

PLANNING APPLICATIONS COMMITTEE

Wednesday, 19th April, 2017

10.00 am

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



AGENDA

PLANNING APPLICATIONS COMMITTEE

Wednesday, 19th April, 2017, at 10.00 am
Council Chamber, Sessions House, County
Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **03000 416749**

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

Membership (19)

- Conservative (9): Mr J A Davies (Chairman), Mr C P Smith (Vice-Chairman),
Mr M J Angell, Mr D L Brazier, Mr N J D Chard, Mr S C Manion,
Mr R J Parry, Mr C Simkins and Mrs P A V Stockell
- UKIP (4) Mr M Baldock, Mr L Burgess, Mr T L Shonk and Mr A Terry
- Labour (3) Mrs P Brivio, Mr T A Maddison and Mrs E D Rowbotham
- Liberal Democrat (1): Mr I S Chittenden
- Independents (1) Mr P M Harman
- Independent (1) Mr J N Wedgbury

UNRESTRICTED ITEMS

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

A. COMMITTEE BUSINESS

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes - 15 March 2017 (Pages 5 - 8)
4. Site Meetings and Other Meetings

B. GENERAL MATTERS

1. General Matters

C. MINERALS AND WASTE DISPOSAL APPLICATIONS

1. Application SW/16/507594 (KCC/SW/0277/2016) - Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip; Wienerberger Ltd (Pages 9 - 78)

2. Application CA/17/335 (KCC/CA/0030/2017) - Section 73 application to vary the wording of Condition 9 of Permission CA/15/2375 to increase the permitted tonnage at Plots D and E, Lakesview Business Park, Hersden, Canterbury; Ling UK Holdings Ltd (Pages 79 - 98)
3. Application TM/17/131 (KCC/TM/0328/2016) - Section 73 application to vary Conditions 9 and 10 of Permission TM/10/2029 in order to increase vehicle movements and to allow preloaded HGVs to leave the site from 0630 at Hermitage Quarry, Hermitage Lane, Aylesford ; Gallagher Aggregates Ltd (Pages 99 - 114)

D. DEVELOPMENTS TO BE CARRIED OUT BY THE COUNTY COUNCIL

E. COUNTY MATTERS DEALT WITH UNDER DELEGATED POWERS

1. County matter applications (Pages 115 - 120)
2. County Council developments
3. Screening opinions under Town and Country Planning (Environmental Impact Assessment) Regulations 2011
4. Scoping opinions under Town and Country Planning (Environmental Impact Assessment) Regulations 2011

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)

John Lynch
Head of Democratic Services
03000 410466

Friday, 7 April 2017

(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 are available to Members in the Members' Lounge.)

KENT COUNTY COUNCIL

PLANNING APPLICATIONS COMMITTEE

MINUTES of A meeting of the Planning Applications Committee held at Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 15th March, 2017.

PRESENT: Mr J A Davies (Chairman), Mr C P Smith (Vice-Chairman), Mr M J Angell, Mr D L Brazier, Mrs P Brivio, Mr L Burgess, Mr I S Chittenden, Mr P M Harman, Mr T A Maddison, Mr S C Manion, Mrs E D Rowbotham, Mr T L Shonk, Mr C Simkins, Mrs P A V Stockell, Mr A Terry and Mr J N Wedgbury

OTHER MEMBERS: Mr J M Ozog

OFFICERS: Mrs S Thompson (Head of Planning Applications Group), Mr M Clifton (Principal Planning Officer - Waste Developments), Mr P Hopkins (Principal Planning Officer), Mr D Joyner (Transport & Safety Policy Manager) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

12. Minutes - 8 February 2017.
(Item. A3)

RESOLVED that the Minutes of the meeting held on 8 February 2017 are correctly recorded and that they be signed by the Chairman.

13. General Matters.
(Item. B1)

(1) The Democratic Services Officer informed the Committee that a Selection and Member Services Committee had considered a report from the Member Development Steering Group on 1 March 2017. This report had included a supplementary report on training for Planning Application Committee Members which had been written in the light of the comments made at the meeting of the Committee on 8 February 2017 (Minute 17/8). Selection and Member Services Committee had agreed to note the report to inform the development of Member Training. The Chairman of the Member Development Steering Group had indicated that all Members were most welcome to attend its meetings.

(2) The Head of Planning Applications Group informed the Committee that she had received a pre-action protocol letter in respect of the Committee's decision in respect of the proposed anaerobic digestion facility at Forest Farm, Benenden (Minute 17/4) which represented the first formal stage in a judicial review process to challenge the County Council's decision. The letter alleged that KCC had erred in Law by not giving precise and clear reasons in its Screening Opinion why it considered the application did not need to be accompanied by an Environmental Impact Assessment. Following a detailed rebuttal response, the claimant had decided not to pursue the case any further.

(3) The Head of Planning Applications Group reported that she would be meeting a senior representative of Sport England shortly before the Committee's next meeting and would report on the outcome.

(4) The Head of Planning Applications Group referred to documentation in respect of the intended Wheelabrator Kemsley Generating Station upgrade which had previously been sent to Members of the Committee by the applicant. She explained that Members had previously granted permission for the Sustainable Energy Plant in 2012 when it was felt that in allowing an alternative form of energy to be supplied to the adjoining Kemsley Paper Mill would help safeguard some 800 employee's jobs at the Mill. She went on to explain that this latest power upgrade proposal would be submitted to the Planning Inspectorate and ultimately determined by the Secretary of State on the basis that it would exceed the power output threshold above which it then became a Nationally Significant Infrastructure Project (NSIP); in which case the County Council's role was that of a statutory consultee. She reported that public consultation meetings would be taking place on 23, 24 and 25 March. Committee Members would be able to attend these meetings unaccompanied by a Planning Officer because it would not be in the County Council's remit to determine the application.

(5) The Head of Planning Applications Committee reported that the Cabinet Member for Environment and Transportation had taken an Urgent decision to enable the County Council to uplift its planning fees by 20% in July 2017 in response to an invitation to do so issued by the Department for Communities and Local Government. This would enable the Planning Applications Group to combat pressures on the service and to continue to process applications in good time.

14. Application KCC/SH/0005/2017 - Extension to existing Composting Facility along with variation of conditions to Permission SH/14/751 in respect of the inclusion of Bank Holiday deliveries of waste, removal of restriction on sources of material, increase in waste throughput, utilisation of processed material on other surrounding farms and increase in current restriction on vehicle movements at Hope Farm, Crete Road East, Folkestone; J Taylor and Son.

(Item. C1)

(1) Mr S C Manion informed the Committee that he was a Member of Hawkinge TC. He had not, taken part in that Authority's discussions on this application and was able to approach its determination with an open mind.

(2) RESOLVED that permission be granted to the proposed extension to the permitted development footprint, to the proposed variations to Conditions 6, 8, and 12 and to the removal of conditions 7 and 10 of Permission SH/14/751 subject to conditions, including conditions covering the hours of operation being restricted to 0700 to 1800 hours on Mondays to Fridays and 0700 to 1500 hours on Saturdays and Public/Bank Holidays with no operations on Sundays; the maximum volume of green waste throughput not exceeding 35,000 tonnes per annum; green waste vehicle movements being limited to a maximum of 40 (20 in and 20 out) movements per day; prior approval of the details of the proposed tree planting along the north eastern and southern boundaries of the site; prior approval of the details of an area to be created and managed as unimproved chalk grassland; the prior submission and approval of details

of any external lighting before being introduced at the site; the re-imposition of all other conditions attached to Permission SH/14/751.

15. Proposal DA/17/34 (KCC/DA/0324/2016) - Installation of fourteen 6 metre high removable poles to which ball stop netting is attached at Dartford Science and Technology College, Heath Lane, Dartford; Governors of Dartford Science and Technology College.

(Item. D1)

(1) Mr T A Maddison informed the Committee that his daughter in law was a Governor at Dartford Science and Technology and that his granddaughter was one of its pupils. He had not discussed the proposal with either of them. He did not have an Other Significant Interest and was able to approach the determination of the application with an open mind.

(2) Mr J M Ozog was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

(3) Correspondence from a local resident, Mr Jack O'Sullivan had been sent to all Members of the Committee prior to the meeting.

(4) An amendment to the recommendations of the Head of Planning Group by Mr P M Harman requiring the poles to be taken down at the end of each day fell due to the lack of a seconder.

(5) In agreeing the recommendations of the Head of Planning Applications Group, the Committee added an Informative encouraging both Dartford Science and Technology College and Dartford FC to develop a Good Neighbour Policy in order to minimise the impact of their sporting activities on local residents, including the possible establishment of a Liaison Group.

(6) RESOLVED that:-

(a) retrospective permission be granted to the proposal subject to conditions, including conditions covering the development according with the submitted details; the netting being lowered and secured when the pitches are not in use; and the poles and netting being completely removed and put into secure onsite storage from the second weekend in June, and not replaced on site until the first weekend in September; and

(b) Dartford Science and Technology College and Dartford FC be encouraged by Informative to develop a Good Neighbour Policy in order to minimise the impact of their sporting activities on local residents, including the possible establishment of a Liaison Group.

16. Matters dealt with under delegated powers.

(Item. E1)

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

- (a) County matter applications;
- (b) County Council developments;
- (c) Screening Opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011; and
- (d) Scoping Opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

SECTION C
MINERALS AND WASTE MANAGEMENT

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

Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016)

A report by Head of Planning Applications Group to Planning Applications Committee on 19 April 2017.

Application by Wienerberger Ltd for phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016).

Recommendation: Permission be granted subject to conditions.

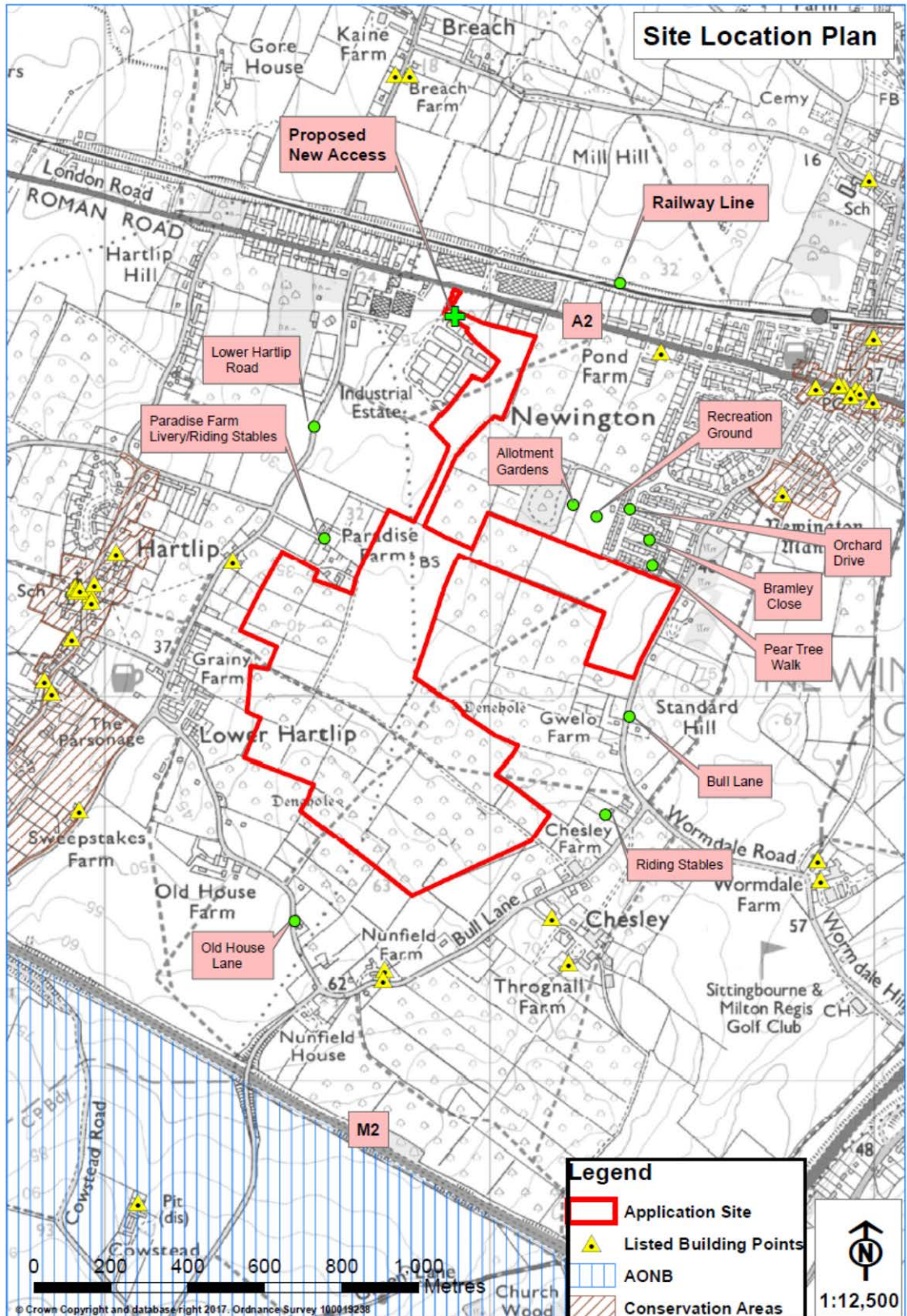
Local Member: Mr M Baldock

Unrestricted

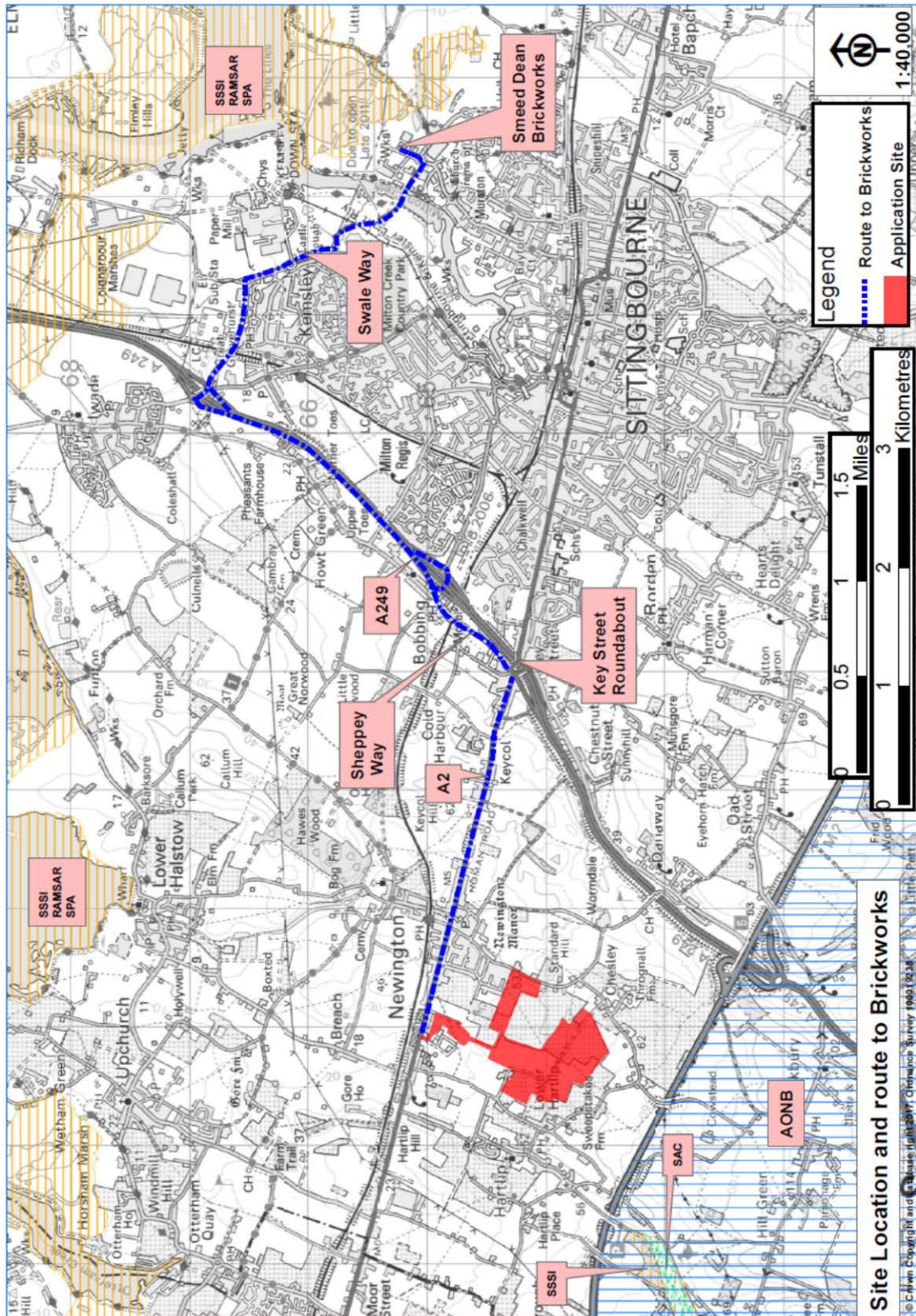
Site description

1. The application site lies between Hartlip and Newington approximately 6 kilometres (km) (3.7 miles) to the west of Sittingbourne. It comprises about 56.5 hectares (ha) (140 acres) of farmland (the majority being active commercial orchard). Access to the site is proposed to be to the north via the Newington Industrial Estate access road onto London Road (A2). The site is largely bordered by other farmland although residential properties lie immediately to the north of the north eastern part of the site (at Orchard Drive, Bramley Close and Pear Tree Walk) and to the north of the proposed access on London Road (97 to 111 London Road and Red Brick House). Paradise Farm lies just to the west of the site. Other residential properties lie relatively close to the site on Lower Hartlip Road (to the west), Old House Road (to the south) and Bull Lane (to the south and east). Newington Industrial Estate lies just to the south of the proposed access road. Allotments gardens, a recreation ground and an area of community woodland lie just to the north of the site (to the west of Orchard Drive). The proposed extraction area (37.9ha) (93.7 acres) comprises the majority of the application site but excludes a large parcel of land in the northern part of the site (through which the access to London Road is proposed), land between the extraction area and site boundary (which would provide stand-off's and, in cases, space for soil storage / noise attenuation bunds and advanced scrub and meadow planting) and land to the south of Pear Tree Walk, Orchard Drive and recreation ground and a 60m stand-off to the south and east of Paradise Farm (both of which were initially proposed to be extracted).

Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016)



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2. The proposed extraction area slopes down gently from about 60m above ordnance datum (AOD) in the south, 44m AOD in the centre and between 30m and 40m AOD in the north. The site access near the A2 lies at about 24m AOD. The application site is characterised by field boundaries comprising tall hedgerows and narrow tree belts (which act as shelter belts). The site contains no Tree Preservation Order (TPOs). The orchards are modern / intensively farmed and are routinely grubbed up in a phased manner once productivity drops off after about 10 years such that there is a patchwork of different ages of growth but none of the trees are regarded as old or well established. The majority of the proposed extraction area comprises Agricultural Land Classification (ALC) Grade 1, although some of the land to the south is Grade 2 and there are three small areas of Grade 3a (i.e. all is Best and Most Versatile (BMV) Agricultural Land). Three public rights of way (PROW) cross the site. Footpaths ZR62 and ZR68 cross and intersect near the centre of the proposed extraction area. Footpath ZR60 crosses the proposed access road to the east of Newington Industrial Estate. The site is also crossed by 33kV and 11kV power lines.
3. The Kent Downs Area of Outstanding Beauty (AONB) lies approximately 600m to the south west of the site (beyond the M2). The Queensdown Warren Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) lie over 1km to the south west of the site (also to the south of the M2). The Medway Estuary and Marshes SSSI, Ramsar and Special Protection Area (SPA) lie over 2km (1.2 miles) to the north of the site. Protected species found on site include badgers, bats, breeding birds and reptiles.
4. Whilst there are no Scheduled Monuments within or near the site, there are a number of Listed Buildings nearby (the nearest being the Grade II Paradise Cottages about 100m to the west of the site). The site is not within a Conservation Area, although there are three in the area (i.e. Hartlip, Newington Manor and Newington High Street which are respectively 280m, 300m and 600m from the site). The site is not a Registered Historic Park or Garden. The site lies within the Newington Fruit Belt Character Area as defined in the Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document.
5. The majority of the site is not within a Groundwater Source Protection Zone (SPZ) although the western area of the site is defined as a SPZ2 and 3. The site itself is not within an Air Quality Management Area (AQMA), although the section of the A2 between 37 London Road and 172 Newington High Street (a length of about 900m) where the speed limit is 30 miles per hour (mph) is designated as such. Paradise Farm is identified as a potential brickearth working in the Kent Minerals Subject Plan Brickearth (May 1986) and the majority of the site lies within a Mineral Safeguarding Area for brickearth identified in the Kent Minerals and Waste Local Plan 2013-30 July 2016).

Planning History and Background

6. Brickearth is primarily a mixture of various clay minerals and is used for the manufacture of bricks. The Kent Minerals Subject Plan Brickearth defined brickearth as “superficial deposits of homogenous, structureless loam or silt” and noted that “the

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term derives from the brick-making industry to describe deposits which require little or no admixture of other material to render them suitable for brick manufacture”. Brickearth also contains variable amounts of impurities that can assist or hinder production and influence the appearance of the bricks. Historically, there were several brickworks in Kent but the only one remaining is the Smeed Dean Brickworks in Sittingbourne operated by the applicant (Wienerberger Ltd). The Smeed Dean Brickworks supplies local housebuilders with Kent’s traditional Yellow Stock Bricks which are used to maintain the character of buildings in the area. Brickearth is currently supplied to the Smeed Dean Brickworks from Orchard Farm, Iwade, to the north west of Sittingbourne.

7. Although brickearth extraction has previously taken place on some of the land between the A2 and the site it has not done so at Paradise Farm. However, the majority of the site was identified as a potential brickearth working in the Kent Minerals Subject Plan Brickearth (May 1986). The site was also identified as a preferred site for brickearth extraction in the Mineral Sites Plan Preferred Options Consultation (May 2012). A planning application (KCC/SW/0301/2014) for brickearth extraction at Paradise Farm was submitted and subsequently withdrawn by Wienerberger Ltd in 2014. The application was similar to the current one but proposed access via Lower Hartlip Road (just to the north of Paradise Farm) and included additional land to the south (closer to properties in Lower Hartlip and along Old House Road) and an area of land containing redundant farm buildings immediately to the south of Paradise Farm. In withdrawing the 2014 application, Wienerberger Ltd stated that it wished to address issues and concerns that had been raised during the planning process.
8. The Orchard Farm planning application (SW/15/502632) was submitted by Wienerberger Ltd in 2015 following the withdrawal of application KCC/SW/0301/2014. It stated that Orchard Farm was intended to provide brickearth for the Smeed Dean Brickworks for 4 years until such time as the long term supply at Paradise Farm became available. Planning permission SW/15/502632 (dated 15 July 2015) requires extraction to cease at Orchard Farm by 31 October 2018 and the site to be fully restored by 31 October 2019. Wienerberger Ltd states that it requires further permitted reserves of brickearth to ensure continuity of production and enable the Smeed Dean Brickworks to remain operational.
9. Prior to the submission of the 2014 application Wienerberger Ltd held a public consultation event between 14:00 and 20:00 hours on 5 February at Hartlip Parish Hall. It states that the feedback from that consultation event was used to inform the 2016 application but that no further consultation was considered necessary as the main concern expressed previously relating to the access to the site has been addressed. Notwithstanding this, it sent letters explaining the application and changes to the 2014 application to Hartlip and Newington Parish Councils.
10. A public inquiry was held in early November 2016 into two outline applications (SW/15/500671/OUT and SW/15/5010595/OUT) for housing and related development on land to the north of the proposed extraction area and immediately to the east of that part of the application site through which access to the mineral working is proposed (i.e. at Pond Farm, London Road, Newington). The appeals were dismissed

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on 9 January 2017. The inspector's conclusions on the issues referred to in these decisions will need to be considered when the current Paradise Farm application is determined. The inspector identified 11 main issues for the appeals although not all are particularly relevant to this application. Those issues of particular relevance relate to the effects of the appeal proposals on landscape character and the form of Newington, the availability of best and most versatile agricultural land and air quality (particularly in the Newington AQMA). It is understood that the Pond Farm appellant has submitted an application for a judicial review of the appeal decisions on the grounds that the Inspector erred in law in his assessment of the air quality impact (Claim number CO/873/2017). At the time of writing this report, the outcome is awaited. It should also be noted that an application for the development of 124 dwellings on land to the north of 99 High Street, Newington (SW/16/501266/FULL) was to have been reported to Swale Borough Council's Planning Committee on 30 March 2017 with a recommendation to permit. The access to that development would be via a new road from within and towards the eastern end of the Newington AQMA. However, no decision was made and it is understood that the application will now be determined at a later date. The same site is included in proposed Policy AX6 (Main Modification 161) of the emerging Swale Borough Local Plan.

11. A Planning Applications Committee Members' Site Meeting was held on 18 January 2017. A note of the site meeting is attached at Appendix 1 (pages C1.62 to C1.65). The application site and key features of the proposed development are illustrated on the drawings on pages C1.2 and C1.3. A series of drawings illustrating the proposed working, restoration and management and the superseded October 2016 phasing arrangement (for comparative purposes) are included at Appendix 2 (pages C1.66 to C1.69).

The Proposal

12. The application was submitted in October 2016. It was accompanied by an Environmental Statement (which addressed air quality and dust, archaeology, ecology, hydrogeology and hydrology, landscape and visual impact, noise and vibration and traffic and transport), a number of technical reports (including those relating to arboriculture, flood risk and soils handling as well as the above matters), a Non-Technical Summary and Planning Supporting Statement. At that stage the application proposed the extraction of approximately 885,955 tonnes (t) of brickearth from an operational area of 46.28ha (114 acres) over a period of about 19 years.¹ Working was to take place on a campaign basis in a series of 19 phases with the site being restored at the end of the extraction phase. Each phase would have provided approximately 46,600t over a period of 10 to 12 weeks.
13. As a result of responses to the initial consultation / notification exercise and my own consideration of the application, I sought responses to a number of issues from the applicants on 16 December 2016. Further discussions also took place following the

¹ The tonnage figure was derived from an assessment of there being about 521,151 cubic metres (m³) of brickearth that could reasonably be extracted based on geological information available and a conversion rate of 1m³:1.7t.

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Members' Site Meeting on 18 January 2017. Further information (in the form of a Supplementary Supporting Statement) was submitted by the applicant on 24 February 2017. As well as responding to issues raised previously, this (and the accompanying drawings) included a number of amendments to the application which the applicant states are intended to address concerns raised by the local community and others. The proposed main amendments were:

- the removal of phases 17 and 18 (to the south of Orchard Drive and Pear Tree Walk);
 - the provision of a 60m stand-off around the eastern and southern boundaries of Paradise Farm;
 - weekday working hours being reduced to 07:00 to 18:00 hours;
 - the provision of a wheel wash facility (to be used when necessary);
 - the grass seeding of the 3m high noise bunds along the boundaries of the site; and
 - a 1.2m depth of topsoil and upper subsoil being retained in the final restoration profile.
14. As a result of the amendments, the proposed extraction area was reduced to about 37.9ha (93.7 acres). The applicant states that this would provide about 751,000t of brickearth from 18 phases over a period of about 18 years (i.e. at a rate of about 41,722 tonnes per annum (tpa)).² The amendments would therefore reduce the quantity of brickearth able to be extracted by over 130,000t. The numbering of the later phases was adjusted to reflect the amendments. The details set out in the following paragraphs relate to the application as amended in February 2017. It should be noted that minor alterations have also been made to the working, restoration and management drawings to correct a small number of drafting discrepancies and provide greater clarity and that the applicant has submitted a Cumulative Air Quality Assessment which takes account of the proposed development on land to the north of 99 High Street Newington.
15. Access to the site would be obtained from the A2 using the Newington Industrial Estate access. A new access would be created from the Newington Industrial Estate access road at a point just before the existing barriers. The field entrance would be upgraded with a 2m high palisade security gate / fence. The gate would be locked when the site is not operational and each night during operations. The first 15 to 20m of the new access road would be about 7m wide and then taper to a single 3.7m carriageway with localised widening and 2 passing bays to enable HGVs to pass one another. It would also accommodate a weighbridge about 60m from the site access. The access road would be a concreted engineered road to a point just to the south east of Newington Industrial Estate (i.e. about 230m to the north of the proposed extraction area) from which it would become an internal access track similar in nature to that proposed within the extraction area. A wheel wash facility would be provided towards the southern end of the concreted engineered road. Drainage measures are proposed to serve the access road. A hard standing area to accommodate staff

² The tonnage figure being based on there being about 442,044m³ of brickearth and a conversion rate of 1m³:1.7t.

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welfare facilities and staff car parking would be created near the northern boundary of the extraction area (near the site access). The staff welfare facilities would include 2 temporary removable portacabins (6m x 3m). The applicant states that electricity would be supplied to the staff facilities by a generator enclosed in a heavy duty sound minimising enclosure. This would provide power to the cabin (e.g. kettle, microwave and power sockets) but is not required to power any heavy machinery or plant. No power is required for the weighbridge. The staff facilities would be serviced by a chemical toilet which would be emptied, serviced and maintained once a week and not require a water supply. Drinking water is likely to be provided by water cooler.

16. The application proposes that advance hedgerow and hedgerow tree planting would take place before works commence on the site boundaries where screening is currently lacking (i.e. immediately to the south of Orchard Drive, Bramley Close and Pear Tree Walk, to the south and east of Paradise Farm and to the east of Lower Hartlip). Advance woodland screen planting is also proposed on either side of where the internal access road would enter the extraction area. Existing hedgerows and trees around the perimeter of the site would be retained with the exception of a small section of hedgerow to accommodate the internal access road where it enters the extraction area and a number of trees and section of hedgerow to the north of Newington Industrial Estate to accommodate the access road and its junction with the industrial estate road itself. All trees and hedgerows within the extraction area (about 3,500m hedgerow) would be removed on a phased basis as extraction progresses. A number of bird, owl and bat boxes would be installed on existing mature and larger trees around the site. The applicant states that the orchards in those areas no longer proposed to be worked would be retained throughout the proposed development to provide further visual mitigation in addition to the advanced and existing planting.
17. The application proposes 18 extraction phases with each expected to last 1 year and provide about 41,722t. The phases are of different shapes and sizes reflecting topography and depth of mineral across the site. Whilst the timing of extraction in each phase would be dependent on weather and soil conditions, with soils only being stripped when suitably dry and friable to avoid damage, this could be expected to be by the start of May. Each year, topsoil from the relevant phase would be stripped and stored in bunds. The bunds would either be up to 2m high on the next working phase or up to 3m high near the boundary of the phase itself if required to provide noise attenuation for nearby properties (with locations identified by the applicant's noise assessment). Brickearth would be dug out using a hydraulic back actor and loaded directly into 20t HGV tipper trucks which would transport the material off site via the internal access road. Soil stripping is expected to take between 1 and 2 weeks, extraction and export between 10 and 12 weeks and topsoil reinstatement between 1 and 2 weeks for each phase (depending on the size of the phase). All of these operations would be undertaken in accordance with a soils handling strategy which is designed to ensure that Best and Most Versatile (BMV) Agricultural Land is protected. The application proposes that an average depth of about 1m of brickearth would be extracted across the site although the precise depth would vary (generally between 0 and 2m) reflecting localised geology. The depth of topsoil is typically 35 centimetres (cm). At least 1.2m of topsoil and upper subsoil (generally comprising brickearth of a lower quality) would be retained in the final restoration profile.

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18. The application proposes that the site would be progressively restored. Whilst the overall effect of the restoration scheme would be to generally create a similar landform approximately 1m lower than currently, the precise restoration contours would reflect the actual depth of brickearth removed. Following completion of each phase, the reinstated topsoil would be seeded with a basic grassland mixture before being handed back to the tenant farmer who would replant the commercial orchards. The hedgerows removed to facilitate the mineral working would generally be replaced following the completion of 5 phases to ensure that they mature at a consistent rate. However, the applicant has stated that where a section of hedgerow could reasonably be replanted sooner without prejudicing the overall approach this would be explored and implemented as appropriate. It suggests that this matter could be discussed with KCC during site monitoring visits. Where historic hedgerow patterns have been identified, these would be reinstated. However, other hedgerows would be reinstated in a pattern that reflects the phasing. A total of 3,500m of hedgerow would be replanted to replace those removed. The proposed restoration seeks to improve the biodiversity of the site by incorporating species rich native hedgerows and hedgerow tree mixes and scrub planting into the design and a buffer strip of unmown grass would be applied to all hedgerows to support more diverse wildlife. The PROW and farm tracks would be reinstated at suitable gradient as part of the final restoration scheme. The restored areas would be managed in accordance with a 5 year management plan until the commercial orchards are reinstated across the site.
19. The application proposes that mineral extraction and its transportation for processing off-site would take place between 07:00 and 18:00 hours Monday to Friday and between 08:00 and 13:00 hours on Saturdays with no working on Sundays, bank or public holidays and that no operations, construction, servicing or maintenance would be carried out outside these hours except in the case of emergencies. It also proposes a number of measures designed to address potential noise and dust impacts as well as associated monitoring to enable further mitigation to be undertaken as necessary as the development takes place (e.g. a “live dust management plan” which would be regularly reviewed and updated as operations progress). Dust mitigation would include progressive soil stripping over limited areas of land, HGVs being covered, a wheel cleaning facility, regular cleaning of site access road, dampening down of haul roads as necessary and the grass seeding of soils storage bunds and restored areas as soon as reasonably possible. Noise mitigation would include the use of noise attenuation bunds (as referred to above). The applicant also proposes to impose a code of practice for HGV drivers, to implement a complaints system and accept a condition limiting the use of certain types of reversing alarms. The applicant states that a water bowser would be stored on site and estimates that it would be filled up once a day by tanker (depending on weather conditions). It also states that the wheel wash would be filled using the water bowser and be emptied once a month by a road sweeper. The applicant states that all vehicles, plant and machinery associated with the proposed development would use non-tonal reversing alarms.
20. The applicant states that on average just under 43 loads of brickearth (85 HGV movements) would be exported from the site each working day based on 20t payloads and a 5.5 day working week. This assumes a “worst-case” 10 week extraction period

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and would equate to 7.7 HGV movements each hour during the proposed 11 hour day. A further 16 staff vehicle movements per day are also expected. All traffic would travel between the site and the Smeed Dean Brickworks via the A2 (through Newington), Sheppey Way, A249 and Swale Way. The applicant estimates that deliveries of water for the water bowser and wheel wash and emptying, servicing and maintaining the chemical toilet would result in an additional 12 HGV movements each week. There would be a further 2 HGV movements each month to empty the wheel wash.

