of the estate of the land shown edged red on plan () is transferred free of charge to the RSPB or such other charity as may approved in writing by the County Council.
 - (b) a commuted sum in the sum of (£) has been paid in full to RSPB or such other body as agreed under paragraph 1 (a) above. The commuted sum will be Indexed Linked from the date of this Agreement to the date of payment. The Index to be then Retail Price Index.
 - (c) until a scheme for the creation and maintenance of the New Reed Bed Habitat has been approved by the RSPB and Natural England and their written approval to the scheme has been received by the County Council together with a copy of the scheme.
 - (d) until a scheme for the creation and long - term maintenance of the newly formed habitat on land shown outlined in () on plan () adjoining the application site and being the site of the former landfill site has been submitted to and approved by the County Council.
 - (e) until a strategy has been submitted to and approved by the County Council which sets out the mechanism to maximise the use of locally employed personnel at the site.

2. The applicant to pay all the County Council's legal and professional costs including those already incurred by the Head of Planning Applications Group prior to the completion of the Agreement.

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Appendix 3

KEMSLEY SUSTAINABLE ENERGY PLANT CONSERVATION OF HABITATS AND SPECIES REGULATIONS ASSESSMENT

This is a record of the Appropriate Assessment, required by Regulation 61 of the Habitats Regulations 1994 undertaken by Kent County Council in respect of the elements of the proposed Kemsley Sustainable Energy Plant, for which the Competent Authority, in accordance with the Habitats Directive (Council Directive 92/43 EEC).

Having considered that the plan or project would have a ‘‘ likely significant effect’’ (stage 1) on the Swale Special Protection Area and Ramsar Site and that the scheme was not directly connected with or necessary to the management of the site, an Appropriate Assessment (stage 2) has been undertaken of the implications of the proposal in view of the site’s conservation objectives.

Natural England was consulted under the provisions of Article 10 of the Town and Country Planning (General Development Procedure Order) 1985, Section 28 of the Wildlife and Countryside Act 1981 (as amended) and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations) on 25 October 2010 and their comments to which the County Council has had regard, are attached. The conclusions of this Appropriate Assessment are in accordance with the advice and recommendations on Natural England.

Title: Development of a Sustainable Energy Plant to serve Kemsley Paper Mill

Location: Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.

Designations: The proposal is adjacent to the Swale Site of Special Scientific Interest, Special Protection Area and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Additionally it lies close to The Medway Estuary and Marshes SSSI, SPA and Ramsar Site.

Description of the Project: The purpose of the proposed development is to develop a Sustainable Energy Plant to serve Kemsley Paper Mill as a means of meeting it’s future energy needs and to supplement and reduce the Mill’s reliance on Fossil Fuels.

The proposed development comprises Waste Fuel Reception, Moving Grate Technology, Power Generation and Export Facility, Air Cooled Condensers, Transformer, Bottom Ash Handling Facility, Office Accommodation, Vehicle Parking, Landscaping Drainage and Access. The Waste Fuel would comprise Solid

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Recovered Fuel Waste, Commercial and Industrial Waste and pre-treated Municipal Solid Waste.

A more detailed description of the each element of the development can be found in the Environmental Statement accompanying the application. The scheme is not directly connected with or necessary to the management of the SAC and Ramsar Site. However, the development has been carefully designed to minimise its effects on the features for which the European site has been designated. The Environmental Statement concludes that the scheme accords with government guidance and strategic and local planning policies.

Brief description of the European Site to which this Appropriate Assessment applies:

The boundary of the Swale SPA/Ramsar site lies some 150m to the east of the area covered by the proposal.

The Swale separates the Isle of Sheppey from Kent mainland. To the west it adjoins the Medway Estuary, to the east the outer Thames Estuary. It consists of a complex of grazing marsh with ditches, intertidal saltmarshes and mud-flats. The grazing marsh is the most extensive in Kent and there is much diversity both in the salinity of the dykes (which range from fresh to strongly brackish) and in the topography of the fields.

The Swale Ramsar was designated in 1993. In addition to qualifying under criterion 3a by virtue of regularly supporting over 20,000 waterfowl, with an average of peak count of 57,000 birds for the five winter period 1986/1987 to 1990/1991, and under criterion 3c by supporting, in winter, internationally important populations of four species of migratory waterfowl, the Swale also qualifies under criterion 2a of the Ramsar Convention by supporting a number of species of rare plants and invertebrates.

The intertidal flats are extensive, especially in the east of the site, and support a dense invertebrate fauna. These invertebrates, together with beds of algae and Eelgrass *Zostera spp.*, are important food sources for water birds. Locally there are large Mussels *Mytilus edulis* beds formed on harder areas of substrate. The wide diversity of coastal habitats combine to support important numbers of waterbirds throughout the year.

The diverse mix of habitats within the Swale support internationally important populations of waterbirds. It supports outstanding numbers of waterfowl with some species regularly occurring in nationally or internationally important numbers. The Swale SPA was classified in 1985 and extended in 1993. The qualifying bird interest features in the SPA Citation, SPA Review and Ramsar citation, SPA Review and Ramsar citation, together with the criteria used for this assessment) in line with Natural England advice this is whichever provides the strongest protection).

During severe winter weather elsewhere, the Swale can assume even greater national and international importance as a cold weather refuge. Wildfowl and waders from

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many areas arrive, attracted by the relatively mild climate, compared with continental European areas, and the abundant food sources available.

Conclusions

The assessment has concluded that the development proposed , both alone and in combination with other proposed or planning projects in the locality, has the potential to adversely effect the integrity of the site. However, appropriate avoidance and mitigation measures have been incorporated into the design of the proposed Sustainable Energy Plant proposal to be able to draw a conclusion of no adverse effect on all of the qualifying features of the Natura 2000 and Ramsar sites under consideration.