21. The applicant states that the site would employ 8 full time employees, excluding HGV drivers, during the extraction phases. The proposed development would safeguard continued brick production at the Smeed Dean Brickworks and avoid the loss of 42 jobs.

Planning Policy Context

22. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework [**NPPF**] (March 2012) and the associated National Planning Practice Guidance [**PPG**], including the Minerals Planning Practice Guidance [**Minerals PPG**]. These are all material planning considerations.
23. **Kent Minerals and Waste Local Plan 2013-30 (July 2016) [KMWLP 2016]** – Policies CSM1 (Sustainable development), CSM2 (Supply of land-won minerals in Kent), CSM5 (Land-won mineral safeguarding), DM1 (Sustainable design), DM2 (Environmental and landscape sites of international, national and local importance), DM3 (Ecological impact assessment), DM5 (Heritage assets), DM6 (Historic environment assessment), DM10 (Water environment), DM11 (Health and amenity), DM12 (Cumulative impact), DM13 (Transportation of minerals and waste), DM14 (Public rights of way), DM15 (Safeguarding of transportation infrastructure), DM16 (Information required in support of an application), DM17 (Planning obligations), DM18 (Land stability) and DM19 (Restoration, aftercare and after-use).
24. **Kent Minerals Subject Plan Brickearth (May 1986) [KMSPB 1986]** – Saved Policy B1 (Location of future areas of working) and Proposals Map (which identifies Paradise Farm as a potential brickearth working).
25. **Swale Borough Local Plan (February 2008) [SBLP 2008]** – SP1 (Sustainable development), SP2 (Environment), SP3 (Economy), TG1 (Thames Gateway planning area), E1 (General development control criteria), E2 (Pollution), E4 (Flooding and drainage), E6 (The countryside), E8 (Development on agricultural land), E9 (Protecting the quality and character of the Borough's landscape), E10 (Trees and hedges), E11 (Protecting and enhancing the Borough's biodiversity and geological interests), E12 (Sites designated for their importance to biodiversity or geological conservation), E14 (Development involving listed buildings), E15 (Development affecting a conservation area), E16 (Scheduled ancient monuments and archaeological sites), T1 (Providing safe access to new development), T2 (Essential improvements to the highway network) and T4 (Cyclists and pedestrians).

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26. **Kent Minerals and Waste Development Framework: Mineral Sites Plan Preferred Options Consultation (May 2012) [KMSPOC 2012]** – Identifies the proposed extraction area as a preferred option for brickearth working (Site 19).
27. **Bearing Fruits 2031: The Swale Borough Local Plan: Proposed Main Modifications (June 2016) [emerging SBLP 2016]** – Draft Policies ST1 (Delivering sustainable development in Swale), CP1 (Building a strong, competitive economy), CP7 (Conserving and enhancing the natural environment – providing for green infrastructure), CP8 (Conserving and enhancing the historic environment), AX6 (Land north of High Street, Newington), DM3 (The rural economy), DM6 (Managing transport demand and impact), DM14 (General development criteria), DM21 (Water, flooding and drainage), DM24 (Conserving and enhancing valued landscapes), DM28 (Biodiversity and geological conservation), DM29 (Woodlands, trees and hedges) and DM31 (Agricultural land).
28. **Kent Downs AONB Management Plan 2014 – 2019 (Second Revision April 2014) [AONBMP 2014]** – These include Policies SD1, SD8 and SD11 (Sustainable development) and GNR3 (Geology and natural resources).
29. **Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (September 2011) [SLCBASPD 2011]** – The site lies within the Newington Fruit Belt Character Area where the network of mature hedgerows and shelterbelts that surround the orchards are key characteristics.
30. **Swale Borough Council Air Quality Planning Technical Guidance (December 2016)**
31. **Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017)**

Consultations

32. **Swale Borough Council [Swale BC]** – Has objected to the application for the following reason:
 - Whilst great weight is afforded to the economic benefits of brickearth extraction it is not considered that the proposed amendments and additional information are sufficient to demonstrate that the development would not give rise to significant and demonstrable harm to the amenity of local residents, in particular those adjacent to phases 14, 15 and 16. The proposal is therefore considered to be contrary to the aims of policy E1 of the adopted Swale Borough Local Plan 2008; policy DM14 of the emerging Local Plan entitled "Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016"; policy DM11 of the Kent Minerals and Waste Local Plan 2013-30; and paragraphs 109 and 144 of the NPPF.

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33. **Hartlip Parish Council [Hartlip PC]** – Has objected for various reasons associated with:

- Highways (e.g. HGV impacts, A2 unsuitable through Newington, congestion, cumulative impact and road safety);
- Landscape and visual impact (e.g. loss of hedgerows and mature trees, landscape character and impact on AONB);
- Conservation area (e.g. site visible from Hartlip Conservation Area and impact on the setting of its Grade 1 listed church);
- Biodiversity (e.g. loss of habitat for breeding birds and bats and impact on protected species);
- Residential amenities (e.g. burning of orchards, noise, dust, general disturbance, hours of operation, unnatural appearance of earth bunds and adverse impacts on footpath users);
- Noise (e.g. noise will travel further towards Old House Lane and Lower Hartlip Road due to sloping topography);
- Dust (e.g. effect on properties, gardens and residents during summer months and health impacts);
- Rural quiet community (e.g. noise, loss of tranquillity, quality of life and quiet enjoyment of the village, impact on buffer between Medway Towns and Sittingbourne, impact on Best and Most Versatile agricultural land and 19 [now 18] year duration of operations); and
- Air quality management (e.g. effect of airborne pollutants from HGVs on the Newington AQMA).

It has also made a number of other general comments including:

- Brickearth working undertaken by Wienerberger elsewhere has resulted in a reduction in agricultural land quality;
- There is a shortage of quality land for food production;
- The proposed development could lead to flooding;
- There are no local benefits to the proposals;
- The proposed mitigation measures are inadequate and proposed working hours intrusive;
- The proposals do not address effects on other land uses / businesses or residential accommodation;
- Wienerberger's inability to utilise brickearth reserves controlled by Ibstock should not be regarded as a planning consideration; and
- The proposed development is contrary to a number of policies in the Kent Minerals and Waste Local Plan.

34. **Newington Parish Council [Newington PC]** – Objected to the application as submitted in October 2016 on the grounds that the proposed extraction would have a huge impact on Newington (e.g. noise and dust), particularly in the latter phases where it would be close to housing, the recreation ground, allotments and community woodland. It notes that properties on Pear Tree Walk immediately adjacent to the

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orchard would only be separated from the proposed development by a path. It also objects as HGVs associated with the development would pass through Newington village, adding to congestion and air pollution. It also states that the junction of the A2 and Bull Lane is very narrow and it is not possible for a HGV and small car to pass each other at that point. *No response to the application as amended in February 2017 has been received at the time of writing this report.*

35. **Environment Agency** – Has no objection. It has requested that a condition be imposed if planning permission is granted to ensure that any unexpected contamination at the site is properly dealt with. It has recommended a number of informatives relating to the potential need for an environmental permit under the Mining Waste Directive (2006) and the storage of any oils, fuels or chemicals on site and that the water company be informed when extraction is taking place within the source protection zone areas in case the proposals physically disturb the aquifer or lead to increased turbidity within groundwater.
36. **Southern Water** – Has provided details of foul sewers within and near the site and stated that no development or new tree planting should be located within 3m either side of the centreline of the foul sewer, that no new soakaway should be located within 5m of a public sewer and that all existing infrastructure should be protected during the course of construction works. It has also suggested that there may be other sewers crossing the site and advised of a number of requirements if this proves to be the case and set out requirements in respect of any SUDS. It further states that it will rely on consultations with the Environment Agency to ensure protection of the public water supply source associated with the SPZ around one of its public water supply sources.
37. **Natural England** – Has no objection. It is satisfied that the proposed development would not be likely to have a significant effect on the Queensdown Warren SAC or SSSI, that the working and reclamation proposals meet the requirements for sustainable minerals development set out in the NPPF and MPPG and that the Soil Handling Strategy is sufficient to demonstrate that an equivalent area of Best and Most Versatile (BMV) agricultural land disturbed by the development would be reinstated to a similar quality suited to a productive agricultural use. It has advised that any permission granted should be subject to conditions to safeguard soil resources and promote a satisfactory standard of reclamation (e.g. those relating to drainage, soil borne plant or animal diseases, soil handling, soil stripping and storage, soil replacement and aftercare and for at least 1.2m of topsoil and subsoil to be required in the final restoration profile). It has advised that KCC satisfy itself as to whether the proposed development would have a significant impact on or harm the statutory purpose of the AONB. In terms of potential impacts on protected species, it has advised that KCC apply its standing advice.
38. **Highways England** – Has no objection. It has stated that the proposed additional 85 daily HGV trips in each annual 12 week phase together with 16 staff-related vehicle trips would not materially affect the safety, reliability and/or operation of the strategic road network (SRN). In reaching this conclusion, it has noted that the proposed traffic would equate to 7 HGVs per hour and up to 8 staff-related vehicle trips in any one hour and acknowledged that these may coincide with the Peak Hours of the network.

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39. **KCC Highways and Transportation** – Has no objection subject to:

- Adequate precautions to prevent mud or similar substances being deposited on the highway (e.g. a wheel cleaning facility such as that proposed);
- A traffic management plan (including parking facilities);
- HGV movements being limited to no more than 100 (i.e. 50 in / 50 out) each day (thereby providing an appropriate degree of flexibility having regard to the average figures referred to in the application).

It has also suggested an informative advising of the need to secure any necessary highway approvals and consents. It has advised that the access from Newington Industrial Estate onto the A2 complies with current design standards offering adequate geometry to accommodate turning movements for HGVs and providing the relevant visibility sightlines for vehicles to emerge safely. It notes that traffic generated by the proposed development would only take place for a limited period each year for 19 [now 18] years and give rise to about 7 HGV movements per hour and states that the proposed level of traffic on the strategic highway corridor could not be considered to have a severe impact in terms of the NPPF.

40. **KCC Public Rights of Way [KCC PROW]** – Has advised that where temporary closures would be required for public footpaths ZR62 and ZR68 when they are directly affected by phased extraction alternative routes should be provided where possible. It suggests that this be secured by condition. It advises that the junction between footpath ZR60 and the proposed main haul road should be managed in accordance with a site risk assessment, be well signed to pedestrians and drivers with priority to pedestrians and that consideration be given to having banksmen at busy times. It further advises that haul roads to access extraction phases 1 – 12 would affect footpaths ZR62 and ZR68 and that if safe crossing points cannot be secured on their definitive lines (as with ZR60), a safe alternative route should be provided via a Traffic Regulation Order temporary closure, ensuring good sight lines and signage to cross the haul road.

41. **KCC Landscape Consultant (Amey)** – Has advised that the proposed development is acceptable in landscape and visual terms. In responding to the application as submitted in October 2016, it made a number of recommendations such as ensuring that soil storage areas be located outside of the root protection areas of retained vegetation, the grass seeding of screen mounds and the replanting of hedge-lines as soon as possible after the completion of each phase rather than every 5 years. With the exception of the latter (which the applicant has advised will be considered further and undertaken where this would not prejudice the overall restoration approach), these suggestions were largely accepted by the applicant and are reflected in the amended February 2017 details. In terms of landscape character, it states that whilst the proposal would involve the loss of distinctive orchards, hedgerows and shelter belts and the operation of large scale machinery and construction of topsoil stockpiles, the loss and effects would be phased over 19 [now 18] years in phases of four months per year with relatively small areas being worked at any one time such that the land would be progressively restored, the effects relatively transient / small scale and the

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area would ultimately revert to its original land use as orchard. On this basis, it considers that landscape character effects, although slightly adverse, would not be significant. In terms of visual impact, it considers the most sensitive receptors to be the adjoining housing, the public footpaths crossing the site and the AONB. It states that residential receptors would generally be screened by hedgerows (at least at ground floor level) and that the nearest properties to the site should benefit from advance planting since they are closest to later phases. Whilst users of the footpaths would be highly sensitive receptors, it does not consider associated effects to be significant due to the phased nature of the development and progressive restoration and as adverse impacts would be localised and relatively short in duration (particularly if care is taken with diverted footpaths). It has also advised that whilst there are views of the site and existing shelter belts from the AONB, factors such as the distance between the two, the character of the views and the phased nature of the proposed development and restoration mean that adverse impacts would not be significant. It further advises that the retention of the row of poplars (G7) (referred to by KCC's Conservation Advisor) is not essential in landscape terms.

42. **KCC Ecological Advice Service** – Has no objection subject to the following conditions:

- No works in Phase 2 until a bat emergence survey has been carried out on Tree 31 (shown on drawing number ST13371-003) and the results, together with any mitigation required, have been submitted to and approved in writing by KCC. The mitigation must be carried out as approved;
- No development in each phase until a bat tree survey has been submitted to and approved in writing by KCC. The submitted details must include: a bat scoping survey of all trees; the results of any emergence surveys; and details of any mitigation required. The mitigation must be carried out as approved;
- No development in each phase until a badger mitigation strategy has been submitted to and approved in writing by KCC. The strategy must include: a badger survey less than 1 year old; the methodology for the removal of the badger setts (if applicable for that phase); details of precautionary mitigation to avoid impacting retained setts; and details of precautionary mitigation to avoid impacting foraging / commuting badgers. The strategy must be implemented as approved;
- No work in each phase until a reptile and breeding bird mitigation strategy has been submitted to and approved in writing by KCC. The content of the method statement shall include: an Ecological Scoping Survey (less than 1 year old); updated specific species surveys (if required); method statements detailing what mitigation will be implemented; the extent and location of proposed works (including the identification of a suitable receptor site shown on appropriate scale maps and plans); a timetable for implementation (demonstrating that works are aligned with the proposed phasing of development); persons responsible for implementing the works (including times during development when specialist ecologists need to be present on site to undertake / oversee works); and the use of protective fences, exclusion barriers and warning signs. The mitigation strategy must be implemented as approved; and

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- A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by KCC prior to the completion of phase 2. The content of the LEMP shall include: a description and map of features to be managed; aims and objectives of management; prescriptions for management actions together with a plan of management compartments; and preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period). The LEMP must be implemented as approved.

It has advised that the ecological information submitted with the application provides a good understanding of the ecological constraints associated with the proposed development and that sufficient information has been submitted to determine the application. It notes that although low in number at least four species of bat have been recorded foraging / commuting within the site and the site boundary areas (which would be retained) are of greatest interest. Given that the proposed extraction and restoration would be phased, it is satisfied that suitable foraging habitat would be retained during the development. Given the length of the extraction period, it considers that updated tree scoping surveys should be carried out prior to each phase. It notes that a number of active badger setts have been recorded within the site and that the proposed development would result in the loss of two setts, works occurring within 30m of two setts and a temporary reduction in foraging / commuting habitat. However, given the phased nature of the proposals it is satisfied that foraging / commuting habitat would be retained provided appropriate mitigation is undertaken (as is proposed). It states a need for a detailed mitigation strategy to be prepared and for this to be reviewed and updated as necessary (based on the results of further badger surveys) as works progress. It is satisfied that the proposed precautionary approach for reptiles and breeding birds would avoid impacting these species / groups provided site management continues as proposed and that this is capable of being addressed by the production of a detailed mitigation strategy which would be reviewed and informed by additional surveys as necessary as works progress. It notes that the proposed mitigation relies on the implementation of a phased restoration scheme and stresses the importance of this being to a high standard if biodiversity benefits are to occur. It has also expressed a preference for a greater emphasis on measures that would increase biodiversity interest (e.g. for a number of fields to be planted and managed as species rich grassland meadows, for species rich grassland / arable strips to be created around the boundaries of the larger fields and the inclusion of bat and bird boxes and reptile refugia within the site) and for a more detailed management plan to be produced and submitted for approval before Phase 2 is completed.

43. **KCC Archaeology** – Has advised that the site has the potential to contain remains of prehistoric, Roman and later date and that early prehistoric remains could survive in the deposits proposed to be quarried. It has advised that any archaeological requirements can be satisfactorily addressed by a condition requiring the implementation of a programme of archaeological work in accordance with a written specification and timetable which has first been submitted to and approved by KCC if planning permission is granted. It has also noted that the proposals would have some impact on the historic landscape pattern and stated that it is important that this is taken into account in restoration proposals.

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44. **KCC Conservation Advisor** – Has advised that she has no significant comments to make on heritage grounds. She is satisfied with the stand-off between properties on Lower Hartlip Road and Old House Lane and considers the proposed access onto the A2 to be preferable to that proposed previously in 2014 onto Lower Hartlip Road. She has noted that Hartlip Conservation Area is well screened from the proposed development such that impact on it would be minimal although HGVs would need to travel through the Newington Conservation Area. She has expressed the opinion that it would be preferable for the NE / SW row of tall mature Lombardy Poplar trees (identified as part of G7 on the tree protection plan) to be retained as they are important to the visual heritage of the site. However, she accepts the reasons for removal, notes that the amended 60m stand-off from Paradise Farm would enable part of this to be retained and that this and other hedgerows would be replanted as working and restoration takes place.
45. **KCC Sustainable Drainage [KCC SUDS]** – Has recommended that conditions be imposed to secure an appropriate detailed sustainable surface water scheme for the site and any buildings and to ensure that no infiltration of surface water drainage into the ground occurs without the written consent of KCC. It has stated that it would expect the detailed proposals for the use of swales and ponds to deal with the surface water run-off from the new access road and hardstanding area to include appropriate pollution controls and capacity and for the existing open land drain to be culverted under the proposed access road. It has also stated that there is a surface water conveyance route through the site and that this will need to be considered as part of the detailed design to ensure there is no increase to the flood risk on or off site as a result of the proposed works.
46. **KCC Noise Consultant (Amey)** – Has advised that noise issues can be satisfactorily addressed by the imposition of the following conditions:
- Noise levels at noise sensitive properties around the site (except 111 Firview) shall not exceed 55 dB LAeq,1h,free-field during normal working hours (0700-1800);
 - The noise level from HGV movements at 111 Firview (noise sensitive receptor ESR10 of the Environmental Statement) shall not exceed 54 dB LAeq,1h,free-field;
 - For temporary activities such as soil-stripping, construction and removal of noise bunds and soil storage mounds and construction of the final restored landform and aspects of site road construction and maintenance, the noise level shall not exceed 70 dB LAeq,1h,free-field for up to 8 weeks per year;
 - The equipment working or accessing the site (including HGVs) shall be fitted with non-tonal reversing alarms;
 - Earth mounds intended to screen noise from the normal working activities shall be constructed to a height of at least 3m above the original ground level before the start of Phases 2, 11, 14 and 18 (as shown on the Quarry Design Plans);
 - A code of practice for HGVs shall be implemented as part of the development to ensure that noise levels are kept to a minimum; and
 - A responsible person shall be appointed to liaise with the public. The person appointed shall treat noise complaints fairly and expeditiously.

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It is satisfied that the applicant's noise assessment uses the appropriate regulations and methodology and that the predicted noise levels are within those required by the Minerals PPG. It notes that the noise impact assessment has been carried out to focus on human receptors (which is standard practice). It advises that 3rd party research indicates that the same noise criteria suggested for human exposure is considered appropriate for horses and that horses may respond to particularly tonal or impulsive noise. It agrees with the measures proposed by the applicant to minimise noise impacts and considers that it would be appropriate for the applicant to apply best practice measures and notify adjacent landowners in advance of operations to enable them to move their horses into different fields / areas should they wish to do so during operations. It also considers that the applicant should initiate a complaints system to handle any complaints that may arise during operations.

47. **KCC Dust / Air Quality Consultant (Amey)** – Has advised that dust and air quality issues can be satisfactorily addressed by the imposition of conditions to address the following:

- The provision of a dust management plan with associated monitoring, phase specific mitigation and a complaints system (with future mitigation being informed by regular monitoring data, liaison with the local community and any complaints that may be received);
- The analysis (speciation) of dust deposits to enable the rates of deposition of silica and toxic elements such as fluoride to be assessed and additional mitigation implemented as necessary;
- The provision of a wheel wash;
- Measures to dampen down the internal haul road;
- Progressive restoration; and
- Measures to minimise the impact of HGVs associated with the development at those times when the 1-hour NO₂ concentration inside the Newington AQMA becomes elevated such as when the flow of HGVs becomes hindered due to road works.

It has advised that the assessment of air and dust emissions is technically robust and that it agrees with the applicant's conclusions.

It is confident in the judgement that impacts on air quality inside the Newington AQMA and at sensitive receptors outside it would not be significant and considers that this is supported with the appropriate evidence. It has also advised that emissions from road vehicles from the scheme are highly unlikely to cause any exceedances of the health based criteria inside the Newington AQMA that do not already exist. It has further advised that the cumulative air quality assessment (which takes account of the proposed development to the north of High Street Newington) represents a robust extension of the previous EIA (October 2016) and Supplementary Supporting Statement (February 2017) work and that it agrees with its conclusions. It also advises that it would not recommend refusal of the application on the grounds of air quality on the basis of the work because even using the most pessimistic set of assumptions, it has been shown that the cumulative impact of the scheme will never

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add more than 1% to the baseline annual average (relative to the assessment level) inside the AQMA. Whilst the sensitivity analyses undertaken as part of the air quality assessments give slightly less favourable results in terms of air quality impacts on the Newington AQMA than the more conventional approach also used (as they assume no improvement in background air quality or vehicle emission factors since the base year of 2015), it has advised that these should be regarded as extremely conservative / pessimistic and very much based on a worst case scenario. It advises that the actual figures are likely to be somewhere between the two and less likely to result in adverse impacts.

It is satisfied that appropriate receptor sensitivities have been applied and the potential for dust impacts properly considered in combination with the residual source emission and pathway effectiveness in the line with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Mineral Dust Impacts for Planning (May 2016). It states that the removal of phases 17 and 18 to the south of Orchard Drive / Pear Tree Walk and the provision of a 60m stand-off to the south and east Paradise Farm would increase the pathway distance to properties in these locations and on Bull Lane and serve to lower the risk of disamenity at these locations. It welcomes the proposed provision of dust management plan which would include monitoring and phase-specific mitigation and agrees that the effective implementation of the plan should ensure that the impact of dust emissions would be not significant. It recommends that the dust management plan have particular regard to appropriate water application rates to ensure effective dust control and that sufficient water is available on site for this purpose since the dampening down of the internal haul road is likely to be a key factor in mitigating dust impacts. It accepts that the moisture content of the materials being disturbed on site would be sufficiently high (12 to 25%) that the risk of significant dust impacts would be low.

It states that the proposed 60m stand-off to Paradise Farm would reduce the likelihood of disamenity and impacts on the health of humans and horses. However, in terms of potential equine impacts, it has advised that whilst the risk of chronic effects on equine health is less likely than acute effects due to the short term nature of the operations each year, it is not qualified to definitively comment on what the chronic or acute effects of dust inhalation on horses may be. It has also advised that the oxygen demand and physiology of the lungs of horses is different to that of humans such that it cannot assume that the human criteria can be applied to horses. However, it is unaware of any studies which quantify at which point impacts can occur. It has further advised that its position also applies to the impact of the deposition of sand and brick dusts on feedstock palatability, teeth wear and fluorosis. In the absence of criteria relating to the impacts of dust on the health of horses, it suggests that dust monitoring includes provision for further analysis (speciation) of deposited dust in order to assess the rates of deposition of silica and other toxic elements such as fluoride produced during extraction and that if at some stage a complainant is able to produce verifiable criteria relating to these deposits and the impact on feedstock palatability or the health of horses, it would be possible to implement further mitigation from an evidence base. It has suggested that the applicant engage with the owners of Paradise Farm and locate monitoring equipment on their property to provide reassurance that impacts on the health and amenity of humans and horses are being properly measured and

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managed.

48. **UK Power Networks** – Has no objection. Has advised that the site is crossed by its 33kV and 11kV power lines and that the applicant should enter into negotiations as soon as reasonably practical for their relocation at pinch points.
49. **Kent Downs AONB Unit** – Considers that the proposed development would have a greater impact on the AONB than is stated (including when viewed from the AONB) and feels that further consideration needs to be given to appropriately mitigating impact on the AONB.
50. **CPRE Protect Kent** – Objected to the application as submitted in October 2016 due to concerns about HGV movements (primarily on the A2 through Newington) and associated impacts such as congestion, highway safety and air quality (particularly during peak times). It has also expressed concerns about airborne brickearth dust (particularly during dry summer months). *No response to the application as amended in February 2017 has been received at the time of writing this report.*
51. **The British Horse Society** – Has stated that it has looked at the proposals and does not feel that there are any particular implications for equestrians in this location.
52. No responses have been received from **The Ramblers, Kent Wildlife Trust and the Health Protection Agency (Public Health England)**.

Representations

53. The application was publicised by site notices and the occupiers of all properties within 250 metres of the site were notified in October 2016. A newspaper advertisement was published in November 2016. The further information (including amendments) submitted by the applicants in February 2017 was publicised by site notices and a newspaper advertisement in March 2017 and all who had previously responded to the application were also notified.
54. 66 representations (all objections) were received in response to the application as submitted in 2016 from members of the public (including several from one individual). At the time of writing this report, 8 further representations have been received in response to the further information (including amendments) submitted in February 2017. Of these, 5 have maintained their objections, 1 has withdrawn his objection and 2 are new objections.
55. The objections and concerns raised in 2016 and 2017 can be summarised as follows:
 - Landscape and visual impact:
 - Loss of views;
 - Blighted landscape / loss of countryside and rural character; and
 - The trees and hedgerows lost would take many years to re-establish.

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- Local amenity impacts:
 - Noise;
 - Dust;
 - Air quality (including on AQMA);
 - Health issues;
 - Duration of operations (07:00 to 19:00 [18:00] hours for 4 months each year for 19 [18] years);
 - Burning of orchards;
 - Inability to use residential gardens and impact on allotment users in summer months; and
 - Quality of life.
- Highway impacts:
 - The A2 is unsuitable for additional HGVs, particularly through Newington where the road is too narrow for 2 HGVs to pass and is within an AQMA;
 - Road safety (including dangers for local school children); and
 - Traffic congestion (particularly during peak times and when the M2 is closed), noise, vibration, pollution, damage to roads / buildings and mud on roads.
- Water Environment:
 - Increased flooding due to removal of trees and topsoil which currently absorb much of the surface water; and
 - Alleged tipping of waste materials in one or more of the Dene holes on site.
- Ecological impacts:
 - Loss of wildlife (e.g. bats, badgers, birds and reptiles) and established habitat.
- Historic environment impacts:
 - Adverse impacts on Hartlip Village and Newington High Street Conservation Areas (including their settings).
- Footpath impacts:
 - Closures of footpaths is unacceptable; and
 - Impacts on walkers and horse riders.
- Agricultural Land:
 - Loss of high quality (BMV) agricultural land (restoration has allegedly been poor elsewhere) and resultant impacts on the economy; and
 - Loss of orchards.
- Other issues:
 - Adverse impact on local businesses including livery / riding stables, small holdings, flower and plant nurseries, pub and fruit orchards (e.g. potential loss of clients);

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- Health and safety of horses and riders as a result of accidents caused by noise and visual impacts on site associated with plant, machinery and HGVs (including HGV loading, audible reversing alarms and flashing lights);
 - The proposed stand-off between the proposed development and horse related activities is not consistent with the requirements at Hermitage Quarry imposed by the Secretary of State (where a 50m mature woodland belt separated the operational area from a bridleway);
 - Equine health (from dust / particulate impacts);
 - Inconvenience and loss of local jobs;
 - Site security and vandalism;
 - The creation of uncertainty for local residents (and prospective residents);
 - Cumulative impact with other proposed or potential development in the Newington area (particularly residential development such as that at Pond Farm); and
 - The proposed development is contrary to various development plan policies.
56. Although not formally consulted (as it would not be directly affected by the proposals), it should be noted that Upchurch Parish Council has objected due to concerns about highways, traffic, the Newington AQMA, the impact of toxins on child health and further HGV movements when the site is filled in.
57. One respondent has included a short film of his horses whilst activities are taking place in nearby orchards and a copy of written advice from a veterinary surgeon which was originally included as part of a response to the 2014 application. The advice includes concerns about potential adverse impacts on equine health. The reasons can be summarised as follows:
- Horses are easily spooked by sudden loud noises and the sudden appearance of heavy machinery in their field of vision leading to stress and unexpected behaviours;
 - Horses are large / heavy animals that are likely to react violently when spooked leading to catastrophic consequences with risks to horses and handlers;
 - Long term high stress levels are likely to lead to ill health in some horses;
 - High levels of air pollution / particulates is likely to cause chronic respiratory symptoms in some horses in adjacent premises;
 - Sand and brick dust (silicates) will settle on grass and make pasture unpalatable and / or act to increase wear on horses teeth; and
 - Certain toxic elements such as fluorine have been found to be associated with the extraction of materials used in brick and ceramic manufacture and fluorosis can lead to skeletal disease and orthopaedic conditions in cattle, pigs and horses.
58. A number of the respondents have suggested that if the application is permitted, the planning permission should impose further restrictions. These include:

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- Reduced operating hours and days (e.g. 08:00 or 09:00 until 16:00, 16:30 or 17:00 hours with no Saturday, Sunday or Bank Holiday working);
- HGVs should avoid peak school and other travel times;
- Relocate the staff facilities to a position adjacent to Newington Industrial Estate rather than adjacent to the working area;
- An increase in stand-offs to other fields used by horses (to at least replicate the 60m stand-off proposed for Paradise Farm);
- The provision of other grazing land to enable horses using fields adjacent to the site to be relocated during certain phases;³
- The provision of additional landscape planting / screening;
- Replanting of hedgerows should more quickly follow extraction and restoration in each phase (rather than on a 5-yearly basis); and
- The establishment of a site liaison group to facilitate discussion between the operator, KCC and the local community and quickly address any issues that may arise during operations.

59. The reason for the withdrawal of one previous objection was the removal of Phases 17 and 18 to the south of Pear Tree Walk and Orchard Drive.

Local Member

60. County Council Member Mr M Baldock (Swale West) was notified in October 2016 and in February 2017.

Discussion

61. 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 23 to 25 above are of most relevance. Material planning considerations include the national planning policies referred to in paragraph 22, the preferred option status of the site referred to in paragraph 26, the emerging Swale Borough Local Plan policies referred to in paragraph 27, the Kent Downs AONB Management Plan policies referred to in paragraph 28, the Swale Borough Landscape Character and Biodiversity Appraisal SPD referred to in paragraph 29, the Swale Borough Council Air Quality Planning Technical Guidance (December 2016) referred to in paragraph 30, the Land-use Planning & Development Control: Planning for Air Quality. Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control process (January 2017) referred to in paragraph 31 and the inspectors decisions / report on the Pond Farm appeals and the application on land to the north of High Street, Newington referred to in paragraph 10. Those issues of particular relevance in the Pond Farm appeal decision relate to the effects of the appeal proposals on

³ One respondent has sought a condition or Section 106 Agreement to require 5 acres (c. 2ha) of land or other suitable area to the south of Paradise Farm for use as alternative grazing away from the sight and sound of operational equipment and haul road.

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landscape character and the form of Newington, the availability of best and most versatile agricultural land and air quality (particularly in the Newington AQMA). The main relevance of the application and proposed residential allocation to the north of High Street, Newington is in respect of air quality associated with traffic in the Newington AQMA.

62. The issues to be considered include:

- The quantity and quality of the mineral resource;
- The need or otherwise for the mineral;
- Landscape and visual impact;
- Noise, dust and air quality impacts;
- Highways and transportation;
- Water environment (hydrology, hydrogeology and groundwater impacts);
- Ecology;
- Archaeology, heritage and conservation;
- Public rights of way;
- Agricultural land / soils; and
- Other matters.

The quantity and quality of the mineral resource

63. The need for mineral applications to include information on the quantity and quality of mineral resources is implicit in the National Planning Policy Framework [NPPF] and Policy DM16 of the Kent Minerals and Waste Local Plan 2013-30 (July 2016) [KMWLP 2016]. The inclusion of Paradise Farm as a potential brickearth working in the Kent Minerals Local Plan Brickearth (May 1986) [KMSPB 1986] indicates the presence of brickearth deposits likely to be of economic importance. The inclusion of the proposed extension area as a preferred site in the Kent Minerals and Waste Development Framework: Mineral Sites Plan Preferred Options Consultation (May 2012) [KMSPPPOC 2012] for brickearth extraction indicates “in principle” acceptance that Paradise Farm contains a workable deposit of mineral, albeit that little or no weight should be given to the preferred option status beyond this.

64. The application (as amended in February 2017) proposes the extraction of approximately 751,000t of brickearth from an operational area of about 37.9ha over a period of about 18 years (i.e. at a rate of about 41,722tpa). The tonnage figure is derived from an assessment of there being about 442,044m³ of brickearth that could reasonably be extracted based on geological information available and a conversion rate of 1m³:1.7t.

65. The application includes the results of a trial pit excavation based on 58 trial pits across the site in 1988. This shows that the workable depth of brickearth varies from between 0 and 2.65m. The same geological information was provided to the County Council prior to the inclusion of the site as a preferred option in the emerging Mineral Sites Plan although the site information on the preferred option included an estimated reserve of 678,000t capable of being worked at a rate of 30,000tpa for 22.6 years.

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This difference is, in part at least, explained by the different extraction boundaries.

66. During the Members' Site Visit, it was stated by Mr Wright (on behalf of Swale BC) that the identification of the site as a potential brickearth working in the KMSPB (1986) had (in part) been against the inspector's recommendation. Although this is not directly relevant, I note that whilst the inspector recommended that the western boundary of the Paradise Farm site (i.e. the land to the north and south of Paradise Farm) be re-examined (to address questionable reserve information and potential impact on the farmhouse), he recommended no modification be made to the boundaries of the easterly part of the site (i.e. those extraction phases now removed from the application to the south of Orchard Drive / Pear Tree Walk). KCC considered the inspector's recommendation and concluded that it would not be appropriate to remove the entire 100m strip that had been proposed by an objector near Paradise Farm. However, it did remove two smaller areas to the north and south of the farmhouse in order to provide safeguarding margins. The northern area is outside the application site and is now used as a paddock associated with Paradise Farm. The southern area is within the 60m stand-off proposed in February 2017. It should also be noted that KCC considered that it would be for a prospective operator to demonstrate the presence of viable reserves and for environmental safeguarding of dwellings to be addressed in detail at application stage.
67. Having considered the geological information submitted with the application, I am satisfied that the applicant has provided sufficient information to demonstrate a workable brickearth deposit and that this satisfies the requirements of the above policies. Consideration of impact on dwellings is addressed later in this report.

The need or otherwise for the mineral

68. Paragraph 142 of the NPPF states that minerals are essential to support sustainable economic growth and quality of life and that it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. It also acknowledges that minerals are a finite natural resource and can only be worked where they are found. Paragraph 144 of the NPPF states that great weight should be given to the benefits of mineral extraction (including to the economy) when applications are determined. Paragraph 146 of the NPPF states that Mineral Planning Authorities (MPAs) should plan for a steady and adequate supply of industrial minerals by providing a stock of permitted reserves (i.e. a landbank) to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment. In the case of brick clay (or brickearth), the landbank should be at least 25 years. Paragraph 221 of the Minerals Planning Practice Guidance [Minerals PPG] defines industrial minerals as those which are necessary to support industrial and manufacturing processes and other non-aggregate uses and states that they include minerals of recognised national importance such as brick clay. Paragraph 001 of the Minerals PPG states that planning for the supply of minerals has a number of special characteristics that are not present in other development (e.g. minerals can only be worked where they naturally occur, working is a temporary use of land, working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated).

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Paragraph 089 of the Minerals PPG states that each application for minerals extraction must be considered on its own merits, regardless of the current stock of permitted reserves. However, low stocks of permitted reserves to justify capital investment may be seen as a strong indicator of urgent need.

69. Policy CSM2 of the KMWLP 2016 states that sites will be identified in the Mineral Sites Plan for the supply of brickearth by providing a stock of permitted reserves of at least 25 years to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment. The proposed extraction area at Paradise Farm is identified as a preferred option for future brickearth working in the KMSPPC 2012 (Site 19). Whilst the preferred options were not fully tested in 2012 with an independent examination, the County Council considered that development of the Paradise Farm site should be supported subject to: (i) access to and from the extraction area being either through Newington Industrial Estate or onto Lower Hartlip Road north of Paradise Farm (if the latter, improvements would be required on 3rd party land at the operators expense prior to development commencing); (ii) phased restoration to agriculture (to incorporate species rich grassland); (iii) public footpaths being retained in situ or diverted during operations; and (iv) no inert infill and measures to ensure that groundwater resources are protected during operations and restoration (given the location within SPZ2 and SPZ3). Until such time as the Mineral Sites Plan is adopted, saved Policy B1 of the KMSPB 1986 is relevant. Policy B1 states that applications for the extraction of brickearth from sites identified under this policy on the proposals map will be acceptable provided that the County Council is satisfied of a sufficient case of need to release additional land which overrides material interests (e.g. agricultural, landscape, conservation, environmental, access, restoration and after-use). Policy DM16 of the KMWLP 2016 states that applications should be supported by sufficient information, including that specified in the County Council's guidance notes. Such information should include that in respect of need.
70. Permitted brickearth reserves in Kent are currently limited to those at Orchard Farm (Iwade) and at Hempstead House (Bapchild). Of these, only the reserves at Orchard Farm are available to the applicant as those at Hempstead House are controlled (and used) by Istock Brick Ltd (its competitor). The brickearth reserves at Orchard Farm were stated to be 150,000t before extraction commenced at the site and provide materials to the brickworks for 4 years at a rate of 37,500tpa. It had been assumed that extraction would commence in 2015 and be completed by 31 October 2018 and that all stockpiled brickearth would be removed and the site fully restored by 31 October 2019.⁴ Extraction actually commenced in 2016 and unless the permission is to be amended to allow a greater quantity of mineral is to be worked and removed from the site each year than was planned, the 8-week period during which extraction and restoration operations can take place extended and the permitted number of HGV loads increased from 10 per day, it would be necessary for additional time to be secured if brickearth reserves at the site are not to be sterilised. The permitted

⁴ Note that the method of working at Orchard Farm is different than that proposed at Paradise Farm in that brickearth is extracted in an 8-week period, stockpiled at the site and transported to the Smeed Dean Brickworks throughout the year (Monday to Friday).

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brickearth reserve at Hempstead House was estimated to be 80,000t in 2012.⁵ No more recent figure is available but as brickearth has been removed from the site since 2012 the figure is less. Since the closure of Funton Brickworks at Lower Halstow, brickearth from Hempstead House has been transported to Ibstock Brick Ltd's Ashdown Brickworks in East Sussex.

71. The only other potential brickearth site promoted by Wienerberger Ltd that was included in the KMSPPPOC 2012 was on land to the rear of Jeffries, Claxfield Road, Teynham (Site 98). This had an estimated reserve of 95,000t and was stated to have provided a supply of about 30,000tpa for 3 years. In making the Orchard Farm application in 2015, Wienerberger Ltd stated that the Jeffries Site was not economic to extract and that the development rights for a number of other brickearth resources had been secured by other brickmaking companies. The applicant states that Paradise Farm is the only site within its control and that the other potential sites (e.g. Barbary Farm, Norton Ash, Near Faversham and Barrow Green Farm, Teynham – i.e. Sites 101 and 102 included in the KMSPPPOC 2012) are controlled by Ibstock Brick Ltd and cannot be accessed by Wienerberger Ltd for commercial reasons.
72. Regardless of the precise quantities of brickearth remaining at Orchard Farm, and even if the permitted reserves at Hempstead House were available to Wienerberger Ltd, it is clear that these do not provide the 25 year landbank for the Smeed Dean Brickworks required by Policy CSM2 of the KMWLP 2016 and paragraph 146 of the NPPF. Indeed, even if planning permission is granted for Paradise Farm, the reserves within the applicant's control would remain below this figure. On this basis, I am satisfied that there is a need for the release of a quantity of brickearth reserves similar to that now proposed if there is to be any prospect of the above policy requirements being met. If new brickearth reserves are not permitted at Paradise Farm, or at some other location before the reserves at Orchard Farm are exhausted, this may lead to the closure of the Smeed Dean Brickworks, the cessation of brickmaking in Kent and the loss of jobs at the brickworks (42 no.) and in associated industries / services as well as the proposed jobs on site (8 no.). Whilst the question of whether the identified need is sufficient to outweigh any material planning objections to the proposed development can only be assessed having regard to the issues and conclusions set out elsewhere in this report, it is clear that considerable weight should be given to the benefits of the proposed development when the application is determined.

Landscape and visual impact

73. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes. Paragraph 144 of the NPPF states that mineral development should not give rise to unacceptable adverse impacts on the natural and historic environment and that the cumulative effect of multiple impacts from individual sites and / or from a number of sites in a locality should be taken into account when applications are determined. It also states that restoration and aftercare should be provided at the earliest opportunity and be carried out to high environmental standards

⁵ Source: Minerals Topic Report 3: Other Minerals (KCC, May 2012).

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through the application of appropriate conditions where necessary. Paragraph 001 of the Natural Environment PPG emphasises the importance of recognising the intrinsic character and beauty of the countryside. It also advocates the use of Landscape Character Assessment in helping to understand the character and local distinctiveness of the landscape, identifying the features that give it a sense of place and helping to inform, plan and manage change. Paragraph 013 of the Minerals PPG identifies visual impact on the local and wider landscape and landscape character as two of the principal issues that mineral planning authorities should address when assessing the environmental impacts of mineral extraction. Paragraphs 036 to 149 of the Minerals PPG contain detailed advice on restoration and aftercare of mineral sites.

74. Policies CSM1, DM1, DM2, DM11, DM12, DM17 and DM19 of the KMWLP 2016 are of particular relevance. Policies CSM1 and DM1 support sustainable development. Policy DM1 also states that minerals proposals should demonstrate that they have been designed to avoid causing any unacceptable adverse impact on the environment and communities by appropriate measures to protect and enhance the character and quality of the site's location. Policy DM2 states that minerals proposals should ensure that there is no unacceptable adverse impact on the integrity, character, appearance and function of sites of international, national and local importance. It also states that proposals outside, but within the setting of an AONB will be considered having regard to the effect on the purpose of conserving and enhancing the natural beauty of the AONB. Policy DM11 states that minerals development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from illumination and visual intrusion. Policy DM12 states that permission will be granted for minerals development where it does not result in an unacceptable adverse, cumulative impact on the environment. Policy DM17 states that planning obligations will be sought where appropriate to achieve suitable control over or mitigate and / or compensate for the effects of minerals development where this cannot be achieved by planning conditions. Policy DM19 requires that provision be made for high standards of restoration, aftercare and after-use such that the intended after-use of the site is achieved in a timely manner. It also states that restoration plans should reflect the proposed after-use and, where appropriate, include details such as: the site boundaries and areas identified for soil and overburden storage; directions of phasing of working and restoration and how they are integrated into the working scheme; the proposed final landform; the seeding of grass or other crops and planting of trees, shrubs and hedges; a programme of aftercare (including vegetation establishment and management); and the restoration of the majority of the site back to agriculture, if the site consists of the best and most versatile agricultural land. It further states that aftercare schemes should incorporate an aftercare period of at least 5 years and that voluntary longer periods will be sought where appropriate through agreement.
75. Policy E1 of the SBLP 2008 states that development should (amongst other things) reflect the positive characteristics and features of the site and locality, accord with adopted Supplementary Planning Documents, protect and enhance the natural and built environments, be both well sited and of a scale, design and appearance, that is appropriate to the location with a high standard of landscaping and cause no demonstrable harm to residential amenity and other sensitive uses or areas. Policy E6 aims to protect and where possible enhance the quality, character and amenity

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value of the wider countryside of the Borough and states that development will only be permitted if it is demonstrated to be necessary for (amongst other things) the winning of minerals. Policy E9 states that the quality, character and amenity value of the wider landscape of the Borough will be protected and, where possible, enhanced. It also gives priority to the protection of long-term conservation and enhancement of natural beauty in the Kent Downs AONB and expects proposals to be informed by and sympathetic to local landscape character and quality guidelines, safeguard or enhance landscape elements that contribute to the distinctiveness of the locality and minimise adverse impacts of development upon landscape character. Policy E10 aims to protect trees (including old orchards and fruit trees, hedgerows, woodland and scrub) that make an important contribution to the amenity, historic, landscape or nature conservation value of the site or the surrounding area and states that development should retain trees as far as possible and provide for new tree planting to maintain and enhance the character of the locality. The objectives of these policies are reflected in draft Policies DM14, DM24 and DM29 of the emerging SBLP 2016. The site lies within the Newington Fruit Belt Character Area defined in the Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (September 2011) [SLCBASPD 2011] which states that the network of mature hedgerows and shelterbelts that surround the orchards are key characteristics of the area.

76. Hartlip Parish Council (PC), the Kent Downs AONB Unit and a number of local residents have objected to the application for a variety of reasons relating to landscape and visual impact. Comments about these issues were also made at the Members' Site Meeting. Natural England and KCC's Landscape Consultant have commented on landscape and visual impact issues but have raised no objections (subject to conditions).
77. Hartlip PC considers that the hedgerows and mature trees at the site contribute greatly to the special landscape and visual character of the orchard / area and that their loss would be significant locally and would impact on the Kent Downs AONB. It believes that these should be retained. It also considers that the proposed changes in land levels (as a result of extraction / restoration) would be considerable and that this would alter the characteristics of the site. It further considers the impact on Hartlip village and associated Conservation Area (including Grade 1 listed church) would be huge as the site is on a slope and visible from much of the village. It believes that the proposed earth bunds would also be unnatural in appearance.
78. The Kent Downs AONB Unit consider that the proposed development would have a greater impact on the AONB than is stated (due to views from the AONB) and that further consideration should be given to mitigating impact on the AONB.
79. Local residents' concerns about landscape and visual impact largely reflect those raised by Hartlip PC. They have also expressed concerns about loss of views, a blighted landscape / loss of countryside and rural character and the time it would take for trees and hedgerows to re-establish. At the Members' Site Meeting, one of the local residents said that restoration should follow each phase of working rather than after 5 years.

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80. Natural England has advised that KCC satisfy itself as to whether the proposed development would have a significant impact on or harm that statutory purpose of the AONB.
81. KCC's Landscape Consultant has advised that the proposed development is acceptable in landscape and visual terms. Whilst the proposal would involve the loss of distinctive orchards, hedgerows and shelter belts and the operation of large scale machinery and construction of topsoil stockpiles, it notes that the loss and effects would be phased over 19 [now 18] years in phases of four months per year with relatively small areas being worked at any one time such that the land would be progressively restored, the effects relatively transient / small scale and the area would ultimately revert to its original land use as orchard. It states that hedgerows would generally serve to screen the development from residential receptors (at least at ground floor level) and that this would be further aided by advance planting, that the phased nature of the development and progressive restoration would mean that adverse impacts on users of PROW would be localised and relatively short in duration and that whilst there are views of the site and existing shelter belts from the AONB, factors such as the distance between the two, the character of the views and the phased nature of the proposed development and restoration mean that adverse impacts would not be significant. I note that the majority of its initial recommendations (including the seeding soil stockpiles) were accepted by the applicant and incorporated into the application as amended in February 2017.
82. The proposed development would undoubtedly give rise to some adverse landscape and visual impacts. The main impacts would be the creation of the proposed access road, the removal of trees and hedgerows within the site and operations associated with soil stripping, storage and replacement and the mineral extraction itself. Other landscape and visual impacts would include those associated with HGVs involved in transporting brickearth from the extraction areas to the brickworks, plant and machinery operating on site and the provision and use of staff and other facilities.
83. The Pond Farm appeal decision concluded that the impact of the development of up to 330 houses on the appeal sites (just to the north of the Paradise Farm site) would give rise to substantial harm to landscape character. However, the nature of the proposed development at Paradise Farm is entirely different and, in my view, not directly comparable. Whilst the Pond Farm development would have resulted in a permanent change to the landscape (i.e. built development), the Paradise Farm proposals would be temporary, working and restoration would be phased such that landscape and visual impacts would be limited and the entire site fully restored to a condition very similar to that currently existing when mineral extraction has been completed. Indeed, with the exception of the disturbance associated with mineral working in a single phase for up to 16 weeks each year, vehicles entering, leaving and moving within the site and the infrastructure associated with accessing and servicing the site (e.g. access road, weighbridge, wheelwash and staff facilities), the vast majority of the site would be unaffected at any one time by operations throughout the proposed life of the site. Whilst there would also be parts of the site where the orchard and hedgerows within it would yet to have become fully re-established after removal, the proposals would result in existing hedgerows being replaced with improved species rich

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hedgerows which would reflect the historic pattern where these have been identified or the phasing pattern where this is not the case. The proposed advance hedgerow planting would serve to further improve the current position. It should be noted that the orchard is likely to be removed and replaced on a phased basis and hedgerows and trees cut, removed and replaced over time regardless of the outcome of the planning application given the nature of the intensively operated modern orchards employed at the site and desirability of maintaining appropriate shelter belts between the fields.

84. KCC's Landscape Consultant had initially suggested that the replanting of hedge-lines should be undertaken after the completion of each phase rather than every 5 years and a similar point was raised by a local resident at the Members' Site Meeting. Although the applicant's position is still that hedgerows should be replaced following the completion of 5 phases to ensure that they mature at a consistent rate, it has since agreed that it may be possible to replant a section of hedgerow sooner without prejudicing the overall approach. It has suggested that this issue be reviewed during site monitoring visits with KCC officers and earlier replanting implemented if agreement is reached. I consider this approach to be reasonable and note that KCC's Landscape Consultant has not objected to it.
85. Although a number of respondents (including Hartlip PC and the Kent Downs AONB Unit) have expressed concerns about adverse impacts on the AONB, I am satisfied that any impacts would not be significant for the reasons stated by KCC's Landscape Consultant. I also note that the AONB lies approximately 600m to the south west of the site beyond the M2. The proposed advanced planting and phased reinstatement of hedgerows within the site would also ensure that the key landscape characteristics of the area are maintained so far as possible during operations and improved in the longer term. Whilst heritage and conservation issues are specifically addressed later in this report, concerns about landscape and visual impacts on Hartlip village more generally are relevant within this section. As is the case with the AONB, it will be possible to see parts of the site from Hartlip village and from areas of land between the two. However, I do not consider the impacts associated with such views to be unacceptable. This opinion is supported by KCC Landscape Consultant's comments.
86. Whilst the proposed development would result in changes to the current topography as between 0 and 2m of brickearth (an average of 1m) would be removed across the entire site, I disagree with the suggestion that these changes would be considerable or that this would significantly affect the characteristics of the site. I also reject the suggestion that maintaining existing field boundaries in situ in order to retain existing hedgerows would be desirable as this would create a whole series of different levels across the site and have a greater impact on the topography of the final restored landform. Maintaining existing field boundaries would also unnecessarily sterilise brickearth. As noted above, the storage of soils during extraction (whether as perimeter screening bunds or stockpiles within the extraction area or adjoining area) would also give rise to landscape and visual impacts. Whilst such impacts cannot be entirely avoided if extraction takes place, it is proposed that these be grass seeded. This accords with KCC Landscape Consultant's recommendation and is supported on the basis that this should assist in reducing their impact even for the relatively short

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period of time that they would be in place. Many of the soil stockpiles would also be screened from most viewpoints by intervening hedgerows.

87. The removal of phases 17 and 18 to the south of Orchard Drive and Pear Tree Walk from the extraction area and the provision of a 60m stand-off to Paradise Farm has served to significantly reduce the visual impact of the proposed development on those properties that would otherwise have been most directly affected and is to be welcomed. The applicant has also confirmed that the orchards in those areas no longer proposed to be worked (as above) would be retained throughout the proposed development to provide further visual mitigation. This is also supported. As well as assisting in reducing landscape and visual impact more generally, this may (in the case of the 60m stand-off) assist in reducing visual impact on horses at Paradise Farm. No external lighting is proposed as the development would take place during the day in summer months.
88. Notwithstanding the objections that have been raised and that the proposed development would give rise to some harm, I do not consider that the adverse landscape and visual impacts would be unacceptable or overriding. This view is supported by KCC's Landscape Consultant. The impacts associated with the development and operation of the site would be both phased and temporary and the proposed restored landform would be very similar to that existing (albeit with a ground level about 1m lower). I am satisfied that the proposed development would not have a significant impact on or harm the statutory purpose of the AONB.
89. Subject to the imposition of conditions to secure implementation of the proposed working / phasing arrangements, the advanced planting, restoration and aftercare details (which include specifications for advanced woodland planting, scrub, hedgerow trees, native hedgerow, meadow and grassland and management during a 5-year period after restoration), the seeding of soil stockpiles and the proposed tree protection measures, I am satisfied that the proposed development would be acceptable in terms of landscape and visual impact and accord with the above policies.

Noise, dust and air quality impacts

90. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of air or noise pollution. Paragraph 123 states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life and mitigate and reduce to a minimum other adverse impacts on health and quality of life, including through the use of conditions. Paragraph 124 states that planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of AQMAs and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan. Paragraph 144 states that local planning authorities should ensure that there are no unacceptable adverse impacts on human health when granting permission for mineral development

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and that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source and appropriate noise limits are established for extraction in proximity to noise sensitive properties.

91. Paragraph 013 of the Minerals PPG states that noise, dust and air quality are principal issues that MPAs should address when determining mineral applications. The Minerals PPG also includes more detailed advice on how these issues should be addressed to protect local amenity (e.g. through the design of the proposed development itself) and controls or limits that should be imposed if development is permitted (e.g. appropriate noise limits and measures to minimise dust / air quality impacts). Amongst other things, the Minerals PPG states that planning conditions should be imposed to ensure: that noise associated with mineral development does not exceed the background noise level ($L_{A90,1h}$) by more than 10dB(A) during normal working hours (0700-1900); that where it would be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable; and that, in any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field). It also states that the potential for addressing tonal or impulsive noise (such as reversing alarms) should be considered. It further states that increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties may be necessary to facilitate essential site preparation and restoration work (e.g. soil stripping, movement, storage and replacement) and the construction of baffle mounds where it is clear that this will bring longer term environmental benefits to the site or its environs. More generic advice on air quality is contained in the Air Quality PPG. Paragraph 014 of the PPG relating to travel plans, transport assessments and statements in decision-taking states that it is important to give appropriate consideration to the cumulative impacts arising from other committed development (i.e. development that is consented or allocated where there is a reasonable degree of certainty will proceed within the next 3 years) and that (at the decision-taking stage) this may require the developer to carry out an assessment of the impact of those adopted Local Plan allocations which have the potential to impact on the same sections of transport network as well as other relevant local sites benefitting from as yet unimplemented planning approval.
92. Policies CSM1, DM1, DM11 and DM12 of the KMWLP 2016 are of particular relevance. Policies CSM1 and DM1 support sustainable development. Policy DM11 states that minerals development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. Policy DM12 states that permission will be granted for minerals development where it does not result in an unacceptable adverse, cumulative impact on the amenity of a local community.
93. Policy E1 of the SBLP 2008 states that development should cause no demonstrable harm to residential amenity and other sensitive uses or areas. Policy E2 states that development proposals should minimise and mitigate pollution impacts and not be permitted if they would, individually or cumulatively, give rise to pollution significantly adversely affecting human health or residential amenity. Policy SP2 states that

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development proposals should protect and enhance the special features of the visual, aural and atmospheric environment and avoid adverse environmental impact. It also states that where there remains an incompatibility between development and environmental protection, and development needs are judged to be the greater, adverse impacts should be minimised and mitigated. The objectives of Policy E1 are reflected in draft Policy DM14 of the emerging SBLP 2016.

94. Swale Borough Council (BC), Hartlip PC, Newington PC, CPRE Protect Kent, Upchurch PC and local residents have objected to the application for a variety of reasons relating to noise, dust and air quality impacts. Comments about these issues were also made at the Members' Site Meeting. KCC's Noise, Dust / Air Quality and Landscape Consultants have commented on noise, dust and / or air quality impacts but have raised no objections (subject to conditions). No response has been received from the Health Protection Agency (Public Health England).
95. Swale BC has objected to the application due to concerns about the likely harm to the amenity of local residents (particularly those adjacent to phases 14, 15 and 16). It is not satisfied that the proposed amendments and additional information submitted in February 2017 are sufficient to overcome its concerns and that the development is contrary to adopted and emerging development plan policies and paragraphs 109 and 144 of the NPPF. It has, however, noted that great weight should be afforded to the economic benefits of brickearth extraction.
96. Hartlip PC is concerned that noise associated with the development would impact significantly on the tranquil nature / quiet enjoyment of the village. It considers that local topography (whereby the land generally slopes downwards from the orchards to Old House and Lower Hartlip Road) may exacerbate any impacts and that the proposed working day is too long. It states that the hours of work provided for in the appeal decision at Hermitage Quarry were from 08:00 to 16:00 hours with no working on Saturdays. It is concerned that dust generated by the proposed development would have a significant effect on local properties, gardens and residents during summer months (e.g. making gardens unsuitable for children to play in or hang washing in and meaning windows would need to be kept closed during the hotter summer months), particularly where the extraction boundary is very close to neighbouring properties. It is also concerned that dust impacts could lead to new or exacerbated health problems (particularly for children and the elderly) and that the burning of trees removed to enable extraction to take place would result in large fires and smoke being produced at the site. Hartlip PC has also expressed concerns about adverse air quality impacts on the Newington AQMA (and on children's health) as a result of HGV travelling through it. It states that evidence given at the Pond Farm appeal indicated that airborne pollutant limits are already being regularly exceeded and are sometimes twice or four times the safe level for children to tolerate. Hartlip PC regards the above effects as significantly adverse and the proposed mitigation inadequate such that the proposals are contrary to Policies DM10 and DM11 of the KMWLP 2016.
97. Newington PC objected to the application as submitted in October 2016 due to concerns about the noise and dust impact of extraction on housing, the recreation

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- ground, allotments and community woodland. In responding to the application as submitted in October 2016 it noted that properties on Pear Tree Walk would only be separated from the proposed development by a path. At the time of writing this report, no further response has been received.
98. CPRE Protect Kent objected to the application as submitted in October 2016 due to concerns about airborne brickearth dust (particularly during dry summer months).
99. Upchurch PC objected to the application as submitted in October 2016 due to concerns about air quality impacts in the Newington AQMA and the potential resultant impact of toxins on child health.
100. At the Members' Site Meeting, Newington Allotment Association expressed concerns about noise and dust impacts on those working on the allotments during summer months, one local resident stated that those living to the north of the site would be adversely affected by dust due to the wind direction and another expressed similar concerns to those attributed to Hartlip PC above and stated that residents to the west of the site would also be affected by noise and dust.
101. Local residents' concerns about noise, dust and air quality impacts largely reflect those raised by Hartlip PC. As noted in paragraphs 55, 57 and 58 above, concerns have also been raised about potential adverse effects on horses and related business interests. Whilst direct noise, dust and air quality impacts on horses are addressed in this section of the report (paragraphs 110 to 118 below), indirect impact on business interests is addressed in paragraphs 194 to 196.
102. KCC's Noise Consultant is satisfied that the applicant's noise assessment uses the appropriate regulations and methodology and that the predicted noise levels are within those set out in the Minerals PPG. It advises that noise issues are capable of being addressed by conditions if planning permission is granted. The proposed conditions include specific noise limits for normal operations such as mineral extraction and its removal from the site (i.e. 55 dB LAeq,1h,free-field for all noise sensitive properties other than Firview near the site entrance which would have a limit of 54 dB LAeq,1h,free-field to reflect the lower background noise level at that location and the impact of HGV movements) and temporary operations such as soil stripping, stockpiling and replacement (70 dB LAeq,1h,free-field for up to 8 weeks per year), the use of non-tonal reversing alarms by equipment working or accessing the site (including HGVs), the provision of 3m high perimeter noise bunds in phases 2, 11, 14 and 18 (i.e. those locations proposed by the applicant) and the implementation of a code of practice for HGVs and a liaison / complaints system for the local community. It notes that the noise impact assessment has been carried out to focus on human receptors (which is standard practice). It advises that 3rd party research indicates that the same noise criteria suggested for human exposure is considered appropriate for horses and that horses may respond to particularly tonal or impulsive noise. It agrees with the measures proposed by the applicant to minimise noise impacts and considers that it would be appropriate for the applicant to apply best practice measures and notify adjacent landowners in advance of operations to enable them to move their horses into different fields / areas should they wish to do so during operations. It also

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considers that the applicant should initiate a complaints system to handle any complaints that may arise during operations.

103. KCC's Dust / Air Quality Consultant is satisfied that the assessment of air and dust emissions is technically robust and agrees with the applicant's conclusions and advised that dust and air quality issues can be satisfactorily addressed by the imposition of conditions. It is confident in the judgement that impacts on air quality inside the Newington AQMA and at sensitive receptors outside it would not be significant and that any dust impacts associated with the development would be acceptable subject to the implementation of appropriate mitigation. It has advised that emissions from road vehicles are highly unlikely to cause any exceedances of the health based criteria inside the Newington AQMA, that the cumulative air quality assessment (which takes account of the proposed development to the north of High Street Newington) represents a robust extension of the previous EIA (October 2016) and Supplementary Supporting Statement (February 2017) work and that it agrees with its conclusions. It also advises that it would not recommend refusal of the application on the grounds of air quality on the basis of the work. It has welcomed the removal of phases 17 and 18 adjacent to Orchard Drive / Pear Tree Walk, the 60m stand-off to Paradise Farm and the proposed provision of a dust management plan. It has emphasised the need for adequate water supplies being available at the site for dust control (particularly for dampening down the internal haul road). It has advised that whilst the risk of chronic effects on equine health is less likely than acute effects due to the short term nature of the operations each year, it is not qualified to definitively comment on what the chronic or acute effects of dust inhalation on horses may be. It has also advised that the oxygen demand and physiology of the lungs of horses is different to that of humans such that it cannot assume that the human criteria can be applied to horses. However, it is unaware of any studies which quantify at which point impacts can occur. It has further advised that there is some uncertainty about the potential impact of the deposition of sand and brick dusts on feedstock palatability, teeth wear and fluorosis. In the absence of criteria specifically relating to the impacts of dust on the health of horses, it has suggested a number of measures designed to address these issues.
104. KCC's Landscape Consultant has referred to the desirability of grass seeding the soil storage mounds / bunds to reduce dust impact as well as for landscape and visual impact reasons.
105. The proposed development would undoubtedly give rise to some adverse noise, dust and air quality impacts as soils are stripped, moved and stored, brickearth extracted and transported from the site and soils replaced. The construction, use and eventual removal of the access road and associated facilities (including those for staff) would also give rise to some impacts. Noise and dust impacts would primarily be experienced in and immediately around the phase being worked and near the internal haul road and access road. Although some additional noise and dust impacts would also be experienced as a result of HGVs travelling between the site and brickworks these would be difficult to distinguish from impacts associated with other traffic. The extent to which noise and dust emissions from operations at the site affect local properties, those using the footpaths that cross the site and animals located adjacent

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to or near it would largely depend on how the development is designed and implemented and the success or otherwise of any conditions that may be imposed to minimise such impacts. Air quality impacts include those associated with operations on site (primarily relating to dust) but are generally taken to be those associated with HGV emissions. In this case, impacts along the A2 (particularly through Newington and the AQMA) are of greatest relevance. For the avoidance of doubt, the air quality issues associated with traffic generated by the proposed development are dealt with in this section of the report (rather than in the Highways and transportation section).

Noise and Dust

106. As initially proposed in October 2016, the proximity of extraction to properties at Orchard Drive, Bramley Drive, Pear Tree Walk and Bull Lane attracted considerable local objection. Whilst only one objection has been withdrawn as a result of the removal of phases 17 and 18 in February 2017, I believe that the resultant increase in distance between the properties and operations would significantly reduce potential noise and dust impacts on those living in them. Similarly, whilst those living at Paradise Farm continue to object to the proposals, the proposed 60m stand-off would serve to reduce noise and dust impacts on those properties. With the exception of those properties on the A2 immediately to the north of the proposed access road which would be affected by HGVs entering and leaving the site and using the weighbridge, other residential properties are located further from the site boundary and any operational area. Given the amendments to the application in February 2017, no residential property would be within 100m of the proposed extraction area and none within 80m of the operational boundary (i.e. that defined to accommodate perimeter soil screening bunds). Number 50 Orchard Drive would be closest to the operational boundary and only then during the final phase (18). One of the residential properties at Paradise Farm would be about 110m from the operational / extraction boundary during phases 14 (western part), 15 and 16. The vast majority of residential properties would be significantly further from any extraction or operational boundary. These distances compare favourably with those at current and recent brickearth workings. The stand-off at Hempstead House is 25m to the façade of the nearest property to the east and 30m to those to the west of Panteny Lane and that at Orchard Farm is just over 15m to the nearest cottages. The stand-off at Claxfield Farm was 50m. The removal of the phases in the north eastern part of the site close to Pear Tree Close would also be particularly beneficial given that the prevailing wind direction is from the south west. Whilst the allotments, recreation ground and community woodland lie just to the north of phase 18 and would only be separated from the extraction area by an existing hedgerow and 10m stand-off, any impacts on those using them would be limited to a single (final) working phase (i.e. for between 12 and 16 weeks duration only).
107. The proposed hours of operation (as amended) are consistent with those at the majority of mineral sites in Kent and not entirely dissimilar to those at other brickearth workings in the County. They are the same as those employed at Hempstead House (although there is no specific provision for emergencies in that case). They are also those permitted for site preparation, extraction and restoration operations at Orchard Farm (although loading and transportation is not allowed on Saturdays at that site).

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Operations at Claxfield Farm were also 07:00 to 18:00 hours Monday to Friday (but with no Saturday working) although essential maintenance was also permitted between 08:00 and 18:00 hours on any day. The reference to the hours of working at Hermitage Quarry being from 08:00 to 16:00 hours with no working on Saturdays is not correct. In fact, whilst the Hermitage Quarry permission only allows the construction and removal of soil screen bunds between 08:00 and 16:00 hours Monday to Friday, all other operating hours are as those proposed at Paradise Farm and in place at the majority of other quarries in Kent. Given the advice from KCC's Noise and Dust / Air Quality Consultant I consider those hours proposed by the applicant to be acceptable.