The in-combination effects would be the cumulative effect of development on SPA/Ramsar species due either to direct impacts on the SPA/Ramsar (lighting, noise, access) or loss of the habitat outside the designation but used by SPA/Ramsar species. Mitigation measures in the form of design, retention and enhancement of existing habitats are proposed to offset these impacts for all the developments that have been assessed. For those plans and projects where impacts are unknown at this time, best practice would be followed to reduce and mitigate impacts so that overall the in-combination effects would be negligible.

However, based on the wide array of where the developments are geographically and within the planning process ; and the face that it is unlikely that they would occur at the same time, impacts on both SPA/Ramsar sites are considered negligible.

The final conclusion is that the planning application will have no adverse effects on the integrity of the following sites:

- The Swale SPA and Ramsar
- Medway Estuary and Marshes SPA and Ramsar
- Thames Estuary and Marshes SPA and Ramsar
- Outer Thames Estuary pSPA

Signed:

Date:

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

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

Background Documents - The deposited documents.

None

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

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

Background Documents - The deposited documents.

None

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

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

Background Documents – The deposited documents.

- | | |
|---------------|--|
| CA/08/271/R5B | Minor amendments to the approved landscaping scheme (CA/08/271/R5, dated 5 November 2008, as previously amended by CA/08/271/R5A, dated 14 September 2010).
The Community College Whitstable, Bellevue Road, Whitstable |
| CA/09/1951/R | Non-material amendment to parking layout and external landscaping as originally approved under planning permission CA/09/1951.
Hersden Children's Centre, Hersden Primary School, Shaftesbury Road, Hersden, Canterbury |
| CA/10/770/R | Application for a non-material amendment; changes to the timber fascias, angles of the glazing, and additional transoms and mullions.
Orchard School, Cambridge Road, Canterbury |

E1

CA/10/770/R3	Details of all materials to be used externally. Orchard School, Cambridge Road, Canterbury
CA/10/1790/R6&R28	Details of fencing, gates, and means of enclosure, and details of a construction management strategy. Spires Academy, Land off Bredland's Lane, Canterbury
DA/11/149	Retention of existing infant block in order to provide the required accommodation for the 3 form entry Manor Community Primary School. Manor Primary School, Keary Road, Swanscombe
DO/10/637/R4	Submission of findings from a survey of the potential presence for bats pursuant to condition (4) of planning permission DO/10/637 Blossom's Children Centre (The Downs CEP School), Downs Road, Walmer, Deal
DO/11/33	Installation of a permanent replacement sectional building in location of previously demolished fire damaged building. Walmer Science College, Salisbury Road, Walmer, Deal
DO/11/60	Demolition of the two existing timber bay windows to the south and east elevation and replace with powder coated aluminium section units to the general window fenestration. Linwood Youth Centre, Mill Road, Deal
DO/11/167	Installation of 2 arrays of solar panels on the roof of Sandwich Technology College. Sandwich Technology College, Dover Road, Sandwich
MA/09/1014/RVAR	Details of all materials to be used externally; external lighting; a scheme of landscaping and tree planting; an arboricultural method statement; fencing, gates and other means of enclosure. Maidstone Grammar School for Girls, Buckland Road, Maidstone
MA/11/32	Renewal of planning consent for the continued siting of mobile unit. Five Acre Wood School, Boughton Lane, Loose, Maidstone
SE/09/2089/RA	Non-material amendment to planning permission SE/09/2089 to amend the permitted drawings of the early years block to reflect the previously permitted changes to phase one junior block. Hever C of E Primary School, Hever Road, Hever, Edenbridge
SE/11/151	The provision of 4 conservation rooflights. Leigh Primary School, The Green, Leigh, Tonbridge
SH/09/822/R8	Details of hours of use of the floodlit multi-use games area. Marsh Academy, Station Road, New Romney
SW/07/1271/R	Non-material amendment to drawings permitted under planning permission SW/07/1271; amendments include reducing the footprint of the building and associated minor external changes. Corner of Leysdown Road and Warden Bay Road, Leysdown, Sheerness

TH/08/534/ R15& R16	Details of a School Travel Plan and details of Community Use. King Ethelbert School, Canterbury Road, Birchington
TM/11/321	Enlargements of car park and improvements to disabled access. KCC Commercial Services, Gibson Drive, Kings Hill, West Malling
TM/11/397	Retention of a mobile classroom building Tunbury Primary School, Tunbury Avenue, Chatham

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

Background Documents –

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

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

KCC/DO/0100/2011 – Kiosks and vents at three locations (Brookfield Place, St Radigunds Road, Maison Dieu Road/The Paddock) in Dover in support of flood alleviation sewer improvements and supported by a temporary contractor's compound on vacant land at Crabble Hill, Dover at 4 locations in Dover, rear car park at 1-10 Brookfield Place, CT16 2AE, 2 St Radigunds Road, CT17 0JX, 1-10 Maison Dieu Road car park, CT16 1RN, Buckland Mill Development, Crabble Hill, CT17 0RZ.

KCC/EIA/SW/0096/2011 – Request for a screening opinion as to whether the proposed change of use to utilise an existing warehouse type building as a wood shredding facility and an outdoor area for stockpiling materials would require an Environmental Impact Assessment at Unit 15B, Ridham Dock Road, Ridham, Sittingbourne.

KCC/EIA/TM/0079/2011 - Request for a screening opinion as to whether the development of a secondary aggregate and top soil production facility incorporating a primary aggregate, secondary aggregate and top soil depot would require an Environmental Impact Assessment at Land at Sanderson Way, 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

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

Background Documents -

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

None

E4