108. Whilst the orchards would be removed on a phased basis and hedgerows and trees within the site pruned and replaced over time and the resultant vegetation burned in a controlled manner on site regardless of the outcome of the application, the proposed development would be likely to intensify these activities into a shorter time period. However, provided these activities are done in a sensitive manner the impacts need not be unacceptable and would continue to be subject to environmental controls exercised by Swale BC.
109. I am satisfied that noise and dust impacts associated with operations taking place on the site itself would be acceptable in terms of those that would be experienced by human beings subject to the imposition of conditions to secure the following:
- The development to be completed within 18 years (from the commencement of extraction);
 - Soil stripping, movement and storage, brickearth extraction and transportation and soil replacement taking place for no more than 16 weeks in any year between 1 April and 30 September (with brickearth extraction and transportation taking place for no more than 12 weeks during that period);
 - The development being implemented as amended in February 2017 (i.e. no operations outside the operational boundaries proposed at that stage);⁶
 - Working only taking place between 07:00 and 18:00 hours (Monday to Friday) and 08:00 and 13:00 hours (Saturdays) with no working on Sundays, Bank / Public Holidays and no operations, construction, servicing or maintenance outside these hours except in the case of emergencies;
 - Measures to prevent mud or debris being deposited on the highway (including the provision of the proposed wheel wash facility and its use when necessary, the cleaning of the access road and the covering / sheeting of HGV loads);
 - The noise limits proposed by KCC's Noise Consultant;
 - The noise bunds in the proposed locations;
 - The dust mitigation and live dust management plan (to include monitoring and review, as well as regular targeted monitoring and speciation of deposits, etc.) proposed by KCC's Dust / Air Quality Consultant;
 - The grass seeding of soil storage mounds / bunds;
 - Non-tonal reversing alarms to be used by all operational vehicles, plant and

⁶ i.e. No operations in phases 17 and 18 as initially proposed to the south of Orchard Drive and Pear Tree Walk or within the 60m stand-off around the eastern and southern boundaries of Paradise Farm.

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machinery associated with development at the site;

- A code of practice for HGVs; and
- The only access to be used for development traffic to be that onto the A2.

Horses

110. As noted above and elsewhere in this report, objections include those relating to potential noise, dust and other impacts on horses kept on land in the vicinity of the site and in particular on the livery / riding stable business at Paradise Farm. The concerns relate both to potential health impacts on the horses themselves and on those riding them. The NPPF contains no specific policies in respect of domesticated animals such as horses. However, its policies relating to sustainable development and the economy more generally are relevant in so far as they relate to potential indirect impacts on business interests (see paragraphs 194 to 196).
111. The owner of Paradise Farm has suggested that a more substantial stand-off between any working area and land used by horses should be provided and has referred to the position at Hermitage Quarry (Westerly Extension / Oaken Wood) where the working would be separated from a bridleway by 50m of woodland tree screen. If planning permission is granted, he has also sought a number of measures intended to reduce impacts on horses and riders (e.g. further reduced hours and no Saturday working). It has also been suggested that a 60m stand-off should be provided on those site boundaries adjoining other fields where horses are kept to replicate that provided for Paradise Farm and that the applicant should be required to make available alternative grazing land to those whose horses may be affected by working on the basis that not everyone will be in a position to relocate their horses onto land further from the working area even if they are informed of impending operations as has been suggested by the applicant and KCC's Noise and Dust / Air Quality Consultants.
112. Some of the horse-related objections are supported by the veterinary surgeon's report referred to in paragraph 57. The introduction to the report states that *"I am an equine veterinary surgeon with 32 years of experience in the equine field and working exclusively in the mid and north Kent area. The juxtaposition of a site where quarrying or other heavy ground works are taking place over the long-term, with an adjacent site where horses are kept at pasture and at livery, is in my opinion inappropriate for the following reasons:"* it then goes on to list those matters I have summarised in paragraph 57. The report is dated 24 September 2014 and related to the 2014 application. It should be noted that the 2014 application did not provide the 60m stand-off to Paradise Farm as is now the case (it proposed the same extraction boundaries as proposed in the application as submitted in October 2016) and that access to the site for the entire duration of operations would have been immediately to the north of the paddocks at Paradise Farm to Lower Hartlip Road such that Paradise Farm would have been bordered on three sides by development rather than just two as is now the case. Whilst not dismissing the report for these reasons, I believe that the differences between the 2014 and February 2017 proposals are material. I also note that the report indicates that quarrying or other heavy groundworks would take place over a long period adjacent to the site. The only activity that would affect the equine interests at Paradise Farm each year during the proposed development would be the use of the

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access road, staff facilities and haul road and this would be for no more than 16 weeks in any one year. The point where the haul road enters the operational area is the closest of these to any of the paddocks (about 80m away). Although extraction would take place relatively near to Paradise Farm for four years (i.e. during phases 14, 15, 16 and 17), no extraction (quarrying) or soil stripping, movement, storage or replacement (heavy ground works) would take place within 60m of the boundary of the paddocks at Paradise Farm at any time, advanced planting would be undertaken along the boundary and the orchard would be maintained within the 60m stand-off for the duration of operations.

113. Although not entirely definitive, the advice from KCC's Noise and Dust / Air Quality Consultants suggests that it is reasonable to assume that impacts on horses would be broadly similar to those on people and that any impacts could be further mitigated by measures specifically designed to minimise those impacts that are more likely to have an adverse effect. These include increasing the distance between source and receptor (achieved at Paradise Farm by the increased 60m stand-off), reducing the likelihood of tonal or impulse noises (such as prohibiting the use of tonal reversing alarms) or dust emissions (by advanced and replacement hedgerow planting and grass seeding soil stockpiles) and the implementation of effective dust control measures (including dampening of exposed surfaces and temporarily suspending operations during high wind events where necessary) informed by ongoing monitoring. The proposed requirements for dust monitoring to include speciation / analysis of dust deposited around the site to identify the content of any deposited material and a mechanism for additional mitigation as necessary should further assist in addressing potential concerns.
114. The 50m woodland stand-off between the working area and bridleway at Hermitage Quarry was considered to be acceptable by both the Planning Inspector and Secretary of State for Communities and Local Government. The 60m stand-off to the paddocks at Paradise Farm compares favourably with this, particularly as the coppicing regime at Oaken Wood still applies to the 50m stand-off (albeit that the approved regime does not allow the entire width to be removed at any one time in order that a visual screen is maintained). It should also be noted that the mineral working at Hermitage Quarry is significantly different to that proposed at Paradise Farm. The former being a long-term (up to 60 years in the absence of specific time-limiting condition), year-round hard rock quarry which allows blasting and infilling with inert waste whereas the latter would allow the removal of an average 1m depth of brickearth on a phased basis for 18 years with a maximum operational period of 16 weeks each year.
115. I note that the sand school at Paradise Farm is in the centre of the complex and that it would be separated from the proposed operational areas by both some considerable distance (no less than 150m), existing and proposed planting, the retention of orchard within the 60m stand-off and existing built development (e.g. houses, outbuildings and stable blocks). This should assist in minimising impacts on those learning to ride or undertaking more complex training at the establishment. It should also be noted that not all of the paddocks at Paradise Farm share a common boundary with the application site.

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116. I reject the suggestion that a 60m stand-off be applied to all fields containing horses for a number of reasons: other fields surrounding the site that appear to be used by horses would only be subject to working within 60m of their boundaries for a single period (e.g. fields near Phases 1 and 14), whereas Paradise Farm would have experienced working within 60m in four phases had the proposals not been amended; there is no clear evidence that it is necessary to ensure the acceptability of the proposals; it would further sterilise brickearth; horses appear to inhabit fields adjacent to mineral workings elsewhere in Kent without significant problems occurring; and it is common for horses to be kept in paddocks adjacent to arable farmland (which is not entirely dissimilar to the proposed development and which the orchards could quite reasonably be used for without the benefit of planning permission in any event).
117. In view of the above, and notwithstanding the fact that the desirability of being able to move horses to fields further from the proposed operations is implied in KCC Noise Consultant's response, it is not considered to be necessary. I also reject the suggestion that the applicant be required to provide land elsewhere for this purpose on the grounds that it would not be justified as a condition (or pre-condition) of planning permission being granted. However, this need not prevent the applicant and interested individuals coming to a separate agreement about such matters should the applicant be prepared and able to do so.
118. Regardless of the merits of the veterinary surgeon's report, I am satisfied that the differences between the 2014 and February 2017 applications would mean that there would not be a significant impact on horses at Paradise Farm or on other land in the vicinity of the site when considered alongside the measures proposed to be secured by the conditions relating to noise and dust impacts more generally above, together with the analysis of deposited dust suggested by KCC's Dust / Air Quality Consultant, sufficient to warrant refusal. I am further reassured by the fact that the British Horse Society has stated that it does not feel that there are any particular implications for equestrians.

Air Quality

119. As noted above, concerns have been expressed about potential adverse air quality impacts on the Newington AQMA and resultant adverse impacts on human health (particularly children) as a result of HGV movements associated with the proposed development.
120. The applicant's air quality assessment concludes that there would be no exceedance of the Nitrogen Dioxide (NO₂), Particulates (PM₁₀) and Fine particulate matter (PM_{2.5}) long term (annual mean) or short-term (1-hour NO₂, 24-hour PM₁₀) air quality objectives in 2018 for any of the five existing sensitive receptors (ESR1 to ESR5) for both the "without development" and "with development" modelled scenarios and predicts that there would be a negligible impact on concentrations of these pollutants at all five receptors in 2018 with development in place. A sensitivity analysis (which assumes no improvement in background air quality or vehicle emission factors since the base year of 2015 and is considered conservative because some improvements are likely) predicts that there would be a negligible impact on concentrations of PM₁₀

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and PM_{2.5} at all five receptors in 2018 with the development in place but a very marginal moderate adverse impact at two of the receptors (ESR2 and ESR4) for NO₂ concentrations (with predicted increases of up to 0.55% where an increase of less than 0.5% is considered to be negligible) although the overall effect is not considered to be significant such that mitigation measures are not required. As a result of the clarification provided by the applicant in February 2017, KCC's Dust / Air Quality Consultant accepted these findings and advised that emissions from road vehicles would be highly unlikely to cause any exceedances of health based criteria within the Newington AQMA.

121. As noted in paragraph 91 above, appropriate consideration needs to be given to the cumulative impacts arising from other committed development and a developer may be required to undertake an assessment of the impact of adopted Local Plan allocations or as yet implemented planning permissions. Whilst potential future development could ultimately give rise to cumulative air quality impacts (particularly in the Newington AQMA), there are no such allocations and planning permissions that need to be considered in this instance. The Pond Farm applications were dismissed on appeal, the application for development to the north of 99 High Street Newington (SW/16/501266/FULL) has yet to be determined and the proposed housing allocation to the north of High Street Newington envisaged by draft Policy AX6 of the emerging SBLP 2016) is not in an adopted Local Plan. On this basis, there is no requirement for the applicant to undertake a cumulative air quality assessment or for KCC to have regard to one in determining the Paradise Farm application. If KCC grants planning permission for the proposed development at Paradise Farm, it would be for other applicants (current or future) and Swale BC to address and have appropriate regard to the cumulative impact of those developments and that associated with Paradise Farm. It should also be noted that the amount of weight that should be given to the proposed allocation of at least 115 dwellings to the north of High Street Newington by draft Policy AX6 of the emerging SBLP 2016 is for KCC to decide in determining the Paradise Farm application.
122. Notwithstanding the above, and although no longer of direct relevance to the determination of the Paradise Farm application, I note that the published officer report on application SW/16/501266/FULL concluded that whilst there would be a significant effect on air quality and human health in the Rainham AQMA, this would not be the case for the Newington AQMA. It also acknowledged that a range of mitigation for air quality impacts is possible, that a significant air quality effect is not in itself a reason for refusal of a planning application and that any potential harm in terms of air quality impact on human health needs to be weighed against the benefits of the proposed development itself. I also note that the Pond Farm appeal decision concluded that the possibility of substantial adverse air quality impacts in both Newington and Rainham as a result of traffic associated with the development of 330 houses could not be ruled out and that moderate adverse impacts and exceedance of the NO₂ limit value at a number of receptors in Newington and Rainham was almost certain. It also concluded that even with mitigation measures in place it was likely that there would at least be a moderate adverse effect on air quality in the Newington and Rainham AQMAs and thus a significant effect on human health contrary to national planning policy.

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123. Although it is not necessary to require or consider a cumulative air quality assessment in this case, for the reasons given above, it is interesting to note that the cumulative air quality assessment that has been undertaken on behalf of Wienerberger Ltd and provided to KCC in anticipation of application SW/16/501266/FULL being permitted on 30 March 2017 (which has used 2021 rather than 2018 as the future development year to reflect the possibility of the housing development being completed by that date) concludes that the cumulative impact of the proposed development at Paradise Farm and that on land to the north of 99 High Street Newington would remain negligible for all modelled pollutants at all of the considered receptors (ESR1 to ESR5). When considering Paradise Farm in isolation, a further sensitivity analysis predicts that there would be negligible impacts for all modelled pollutants at three of the receptors (ESR1, ESR3 and ESR5) with marginal moderate adverse impacts on concentrations of NO₂ at two of the monitoring positions (ESR2 and ESR4) in 2021 (i.e. a similar position to that in 2018). When considering the in-combination impacts of the Paradise Farm and north of 99 High Street Newington schemes, the sensitivity analysis also predicts moderate adverse impacts on concentrations of NO₂ at ESR2 and ESR4 and a slight adverse impact on concentrations of NO₂ at ESR3.
124. KCC's Dust / Air Quality Consultant has examined the cumulative air quality assessment and has advised that it agrees with its conclusions. It has also advised that it would not recommend refusal of the application on the grounds of air quality on the basis of the work. In coming to these conclusions, it advises that whilst the sensitivity analyses undertaken as part of the air quality assessments give slightly less favourable results in terms of air quality impacts on the Newington AQMA than the more conventional approach also used (as they assume no improvement in background air quality or vehicle emission factors since the base year of 2015), these should be regarded as conservative / pessimistic and very much based on a worst case scenario and that the actual figures are likely to be somewhere between the two.
125. Notwithstanding the results of the air quality assessments, KCC's Dust / Air Quality Consultant has recommended that measures be taken to try to minimise the impact of HGVs associated with the development at those times when the AQMA (1-hour NO₂) becomes elevated such as when the flow of HGVs becomes hindered due to road works. Given that there would only be 7 or 8 HGV movements associated with the proposed development in any one hour, since the applicant would have no control over other traffic and as further limiting the times when brickearth could be transported from the site to the brickworks could seriously impact on the applicant's ability to transfer sufficient material within the maximum 12 week period proposed whilst complying with the proposed maximum number of HGV movements each day, I do not consider it appropriate to impose any specific restrictions (such as prohibiting HGVs entering or leaving Paradise Farm during peak times) to address those times when the A2 is congested or experiencing high levels of pollution. Such a restriction may be unnecessary every day if applied universally and unreasonable / imprecise if linked to congestion or elevated concentrations of pollution. However, I do consider that the issue could reasonably be addressed in a traffic management plan which sets out the measures the applicant would take to try to minimise such impacts (e.g. avoid heavily congested periods and use modern HGVs with lower emissions / pollution reduction technology where possible). It should also be noted that it would not be in the

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interests of the applicant to have HGVs involved in the transportation of brickearth sitting in stationary or very slow moving traffic for any significant length of time and that it would be likely to try to avoid such periods if this is possible.

126. The air quality implications of the proposed development have been assessed on the basis of all HGVs involved in transporting brickearth travelling between Paradise Farm and the Smeed Dean Brickworks to and from the east on the A2 through the Newington AQMA. No assessment has been made of the potential impact on the Rainham AQMA if HGVs were to travel to and from the west (i.e. the only alternative way for HGVs to travel). For this reason, I consider it appropriate to impose a condition that requires all HGVs involved in the transportation of brickearth to enter from and leave the site to the east.
127. Based on the advice of KCC's Dust / Air Quality Consultant, I am satisfied that the potential impacts on air quality and human health are acceptable subject to HGV movements being limited to 100 (50 in / 50 out) each day (as proposed by KCC Highways and Transportation), the submission and implementation of a traffic management plan (to address those matters proposed by the applicant and set out in this report) and the access restriction referred to above. I also consider it appropriate to include an informative encouraging the applicant to establish a local liaison group for the duration of operations at the site. Whilst the Health Protection Agency (Public Health England) has not responded, I believe that it is reasonable to assume that if it had significant concerns it would have done so.

Highways and transportation

128. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural and historic environment and human health from traffic. Paragraph 144 states that regard should be given to such matters when determining planning applications. Paragraph 32 states that development that would generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that decisions should take account of whether safe and suitable access to the site can be achieved. It also states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Advice on whether a transport assessment or transport statement is required and how these should be considered when applications are determined is contained in paragraphs 001 to 015 of the PPG relating to travel plans, transport assessments and statements in decision-taking.
129. Policy DM13 of the KMWLP 2016 requires minerals and waste development to demonstrate that emissions associated with road transport movements are minimised as far as practicable and by preference being given to non-road modes of transport. It also states that where new development would require road transport, proposed access arrangements must be safe and appropriate, traffic generated must not be detrimental to road safety, the highway network must be able to accommodate the traffic generated and its impact must not have an unacceptable adverse effect on the

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environment or local community. Policy DM17 of the draft KMWLP 2016 identifies highways and access improvements and traffic management measures including the regulation of lorry traffic as matters for potential planning obligations where these cannot be secured by conditions.

130. Policy T1 of the SBLP 2008 states that development will not be permitted that would generate volumes of traffic in excess of the capacity of the highway network and / or result in a decrease in safety on the highway network (unless these issues can be addressed by agreed environmentally acceptable improvements to the highway network in accordance with Policy T2) and lead to the formation of a new access, or the intensification of any existing access, onto a primary or secondary road or route, (unless it can be created in an acceptable location or where an access can be improved to an acceptable standard and achieve a high standard of safety through design). Policy T2 states that development will be permitted where highway capacity and / or safety problems would arise as a result of proposed development if they can be overcome by the implementation of environmentally acceptable off-site highway works and / or other transport initiatives or if an agreed contribution is made towards them by the developer. Policy E1 states that development should provide safe vehicular access and parking and servicing facilities in accordance with the County Council's standards. The objectives of Policies T1, T2 and E1 are reflected in draft Policies DM6 and DM14 of the emerging SBLP 2016. Draft Policy DM6 also requires development proposals generating a significant amount of transport movements to be supported by a Transport Assessment based on the Council's most recent strategic modelling work and to not worsen air quality to an unacceptable degree taking into account the cumulative impact of development schemes within or likely to impact on AQMAs.
131. Hartlip PC, Newington PC, CPRE Protect Kent, Upchurch PC and local residents have objected to the application for a variety of reasons relating to highways and transportation issues. Comments about these issues were also made at the Members' Site Meeting. Highways England and KCC Highways and Transportation have commented on highways and transportation issues but have raised no objections (in the latter case subject to conditions).
132. Hartlip PC considers that HGV movements on the A2 (particularly through Newington and the associated AQMA and at the Keycol roundabout junction with the A249) would be unacceptable due to congestion, road safety and pollution. It notes that 85 HGV movements would equate to an average of 7 movements per hour or one HGV every 8 or 9 minutes. It is also concerned about cumulative impacts. It states that there are large lengths of the A2 through Newington where it is impossible for two HGVs to pass and that parking at Keycol Hill results in similar problems (as well as creating obstructions to pedestrians where vehicles park on pavements). For these and related reasons, Hartlip PC considers that the proposed development does not comply with development plan policy and would be contrary to KCC's 3rd Local Transport Plan which seeks to promote growth without gridlock, a safer and healthier country and enjoying life in Kent.

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133. Newington PC objects as HGVs associated with the development would pass through Newington village adding to congestion and air pollution and due to the width of the A2 at its junction with Bull Lane where it states it is not possible for a HGV and small car to pass each other.
134. CPRE Protect Kent has objected due to concerns about HGV movements (primarily on the A2 through Newington) and associated impacts such as congestion, highway safety and air quality (particularly during peak times).
135. Upchurch PC's concerns about highways and transportation issues include those raised by Hartlip PC. They also specifically include concerns about impacts on local school children, noise, vibration, pollution, damage to roads and buildings and mud on roads. Upchurch PC's comments about additional HGV movements when the site is filled in appear to be based on a misunderstanding of what is proposed.
136. Local residents' concerns about highways and transportation issues include those raised by Hartlip PC.
137. At the Members' Site Meeting, one local resident asked if the applicant had considered transporting their products by barge, a second said that his house shook whenever a lorry passed on the A2 and a third stated that the effectiveness of the Key Street roundabout would be adversely affected by slow-moving traffic and that there would be traffic flow problems as the A2 was the strategic outlet whenever the M2 was closed.
138. Highways England has no objection on the basis that the proposed development would not materially affect the safety, reliability and / or operation of the strategic road network despite the fact that some of these may coincide with the peak hours.
139. KCC Highways and Transportation has no objection subject to HGV movements being limited to no more than 100 (i.e. 50 in / 50 out) each day (thereby providing an appropriate degree of flexibility having regard to the average figures referred to in the application), adequate precautions to prevent mud or similar substances being deposited on the highway (e.g. a wheel cleaning facility such as that proposed) and a traffic management plan (including parking facilities). It considers the proposed access arrangements to be acceptable and states that the proposed level of traffic would not have a severe impact on the strategic highway corridor.
140. Notwithstanding the concerns that have been expressed by Hartlip PC, Newington PC, CPRE Protect Kent, Upchurch PC and local residents about traffic impacts, neither KCC Highways and Transportation nor Highways England have objected or indicated that any road improvements or highway related contributions are required although KCC Highways and Transportation has requested that conditions be imposed to control certain aspects of the development. Although the proposed development would give rise to some adverse highways and transportation impacts and contribute to congestion at peak times or when there are problems with the highway network (which would be the case for any new development or the intensification of existing development), I do not consider these impacts to be sufficient to justify refusal given

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the positions of KCC Highways and Transportation and Highways England. I have proposed that these issues be addressed so far as reasonably possible in a traffic management plan.

141. The proposed access directly onto the A2 via the Newington Industrial Estate access road is a significant improvement to the access proposed via Lower Hartlip Road in 2014 and entirely avoids the need to use a rural lane to access the site. The proposed HGV route via the A2, Sheppey Way, A249 and Swale Way is the only suitable route between Paradise Farm and the brickworks and would be entirely on major roads considered to be suitable in principle to accommodate such traffic.
142. The applicant states that the proposed development would give rise to about 43 loads of brickearth being transported to the brickworks each day (85 HGV movements) for between 10 and 12 weeks each year for 18 years. It also estimates that there would be an additional 12 HGV movements each week (6 in / 6 out) associated with the delivery of water and the maintenance of staff toilet facilities. It is likely that there would be some additional HGV movements associated with setting up and closing the site at the beginning and end of each annual campaign. The HGV movements would be predominantly off-peak and staggered throughout the day with an average of between 7 and 8 each hour (with the latter reflecting the proposed reduction in operating hours). As noted above, KCC Highways and Transportation has recommended that HGV movements be limited to 100 each day (50 in / 50 out). For comparative purposes I note that the Hempstead House permission allows 200 HGV movements (100 in / 100 out) each day during a maximum 4 week period each year between months of May to September and that the Claxfield Farm permission allowed 144 HGV movements during an unspecified period each year (normally between May and September). The position at Orchard Farm (20 HGV movements, 10 in / 10 out) is very different as the site is served by rural lanes and as brickearth extracted during an 8-week period each year is stockpiled at the site and transported to the brickworks throughout the year.
143. In terms of those issues raised at the Members' Site Meeting, I note that it would not be possible to transport brickearth from Paradise Farm to the Smeed Dean Brickworks by barge as there is no water connection capable of accommodating this, that properties along the A2 would continue to be subject to impacts regardless of the outcome of the Paradise Farm application and that no objections have been raised by either KCC Highways and Transportation or Highways England to the proposed development as a result of potential impacts on the Key Street roundabout or potential traffic problems more generally on the A2.
144. Based on the advice of KCC Highways and Transportation and Highways England, I am satisfied that the additional traffic that would be generated by the proposed development is not unacceptable. Subject to the imposition of conditions to secure the highway related conditions referred to in the Noise, dust and air quality impacts section above and those requested by KCC Highways and Transportation, I am satisfied that the proposed development would be acceptable in terms of highways and transportation and accord with relevant policies.

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Water environment (hydrology, hydrogeology and groundwater impacts)

145. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural and historic environment and human health from flooding, the flow and quantity of surface and groundwater and contamination (including cumulatively). Paragraph 144 states that regard should be given to such matters when determining planning applications. Further policy on flood risk and related climate change issues is contained in paragraphs 93 to 104 of the NPPF and advice on these how water quality issues should be addressed in preparing and determining planning applications is contained in the PPG relating to water supply, wastewater and water quality.
146. Policies DM1 and DM10 of the KMWLP 2016 are of particular relevance. Policy DM1 states that minerals proposals should demonstrate that they have been designed to utilise sustainable drainage systems wherever practicable. Policy DM10 states that permission will be granted for minerals development where it does not: result in the deterioration of physical state, water quality or ecological status of any waterbody; have an unacceptable impact on groundwater Source Protection Zones; and exacerbate flood risk in areas prone to flooding and elsewhere, both now and in the future. It also states that all minerals proposals must include measures to ensure the achievement of both no deterioration and improved ecological status of all waterbodies within the site and/or hydrologically connected to the site and that a hydrogeological assessment may be required to demonstrate the effects of the proposed development on the water environment and how these may be mitigated to an acceptable level.
147. Policy E2 of the SBLP 2008 states that development should minimise and mitigate pollution impacts and will not be permitted if it would, individually or cumulatively, give rise to pollution significantly adversely affecting water supply sources, groundwater aquifers or local hydrology. Policy E4 states that permission will not be granted where the degree of risk of flooding would give rise to adverse impacts upon, or increased risk to, human life, ecosystems, habitats and development and that where there is a risk of flooding, development should incorporate (as necessary) sustainable drainage systems, flood defence and alleviation measures. The objectives of Policies E2 and E4 are reflected in draft Policy DM21 of the emerging SBLP 2016.
148. Hartlip PC and some local residents have objected to the application for a number of reasons related to the water environment. Comments about these issues were also made at the Members' Site Meeting. The Environment Agency, Southern Water and KCC Sustainable drainage (SUDS) have commented on issues relating to the water environment but have raised no objections (subject to conditions).
149. Hartlip PC is concerned that the proposed development could lead to flooding due to the removal of hedges and trees and the compaction that would occur. It has referred to flooding that has recently occurred elsewhere in Hartlip. Concerns about the potential for flooding as a result of the removal of trees and topsoil (which absorb much of the surface water) have also been raised by some local residents.

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150. Local residents' concerns about the water environment include those raised by Hartlip PC as well as those relating to potential contamination due to previous tipping of waste in one or more of the Dene holes at the site.
151. The Environment Agency has no objection subject to the imposition of a condition to ensure that any unexpected contamination at the site is properly addressed if found to be present. It has also recommended a number of informatives relating to safeguarding groundwater such as advice on the storage of any oils, fuels or chemicals on site and the water company being informed when extraction is taking place within the source protection zone areas in case the proposals physically disturb the aquifer or lead to increased turbidity within groundwater.
152. Southern Water has no objection subject to its waste water apparatus being protected from development, tree planting and any soakaways and has stated that it intends to rely on consultations with the Environment Agency to ensure protection of the public water supply source associated with the SPZ around one of its public water supply sources.
153. KCC SUDS has no objection but has recommended that a detailed sustainable surface water scheme be secured by condition and that no infiltration of surface water drainage into the ground occurs without the written consent of KCC. It expects the detailed proposals for the use of swales and ponds to deal with the surface water run-off from the new access road and hardstanding area to include appropriate pollution controls and capacity and for the existing open land drain to be culverted under the proposed access road. It notes the need for a surface water conveyance route through the site to be considered as part of the detailed design to ensure there is no increase to the flood risk on or off site as a result of the proposed works.
154. Whilst the removal of vegetation and compaction or removal of soils has the potential to increase run-off and flooding, the proposed development would be phased and subject to various requirements in respect of soil handling and reinstatement (to preserve agricultural land quality) and grass seeding and replanting (to ensure the phased restoration of site). I am satisfied that these measures, together with the detailed sustainable surface water scheme requested by KCC SUDS, are capable of ensuring that flooding should not be a problem. I am also satisfied that the condition proposed by the Environment Agency is capable of ensuring that any unexpected contamination that may be found at the site is properly addressed.
155. Notwithstanding the objections and concerns raised by a number of respondents, I do not consider that there would be any unacceptable impacts on the water environment or reasons to refuse the application on such grounds provided the measures recommended by the Environment Agency, Southern Water and KCC SUDS are appropriately incorporated into any planning permission. I am satisfied that this is capable of being done by the imposition of conditions and informatives. On this basis, I am satisfied that the proposed development would accord with relevant policies.

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Ecology

156. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural environment and ensure that worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place, including for biodiversity. Paragraph 144 states that regard should be given to such matters when determining planning applications. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by (amongst other things) minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying (amongst others) the following principles: if significant harm resulting from development cannot be avoided, adequately mitigated or (as a last resort) compensated for, then planning permission should be refused; and planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and the benefits of, the development in that location clearly outweigh the loss. Paragraphs 007 to 023 of the Natural Environment PPG include advice in respect of biodiversity, ecosystems and green infrastructure.
157. Policies DM1, DM2, DM3 and DM19 of the KMWLP 2016 are of particular relevance. Policy DM1 states that minerals proposals should demonstrate that they have been designed to protect and enhance the character and quality of the site's setting and its biodiversity interests or mitigate and if necessary compensating for any predicted loss. Policy DM2 states that proposals for minerals development must ensure that there is no unacceptable adverse impact on the integrity, character, appearance and function, biodiversity interests, or geological interests of sites of international, national or local importance unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net planning benefit. Policy DM3 states that proposals will be required to demonstrate that they result in no unacceptable adverse impacts on Kent's important biodiversity assets and that proposals that are likely to give rise to such impacts will need to demonstrate that an adequate level of ecological assessment has been undertaken and will only be granted permission following (amongst other things): an ecological assessment of the site (including specific protected species surveys as necessary); the identification and securing of measures to mitigate any adverse impacts; the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for; and the identification and securing of opportunities to make a positive contribution to the protection, enhancement, creation and management of biodiversity. Policy DM19 states that restoration plans should include details of (amongst other things) key landscape and biodiversity opportunities and constraints ensuring connectivity with surrounding landscape and habitats and proposals for meeting targets or biodiversity gain.
158. Policy E1 of the SBLP 2008 states that development should protect and enhance the natural environment. Policy E2 states that development will not be permitted that would, individually or cumulatively, give rise to pollution significantly adversely

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affecting flora and fauna. Policy E11 seeks to protect and enhance biodiversity and geological interests and requires development to include measures to avoid adverse impacts wherever possible. It also states that subject to the relative importance of the interest, development will only be permitted if there is an overriding need for the development that outweighs the harm, there is no reasonable alternative site that would result in less or no harm, adequate mitigation measures are in place to minimise the harm and where harmful effects cannot be prevented or mitigated, appropriate compensation measures will be undertaken by the developer in accordance with current best practice. Policy E12 provides greater protection for designated sites (including SSSI, SAC, SPA and Ramsar sites). The objectives of Policies E1, E2, E11 and E12 are reflected in draft Policies CP7 and DM28 of the emerging SBLP 2016.

159. Hartlip PC, Newington PC and some local residents have objected to the application for ecological reasons. Comments were also made about these issues at the Members' Site Meeting. Natural England and KCC Ecological Advice Service have commented on issues relating to ecology but have raised no objections (subject to conditions).
160. Hartlip PC states that the proposed development would result in a loss of habitat for breeding birds and bats and adversely impact on protected species. It considers that the applicant has shown no regard for protected species and that areas where they are known to exist should be worked around rather than destroyed and animals translocated. Concerns about the loss of wildlife (e.g. bats, badgers, birds and reptiles) and established habitat have also been raised by local residents.
161. Newington PC expressed concerns about damage to hedgerows and local wildlife (e.g. birds and badgers) at the Members' Site Meeting.
162. Natural England has no objection and is satisfied that the proposed development would not be likely to have a significant effect on the designated nature conservation sites (i.e. SAC and SSSI) at Queensdown Warren due to the distance to the application site. It has advised KCC to apply its standing advice on protected species.
163. KCC Ecological Advice Service has no objection subject to a number of detailed conditions requiring further surveys and mitigation and the implementation of a Landscape and Ecological Management Plan (LEMP). Further details of these are included in paragraph 41. However, it has indicated that it would have preferred a greater emphasis on measures that would further increase biodiversity interest such as a number of fields being planted and managed as species rich grassland meadows.
164. Notwithstanding the concerns that have been expressed by Hartlip PC, Newington PC and a number of local residents about potential impacts on ecology, Natural England and KCC Ecological Advice Service are satisfied that the proposed development would not give rise to unacceptable ecological impacts provided the development is carried out as proposed and subject to conditions relating to protected species mitigation and the provision of a Landscape and Ecological Management Plan. Given KCC Ecological Advice Service's response, I am satisfied that appropriate regard has

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been given to Natural England's standing advice on protected species. I note KCC Ecological Advice Service's preference for a greater emphasis on measures that would further increase biodiversity interest and its suggestion that a number of fields be planted and managed as species rich grassland meadows. However, I am satisfied that the proposals would increase biodiversity interest without such additional measures and that the planting and management of fields as species rich grassland meadows would conflict with the objective of replanting commercial orchards which is considered to be desirable for landscape character reasons.

165. Subject to the imposition of conditions to secure those matters outlined above, I am satisfied that the proposed development would be acceptable in terms of ecological interests and would accord with relevant policies. I am also satisfied if planning permission is granted, KCC will have complied with its duties under the Natural Environment and Rural Communities (NERC) Act (2006) in that appropriate regard has been given to conserving biodiversity.

Archaeology, heritage and conservation

166. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the historic environment. Paragraph 144 states that regard should be given to such matters when determining planning applications. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Paragraph 133 states that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, permission should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
167. Policies DM1, DM5 and DM6 of the KMWLP 2016 are of particular relevance. Policy DM1 states that proposals for minerals development will be required to demonstrate that they have been designed to (amongst other things) protect and enhance the character and quality of the site's setting or mitigate and if necessary compensate for any predicted loss. Policy DM5 states that proposals for minerals developments will be required to ensure that Kent's heritage assets and their settings, including locally listed heritage assets, Listed Buildings, conservation areas, Scheduled Ancient Monuments and archaeological sites are conserved in a manner appropriate to their significance. It also states that proposals should result in no unacceptable adverse

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impact on Kent's historic environment and, wherever possible, opportunities must be sought to maintain or enhance historic assets affected by the proposals. Minerals proposals that would have an impact on a heritage asset will not be granted planning permission unless it can be demonstrated that there is an overriding need for development and any impacts can be mitigated or compensated for, such that there is a net planning benefit.

168. Policy E14 of the SBLP 2008 states that proposals affecting a Listed Building and / or its setting will only be permitted if the building's special architectural or historic interest and its setting are preserved. Policy E15 states that development within, affecting the setting of, or views into and out of a conservation area should preserve or enhance all features that contribute positively to the area's special character or appearance. Policy E16 states that there is a preference to preserve important archaeological sites in-situ and to protect their settings, that development that does not achieve acceptable mitigation of adverse archaeological effects will not be permitted and that where development is permitted and preservation in-situ is not justified, provision should be made for archaeological excavation and recording, in advance of and / or during development. The objectives of Policies E14, E15 and E16 are reflected in draft Policies CP8 and DM14 of the emerging SBLP 2016.
169. Hartlip PC and some local residents have objected to the application for reasons relating to archaeology, heritage and conservation. Comments were also made about these issues at the Members' Site Meeting. KCC Archaeology, KCC Conservation Advisor and Swale BC have commented on issues relating to archaeology, heritage and conservation but have raised no objections (in cases subject to conditions).
170. Hartlip PC is concerned that the proposed development would adversely affect Hartlip Conservation Area and the setting of its Grade 1 listed church. Concerns about impacts on the Hartlip Village and Newington High Street Conservation Areas have also been raised by local residents.
171. KCC Archaeology has advised that the site has the potential to contain remains of prehistoric, Roman and later date and that early prehistoric remains could survive in the deposits proposed to be quarried. However, it has no objection to the proposed development and is satisfied that any archaeological requirements can be addressed by a condition requiring the implementation of a programme of archaeological work in accordance with a scheme that has first been submitted to and approved in writing by KCC.
172. KCC Conservation Advisor is satisfied with the stand-off between the site and properties on Lower Hartlip Road and Old House Lane and notes that Hartlip Conservation Area is well screened from the proposed development such that impact on it would be minimal. She also notes that HGVs would need to travel through the Newington Conservation Area. Although she would prefer the NE / SW row of tall mature Lombardy Poplar trees (identified as part of G7 on the tree protection plan) to be retained as she considers them to be important to the visual heritage of the site, she accepts the reasons for removal, notes that the amended 60m stand-off from Paradise Farm would enable part of this to be retained and that this and other

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hedgerows would be replanted as working and restoration takes place.

173. Although Swale BC has not specifically referred to archaeology, heritage and conservation in its formal response, its Design and Conservation Team is of the opinion that whilst the proposed development would have some limited visual impact on views into and out of Hartlip Conservation Area and intrude upon the wider setting of a number of listed buildings in the locality, any harm associated with this would be less than substantial and of insufficient weight to raise objection subject to KCC being confident that the proposed restoration can be achieved following the phased extraction.
174. Notwithstanding the concerns that have been expressed by Hartlip PC and a number of local residents about impacts on archaeology, heritage and conservation (i.e. the setting of Hartlip Church and Hartlip Village and Newington High Street Conservation Areas), KCC's Archaeological Officer and Conservation Advisor and Swale BC's Design and Conservation Team are satisfied that the proposed development would not give rise to unacceptable impacts and could be allowed to proceed provided the development is carried out as proposed in February 2017 (including the reinstatement of hedgerows on historic alignments where possible) and the implementation of an appropriate programme of archaeological work.
175. I am satisfied that the programme of archaeological work requested by KCC's Archaeological Officer can be secured by condition if permission is granted and that conditions can be imposed as necessary to ensure that the development is implemented as proposed. On this basis I am satisfied that the proposed development would be acceptable in terms of archaeology, heritage and conservation and accord with relevant policies.

Public rights of way

176. Paragraph 75 of the NPPF states that planning policies should protect and enhance public rights of way and access and that local authorities should seek opportunities to provide better facilities for users (e.g. by adding links to existing networks). Paragraph 004 of the PPG relating to open space, sports and recreation facilities, public rights of way and local green space includes limited advice relating to public rights of way and national trails. Amongst other things this states that public rights of way form an important component of sustainable transport links and should be protected or enhanced.
177. Policy DM14 of the KMWLP 2016 states that planning permission will only be granted for minerals development that adversely affect a public right of way, if: (i) satisfactory prior provisions for its diversion are made which are both convenient and safe for users of the Public Rights of Way; (ii) provision is created for an acceptable alternative route both during operations and following restoration of the site; and (iii) opportunities are taken wherever possible to secure appropriate, improved access into the countryside.

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178. Policy T4 of the SBLP 2008 states that development will only be permitted where existing public rights of way are retained or, exceptionally, diverted. This objective is reflected in draft Policy DM6 of the emerging SBLP 2016.
179. Hartlip PC and a number of local residents have objected to the application for reasons relating to public rights of way. Comments were also made about these issues at the Members' Site Meeting. KCC Public Rights of Way (PROW) has commented on PROW issues but has raised no objection (subject to conditions).
180. Hartlip PC is concerned that the proposed development would adversely affect the amenity of those using the footpaths which cross the site and that people (including children travelling to school in summer months) would be put off using them due to such impacts. Concerns about impacts on walkers and horse riders have also been raised by local residents. They have also expressed the opinion that any closures of footpaths would be unacceptable.
181. KCC PROW has raised no objection to the proposed development but has advised that where temporary closures would be required for public footpaths ZR62 and ZR68 when they are directly affected by phased extraction, alternative routes should be provided where possible. It has also advised that the junction between footpath ZR60 and the proposed main haul road should be managed in accordance with a site risk assessment, be well signed to pedestrians and drivers with priority to pedestrians and that consideration be given to having banksmen at busy times. It further advises that haul roads to access extraction phases 1 – 12 would affect footpaths ZR62 and ZR68 and that if safe crossing points cannot be secured on their definitive lines (as with ZR60), a safe alternative route should be provided via a Traffic Regulation Order (TRO) temporary closure, ensuring good sight lines and signage to cross the haul road.
182. The proposed development would not prevent pedestrians crossing the site although it would necessitate relatively minor temporary changes to the current routes when working takes place in phases 5, 6, 7, 8, 9, 10, 11 and 12. Use of the definitive routes should, in each case, be capable of resuming once the relevant phase has been restored at the end of the annual 12 to 16 week period. It would also require that pedestrians cross haul routes used by HGVs and large plant and machinery travelling between the working phase and site access during phases 1 to 12 and the site access road during each annual working period. KCC PROW is satisfied that any necessary temporary diversions can be addressed by TROs and that safe crossing points can be appropriately managed. In the event that safe crossing points prove difficult, TROs could also be employed as necessary. I am satisfied that safe footpath routes could be maintained across the site for the duration of operations and that these are capable of being secured by condition if permission is granted. The existing public footpaths would all be reinstated on their definitive horizontal alignments although there would be a number of relatively small changes in the vertical alignment both during and after working has been completed to reflect the average 1m lower landform that would be created within the site. I consider these minor changes to be acceptable given that the restored surface would be graded into the surrounding land rather than requiring any steep slopes or steps.

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183. As noted in the landscape and noise, dust and air quality sections above, the proposed development would give rise to some adverse impacts on those using the public footpaths. Given that these would be temporary, for a limited duration each year and capable of being mitigated I am satisfied that such impacts would not be unacceptable. All of the rights of way within the site are public footpaths. On that basis there should be no horses using them and further consideration of impacts on equestrians is not required within this section of the report.
184. Subject to the imposition of conditions to secure the other matters referred to above, I am satisfied that the proposed development would be acceptable in terms of public rights of way and accord with relevant policies.

Agricultural land / soils

185. Paragraph 143 of the NPPF states that local plans should include policies to ensure worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare takes place, including for agriculture (safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources). Paragraph 144 states that regard should be given to such matters when applications are determined and conditions applied where necessary. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing soils. Paragraphs 036 to 058 of the Minerals PPG include advice on the restoration and aftercare of mineral sites.
186. Policy DM1 of the KMWLP 2016 states that proposals for minerals development will be required to demonstrate that they have been designed to minimise the loss of best and most versatile agricultural land. Policy DM19 (referred to in paragraph 73 above) also aims to protect agricultural land and soils.
187. Policy E8 of the SBLP 2008 states that development on best and most versatile agricultural land will not be permitted unless there is no alternative site on land of poorer agricultural quality. This objective is reflected in draft Policy DM31 of the emerging SBLP 2016.
188. Hartlip PC and a number of local residents have objected to the application for reasons relating to agricultural land / soils. Comments were also made about these issues at the Members' Site Meeting. Natural England and KCC Landscape Consultant have commented on issues relating to agricultural land / soils but have raised no objections (subject to conditions).
189. Hartlip PC is concerned about potential impact on Best and Most Versatile (BMV) agricultural land and the availability of high quality land for food production and suggested that brickearth working elsewhere by Wienerberger Ltd has resulted in a reduction in agricultural land quality. Similar concerns have been expressed by a number of local residents who have suggested that such adverse impacts could adversely affect the economy.

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190. Natural England is satisfied that the working and reclamation proposals meet the requirements for sustainable minerals development set out in the NPPF and MPPG and that the Soil Handling Strategy is sufficient to demonstrate that an equivalent area of BMV agricultural land disturbed by the development would be reinstated to a similar quality suited to a productive agricultural use. It has advised that any permission granted should be subject to conditions to safeguard soil resources and promote a satisfactory standard of reclamation (e.g. those relating to drainage, soil borne plant or animal diseases, soil handling, soil stripping and storage, soil replacement and aftercare and for at least 1.2m of topsoil and subsoil to be required in the final restoration profile).
191. The Pond Farm appeal decision concluded that whilst the development of the appeal sites would lead to the loss of BMV agricultural land (entirely Grades 1 and 2) this loss would not be significant when assessed against national planning policy. The proposed development at Paradise Farm would be temporary (rather than permanent) and the site would be restored to agricultural use with no loss of BMV agricultural land.
192. Whilst there is clear policy support for safeguarding BMV agricultural land, it is equally clear that minerals can only be worked where they are found. In the case of brickearth, this is highly likely to coincide with BMV agricultural land for geological reasons. The land at Paradise Farm is all BMV agricultural land (primarily Grade 1 with smaller areas of Grades 2 and 3A). The applicant has responded to the concerns raised by Hartlip PC about loss of agricultural land quality at Claxfield Farm by stating that works to further improve soil quality were carried out following the restoration of the site with the agreement of the farmer and soils specialists and that the site has not been classified as a lower class of BMV.
193. Notwithstanding the concerns that have been expressed about an alleged reduction in agricultural land quality as a result of brickearth working elsewhere by the applicant, Natural England is content that the proposed development is capable of ensuring that agricultural land would be of a similar quality after working and restoration provided the proposals contained in the Soils Handling Strategy are complied with and appropriate conditions imposed (including the requirement that at least 1.2m of topsoil and subsoil to be required in the final restoration profile). I am satisfied that conditions can be imposed to secure these objectives and that the approach advocated by Natural England is appropriate. On this basis, I consider that the proposed development is consistent with the above policies.

Other issues

194. Impact on local businesses (including livery / riding stables): Concerns about potential impacts on local businesses have been raised by Swale BC, Hartlip PC and a number of local residents. The main such impacts referred to by respondents relate to Paradise Farm equestrian complex, although potential impacts on other horse paddocks, small holdings, flower and plant nurseries, the local pub and fruit orchards have also been referred to, as well as the potential loss of jobs more generally. The impact on Paradise Farm livery / riding stables was also raised at the Members' Site Meeting by its owner. With the exception of those concerns raised by the owner of

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Paradise Farm (who has indicated that he lost business after the 2014 application was submitted) none of the above concerns about business impacts are supported by evidence.

195. The potential impacts associated with noise, dust and visual impacts on horses, human beings, the environment and properties are addressed in the relevant sections above. In each case it has been concluded that these are not significant and therefore acceptable subject to the implementation of measures to minimise impacts. It therefore follows that there should not be any unacceptable impact on these despite the concerns that have been expressed. Notwithstanding this, public perception is capable of being a material planning consideration. The weight to be given to it is for the determining authority to decide having regard to all other factors. As with any development such as mineral extraction it is perhaps not surprising that some people will be concerned that the development may lead to an adverse impact on other business interests.
196. In this case the concerns raised need to be considered in the context of the conclusions reached about any of the disbenefits referred to the above sections that could lead to adverse impacts, the controls or mitigation that could be employed to minimise these and any benefits arising from the proposed development itself. As noted in the above paragraph, I consider that the various disbenefits of the proposed development are capable of being minimised to an acceptable level. As noted in paragraph 72 above, the proposed development would go a long way towards meeting the required 25 year supply of brickearth and the needs of the Smeed Dean Brickworks (the only remaining brickworks in Kent), safeguard 42 jobs at the brickworks and others in associated support industries / services as well as creating 8 jobs on site and enabling the continued production of bricks in the County. I do not consider the concerns that have been expressed are sufficient to outweigh these benefits.

Conclusion

197. I am satisfied that the applicant has provided sufficient information to demonstrate a workable brickearth deposit and meet the requirements of Policy DM16 of the KMWLP 2016.
198. I am also satisfied that there is a need for the release of a quantity of brickearth reserves on the scale proposed at Paradise Farm if there is to be any prospect of the necessary mineral policy requirements being met (i.e. the 25 year supply of brickearth required by Policy CSM2 of the KMWLP 2016 and paragraph 146 of the NPPF) and the Smeed Dean Brickworks (the only remaining brickworks in Kent) is to remain operational once the permitted reserves at Orchard Farm are exhausted in the next few years. I note that paragraph 144 of the NPPF states that great weight should be given to the benefits of mineral extraction (including to the economy) when applications are determined. I also note that if the Smeed Dean Brickworks closes, this would lead to the loss of 42 jobs at the brickworks as well as others in associated support industries / services

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199. Whilst the proposed development would give rise to some harm in terms of landscape and visual impact, I do not consider that these adverse impacts would be unacceptable or overriding. On the basis that the impacts are not unacceptable, the proposed development would not be contrary to the policies relating to landscape and visual impact referred to in paragraphs 73 to 75 above subject to the imposition of the conditions relating to these matters referred to in this report.
200. Whilst the proposed development would give rise to some adverse effects in terms of noise, dust and air quality, KCC's Noise and Dust / Air Quality Consultants are satisfied that any impacts would be acceptable provided the development takes place as proposed and appropriate controls are imposed by condition (including noise limits, a dust management plan and traffic management plan). On this basis, and subject to other conditions (including those restricting HGV movements and hours of operation), I am satisfied that the proposed development would be acceptable in terms of noise, dust and air quality impacts and accord with the policies referred to in paragraphs 90 to 93 above.
201. Whilst there would be some adverse impacts associated with HGV movements, KCC Highways and Transportation and Highways England have no objections to the proposed development (in the former case subject to conditions). Subject to these and other matters being addressed by conditions, I am satisfied that the proposed development would be acceptable in terms of highways and transportation and accord with policies referred to in paragraphs 128 to 130 above.
202. I am also satisfied that the proposals are acceptable in terms of the water environment (paragraphs 145 to 155), ecology (paragraphs 156 to 165), archaeology, heritage and conservation (paragraphs 166 to 175), public rights of way (paragraphs 176 to 184), agricultural land / soils (paragraphs 185 to 193) and impact on businesses (paragraphs 194 to 196) subject to the imposition of the conditions referred to in the above sections.
203. Having regard to all of the above, I am satisfied that the benefits of the proposed development outweigh the disbenefits and that the proposal represents sustainable development. I am also satisfied if planning permission is granted, KCC will have complied with its duties under: (a) Section 85 of the Countryside and Rights of Way Act (2000) in that appropriate regard has been given to the purposes of AONBs when determining this application; and (b) the Natural Environment and Rural Communities (NERC) Act (2006) in that appropriate regard has been given to conserving biodiversity.

Recommendation

204. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO:

- (i) conditions covering amongst other matters:
- Brickearth extraction to cease and restoration to be completed within 18 years of the commencement of extraction;

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- Working, restoration and aftercare to be undertaken as proposed;
- Soil stripping, movement and storage, brickearth extraction and transportation and soil replacement taking place for no more than 16 weeks in any year between 1 April and 30 September (with brickearth extraction and transportation taking place for no more than 12 weeks during that period);
- The development being implemented as amended in February 2017 (i.e. no operations outside the operational boundaries proposed at that stage);
- Working only taking place between 07:00 and 18:00 hours (Monday to Friday) and 08:00 and 13:00 hours (Saturdays) with no working on Sundays, Bank / Public Holidays and no operations, construction, servicing or maintenance outside these hours except in emergencies;
- Measures to prevent mud or debris being deposited on the highway (including the provision of the proposed wheel wash facility and its use when necessary, the cleaning of the access road and the covering / sheeting of HGV loads);
- The noise limits proposed by KCC's Noise Consultant;
- The noise bunds in the proposed locations;
- The dust mitigation and live dust management plan proposed by KCC's Dust / Air Quality Consultant;
- The grass seeding of soil storage mounds / bunds;
- Non-tonal reversing alarms to be used by all operational vehicles, plant and machinery associated with development at the site;
- A code of practice for HGVs;
- A complaints procedure;
- The only access to be used for development traffic to be that onto the A2;
- HGV movements being limited to 100 (50 in / 50 out) each day;
- A traffic management plan (to include parking facilities and measures to assist in minimising the impact of HGVs when the A2 is congested);
- All HGVs involved in the transportation of brickearth to enter from and leave the site to the east;
- The provision of a detailed surface water management scheme;
- Measures to address any unexpected contamination that may be found at the site;
- Ecological surveys and mitigation;
- Implementation of an Ecological Management Plan;
- A programme of archaeological work;
- Measures to safeguard public rights of way and their users;
- Compliance with the Soils Handling Strategy; and
- At least 1.2m of topsoil and subsoil being used in the final restoration profile; and

(ii) the following informatives:

- The applicant be encouraged to establish a local liaison group involving

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representatives from Kent County Council, Newington Parish Council, Hartlip Parish Council and those residents or landowners immediately adjacent to the site;

- The applicant be encouraged to engage with the owners of Paradise Farm and other adjoining residents and landowners about the impacts associated with the development; and
- The applicant be asked to explore the potential for the early reinstatement of hedgerows with KCC as part of annual site monitoring visits.

Case Officer: Jim Wooldridge

Tel. no. 03000 413484

Background Documents: see section heading.
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NOTES of a Planning Applications Committee Members' Site Meeting at Paradise Farm, Hartlip & Newington on Wednesday, 18 January 2017

MEMBERS PRESENT: Mr J A Davies (Chairman), Mr C P Smith (Vice-Chairman), Mr M Baldock, Mr D L Brazier, Mr L Burgess, Mr T A Maddison, Mr T L Shonk, Mr C Simkins, and Mr J N Wedgbury. *Mr Baldock was also present in his capacity as KCC Local Member.*

OFFICERS: Mrs S Thompson and Mr J Wooldridge (Planning), Mr A Millard (Highways) and Mr A Tait (Democratic Services).

THE APPLICANT: Mr M Rose (Wienerberger Ltd).

SWALE BC: Mr J Wright (Local Member). *Mr Wright was also present in his personal capacity.*

HARTLIP PC: Mr G Addicott (Chairman).

NEWINGTON PC: Mr S Harvey (Chair of the Planning Committee).

ALSO PRESENT were some 15 members of the public including Mrs C Matthews from the Newington Allotment Association.

- (1) The site meeting was held at the bottom of Orchard Drive, overlooking the north east section of the site (Phases 17, 18 and 19).
- (2) The Chairman opened the meeting explaining that its purpose was to enable Committee Members to familiarise themselves with the site and to listen to the views of interested parties.
- (3) Mr Wooldridge introduced the application by describing the site, its surroundings and the background to the proposals. He then outlined the proposed development and briefly summarised the objections and concerns that had been raised by consultees and those who had made representations. He explained that further information had been requested from the applicant to address some of the issues that had been raised. He also listed those consultees who had no objections (in cases subject to conditions). These and related matters had previously been set out in a Members' Briefing Note shared with all those invited to the meeting.
- (4) Mr Martin Rose (Wienerberger Ltd) agreed with the content of Mr Wooldridge's presentation and confirmed that the applicant was working on a response to the various issues raised by consultees and other respondents.
- (5) Mr John Wright (Swale BC) said that the removal of the trees on the site would lead to sound and visual impacts, which would be particularly strongly felt in the part of Newington where the meeting was taking place, despite the proposed bunds and planting because the prevailing winds were south easterly. He then referred to the Environmental Health Officer's comments on air quality impacts (i.e. on local residents from dust created on site and on the Newington High Street AQMA from HGV

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movements along the A2).

- (6) Mr Wright then said that the proposed operating hours of 7am to 7pm during weekdays and 7am to 1pm on Saturdays would be unacceptable. Many of the local residents were night workers who had moved to the area because they needed peace and quiet to be able to sleep during the day and to enjoy their weekends undisturbed.
- (7) Mr Wright said that although the site had been identified as a potential brickearth working in the Kent Minerals Subject Plan Brickearth in 1986, this had been (in part) against the Inspector's recommendation. He added that the site would be extremely large and that the resultant vehicle movements would place a great strain on Newington High Street given the narrowness of the road.
- (8) Mr Stephen Harvey (Newington PC) said that Newington rather than Hartlip would be the parish most affected by the proposed development. He asked the Committee to take note of Newington Parish Council's objections which were based on the huge impact that would occur, particularly in terms of dust and noise. He added that there would be immense and lasting damage to hedgerows and local wildlife (e.g. birds and badgers).
- (9) Mr Harvey continued by saying that the main change to the original application that had been put forward in 2014 was that the HGVs associated with the development would now be routed through the Newington Industrial Estate. However, traffic congestion and air pollution would continue to affect Newington Village. Despite this, there was no mention of mitigation measures such as ensuring that the lorries were covered. He referred to the Pond Farm appeal decision and expressed concerns about impacts on children. He concluded by saying that the proposed weekday working hours of 7am to 7pm meant that HGVs would be using the narrow roads during both rush hour periods and noted that the A2 was less busy between 10am and 4pm.
- (10) Mr Graham Addicott (Hartlip PC) said that Hartlip Parish Council's comments had been summarised well by the planning officer. However, he asked the Committee to look at the detail of its 9-page response as well as the photographs it had provided to the planners of a lorry attempting to pass a car in Newington High Street. He said that this demonstrated the points it had made about traffic impact.
- (11) Mr Addicott then said that the proposed extraction would remove all of the hedgerows and tree rows within the site and that the excavation area would extend right up to the site boundary. This would be very close to housing and lead to the loss of residential amenity, especially for those who had retired and moved to the village. He said that Hartlip overlooks the site. He also said that the proposed development would irretrievably damage the best agricultural land on which the orchards thrived, as had happened at Teynham and Iwade. A further impact would be that the land would become compacted, increasing the risk of flooding.
- (12) Mr Addicott said that Hartlip and Newington did not consider that the planning enforcement regime had been particularly strict in the area. This was important

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because the noise and dust impacts would be increased by the prevailing wind direction. One of the effects of this would be experienced in terms of air quality. He asked the Committee to note that the Planning Inspector had rejected a proposed major residential development at Pond Farm in Newington for this very reason.

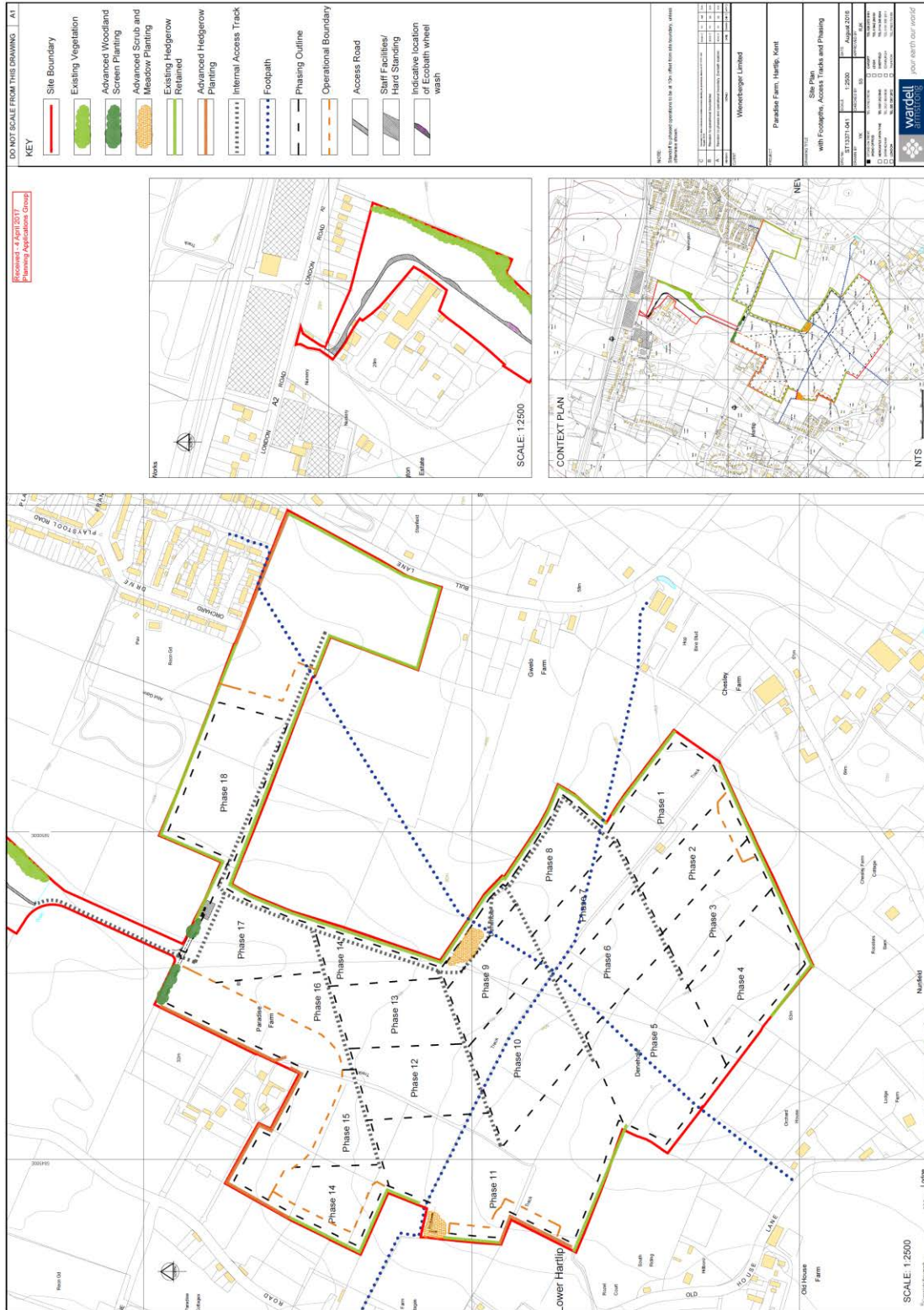
- (13) Mr Addicott concluded his presentation by saying that the application should be turned down because its effects would be significantly adverse and contrary to saved Policy B9 of the Brickearth Plan 1986 as well as Policies DM10, DM11, DM12 of the Kent Minerals and Waste Local Plan 2013-30.
- (14) Mrs Cherrill Matthews (Newington Allotment Association) said that the allotments would be affected by dust and noise during the summer months. She was also concerned that the security problems that they were experiencing would be exacerbated by the proposed development.
- (15) The Chairman invited local residents to speak. Their comments included those set out below:
- (a) A resident who lived north of the A2 said that due to the wind direction people who lived in his neighbourhood would be adversely affected by dust and noise and also by slurry on the roads during wet periods. He felt that Newington and Hartlip were running out of green space and that Grade A1 agricultural land would be destroyed and would be replaced by greater traffic volumes.
 - (b) A resident from London Road said he was concerned about air quality and by the impact of the additional HGV traffic on his house which shook whenever a lorry passed. He asked whether the applicants had considered transporting their products by barge.
 - (c) Another resident thought that the effectiveness of the Key Street Roundabout (A2/A249) would be adversely affected by slow-moving traffic. He also said that there would be traffic flow problems as the A2 was the strategic outlet whenever the M2 was blocked.
 - (d) Another resident said that the Pond Farm application had been rejected by the Planning Inspector on air quality and landscape grounds, that these were therefore extremely important considerations and that there would be a detriment to both when the trees were stripped out of the orchard. She said that if permission were to be granted, restoration should be after each single phase of the working rather than after 5 years and that appropriate mitigation measures for the natural habitat needed to be carefully developed. She also said that the proposed hours of use were far too long and that residents along Lower Hartlip Road to the west of the site would also be affected by dust and noise. Whilst noting that advanced planting of trees and hedgerows was planned for areas where there was no screening, she suggested that this would take many years to become established. She additionally said that although the application claimed that each phase would take 10 to 12 weeks, it would actually last for up to 16 weeks.

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- (e) Mr Wright (*in his personal capacity*) said that there would be a severe impact on his riding stables business as the horses in his paddocks would be terrified by the noise impacts and badly affected by visual stimulus associated with the proposed development. He said that the noise assessments had been done for humans rather than horses, that the levels of risk to them were different and that the noise sensitive receptor used by the applicant in the noise assessment was the house rather than in the paddock where the horses were. He also said he had discussed possible alternative locations for the horses if the proposal went ahead but, to date, nothing satisfactory had presented itself. He also suggested that the staff facilities be located near the weighbridge and made reference to the Hermitage Quarry appeal decision where the Inspector had said that the hours of operation would be 8am to 4pm.
- (16) Mr Baldock (KCC Local Member) said (following clarification on the matter by Mr Wooldridge) that he was pleased to note it was not proposed to remove the trees on the boundary of Orchard Drive. Turning to the Pond Farm application, he informed the Committee that Swale BC had not considered the air quality implications to be sufficiently significant to turn the application down. However, the Planning Inspector had rejected the application for this and other reasons. He also said that other questions which had not been asked during the meeting were whether and how the Public Rights of Way would be affected and the mitigation measures that would be proposed in respect of the periods when each individual phase was being worked.
- (17) In response to a question on the need for the development, Mr Wooldridge said that there were only limited reserves of brickearth remaining at Orchard Farm in Iwade and that once these were exhausted the Smeed Dean Brickworks would have to close if permission was not granted at Paradise Farm or an alternative supply established from elsewhere.
- (18) The Chairman thanked everyone for attending. The notes of the meeting would be appended to the report on the application to the Planning Applications Committee.
- (19) Following the meeting at the bottom of Orchard Drive, Members inspected proposed extraction Phases 17, 18 and 19, viewed Mr Wright's paddocks at Paradise Farm and noted the proposed location of the staff facilities and the point at which access is proposed into the extraction areas from Newington Industrial Estate to the north (and the land through which that access would run). They then toured the outskirts of the site on the A2 (stopping to view the proposed access point at Newington Industrial Estate), Lower Hartlip Road, Old House Lane and Bull Lane. During the tour, Members were able to stop at a number of vantage points to see features referred to in the Members' Briefing Note or mentioned during the meeting.

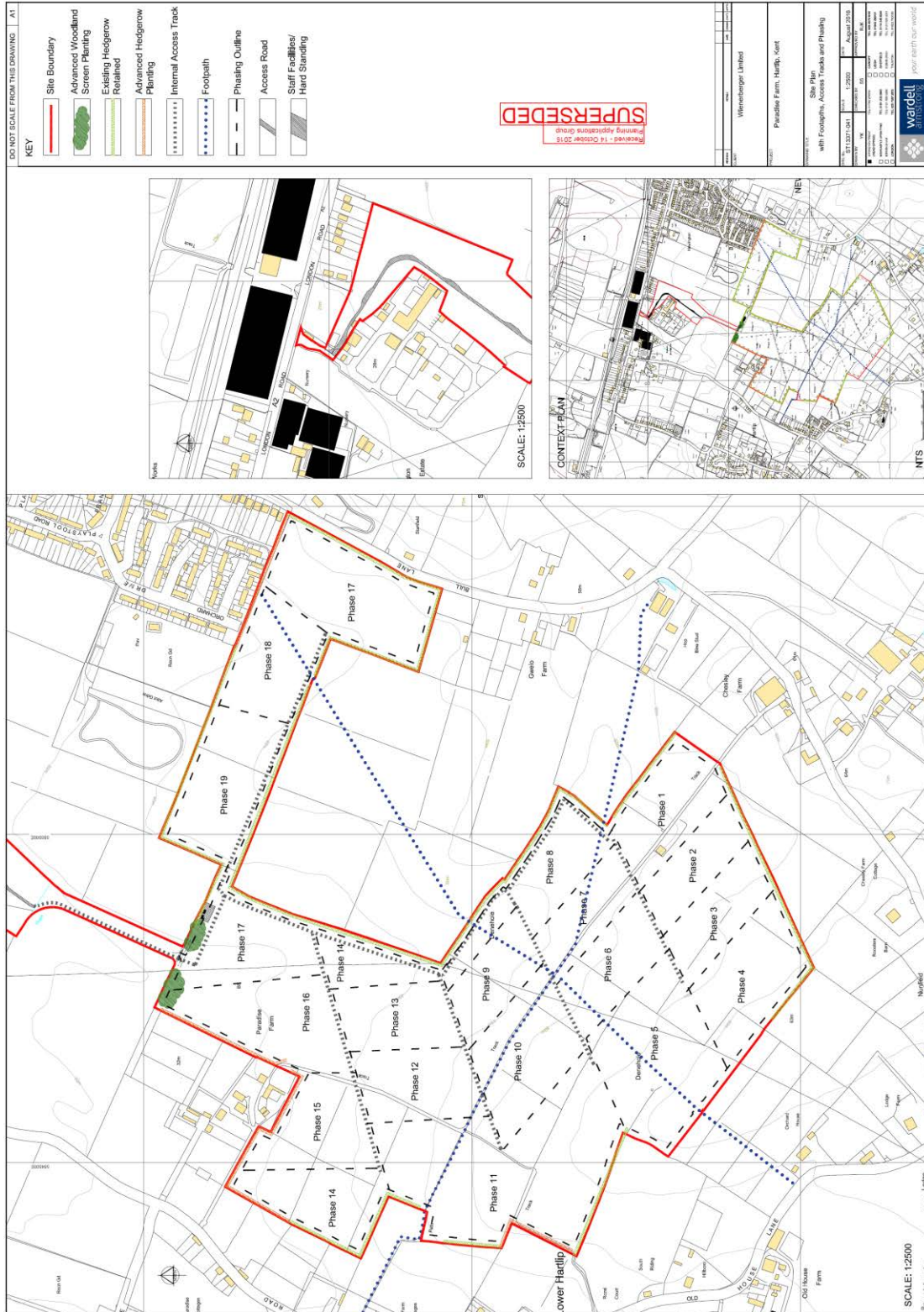
Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent - SW/16/507594 (KCC/SW/0277/2016)

Site Plan with Footpaths, Access Tracks and Phasing (2017)



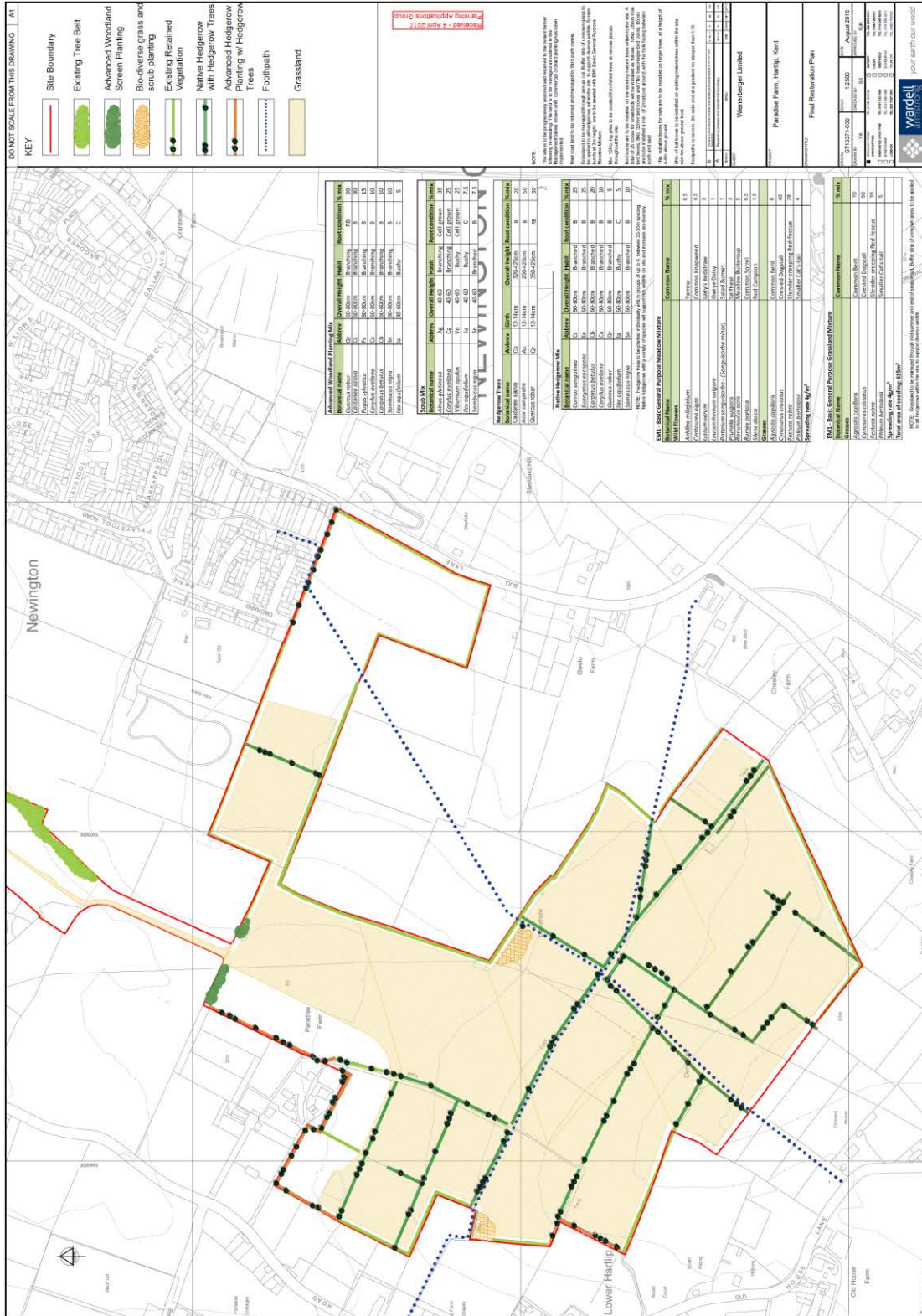
Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016)

Superseded Site Plan showing Phasing in October 2016



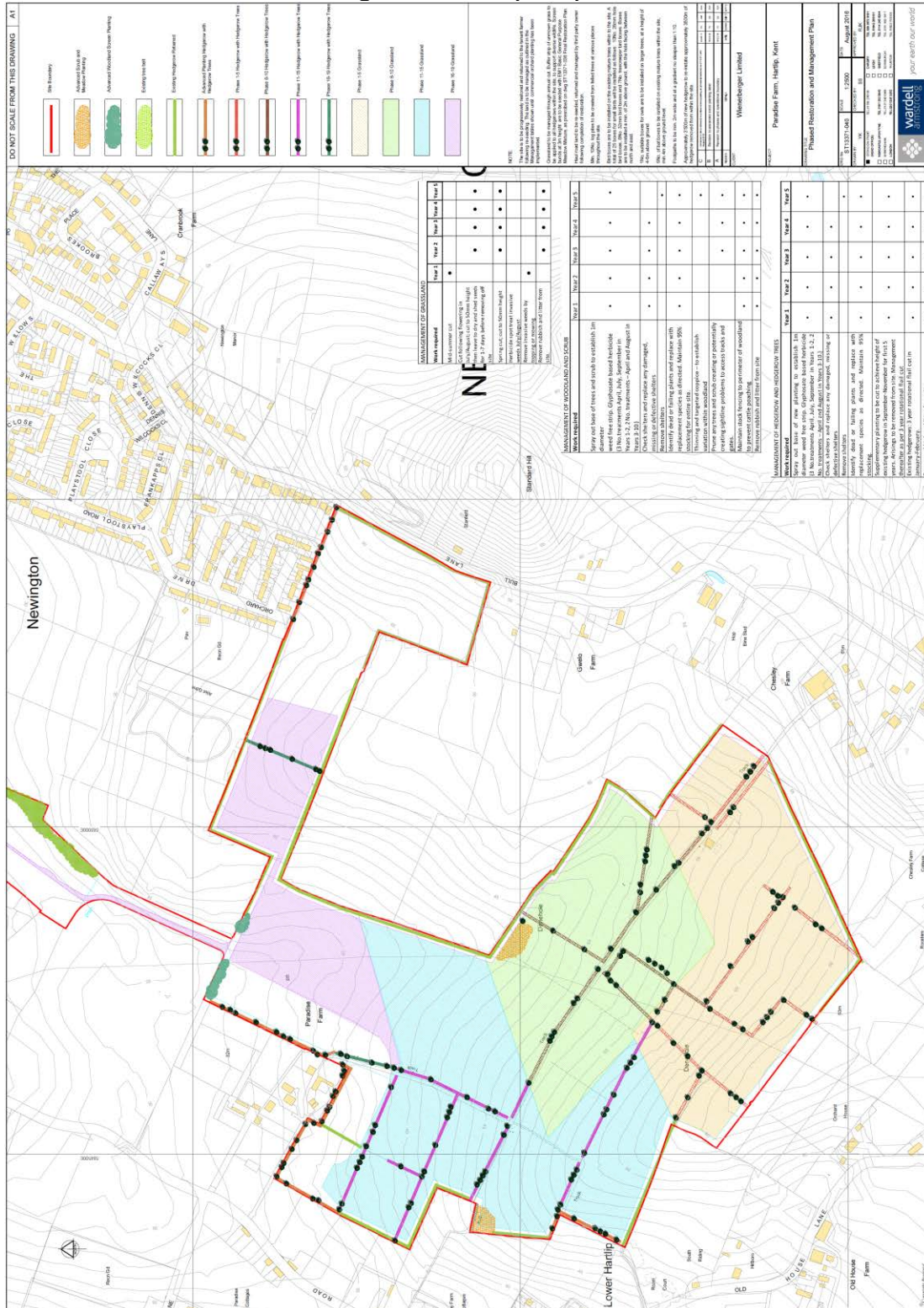
Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016)

Final Restoration Plan (2017)



Phased extraction of brickearth, advance planting, access improvements, restoration and replanting back to agricultural use at Paradise Farm, Lower Hartlip Road, Hartlip, Sittingbourne, Kent – SW/16/507594 (KCC/SW/0277/2016)

Phased Restoration and Management Plan (2017)



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Item C2**Section 73 application to vary the wording of condition 9 of planning permission CA/15/2375 to increase the permitted tonnage at Plots D & E, Lakesview Business Park, Hersden, Nr Canterbury – CA/17/335 (KCC/CA/0030/2017)**

A report by Head of Planning Applications Group to Planning Applications Committee on 19 April 2017

Application by Ling UK Holdings Ltd for a Section 73 application to vary the wording of condition 9 of planning permission CA/15/2375 to increase the permitted tonnage at Plots D & E, Lakesview Business Park, Hersden, Nr Canterbury, Kent, CT3 4GP – CA/17/335 (KCC/CA/0030/2017)

Recommendation: Permission be granted, subject to conditions.

Local Member: Mr A. Marsh

Classification: Unrestricted

Site

1. The application site lies within the Lakesview Business Park at Hersden, approximately 5km (3.1 miles) to the north east of Canterbury. The Business Park, which lies on land previously occupied by the former Chislet Colliery, is located to the south of the A28 (Island Road) and north of the Canterbury to Margate railway line and is accessed from a dedicated roundabout on the A28. The application site is bounded to the north and east by other units within the Business Park and to the south and west by those within the Canterbury Industrial Park. The site lies approximately 200m to the north of the River Stour and associated Stodmarsh Valley Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site. The nearest residential properties are located approximately 200m to the north west of the application site on the A28 ("The Villas") and to the east of the access road leading to the Canterbury Industrial Park ("Westbere Court"). The application site and key features referred to in this report are identified within the drawings below.
2. The application site is an existing waste facility with a permanent planning permission and is safeguarded by Policy CSW16 of the Kent Minerals and Waste Local Plan 2013-30 Adopted July 2016.
3. Lakesview Business Park is also safeguarded for employment use by Policy ED1 of the Canterbury City Local Plan (2006) and is proposed to be safeguarded for employment use by draft Policy EMP4 of the Canterbury District Local Plan Publication Draft (2014).
4. The application site, which is occupied by Ling (UK) Holdings Ltd following its relocation from Parham Road in Canterbury, is largely covered by a concrete pad. The existing planning permissions allow for the development of a number of independent buildings to house the various waste operations permitted on site as well as office and welfare facilities; not all of the permitted buildings have been constructed to date.

Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

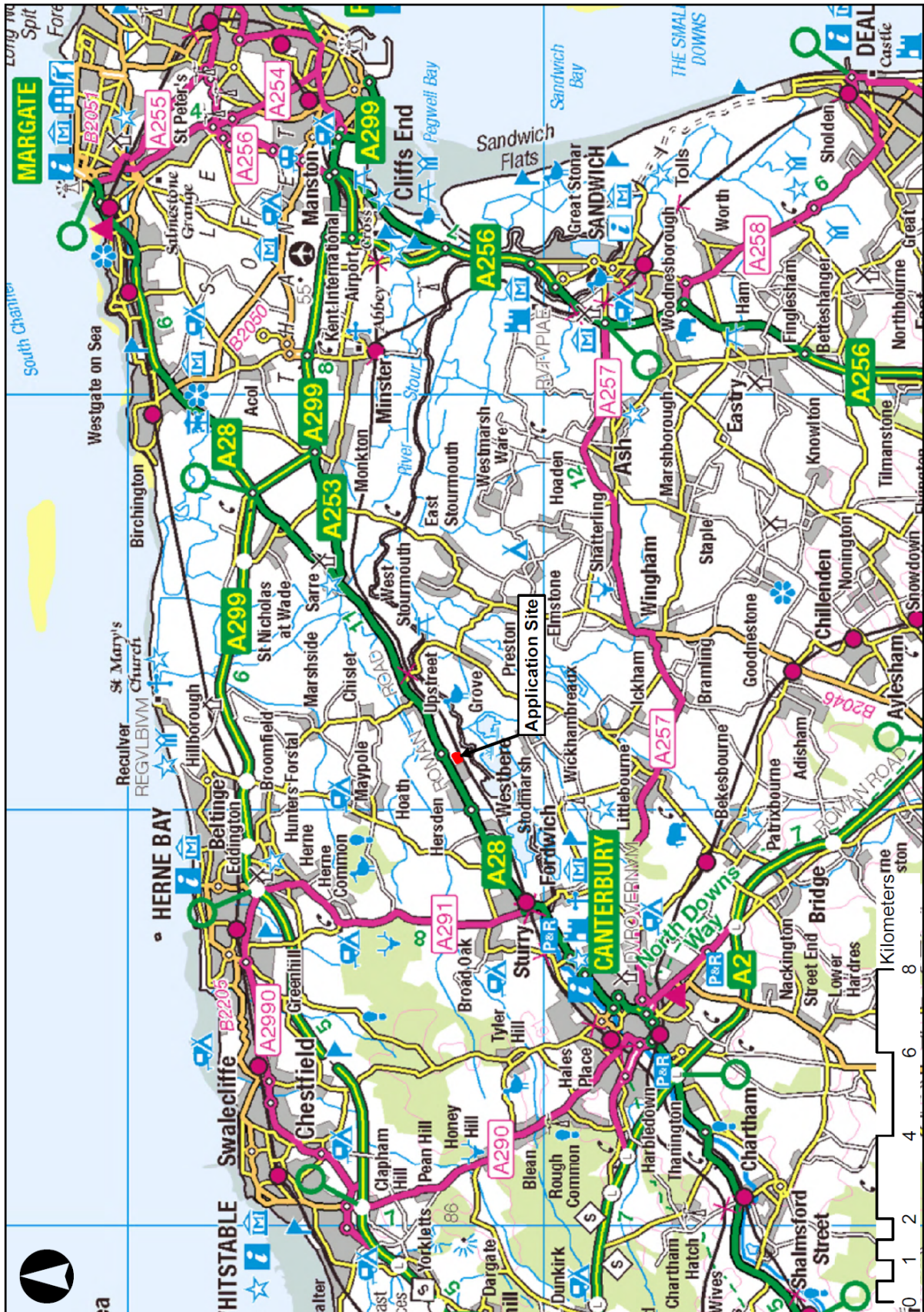
5. Existing development on site includes a waste transfer building (in the north east corner of the site), a non-ferrous waste building and an end of life vehicle (ELV) building (in the southern part of the site), a car bailer, engine pit, drainage pit and associated structures (in the south western part of the site) and weighbridges and a weighbridge office (in the centre of the site). The site also contains a number of temporary buildings used for site offices and associated facilities, which will remain until the main site offices are constructed. An area in the north-west corner of the site has yet to be surfaced and currently contains a mound of surplus soil and construction material that needs to be removed to enable the permitted materials recycling facility (MRF) to be built. A further area in the south east corner will accommodate the main site office building and associated car parking once completed. The development benefits from significant areas of open yard space for the manoeuvring and the temporary parking of vehicles within the site.
6. The entire site is surrounded by a palisade fence (between 2.1 and 2.4m high) and parts of the western and southern boundaries are reinforced with concrete divisions to provide “push-walls” (between 3 and 3.5m high).

Background

7. Outline planning permission (CA/98/0224) was granted by Canterbury City Council on 5 May 2000 for use of land at the former Chislet Colliery site as a business estate (Classes B1 (business) and B8 (storage and distribution)). This also provided for the roundabout that now serves Lakesview Business Park. A number of more recent planning permissions have been granted by Canterbury City Council that include B2 (general industrial) uses on land to the south and east of application site (i.e. towards the rear of the business park).
8. Planning permission (CA/09/607) was granted for the development of a metal and vehicle recycling and transfer centre together with a materials recycling centre for dry recyclable waste and electrical goods, the storage of associated waste and waste products and the storage of demolition and contracting plant and vehicles on 17 November 2009, following a resolution of the County Council’s Planning Applications Committee on 3 November 2009. The 2009 permission (which contained 27 conditions) was intended to enable the applicant to relocate its metals recycling business from its former site at Parham Road, Canterbury, and to develop a range of other waste recycling operations. The main elements of the permitted facility were a pre and post treated waste storage building (43.6 x 27 x 14m), a materials recycling facility (MRF) building (65.1 x 27 x 14m), a shredded tyre storage shed (17 x 5 x 7m), a battery and redundant electrical items storage shed (27.8 x 5 x 7m), a two-storey office building (15 x 10 x 7.6m), a two-storey non-ferrous building with canteen (19 x 12 x 7.4m), two weighbridges and weighbridge office (5 x 2.9 x 3.3m), a scrap metal processing area and parking for staff and visitors.

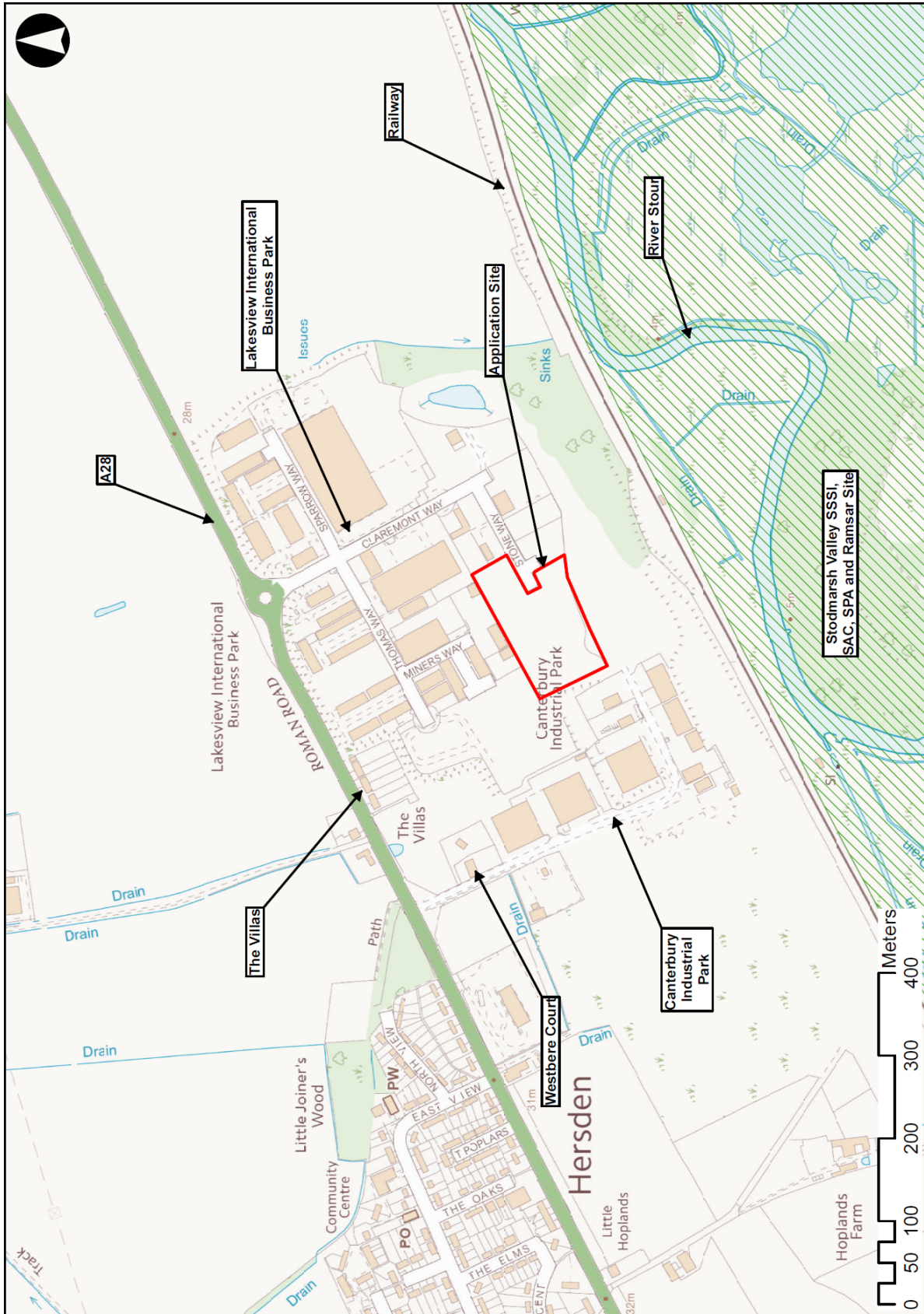
Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

General Location Plan



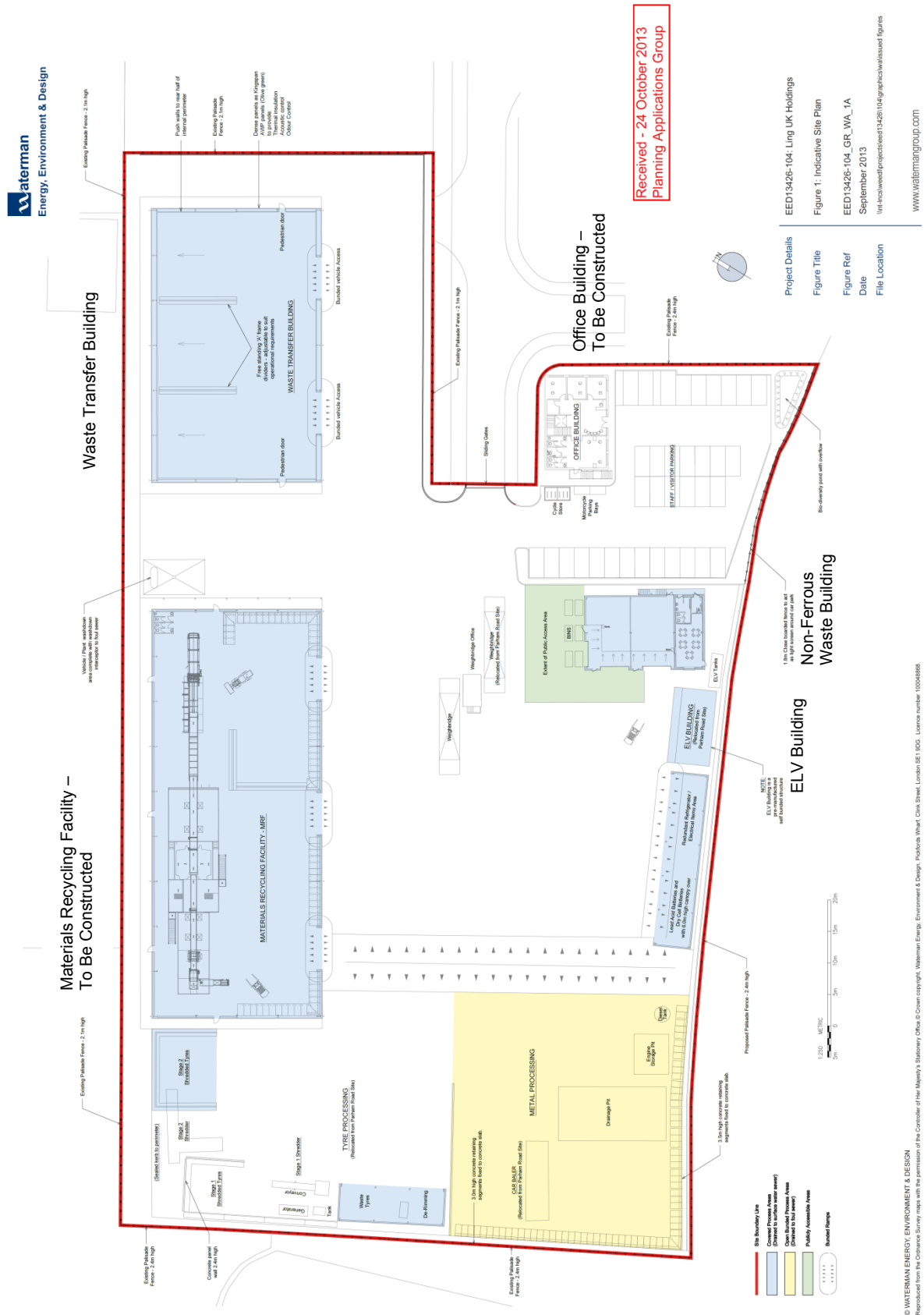
Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

Site Location Plan



Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

Approved Site Layout Plan (Included For Reference Purposes Only)



Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

9. Planning permission (CA/10/285) was granted to amend condition 18 of planning permission CA/09/607 on 2 August 2010, following a resolution of the County Council's Planning Applications Committee on 27 July 2010. This 2010 permission (which contained 29 conditions which were largely identical to those included in 2009) additionally allowed recovered abandoned vehicles to be delivered to the site at any time and for permitted waste types to be delivered from Civic Amenity sites and for members of the public to bring electrical / recyclable waste to the site on Bank Holidays between 08:00 and 16:00 hours only. Those conditions attached to the 2010 permission that required the submission to and approval of further details by the County Council were approved or discharged on 8 August and 20 December 2012.
10. Planning permission (CA/13/18) was granted to allow a change of use of the waste facility to allow all of the waste streams mentioned above plus domestic ("black bag") waste and source-separated food waste on 15 April 2013, following a resolution from the County Council's Planning Applications Committee on 10 April 2013. At the time the application was determined, the development platform had been partially completed and the pre and post treated waste storage building (by that time constructed as a waste transfer building) and areas of concrete hardstanding had been completed. Planning permission CA/13/18 served to regularise a number of minor changes to the building to accommodate the handling of "black bag" and source-separated food waste (e.g. double doors with fast-action inner fabric doors, an odour suppression system and internal layout) and provided associated development (e.g. a vehicle wash-down area, foul drainage and a cesspool).
11. Approval (CA/13/18/R) was given on 27 November 2013 for a non-material amendment to planning permission CA/13/18. This amended (amongst other things) the size and orientation of a roll-over bund (which separates the car dismantling area from the rest of the site), the external design and internal layout of the non-ferrous building and the main vehicular access gate and provides for the installation of vehicle and engine storage pits.
12. Planning permission (CA/13/2209) was granted to amend conditions 8 and 9 of planning permission CA/13/18 to allow for the acceptance of commercial and industrial waste from commercial, industrial and institutional premises from sources in and external to the Canterbury District and source segregated fractions from waste collections from domestic properties in the Canterbury District in addition to existing waste streams and without exceeding the existing (established) 82,000 tonnes per annum limit previously imposed on the site. Planning permission (CA/13/2209) was granted on 17 February 2014, following a resolution from the County Council's Planning Applications Committee on 12 February 2014.
13. Planning permission (CA/15/2375) was granted on 26 January 2016, following a resolution from the County Council's Planning Applications Committee on 20 January 2016 to remove the locational restriction on waste sources and to amend the hours of operation.
14. The key controls imposed on permission CA/15/2375 include (amongst other matters):-
 - The permitted waste types, including batteries, end of life vehicles (ELV), scrap metal, tyres, electrical waste (including fridges), dry recyclables (from commercial and industrial sources), domestic ("black bag") waste, source-separated food waste,

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separately collected fractions (excluding green / garden waste) and bulky domestic waste and municipal wastes, arising only from commercial, industrial and institutional sources;

- A maximum volume of waste permitted to enter the site for treatment, processing or recycling of 82,000 tonnes per annum (tpa) of which no more than 58,200tpa may be domestic (“black bag”) waste, source-separated food waste, separately collected fractions, bulky domestic waste or municipal waste, arising only from commercial, industrial and institutional sources;
- No more than 324 HGVs (162 in / 162 out) shall enter / leave the site each day;
- With the exception of waste sorting activities permitted in the MRF and the delivery of abandoned vehicles to the site, no activities on site or deliveries to or from the site shall take place except between 07:00 and 18:00 hours Monday to Friday and between 07:00 and 13:00 hours on Saturdays;
- Waste materials collected from Civic Amenity sites may also be delivered and members of the public may also take electrical / recyclable waste to the site on Bank Holidays between 08:00 and 16:00 hours;
- Abandoned vehicles can only be delivered and off-loaded at the site between 07:00 and 23:00 hours;
- Domestic (“black bag”) waste, source separated food waste, bulked domestic waste and similar municipal waste shall only be deposited, handled, stored and transferred within the Waste Transfer Building;
- Noise from fixed and mobile plant to not exceed 52dB at residential properties;
- Provision of an odour suppression system within the Waste Transfer Building;
- Domestic (“Black Bag”) waste to be removed from site within 48 hours.

Proposal

15. The application proposes the variation of condition 9 of planning permission CA/15/2375.
16. Under condition 9 of CA/15/2375 the site is already afforded planning permission to receive domestic (“black bag”) waste, source separated food waste, separately collected fractions (excluding green / garden waste) and bulky domestic waste. The current application seeks to vary this condition to allow a maximum of 120,000 tonnes of any of the permitted waste types, into the site in any one year.
17. Condition 9 of planning permission CA/15/2375 currently reads as follows:-
 - (9) No more than 82,000 tonnes of waste shall enter the site in any one year and of this no more than a combined total of 58,200 tonnes shall be:
 - a. domestic:
 - i. “black bag” waste;
 - ii. source separated food waste;
 - iii. separately collected fractions; and
 - iv. bulky domestic waste; and
 - b. municipal waste, arising only from commercial, industrial and institutional sources, including separately collected fractions from those sources.

Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

Reason: To ensure that the development is carried out in accordance with the approved plans and details and to accord with the objectives of Kent Waste Local Plan Policies W18 and W22.

18. The applicant proposes that the condition be re-worded as follows:-

(9) No more than 120,000 tonnes of waste shall enter the site in any one year.

Reason: To ensure that the development is carried out in accordance with the approved plans and details and to accord with the objectives of Kent Mineral and Waste Local Plan 2016 Policies DM11 & DM15.

19. No other changes are proposed to the conditions imposed on planning permission CA/15/2375, including the controls placed on the hours of use and the maximum number of HGV movements each day, amongst other matters. The applicant has stated that any potential further increases to the waste tonnages permitted would likely require alterations to the built development of the site.

Planning Policy

20. The Government Policy and Guidance and Development Plan Policies summarised below are particularly relevant to the consideration of this application:

21. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (NPPF) (March 2012) and the associated Planning Practice Guidance (PPG) and National Planning Policy for Waste (NPPW). National Planning Policy and Guidance are all material planning considerations.

22. **Kent Minerals and Waste Local Plan 2013-30 Adopted July 2016 (KMWLP):** Policies include: CSW1 (Sustainable Development), CSW2 (Waste Hierarchy), CSW4 (Strategy for Waste Management Capacity), CSW6 (Location of Built Waste Management Facilities), CSW7 (Waste Management for Non-hazardous Waste), CSW16 (Safeguarding of Existing Waste Management Facilities), DM1 (Sustainable Design), DM2 (Environmental and Landscape Sites of International, National and Local Importance), DM3 (Ecological Impact Assessment), DM10 (Water Environment), DM11 (Health and Amenity), DM12 (Cumulative Impact), DM13 (Transportation of Minerals and Waste), DM15 (Safeguarding Transport Infrastructure), DM16 (Information Required in Support of an Application) and DM20 (Ancillary Development).

23. **Canterbury City Local Plan (2006) (Canterbury LP) Saved Policies:** the most relevant saved policies include ED1 (Safeguarding existing employment sites and premises), BE1 (High Quality Design and Sustainable Development), NE1 (Biodiversity), C1 (Transport), C39 (Air Quality), C40 (Potentially Polluting Development), and C41 (Waste Management).

24. **Emerging Policy - Canterbury District Local Plan Publication Draft (2014) (draft Canterbury DLP)** – Draft Policies include: SP1 (Sustainable development), SP7 (Habitat Regulations mitigation measures), EMP4 (Protection of employment sites), T1 (Transport Strategy), CC12 (Water Quality), DBE1 (Sustainable Design and Construction), LB5 (Sites of International Conservation Importance), LB6 (Sites of

Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

Special Scientific Interest), LB7 (Locally Designated Sites), QL11 (Air Quality), QL12 (Potentially Polluting Development) and QL13 (Waste Management and Recycling).

25. **Kent Joint Municipal Waste Management Strategy Adopted April 2007 (Refreshed 2012/13)** – This document is a material consideration and includes Policy 20, of the adopted strategy, which states that the transfer station network will be improved across Kent to promote efficient transport of wastes for treatment, recovery and disposal. It also includes a number of other policies intended to assist in increasing recycling rates.

Consultations

26. **Canterbury City Council:** objects to the application on the following grounds:

The proposal will result in a significant increase in the levels of waste being brought to the site and is likely to cause a significant increase in the levels of odour emanating from the facility. It is considered that this would significantly change the character of the operation carried out from the application site and would have an unacceptable impact on the businesses within the Lakesview Business Park and the locality as a whole, including dwellings in the wider locality. The proposal will therefore have a significantly detrimental impact on the amenity of the surrounding area.

The proposed significant increase in the levels of waste being brought to the site is likely to result in an increase in the levels of vermin in and around the facility. It is considered that this would have an unacceptable impact on the Lakesview Business Park itself, including the businesses operating from the business park, as well as the areas of wildlife interest adjacent to the site.

27. **Westbere Parish Council:** objects to the application on the following grounds:

- Very concerned that this application has the potential to significantly increase the quantities of more malodourous waste types (including black bag waste and food waste).
- Waste has to be delivered to the site to be processed. Coupled with this, the vehicles used to transport the waste are large and noisy. Increasing the tonnage permitted to travel from the source to the site results in increased traffic congestion, increased air quality and pollution, wasted energy and additional fuel costs.
- Concerns about additional vehicle movements and the potential for increased congestion on A28, including in terms of traffic travelling via the Sturry level crossing.
- Concerns about the amenity impacts of HGV movements.
- Concerns about the proper and timely management of waste, odour, vermin, dust, surface water runoff, environmental impacts.
- There are more residential properties in the area now, with a further potential for approximately 1200 more houses in the future – just in Westbere and Hersden alone.
- 1200 houses generate in excess of 3000 additional vehicular movements (over above current traffic) using the A28. There is also massive tentative planned housing at Thanet which will give rise to even more vehicle movements all increasing problems of air pollution.

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- Concerns about possible adverse effects on the adjacent Stodmarsh SSSI and Ramsar sites and on the health and well-being of the residents of Westbere, Hersden and Sturry.
- The repeated 'variation' planning applications since the 2013 permission are a gradual erosion of the conditions imposed to protect local residents. These conditions were set for valid reasons and should be upheld.

The Parish Council also requested clarification of the throughput of waste and the number of vehicle movements generated by the permitted operations on site. This information was provided to them.

28. **Chislet Parish Council:** no response received.

29. **Sturry Parish Council:** raises no objections.

30. **Environment Agency:** raises no objections to the application but states that the proposed amendments will require an application to vary the existing Environmental Permit. A full assessment will be made at the permit application stage to consider the risks associated with the proposed activities. The EA cannot guarantee that agreement to the proposed amendments will be given.

Fugitive emissions from the increase in throughput of potentially odorous waste streams will need to be carefully considered and appropriate measures employed to control and manage the risks. This may require improvements to infrastructure.

31. **Kent County Council Highways and Transportation:** raises no objections.

32. **Natural England:** raises no objections.

33. **Kent County Council Ecological Advice Service:** raises no objections.

34. **Kent County Council Waste Management:** The Waste Disposal Authority has a statutory duty to seek provision for dealing with domestic waste disposal arisings in Kent. Although our input to this facility is currently low, the additional proposed waste handling capability for residual MSW and separately collected food waste, which constitutes a key component of the waste stream, is to be welcomed.

In principle therefore, the Waste Disposal Authority would support the additional handling and processing capacity for these categories of waste.

Local Member

35. The local County Member for Herne and Sturry, Mr Alan Marsh was notified of the application on 13 February 2017.

Publicity

36. The application was publicised by the posting of a site notice, an advertisement in a local newspaper, and the individual notification of 59 nearby properties.

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Representations

37. No letters of representation have been received in response to the above publicity.

Discussion

38. In considering this proposal, regard must be had to the Planning Policy section above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore, the proposal needs to be considered in the context of the Development Plan Policies, Government Policy and Guidance and other material planning considerations.

39. The main issues to be considered are:

- the principle of development / sustainable development / need;
- local amenity (e.g. air quality / odour, noise and health);
- highways and transportation; and
- biodiversity including impact upon SAC, SPA, SSSI, Ramsar;
- drainage considerations.

Principle of development / sustainable development / need

40. The application site benefits from planning permission as a waste management facility, allowing for the receipt, storage, recycling and transfer of a number of different waste streams. The permitted waste streams include: batteries; end of life vehicles (ELV); scrap metal; tyres; electrical waste (including fridges); dry recyclables; municipal wastes, arising from commercial, industrial and institutional sources and domestic (“black bag”) waste, source-separated food waste and bulky domestic waste. The site is safeguarded by Policy CSW16 of the Kent MWLP as a permitted waste facility that forms part of the County’s waste infrastructure. Canterbury LP Saved Policy ED1 and draft Canterbury DLP Policy EPM4 seek to protect the site for employment use in support of the economic strategy for the District. Amongst other matters, these policies include support for in-situ expansion of existing businesses, provided that there are no significant environmental, amenity, landscape, transport or other adverse impacts.

41. National Policy within the NPPF and NPPW, as well as policies within the Kent MWLP support the location of waste management facilities within or adjacent to existing waste sites or within established industrial estates.

42. The NPPF, Policies CSW1 and CSW2 of the Kent MWLP and Policy SP1 of the draft Canterbury LP all include a presumption in favour of sustainable development, which includes economic, environmental and social dimensions. The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. Government legislation indicates that, unless material considerations indicate otherwise, proposals that accord with the development plan should be approved without delay. The NPPW seeks delivery of sustainable development and resource efficiency, through provision of modern waste infrastructure, associated local employment opportunities and wider climate change benefits by driving waste management up the waste hierarchy.

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Government Policy seeks to ensure that waste management is considered alongside other spatial planning concerns, recognising the positive contribution that this can make to the development of sustainable communities, helping to secure the re-use and recovery or disposal of waste without endangering human health and without harming the environment.

43. The NPPW requires local Waste Planning Authorities to work collaboratively in groups with other waste planning authorities and in two-tier areas with district authorities, through the statutory duty to cooperate, to provide a suitable network of facilities to deliver sustainable waste management. Government Policy highlights the need to plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant.
44. Policies CSW4 and CSW7 of the Kent MWLP require the development of waste management capacity to manage waste arising in Kent. Policies BE1 and C41 of the Canterbury LP and Policy QL13 of the draft Canterbury DLP all identify the need for the development as a material consideration. Kent Joint Municipal Waste Management Strategy specifically identifies the need to improve the waste transfer station network to facilitate transport of materials to the recycling, composting, treatment, recovery and disposal infrastructure provided across the County. The Strategy recognises that the waste transfer station network delivers reduced environmental impacts, cost-effective and efficient transport, and efficiencies for collection services by facilitating the separation and bulking up of materials close to its source.
45. The proposed development would add 38,000 tonnes per annum (tpa) of additional capacity to the waste transfer network. The proposed changes to the controls placed on the existing permission would increase the flexibility of the site to cater for waste streams arising in east Kent, in particular by removing the current cap of 58,200tpa on black bag and food waste and enabling the sustainable transfer of waste materials onwards to appropriate treatment and recovery facilities elsewhere in the County, and where necessary further afield by bulking the waste much closer to its source, in east Kent. I note also that KCC Waste Management supports the principle of the development as the waste disposal authority.
46. Furthermore, as stated by Westbere Parish Council, the continued development of new residential properties within the vicinity of the site and more widely within Canterbury and east Kent puts an increased strain on the road network; however, it will also put increased pressure on the waste disposal process. There is a clear sustainability argument for waste to be transferred and bulked for onward treatment, as close to its source as possible and in this regard the proposal would be compliant, in principle, with development plan policies and should be supported given the overriding principle for the development has already been approved.
47. Taking account of the broad policy support, the site's allocations within the Development Plan and the permitted waste uses, the proposed development would be considered acceptable in principle, subject to its consideration in the context of other relevant Development Plan Policies, Government Guidance and other material planning considerations. Whilst there is an established need to improve the waste transfer station network to facilitate more sustainable transport of materials, it is not possible to establish whether the proposed development is acceptable or whether it represents

Section 73 application to amend condition (9) of permission CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden – CA/17/335 (KCC/CA/0030/2017)

sustainable development until all other development plan policies and material considerations have been assessed.

Local amenity (including air quality, odour, noise and health)

48. NPPW requires that new or enhanced waste management facilities should be considered against physical and environmental constraints on development. This includes existing and proposed neighbouring land uses and the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential. Policies CSW6, DM11 and DM12 of the Kent MWLP, Policies BE1, CE39, CE40 and C41 of the Canterbury LP and Policies DBE1, QL11, QL12 and QL13 of draft Canterbury DLP all require development that is compatible with existing land uses, that preserves local amenities and include suitable controls on noise, dust, odour and other emissions, amongst other matters.
49. The proposed variation to condition 9 seeks an amendment to increase the permitted tonnage of waste allowed into the site from 82,000 to 120,000tpa, and to remove the current maximum of 58,200tpa of domestic and municipal waste. All other conditions would remain the same. The applicant has stated that they are currently operating at approximately 90% of the 58,200tpa limit. The proposed amendment would principally involve the delivery of additional capacity for domestic and municipal wastes to the site. Material would then be sorted and bulked up within the buildings and yard for onward transportation to treatment and processing facilities elsewhere in the County, as is currently permitted.
50. Westbere Parish Council and Canterbury City Council have raised objections to the application on the grounds that, amongst other matters, the proposed development would give rise to local amenity concerns for residents and nearby businesses, including increased noise, dust, odour and emissions, vermin and additional vehicle movements resulting from the proposed increase to the permitted tonnages of waste entering the site.
51. I note that the existing planning permission already allows for a Materials Recycling Facility (MRF) (yet to be implemented) to operate, and for the delivery of abandoned vehicles, during Saturday afternoons.
52. In considering the potential impacts of the increase in waste permitted to enter the site, it is worth noting that the nearest residential properties are located approximately 200m to the north west of the application site on the A28 (“The Villas”) and to the east of the access road leading to the Canterbury Industrial Park (“Westbere Court”), on the far side of the Lakesview Industrial Estate. The industrial estate also benefits from a direct access onto the primary road network (A28), which does not require vehicles accessing the estate to travel past residential properties until they are well out onto the main road. No objections to the proposal have been received from nearby residential properties or from any businesses within the Lakesview Business Park. The potential for an increased impact on visual or residential amenity is low given the operations are already taking place on site in the same manner and these issues were examined in the original application and deemed to be acceptable. There is the potential for a minor impact on residential amenity due to the increase in vehicle movements based on the current

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situation but given the vehicle movement figures would not exceed what has already been permitted I do not consider this to be significant.

53. The issue of the potential for noise from operations on site was considered in detail as part of the previous applications, including other permitted operations that could take place beyond the standard hours and during Saturday afternoons. The existing permissions include controls that seek to ensure noise attributable to the operation of plant and machinery on site is maintained at an acceptable level and does not exceed 52dB at any residential property. There would likely be additional HGV movements associated with this proposal compared to the current situation, however, the overall number of vehicle movements would remain within the number already permitted and as such would not represent an additional noise concern to that already considered. No other aspect of the operation of the facility would alter as a result of this proposal and therefore would not result in a significant change in the noise associated with the development. I recommend that the existing controls, including the noise condition, be re-imposed on any new consent.
54. I can appreciate why some respondents might believe that the proposed amendments may lead to an increase in odour and dust emissions; however the more malodorous waste types may only be deposited, handled and transferred within the existing Waste Transfer Building (WTB). The WTB is purpose built to accept malodorous waste types; it is equipped with fast action roller shutter doors which close immediately after every vehicle enters/exists and an odour abatement system. Internally the building includes concrete bay walls and a concrete floor; all emergent fluids from the deposited waste are captured by a drainage system and tankered off site. All internal areas of the WTB that are in contact with waste are pressure washed down when clear of waste, this happens every 1-2 days, along with ad hoc cleaning when necessary. Waste is not permitted to be stored in the building for more than 48 hours (condition 24 of CA/15/2375), nor wherever possible from midday Saturday to Monday morning. Condition 5 of CA/15/2375 also requires the malodorous waste types to only be deposited, handled, stored and transferred within the WTB, both of these conditions would be re-imposed should this application be approved.
55. Managing of the time that waste spends in the WTB is strictly controlled by the applicant, whereby it can accept or decline deliveries depending on the capacity of the WTB at that particular time, and subsequently transfers waste from the site as quickly as possible. The whole premise of the operation is to receive waste, bulk it, and transfer it off site as swiftly as possible; there is no benefit, financial or otherwise, for waste to remain any longer than is absolutely necessary, thus decreasing the potential for odours to exacerbate. It is therefore unlikely that the proposed increase in waste would pose any greater risk to increased odour than the current time, providing the building is operated in accordance with the current planning conditions. In addition it is worth noting that whilst the proposal seeks to remove the sub-limit on condition 9 regarding particular waste types, this is not to say that the whole 120,000 tonnes would be passing through the WTB. The 120,000 tonnes per annum would relate to all waste received at the site including batteries, end of life vehicles (ELV), scrap metal, tyres, electrical waste (including fridges), and dry recyclables of which the potential for odour and dust concerns is low.
56. Westbere Parish Council's comments concerning the potential for an increase in the impacts from noise, dust, odour and emissions appear to be based on the assumption

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that there would be a corresponding increase in vehicle movements associated with this application. For the avoidance of doubt, the proposed development does not seek to change the existing controls imposed on the development, beyond the above-mentioned increase in throughput. The existing controls imposed on CA/15/2375 would largely remain unchanged. These include the nature of the waste materials that could be accepted on-site and the maximum number of vehicle movements of 324 HGV movements (162 in and 162 out) each day.

57. The Waste Planning Authority has previously concluded that this type of activity is acceptable and the existing planning permissions are subject to a number of conditions that seek to control operations to safeguard local amenity and minimise the impact of the development on the local environment. I do not consider that the proposed changes would significantly change the character of the operation. These conditions include, amongst other matters, the provision of buildings to contain operations on site, the use of fast action doors within the Waste Transfer Building, odour suppression systems, noise controls, dust suppression measures and limits on the length of time putrescible waste can be retained on site (48 hours). As a waste use, the site is also subject to monitoring and control by the Environment Agency through the Environmental Permitting regime. The applicant would be required to obtain a new permit to operate at the increased capacity from the Environment Agency. The Environmental Permit would ensure effective controls continue to be in place over matters concerning odour and vermin.
58. In response to Westbere Parish Council's enquiry, the applicant has confirmed that the site is currently operating at approximately 80% of the annual tonnage limit and is generating approximately 72% of permitted daily limit on HGV movements. This equates to 65,600 tonnes of waste per year and approximately 234 HGV movements each day (117 in / 117 out). The extent of activity on site is well within the permitted maximum levels that are there to protect highway safety, local amenities and environment, both in terms of throughput of waste and the number of vehicle movements.
59. Taking the above into consideration, subject to the re-imposition of those conditions relating to noise, odour and dust contained in planning permission CA/15/2375, I am satisfied that the proposed development would continue to be satisfactorily controlled (both through the planning and environmental permitting regimes) and would accord with the Government Policy and the relevant Development Plan Policies in terms of local amenity considerations.

Highways and transportation

60. The NPPW requires local authorities to consider the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, seeking when practicable and beneficial to use modes other than road transport.
61. Policies DM13 and DM15 of the Kent MWLP require waste management proposals to be acceptable in terms of highway safety and capacity. Canterbury DLP Policies C1 and C41 and draft Canterbury DLP Policies T1 and QL13 require that the level and environmental impact of vehicular traffic be taken into account when considering the location of development. Policies CSW6 and DM13 of the Kent MWLP require waste development to minimise road transport as far as possible. Where there are no practicable alternatives to road transport, the above policies, require development to be

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well located in relation to Kent's Key Arterial Routes, with safe and appropriate access, ensuring that traffic generated is not detrimental to highway safety nor has an unacceptable impact on highway capacity, the environment or local communities.

62. As indicated above the applicant does not propose to amend the current restriction on the maximum number of HGV movements, which would remain at the permitted level 324 movements per day (i.e. a maximum of 162 in / 162 out). The applicant is currently operating to around 72% of the current permitted number of vehicle movements. The original planning application (CA/09/607) foresaw a business model structured around deliveries from cars, commercial light goods vehicles (LGVs) and commercial heavy goods vehicles (HGVs). Since the time of the original application trading conditions have changed, primarily to the scrap metal industry, the original application foresaw around 74 vehicle movements each day into the site carrying a few tonnes of scrap metal each. However, over the intervening period the number of secondary industries in the locality has declined, commodity prices have been volatile and the scrap metal industry has contracted. Consequently the tonnages of scrap metal and associated vehicle movements are well below that which was original expected.
63. The proposed increase from 82,000 to 120,000tpa is an approximate change of 46% in overall tonnage capacity, based on the current tonnages passing through the site there is about 28% of vehicle movement capacity remaining. The applicant does not consider a 1% change in input tonnage to be equivalent to a 1% change in vehicle movements. The trend the applicant sees is for higher payload vehicles operated by hauliers with the primary concern for maximising the logistics of waste collection and disposal. The logistics of running the haulage operation include sequencing the routes to collect from (waste collection) and minimising the distance to travel to the disposal point (waste disposal at end of route), whilst all the time seeking to ensure that refuse collection vehicles arrive at the disposal point as heavily laden as possible; driving the efficiency of the operation as a whole. Increasingly the applicant's customer base is composed of these types of collections rather than ad hoc deliveries by LGV. To date this has enabled the applicant to comfortably remain within its daily vehicle movement's limit and would continue to do so going forward should the amendment to condition 9 be approved.
64. The catchment of most sites, including the non-domestic waste streams permitted to be received by the application site, are influenced by the market, with fuel costs and time swaying the decision to haul waste in small volumes over longer distances. The provision of transfer stations at strategic locations around the County (such as this site) enables waste to be sorted and bulked up for onward transportation in greater volumes, which represents the most sustainable way of moving waste by road. Whilst it is appropriate for these facilities to be located close to the waste sources, the NPPW makes it clear that facilities will need to serve catchment areas large enough to secure economic viability. For the avoidance of doubt, whilst the waste received at transfer stations is sorted and bulked up, which helps to drive the material up the waste hierarchy towards a more sustainable solution, the transfer station is not the final destination. Final processing and treatment facilities are located elsewhere in the County or further afield in the case of some recyclables.
65. The Local Highway Authority has considered the proposed development and raised no objection to the application, given that the application proposes no increase in the permitted maximum number of vehicle movements. It should be noted that the site is

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well related to the primary road network with direct access onto the A28. The existing planning permissions have established that the permitted number of vehicle movements is acceptable, such that operations on site at the permitted maximum level would not have an unacceptable impact on congestion, highway safety or the local amenity given the surrounding environment and highway network.

66. I note Westbere Parish Council's concern about the direction of travel resulting from the proposals and that this would affect congestion at the Sturry level crossing. The current planning permission is not subject to any specific routing arrangements, with vehicles able to approach the site from either direction along the A28. The good access to the primary highway network means that vehicle routing has not been justifiable in the original planning permissions and remains the case now. Given the application does not propose an increase to the overall vehicle numbers already permitted, I do not consider that the proposed development would have a detrimental impact on congestion at the Sturry level crossing.
67. The current planning permission restricts the number of vehicle movements to and from the site to 324 (162 in/162 out) per day. The suitability of this site and its location has previously received full consideration in terms of highway access and capacity. The applicant states that there would be no change to those restrictions as a result of this proposed variation. On the basis that there would be no increase in vehicle movements to or from the site and that KCC Highways and Transportation has raised no objection to the proposals, I am satisfied that the proposed development would accord with the policies set out above and see no reason to refuse the application on highways and transportation grounds, subject to existing conditions relating to these matters being included as part of any new permission.

Biodiversity and other matters

68. The application site lies approximately 200m to the north of the River Stour and associated Stodmarsh Valley Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site. The site itself has limited ecological potential. The NPPF, Kent MWLP Policies DM2, DM3 and DM10, Canterbury LP Policy NE1 and draft Canterbury DLP Policies LB5, LB6 and LB7 all require development that protects and conserves the integrity, character, appearance and function of the scientific or nature conservation interests, including sites of international, national and local importance.
69. Westbere Parish Council has raised concerns that the proposed development could have adverse effects on the adjacent Stodmarsh SSSI and Ramsar sites and raises concerns about the provisions for the control of surface water runoff on site.
70. The County Council's Ecological Advice Service has considered the application and confirmed that it has no comments to make on the proposed amendment to the site operation.
71. The Waste Planning Authority has previously concluded that the approved waste management facility would not have a significant impact on the designated sites to the south. Amongst other controls, the planning conditions include an approved foul and surface water drainage scheme that controls the impact of any run-off from the site. On the basis that the application does not propose any change to the nature of the use, the

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types of waste materials that could be received or any new physical development on site, I am satisfied that the proposals would have no impact on biodiversity or conservation interests beyond the level of activity previously accepted.

72. Given the site would continue to be subject to an Environmental Permit issued and monitored by the Environment Agency and as the proposed changes to the maximum volume of waste would have a negligible impact on biodiversity interests or the water environment, I am satisfied that the proposed development accords with the above policies and that there is no reason to refuse permission on biodiversity or drainage grounds, subject to the re-imposition of conditions imposed on planning permission CA/15/2375.

Conclusion

73. The application seeks to increase the tonnages of waste permitted to be received at the site from 82,000 to 120,000 tonnes per annum and removing the lower limit of 58,200 tonnes of domestic/municipal waste per annum. All of the other existing conditions on the planning permission would remain the same and notably there would be no increase in HGV vehicle numbers over that which is currently permitted. There is strong policy support at national and local levels for ensuring the delivery of sustainable waste management and for improving the waste transfer network. This facility would enhance the capabilities of an existing site that serves Canterbury and the surrounding districts without creating any additional burden of the highway network. On the basis of consultee responses together with the re-imposition of the conditions from CA/15/2375, I am satisfied that the site would be able to operate without causing adverse effects on the environment, local residents or nearby businesses. The proposal is in my opinion consistent with the principles of sustainable development as set out in the NPPF and should therefore be supported.
74. In conclusion, I am of the opinion that, subject to the re-imposition of all other conditions imposed on CA/15/2375, the proposed variation to condition 9 would represent sustainable development, would not give rise to any material harm and would accord with relevant Government and Development Plan Policies. I am satisfied that there are no other material considerations that indicate the decision should be made otherwise. I therefore recommend that the proposed amendment to condition 9 of permission CA/15/2375 be granted, subject to conditions (as indicated below).

Recommendation

75. I RECOMMEND that PERMISSION BE GRANTED, SUBJECT TO:
- condition (9) being amended to allow no more than 120,000 tonnes of waste to enter the site in any one year.
 - the re-imposition of all conditions previously imposed on permission CA/15/2375 updated and amended as necessary; these conditions include, amongst other matters, the provision of buildings to contain operations on site, the use of fast action doors within the Waste Transfer Building, hours of operation, stockpile heights, HGV movements, odour suppression systems, noise controls, dust suppression measures and limits on the length of time putrescible waste can be retained on site (48 hours).

**Section 73 application to amend condition (9) of permission
CA/15/2375 at Plots D & E, Lakesview Business Park, Hersden –
CA/17/335 (KCC/CA/0030/2017)**

Case Officer: Adam Tomaszewski

Tel. no: 03000 411029

Background Documents: see section heading

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Section 73 Application to vary conditions (9) and (10) of Annex A2 of planning permission TM/10/2029 in order to increase vehicle movements and to allow preloaded HGV's to leave the site from 06:30 hours at Hermitage Quarry, Hermitage Lane, Aylesford, Kent, ME20 7PX – TM/17/131 (KCC/TM/0328/2016)

A report by Head of Planning Applications Group to Planning Applications Committee on 19 April 2017

Application by Gallagher Aggregates Limited under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary conditions (9) and (10) of Annex A2 of planning permission TM/10/2029 granted by the Secretary of State on 11 July 2013 in order to increase HGV movements and to allow preloaded HGV's to leave the site from 06:30 hours at Hermitage Quarry, Hermitage Lane, Aylesford, Kent, ME20 7PX – TM/17/131 (KCC/TM/0328/2016)

Recommendation: Permission be granted subject to conditions.

Local Member: Peter Homewood.

Adjoining Members: Dan Daley and Rob Bird

Classification: Unrestricted

Site

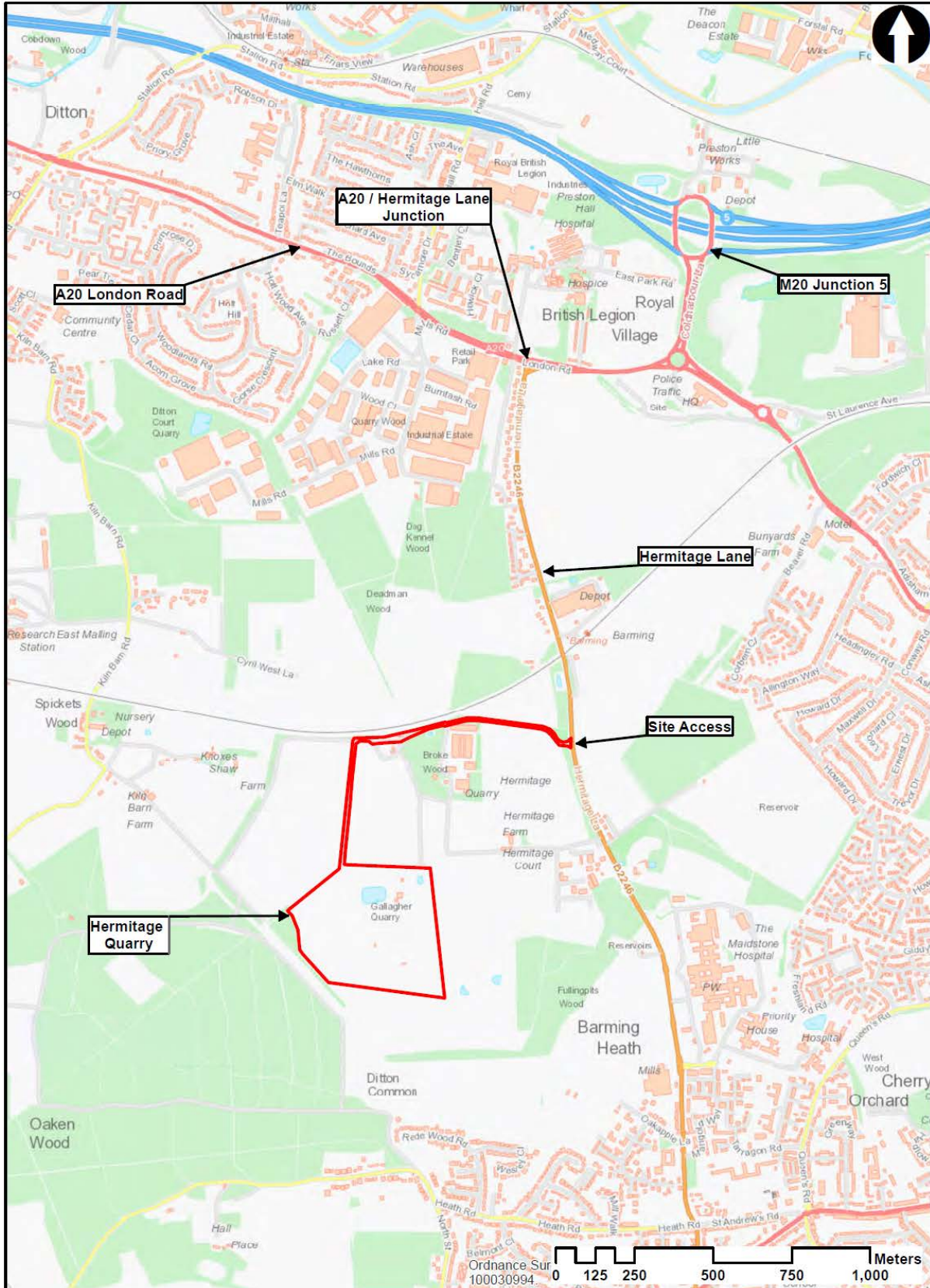
1. Hermitage Quarry lies within the strategic gap between Allington to the east, the village of Aylesford to the north and Barming Heath to the south. It forms part of 230ha of the Hermitage Farm Estate which comprises agricultural land and woodland as well as the quarry itself. The quarry has a purpose built access onto Hermitage Lane (B2246) which leads to the A20 and M20 at junction 5.

Background

2. Operational since 1990, the quarry has been subject to a number of separate permissions which has incrementally extended the overall site area, albeit a large area has now been fully restored back to agriculture together with some areas of tree planting. The approved scheme of working makes provision for working and restoration using imported backfill materials of the whole quarry complex with the plant site area being the last part of the site to be restored when the permitted reserves become fully exhausted. Quarry operations are currently taking place within a westerly extension which extends into Oaken Wood, a designated Ancient Woodland, and which was granted by the Secretary of State in July 2013 following a public inquiry held during November/December 2012. The permission allowed for an additional 16,210,000 tonnes of ragstone to be worked at the site which, based on annual rates of production provided for some 25 years of additional reserves.

Section 73 application to vary planning permission TM/10/2029 at Hermitage Quarry, Hermitage Lane, Aylesford - TM/17/131 (KCC/TM/0328/2016)

Site Location Plan



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3. Since the quarry first became operational it has become well established with the applicant having to date invested over £40 million in fixed and mobile plant and equipment enabling it to steadily increase its range of materials in order to meet market demand. One of the more recent innovations has been the site's ability to produce block stone for new build and heritage products which formed one of a number of important considerations which was taken into account by the Secretary of State in his decision to grant permission. The quarry now has the overall capability to produce up to 1 million tonnes of aggregates (primary and recycled) annually producing more than 70 different products and makes a valuable contribution to the local economy taking advantage of its central location within the county and close proximity to the major road network.

Recent Site History

4. Since the UK economy started to recover from the economic downturn in 2008-2012 the applicant has seen a marked and sustained increase in demand for its products, particularly in the residential development sector, which has seen housing starts grow by some 36% in the South East since 2012 and which shows no signs of abating
5. To ensure the applicants can continue to serve customers, markets and meet the ever changing and increased demand for its products has meant they have had to review and assess their operations in the context of their latest permission. As a result, they now need to seek formal variations to some of the existing conditions which control operations at the site and which are primarily aimed at regularising the increase which has occurred over the last 3-4 years in HGV movements from the site and which they accept continue to exceed those which currently apply. The existing vehicle movement restrictions reflect what historically was considered appropriate at that time during the early stages of the quarry operations, when it was considered Kentish Ragstone could only play a relatively limited role towards meeting the overall requirements of the construction industry. However, as explained above, since its inception operations have continuously evolved to the extent that the site is now able to deliver a much greater range of products than originally envisaged, substantially increasing levels of production.

Proposal

6. As part of the evidence base gathered in support of their application the applicant has drawn attention to the fact that their increase in vehicle movements above those permitted were already occurring and would therefore have featured in traffic surveys used to consider the recently granted Croudace and Bovis residential developments located along Hermitage Lane, along with those other developments at the junction of the A20/Hermitage Lane which includes a new McDonalds Drive Through, Aldi and Pound Stretcher. The applicant asserts that traffic that flows from these new commercial developments and the resultant congestion they cause, now directly impacts on their business.

Transport Assessment

7. In support of the proposal a Transport Assessment (TA) has been produced to assess the potential impacts upon the local highway network. This utilises extensive traffic

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surveys cross checked against KCC's own data which shows the morning peak hour to be between 0730 and 0830 hours, with traffic flows in the hours either side being between 10% and 30% lower, and the evening peak period to be between 1600 and 1800 hours. The analysis includes data for future movements that will be generated off Hermitage Lane, including those from the Croudace and Bovis developments. In response to a request for additional information from Kent Highways & Transportation and Highways England, further recent records of the current flow of traffic into and out of the quarry have been provided along with the projected 2026 flows of traffic in the area and which takes into account the level of traffic generated by the housing developments that have already taken place along with what is expected to be generated by the committed housing developments not yet built. A similar exercise has also been undertaken by way of traffic capacity modelling of the A20/Hermitage Lane Junction along with modelling of the M20 Junction 5 and where Manual Classified Counts were undertaken at both junctions in February this year to help inform this exercise.

8. The TA has been used to determine the strategy for managing quarry HGV movements in the least impactful way possible. On the basis of the pre-loading of vehicles at the quarry site the evening before, it is proposed that HGV movements are capped at 50/45/55 for each of the three hours between 0630 to 0930 hours. The applicant claims this would result in an impact of less than 1% of all traffic movements on Hermitage Lane in the morning 0730 to 0830 hours peak period, which the applicant asserts is a level which is considered to be de minimis and well below the typical daily traffic variation level. It is also proposed that the total number of HGV movements during the evening peak period 1600 to 1800 hours are capped at 50.
9. The total average daily movements are proposed to be 300 arrivals and 300 departures, the majority of which would be generated outside of peak hours when traffic flows are significantly lighter, with the maximum number of HGVs entering and leaving the site on any single day not exceeding 900. The average daily increase proposed very much reflects the actual vehicle numbers that have for some time been generated from the site on a regular basis, whilst the 900 movements sought on any single day is considered by the applicant to provide, based on previous experience, sufficient flexibility on those rare occasions when a specific contract demands this.
10. Given the above, the TA concludes that the proposal would not have a significant or severe impact in terms of transport and therefore asserts that there should be no sound transport based objections to the proposal.

Noise and Air Quality Assessments

11. In addition to the TA the application is also supported by separate Noise and Air Quality Assessments. With regard to noise, the assessment concludes that a 50% increase in traffic over the working day would result in an increase in the noise level of 1.8dB. Given that a 1dB increase in noise levels is considered insignificant and not perceptible, with a 3dB change generally considered just perceptible, it concludes that the proposed increase in HGV movements is not considered significant. As a further safeguard, any changes in operations at the site itself will also be subject to the environmental permitting process exercised by the Environment Agency who would seek to control noise.

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12. With regard to air quality an assessment has been undertaken in respect of potential impacts from both dust and vehicle exhaust emissions. With regard to dust, as a result of the distance to receptors taking account of the prevailing wind direction the risk of impacts on the local amenity was considered negligible at all assessed receptor locations. Furthermore with the continued implementation of the dust control measures already carried out at the site itself, the risk of dust effects is considered not to be significant.
13. Potential air quality impacts associated with vehicle movements and their exhaust emissions were also quantified using dispersion modelling techniques. It concluded that trips arising due to the proposed operational changes, would result in a negligible impact on annual mean NO₂ and PM₁₀ concentrations in accordance with the EPUK guidance Potential Air Quality impacts consistent with the KMAQP guidance which would be low/imperceptible at all modelled receptors. As such it is not considered that air quality represents a material constraint to the development proposals, which conform to the principles of the NPPF and Tonbridge & Malling Borough Council Core Strategy.

Proposed regulation of permitted HGV movements

14. In formulating the proposals for regulating permitted vehicle movements to reflect current actual levels, the applicant has proposed changes to operations that seek to mitigate the impact on the local road network by;
- i) Relocating to the quarry the existing transport workshop and HGV parking area currently located at Little Preston immediately to the north of junction 5 of the M20. (*The significant benefit of this re-location is that approximately 30 Gallagher HGV aggregate and ready mix concrete lorries would be based at the quarry, therefore no longer needing to travel up Hermitage Lane to the quarry at the beginning of each working day during the morning peak hour period for pre-loading with material*) This proposal along with other facilities proposed to be introduced at the site including a masonry workshop, manufactured aggregates recycling area and relocation of the existing site offices and weighbridge to the quarry floor was recently subject to a separate submission seeking prior approval of details as part of the rationalisation of the quarry operations, and which has since been formally approved.
 - ii) Extending the operating hours of the quarry for vehicle movements only to accommodate pre-loaded vehicles departing from the site.
15. In summary, it is therefore proposed to formally vary conditions (9) and (10) of Annex A2 of planning permission TM/10/2029 in order to increase HGV movements to and from the site and to allow pre-loaded HGVs to leave the site from 0630 hours with the aim of improving traffic flows during the morning period.
16. Condition (9) currently states;
- 'The highest average daily number of HGV movements both entering and leaving the site during any one calendar month excluding non-working days shall not exceed a combined total of 300 movements per day and the number of movements on any single day shall not exceed 600 movements.'*

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17. Whilst condition (10) states;

'During the morning and evening peak periods of 0730 hours to 0930 hours and 1600 hours to 1800 hours, the maximum number of HGVs entering and leaving the site shall not exceed 30 movements.'

18. It is therefore proposed to vary conditions (9) and (10) to allow for the following:

- Highest average daily number of HGV movements both entering and leaving the site during any one calendar month excluding non-working days not exceeding 600 movements per day (*which is consistent with the levels the site has been operating at for a number of years*);
- The number of HGV movements on any single day not exceeding 900;
- During the morning period of 0630 hours to 0930 hours, the maximum number of HGVs entering and leaving the site not exceeding 150 movements, of which a maximum of 50 movements should take place in the one hour period 0630 to 0730, 45 movements in the one hour period 0730 to 0830 and 55 movements in the one hour period 0830 to 0930;
- In the period 0630 to 0700 only HGVs pre-loaded the previous evening will be permitted to leave Hermitage Quarry (i.e. there will be no plant activity);
- During the evening peak period of 1600 hours to 1800 hours, the maximum number of HGVs entering and leaving the site not exceeding 50 movements.

Planning Policy

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

20. **National Planning Policy Framework (NPPF) March 2012:** Came into force on 27 March 2012 and should be read in conjunction with National Planning Practice Guidance (NPPG) (March 2014). The NPPF sets out the Government's planning policies and its aims to secure sustainable development in a timely manner. The role of the planning system is seen as contributing towards sustainable development which creates three overarching mutually dependant roles of the planning system namely economic, social and environmental. In this context the NPPF sets out 12 core land-use principles which should underpin both plan making and decision taking. Of particular relevance to this proposal is being plan-led, proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving places that the country needs and conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. Local planning authorities should set out in their local plan a positive strategy form the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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Section 13 of the NPPF addresses the need to facilitate the sustainable use of minerals where under paragraph 142 it states *‘Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite resource and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.’*

Paragraph 144 gives advice to planning authorities on what they should take into account when determining applications. This includes the need to give great weight to the benefits of the mineral extraction, including the economy.

In facilitating the delivery of these roles and objectives the NPPF requires that local planning authorities should look for solutions rather than problems. Local planning authorities are therefore expected to work proactively with applicants to secure development that improves the economic, social and environmental conditions of the area in a sustainable manner. Local planning authorities should therefore now approach decision-making in a positive way to foster the delivery of sustainable development with decision takers at every level seeking to approve applications for sustainable development.

21. **National Planning Policy Guidance (NPPG) (March 2014):** Includes a section on Transport Assessments (TA) which are ways of assessing the potential transport impacts of developments (and they may propose mitigation measures to promote sustainable development. Where that mitigation relates to matters that can be addressed by management measures, the mitigation may inform the preparation of Travel Plans). TAs primarily focus on evaluating the potential transport impacts of a development proposal. TAs may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts.

The NPPG sets out key principles that should be taken into account in preparing a TA. It advises that TAs should be proportionate to the size and scope of the proposed development to which they relate and build on existing information wherever possible and be tailored to particular circumstances. In general, TAs should be based on normal traffic flow and usage conditions, including the need to consider the implications for any regular peak traffic and usage periods.

22. **Kent Minerals and Waste Local Plan (KMWLP) 2013-2030 (July 2016):** As set out in the NPPF the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF requires that policies in local plans should follow the presumption in favour of sustainable development. The KMWLP is therefore founded on this principle where policy CSM 1 gives support where, when considering mineral related developments, the Council will take a positive approach that reflects the presumption in favour of sustainable development as set out and supported by national policy.

Policy DM 1 recognises the need to ensure that minerals developments are designed to minimise the impact upon the environment and Kent’s communities. Policies DM 5 and 6 support proposals which help protect the county’s heritage assets and historic environment. Policy DM 12 requires the cumulative effects to be taken into account

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when assessing any mineral related proposal. Policy DM 13 requires access arrangements to be safe and appropriate to the scale of the development and that the highway network is able to accommodate the traffic flows that would be generated, as demonstrated through a Transport Assessment.

23. **Tonbridge and Malling Core Strategy (September 2007):** One of the key aims is to minimise the number and length of trips and the speed of traffic within residential and other sensitive areas. Policy CP1 relates to sustainable transport. Policy CP2 requires that where development generates a significant volume of traffic it should be compatible with the character and capacity of the highway network in terms of volume and nature of traffic generated. It also requires provision for any necessary enhancements to the safety of the highway network and capacity of the transport infrastructure.
24. **Tonbridge and Malling Managing Development and the Environment DPD (April 2010):** Policy SQ8 requires amongst other matters that before proposals for development are permitted they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. Development proposals will only be permitted they would not significantly harm highway safety and where traffic generated by the development can be adequately served by the highway network. Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.

Consultations

25. **Tonbridge & Malling Borough Council:** Is not convinced that the increase in HGV movements proposed by the variation of conditions 9 and 10 would not have an adverse impact on traffic flow on Hermitage Lane, especially at peak periods. Before any change to the conditions is agreed the Borough Council would want Kent County Council, as determining authority, to be satisfied that the increase in HGV movements would not have an adverse impact on traffic levels, air quality and also on the residential amenity of residents in the area around the quarry.
26. **Maidstone Borough Council:** The Council would expect that an independent analysis be carried out as to the likely traffic implications of the proposal, particularly an analysis of the implications for the road junctions to the north of the main site access that are already operating at a level that is over capacity. The analysis should go on to examine whether the developers should fund an improvement to those junctions.
27. **Aylesford Parish Council:** No objection
28. **Barming Parish Council:** No objection but would wish to see improvements to the junction by McDonald's on Hermitage Lane considered.
29. **Ditton Parish Council:** Have not yet responded
30. **East Malling & Larkfield:** Have not yet responded
31. **Kent Highways & Transportation (KHT):** Initially requested additional

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information/clarification on a number of matters including observed traffic flows into and out of the quarry along with the modelled growth in predicted traffic levels having regard to future traffic generated by committed and future developments in the area. Also requested details of a proposed monitoring regime with accurate records of HGV traffic associated with the quarry and how this would be provided to the County Council. Given that observed traffic flows into and out of the site indicate that the number of HGV movements exceed the current limits it is important that a monitoring regime is implemented which can monitor movements on an hourly basis.

On the basis of further information subsequently submitted in support of the proposal in response to KHT's request, concerns raised previously regarding future traffic growths have now been satisfactorily addressed. Also draw attention to future planned improvements to M20 junction 5 which are to be provided in 2018/2019 together with improvements to the junction of Hermitage Lane/retail access which are planned for delivery this summer.

Concludes that it is clear from the additional information provided that the increase in HGV movements arising from the proposed variation to the planning conditions will not lead to any significant impact on the existing highway and does not therefore wish to raise objection.

32. **Highways England:** Initially raised concern about the impact of the proposal on M20 junction 5 and therefore requested additional information relating to the potential impact, including consideration of queues and delays, to allay their concerns. In response the applicant submitted additional information by way of modelling of the M20 junction 5 which used as a baseline 2017 Traffic Capacity Modelling to predict the 10 year horizon to 2027 and which took account of traffic levels generated from future committed development in the area.

Following the receipt of further information to assess the potential impacts on the M20 junction 5, are now satisfied that the proposals will not severely affect the safety and/or operation of the Strategic Road Network and therefore raise no objection to the proposal subject to an appropriate HGV movement monitoring regime being implemented as requested by KHT.

33. **Amey – Air Quality:** Provisionally agreed with the conclusion that trips arising from the proposal would result in negligible impacts on annual Mean NO₂ and PM₁₀ concentrations. Furthermore, also agreed that potential air quality impacts relating to the proposal would be imperceptible to low at all modelled receptors in accordance with the Kent and Medway Air Quality Partnership (KMAQP) Air Quality and Planning Technical Guidance. However requested minor clarifications resulting from their review of the Air Quality Assessment submitted in support of the application in respect of Significance criteria and model inputs.

With the benefit of additional information submitted by the applicant in response to Amey's request, Amey confirmed in their opinion the Air Quality Assessment was robust. They also indicated that with regard to an Air Quality Report commissioned on behalf of the New Allington Action Group, in their opinion the conclusion it reached that the annual average air quality objective was exceeded was not valid based on the data it collected and assessed.

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34. **Amey – Noise:** After reviewing the Transport Assessment agree that the noise increase due to the increase in HGV movements along Hermitage Lane will be somewhere in the region of 1 and 3dB. In accordance with the Design Manual of Roads and Bridges (DMRB) HD 213/11 Noise and vibration (which is considered to be the relevant guidance in the case of HGV movements) an increase in the region between 1 and 3dB is a minor impact in the short term becoming negligible in the long term. Therefore the increase in HGV movements is likely to result in an adverse effect in the short term which will become neutral in the long term. This would be the case for both the increase in HGV movements and for the earlier start at 0630 hours within a period (from 0630 to 0700 hours) which is usually considered night-time. On the basis that the proposal would result in non-significant adverse effects in the short term that will become neutral in the long term, consider in terms of noise that the proposal is in line with the NPPF.
35. **Environment Agency (Kent Area):** Ongoing permitting discussions are taking place and have no comments or objections to make on the planning application.

Local Members:

36. The local County Members Mr Peter Homewood, Mr Dan Daley and Mr Rob Bird were notified of the application on 16 January 2017.
37. Mr Rob Bird has commented that although the application lies outside of his division it has a significant potential impact on West Maidstone residents as many of the local roads and junctions already suffer acute congestion. The situation is particularly bad at the northern end of Hermitage Lane, both at the Preston Hall traffic lights and the lights serving the the new retail park and drive-thru restaurant. Although Kent Highways advised that mitigation measures were proposed for this additional traffic, none of these works have been commenced to his knowledge and he is not aware of any proposed start date.

Whilst he is aware of the economic benefits of the quarry and associated workings at the quarry site, residents in his division are frustrated by the current traffic problems and rightly concerned that this application may exacerbate the situation.

He believes it is possible to mitigate against some of the increased traffic and is well aware of the applicants' genuine desire to work with Kent Highways on this. However, he has seen no formal assessment of the application from Kent Highways. Until he sees a formal response from Kent Highways and a firm commitment and timetable for the necessary highways works he is unable to express an opinion about the application.

38. Mr Dan Daley has also responded that he shares the comments expressed by Mr Bird.
39. Mr Peter Homewood has not to date made any comments.

Publicity

40. The application was publicised by the posting of a site notice and an advertisement in a local newspaper.

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Representations

41. In response to the publicity, three separate representations have been received from the New Allington Action Group (NAAG) who, upon their request, were formally notified of the application when it was first submitted. One of their representations included an Air Quality Report commissioned on their behalf which concluded based on a survey undertaken over a two week period between 7 to 21 November 2016 along Hermitage Lane, that the annual air quality objective was exceeded in 2016. The key points raised by NAAG can be summarised as follows:
- The proposed number of HGV movements are too high and are not sustainable
 - The proposals put forward would not mitigate the impact on the road network and air quality
 - The Air Quality Assessment submitted in support of the proposal is not relevant
 - When the Secretary of State granted the latest permission for the quarry the proposed new house building on Hermitage Lane had not begun. With over 2,150 homes on Hermitage Lane having the benefit of planning permission which includes a primary school opposite the quarry site entrance and a principle access road for 500 new homes together with a designated cycle route along the length of Hermitage Lane, this is a major pollution health risk for pedestrians, children and cyclists alike.
 - The applicant should be required to submit details of HGV movements showing all daily and peak hour movements. The original vehicle restrictions should be reinstated.

Discussion

42. In considering this proposal regard must be had to Government policy and guidance together with the Development Plan Policies outlined in paragraphs (19) to (24) above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore the proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations arising from consultation and publicity. In my opinion, the key material planning considerations in this particular case can be summarised by the following headings:
- Traffic
 - Air Quality
 - Noise
 - Local Amenity

Traffic

43. Hermitage Quarry first became operational in 1990 and has therefore been in existence in excess of 25 years, during which time as referred to in paragraphs (2) and (3) above, the site has become well established in the local area where it has provided an increasing range of products demanded by its customers. In this respect it has also played an increasingly important role in the county's local economy. Served by a dedicated access off Hermitage Lane the site is well positioned to take advantage of

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the primary route network which includes both the A20 London Road to the north together with the M20 which is gained access from junction 5 located approximately 1½ Km to the north east of the site entrance via the Coldharbour Roundabout.

44. The company's success has inevitably meant that what was originally a relatively low key operation where during the early stages of quarrying the materials produced had at that time a relatively limited market, levels of production have since significantly increased as the site has been able to deliver a much greater range of materials and along with it an associated increase in the number of HGV movements to and from the site. Whilst by maximising the full exploitation of the mineral resource at the site to its full potential is fully consistent with the principles of sustainable development as advocated by the NPPF, the applicant recognises that this also needs to be carefully weighed against other impacts that may derive from this including impacts from HGV movements on the local route network. To ensure that they are able to continue to serve the needs of their customers into the future the applicants have been forced to review and assess their operations, particularly in the context of their latest permission granted by the Secretary of State which provided a further 25 years of additional reserves at the site.
45. The applicants accept that they have been generating HGV movements to and from their site in excess of those permitted over the past 3-4 years. During that time up until some 15 months ago I was not aware of any particular issues regarding traffic congestion along Hermitage Lane and the surrounding route network which could have arguably been directly attributable to the quarrying operations. This was the time when in January 2016 the NAAG first drew my attention to a survey they had undertaken at the site entrance of HGV movements in April the previous year, complaining that the current HGV restrictions were being exceeded in breach of the planning permission. The complaint from NAAG was made at the time permission had also then recently been granted for new housing development off Hermitage Lane and who raised concerns over what additional congestion this would cause once this development was completed. NAAG asserted that in their view the traffic delays and adverse impacts on air quality along Hermitage Lane encountered at that time was being seriously affected by the number of HGV movements from the quarry exceeding the restrictions imposed.
46. Following the NAAG complaint the County Council, including planning and highway officers, have since been in discussion with the applicants and their consultants in order to try and seek a solution which will not only allow the quarry to continue operating at its current level which is consistent with that which has occurred over the past few years, but will also ensure that there are no adverse impacts on either the highway, air quality or from noise.
47. In support of their proposals the applicants have developed a strategy based on a TA, for managing their HGV movements in the future in the least impactful way, recognising that this will also need to take into account potential impacts on other road users as well as addressing the adverse impacts they are currently suffering on their own business as a result of the current congestion along Hermitage Lane. They draw particular attention to problems that Hermitage Lane is currently suffering due to the inadequacies in the highway resulting from the new retail developments which have taken place at the junction with the A20. However, they are aware that a relatively modest scheme is being proposed by KHT to improve this junction that would largely address these congestion problems which could be implemented over a relatively

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short period in the near future. KHT have since confirmed that these improvements are due to be delivered this summer along with other improvements to M20 junction 5 which are to be provided in 2018/2019.

48. The applicants have sought to put into context the level of traffic generated by existing and future committed housing developments recently approved in the area compared to the levels of HGV traffic proposed from the quarrying operations. They have assessed that the level of increase from their operations would be between 5% and 10% of the total traffic forecast to be generated from the committed housing development. Furthermore, when this increase is compared to the existing traffic flows along Hermitage Lane, during the morning peak period HGV movements from the quarry site would represent less than 1% of all traffic movements along Hermitage Lane which the applicant considers is de minimis and well below the typically daily traffic fluctuations.
49. KHT have since confirmed following the submission of the additional information they requested in respect of current traffic flows in and out of the quarry together with the modelled growth of traffic from committed and future recently permitted developments in the area, that the proposed increase in HGV movements from the Hermitage Quarry operations will not lead to any significant impact on the existing highway network and accordingly do not raise any objection. However, given that the observed number of current HGV movements exceed the existing restrictions, they consider it is important that a monitoring regime is implemented which can monitor future movements to and from the site on an hourly basis. The applicants have confirmed they would be happy to provide a permanent Automatic Traffic Counter at the site and would welcome further discussion with the County Council on the periodic presentation of traffic data. On this basis I would recommend that any future permission includes a condition requiring the submission of the details of a proposed HGV movement monitoring scheme at the site for the formal approval of the County Planning Authority.
50. With regard to the additional information requested by Highways England, whilst raising initial concerns over the existing and future operating capacity of the M20 junction 5, on the basis of the additional information submitted by the applicants which sought to address these, and which included modelling of the existing operational capacity of the M20 junction 5 together with its predicted future capacity taking account of planned and committed growth in the area, they raise no objection to the proposal. However, they share the views of KHT in respect of the need for an appropriate HGV movement monitoring scheme to be implemented at the site.
51. On the basis of the comments made by KHT and Highways England I do not consider there are any overriding objections to the proposal on the grounds of adverse impacts to the highway network.

Air Quality

52. Objections have been received from the NAAG in respect of what they consider to be unacceptable adverse impacts on air quality caused by vehicle exhaust emissions and who consider that the traffic delays and air quality in Hermitage Lane is seriously affected by the vehicle movement restrictions being exceeded at the Hermitage Quarry site. They have commissioned an Air Quality Report which concludes that over a two week period between 7 to 21 November 2016 the annual air quality objective was

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exceeded in 2016. In response to this claim the applicants argue that given the monitoring results were taken over a 2 week monitoring period it would not therefore be comparable against the Annual Objective and that Defra Guidance recommends a minimum of 6 months monitoring which would then need to be annualised to be comparable against the annual Air Quality objective. Amey, the County Council's Air Quality Advisor concur with this view stating *'this is only a two week survey and the longer the survey the better to allow for fluctuations in NO2 concentrations which occur during the year. For sample periods less than 9 months the data must be 'annualised' to convert them to an equivalent average for the year. Only then can these be compared to the annual average of 40ug/m3. The other issue is that the lab reports do not show any evidence of bias correction having been completed on these tubes which is required to remove inaccuracies where the tubes over or under predict compared to a reference automatic analyser. I therefore agree that the conclusion that the average air quality objective was exceeded in 2016 is not valid based on these data.'*

53. With regard to the Air Quality Assessment undertaken on behalf of the applicants which assessed potential impacts from both dust and vehicle exhaust emissions, Amey confirm that in their opinion the methodology employed was robust. They agree with the conclusions that vehicle trips arising from the proposal would result in negligible impacts on the annual mean NO2 and PM10 concentrations. They also agree that potential air quality impacts relating to the proposal would be imperceptible to low at all modelled receptors in accordance with the KMAQP Air Quality and Planning Technical Guidance. With regard to dust they agree with the conclusion that dust impact risk is likely to be negligible and that dust disamenity effects will not be significant with the proper implementation of best practice control measures.
54. Having regard to the above advice from the County Council's Air Quality consultant Amey, I do not consider there are any overriding objections to the proposal on grounds of adverse air quality impacts.

Noise

55. Whilst no objections have been raised on noise grounds the applicants have submitted in support of their proposal a separate Noise Assessment (NA). The NA concludes that a 50% increase in HGV traffic over the working day would result in an increase in the noise level of 1.8dB which is not considered significant. The County Council's Noise Consultant Amey, concurs with this view who consider in terms of noise the proposal is consistent with guidance set out in the NPPF. Accordingly I do not consider there are any overriding objections to the proposal on noise grounds.

Local Amenity

56. I am satisfied that having regard to advice from technical consultees including KHT and Amey, there would not be any additional impacts on local amenity as a result of the proposal. In addition to the conditions the applicants are seeking to vary there are other conditions imposed on the permission along with conditions imposed on all of the other permissions relating to the overall quarry complex which control operations. These include amongst other matters measures to control noise and dust. Accordingly I do not consider there are any overriding objections to the proposal on amenity grounds.

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Conclusion

57. Hermitage Quarry has become well established over the past 27 years since it first became operational in 1990, during which time it has continued to serve local markets and therefore makes a valuable contribution to Kent's economy. It also helps provide employment both directly at the site together with secondary employment opportunities to those companies and individuals who utilise their products. The importance of the site was most recently recognised by the Secretary of State in his decision to grant permission for a major extension to the existing quarry providing for some 25 years worth of additional reserves of material.
58. The applicant's success in developing operations at the site since quarrying first commenced which has now led to a much greater range of products being produced has inevitably meant that output has substantially increased over the years and along with this a stepped increase in the number of associated HGV movements to and from the site. The applicants accept that in more recent years this has meant that the original restriction imposed on HGV movements are now being exceeded. This current proposal seeks to address this by way of increasing the number of currently permitted peak and daily HGV movements and also by allowing vehicles pre-loaded at the site at the end of the previous working day to leave the site at 0630 hours as oppose to 0700 hours which currently applies.
59. Notwithstanding concerns which have been raised over the potential adverse impacts from congestion and on air quality which the applicants have recognised is an important consideration in the determination of the application, they also draw attention to the fact that it is also in their business interest to ensure that they can continue to meet the demands of their customers in the most efficient way in the interest of the local economy. In my opinion this also represents a significant material consideration which has to be weighed against any adverse impacts.
60. In consultation with the County Council the applicants have developed a strategy which in their view would lead to a satisfactory solution which would be to the overall benefit of all parties concerned.
61. Following formal consultations I am mindful that notwithstanding objections which have been raised by the NAAG on traffic impacts and air quality grounds, technical consultees have not raised any objections subject to the imposition of the measures proposed by the applicants to reduce the impacts of their proposal to an acceptable level. On this basis when weighed against the important role the site has to date played in Kent's economy and which the applicants are hoping will continue into the future, in my opinion on balance there is an overriding need to accommodate the request which in effect seeks to align HGV movements to and from the site consistent with the levels at which the site has been operating over the past few years, along with an increase in the hours during which pre-loaded HGVs are permitted to leave the site. Accordingly, I recommend that permission be granted in such terms as set out under paragraph (62) below.

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Recommendation

62. I RECOMMEND that PERMISSION BE GRANTED to the proposed variations to conditions (9) and (10) of Annex A2 of planning permission TM/10/2029 in order to allow increased HGV movements and pre-loaded HGVs to leave the site from 0630 hours SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

- Highest average daily number of HGV movements both entering and leaving the site during any one calendar month excluding non-working days nor exceeding 600 movements per day;
- The number of HGV movements on any single day not exceeding 150 movements, of which a maximum of 50 movements should take place in the one hour period 0630 to 0730, 45 movements in the one hour period 0730 to 0830 and 55 movements in the one hour period 0830 to 0930;
- In the period 0630 to 0700 only HGVs pre-loaded the previous evening will be permitted to leave the site (i.e. there will be no other activity);
- During the evening peak period of 1600 to 1800 hours, the maximum number of HGVs entering and leaving the site not exceeding a combined total of 50 movements;
- The submission and approval of details of a permanent HGV movement monitoring scheme which shall record movements on an hourly and daily basis.

Case Officer: Mike Clifton

Tel. no: (03000)413350

Background Documents: see section heading

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

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

Background Documents - The deposited documents.

- GR/15/1192/R5,6&7 Details pursuant to conditions of planning permission GR/15/1192 - improvement and enhancement of existing waste transfer site by erection of a replacement building to provide covered working area and ancillary site improvements together with retrospective provision for trommel, picking station and wall, (Condition 5 - Materials, 6 - Archeological Watching Brief and 7 - Contamination Watching Brief) Apex Business Park, Unit 4, Queens Farm Road, Shorne, Gravesend, Kent, DA12 3HU
Decision: Approved
- SW/10/444/RB Non-material amendments to site layout, building footprints, elevations and appearance of planning permission SW/10/444. Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD
Decision: Approved
- SW/10/774/RB Non-material amendment to approved site layout in respect of wind breaking fence, cover over incinerator bottom ash loading area and drainage buffer tank of planning permission SW/10/774. MVV Environment Ridham, Lord Nelson Road, Ridham Dock, Iwade, Kent, ME9 8FQ
Decision: Approved
- SW/11/1291/R Non material amendment to site layout and elevations of planning permission SW/11/1291. Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD
Decision: Approved
- TM/10/2029/RVARB Request for prior approval to relocate the transport workshop and HGV parking area from little Preston to the existing quarry; relocation of the existing offices and weighbridge facilities to the quarry working area; masonry workshop building; manufactured aggregate recycling facility pursuant to condition 26 of Annex A2 (Original Quarry) of planning permission TM/10/2029 and revised restoration/phasing in the western extension area to allow for the relocated water storage lagoon pursuant to condition 3B (Annex A1) and 2B (Annex A2 to A4) of planning permission TM/10/2029 granted by the secretary of state on 11 July 2013. Hermitage Quarry, Hermitage Lane, Aylesford
Decision: Approved

TM/17/501166 Section 73 application to vary condition 3 of planning permission TM/07/4294 (western extension), conditions 3A & 3B (Annex A1) and 2A & 2B (Annex A2 to A4) of planning permission TM/10/2029 granted by the Secretary of State on 11 July 2013 to allow the transport workshop at Little Preston to be re-located to Hermitage Quarry and a consequential amendment to the approved working and restoration scheme in relation to the Hermitage Quarry western extension area.
Hermitage Quarry, Hermitage Lane, Aylesford, Kent, ME20 7PX
Decision: Permitted

E2 COUNTY COUNCIL DEVELOPMENT APPLICATIONS AND DETAILS PURSUANT PERMITTED/APPROVED UNDER DELEGATED POWERS MEMBERS' INFORMATION

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

Background Documents – The deposited documents.

- AS/15/648/R14&15 Details of a detailed sustainable surface water drainage scheme and the implementation, management and maintenance of the SUDS scheme pursuant to conditions 14 & 15 of planning permission AS/15/648
Land at Finberry Village, Mersham, Ashford, Kent
Decision: Approved
- DO/16/229/R9 Application to discharge condition 9 (Pond & ecological management plan) of planning permission DO/16/229
Aylesham Primary School, Attlee Avenue, Aylesham, Kent, CT3 3BS
Decision: Approved
- MA/16/503892/R4, 5 & 11 Details of external lighting, a scheme of landscaping and tree planting and an ecological management plan pursuant to conditions 4, 5 and 11 of planning permission MA/16/503892.
Headcorn Primary School, Kings Road, Headcorn, Ashford
Decision: Approved
- MA/16/507442/R Non-material amendment to relocate the proposed Arts Block building 700mm to the west
Maidstone Grammar School, Barton Road, Maidstone, Kent, ME15 7BT
Decision: Approved
- MA/16/507442/R3 Details of external materials pursuant to condition 3 of planning consent MA/16/507442
Maidstone Grammar School, Barton Road, Maidstone, Kent, ME15 7BT
Decision: Approved

MA/16/507442/R7	<p>Details of ecology enhancement measures (bat and bird boxes) pursuant to condition 7 of planning consent MA/16/507442 Maidstone Grammar School, Barton Road, Maidstone, Kent, ME15 7BT Decision: Approved</p>
MA/16/507442/R9	<p>Details of Archaeological Watching Brief pursuant to condition 9 of planning consent MA/16/507442. Maidstone Grammar School, Barton Road, Maidstone, Kent, ME15 7BT Decision: Approved</p>
MA/16/507442/R11	<p>Details of Construction Management Plan pursuant to condition 11 of planning consent MA/16/507442 Maidstone Grammar School, Barton Road, Maidstone, Kent, ME15 7BT Decision: Approved</p>
SE/14/13/RC	<p>Application for a non-material amendment; various minor changes to the fenestration, elevation details, and sports hall material palette Knole (east) Academy, Seal Hollow Road, Sevenoaks, Kent, TN13 3SN Decision: Approved</p>
SE/17/377	<p>Planning renewal of existing modular classroom building Weald Community Primary School, Long Barn Road, Weald, Sevenoaks, Kent, TN14 6PY Decision: Permitted</p>
SW/17/500868	<p>Provision of a 4 classroom (10 bay modular unit) incorporating toilets and store rooms. To directly replace 3 number timber framed and clad buildings, that are beyond economical repair. Speech & Language Centre, Adj Minterne Community Junior School, Minterne Avenue, Sittingbourne, Kent, ME10 1SB Decision: Permitted</p>
SW/17/501267	<p>Repair and improvements to existing veranda to front of school, including new steps and ramped access to improve accessibility, raising height of veranda wall and installation of railings to undercroft Queenborough Primary School and Nursery, Edward Road, Queenborough, Kent, ME11 5DF Decision: Permitted</p>
TM/17/349	<p>Renewal of planning consent for modular classroom building (retrospective application) St Stephen's (Tonbridge) Primary School, Royal Rise, Tonbridge, Kent, TN9 2DQ Decision: Permitted</p>
TW/17/629	<p>Erection of two steel framed canopies to form a covered dining area and a covered area for queuing/walkway Tunbridge Wells Grammar School For Girls, Southfield Road, Tunbridge Wells, Kent, TN4 9UJ Decision: Permitted</p>

E3 TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 – SCREENING OPINIONS ADOPTED UNDER DELEGATED POWERS

Background Documents –

- *The deposited documents.*
 - *Town and Country Planning (Environmental Impact Assessment) Regulations 2011.*
 - *The Government's Online Planning Practice Guidance-Environmental Impact Assessment/Screening Schedule 2 Projects*
- (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/AS/0018/2017 - Renewal of Planning permission AS/13/556 for mobile accommodation currently being used by Stepping Stones Nursery for a further period of 5 years.
Wittersham CEP School, The Street, Wittersham, Tenterden, Kent, TN30 7EA
- KCC/MA/0049/2017 - Planning application for use as a Non-Hazardous Waste Recovery Facility.
Cleansing Service Group Ltd, Cobtree House, Forstal Road, Aylesford, ME20 7AG
- KCC/SE/0062/017 - Extending the existing infant block and school house due to existing accommodation being deficient in key areas
Weald Community Primary School, Long Barn Road, Weald, Sevenoaks, Kent, TN14 6PY
- (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

E4 TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 – 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) Regulations 2011.*
- *The Government's Online Planning Practice Guidance-Environmental Impact Assessment/Preparing an Environmental Statement*

KCC/TM/0016/2017 - Request for a Scoping Opinion to determine the extent of an Environmental Impact Assessment (EIA) required in support of a planning application for the permanent retention of the Allington Waste to Energy Facility.

Allington Waste Management Facility, Laverstoke Road, 20/20 Business Park, Allington, Maidstone, Kent, ME16 0LE

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