

SECTION C
MINERALS AND WASTE DISPOSAL

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

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AS/10/294, AS/10/295 & AS/10/46–Temporary extension of time for the retention of the existing Rail Aggregate Depot, extension of time for the implementation of planning permission AS/06/5 (Expansion of existing Rail Aggregate Depot) & variation of condition (4) of planning permission AS/06/5 to allow peak hour lorry movements, Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

A report by Head of Planning Applications Group to Planning Applications Committee on 15 June 2010.

AS/10/294 – Application to vary condition (1) of Planning Permission AS/02/645 to extend the period for the retention and operation of the existing Rail Aggregate Depot until 8 May 2014.

AS/10/295 – Application to extend the timescale for the implementation of Planning Permission AS/06/5 (expansion of the existing Rail Aggregate Depot) until 8 May 2014.

AS/10/46 – Application to vary condition (4) of Planning Permission AS/06/5 to allow a restricted number of peak hour lorry movements to and from the site. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford (MR. 921 674)

Recommendation: Permission BE GRANTED subject to conditions and legal agreement.

Local Member: Mr G Koowaree and Mr A Wickham

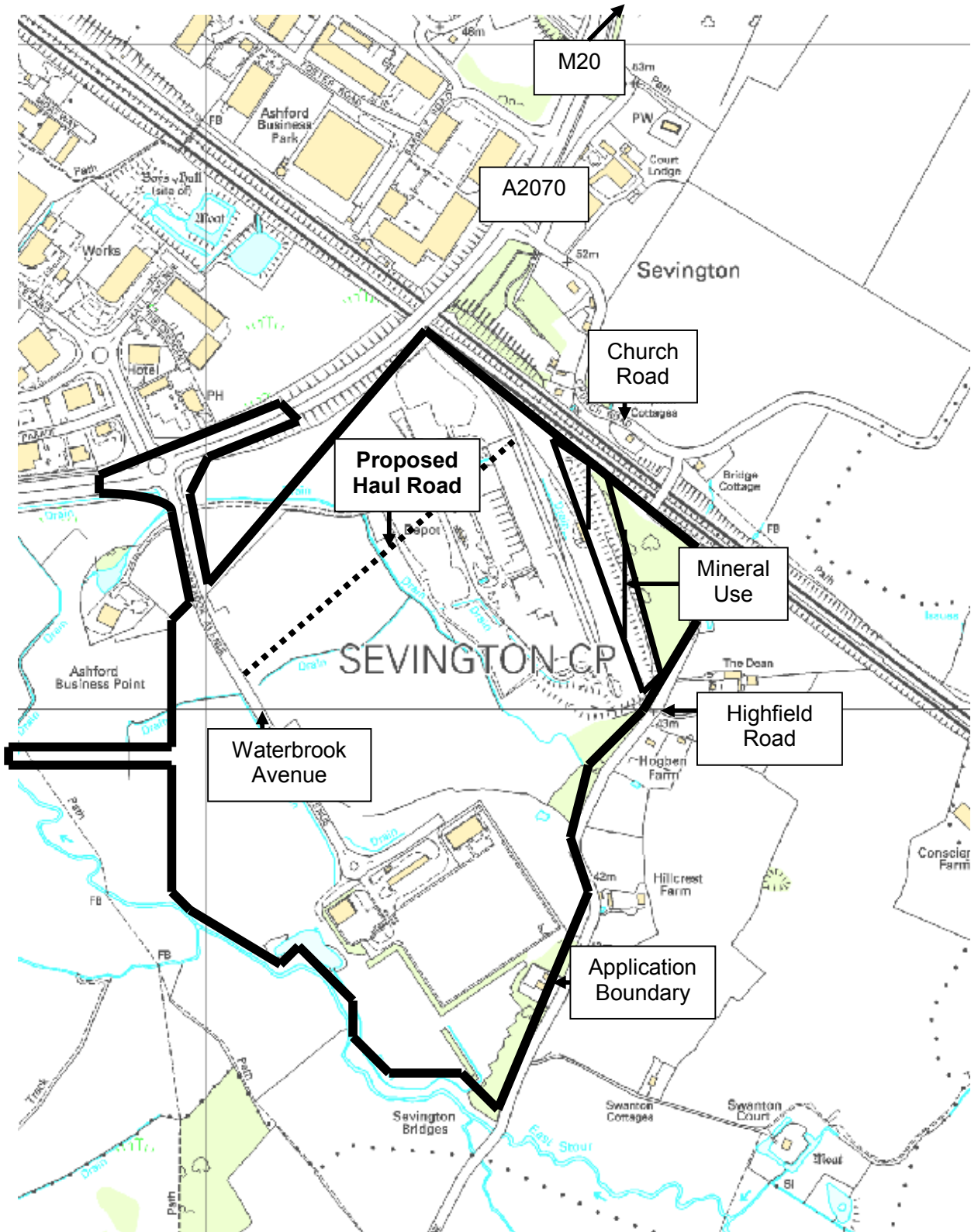
Classification: Unrestricted

The Site and Background

1. The site lies some 3 miles to the south east of Ashford Town Centre and approximately 1 mile south west of junction 10 of the M20. With the exception of the existing Rail Aggregate Depot the remainder of the site which is yet to be expanded under the terms of the latest permission (Ref. AS/06/5) remains predominantly a mixture of agriculture and scrub land.
2. The nearest housing lies some 80 metres off the northern and south eastern site boundaries along Church Road and Highfield Road which are partly screened from views directly into the site by an existing belt of trees and a substantial bund at the southern end. Those along Church Road are further segregated by the main London to Dover rail line and the CTRL whose 4.5 metre high wooden sound barrier also serves to help screen the site along this boundary.
3. At the meeting of the Planning Applications Committee held on 13 February 2007, following an earlier site visit, members resolved to grant permission (Ref. AS/06/5) for the permanent retention and expansion of the existing Rail Aggregate Depot at the site subject to amongst other matters a condition requiring the implementation of the permission no later than 8 May 2011. The permission was also subject to a separate Legal Agreement which sought to secure the eventual cessation of certain operations at the applicants' nearby site at

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Conningbrook Quarry as they become replaced by those at Sevington as part of the proposals to expand the site.

4. Pending the implementation of the latest permission at Sevington, the existing Rail Depot has continued to operate under a temporary permission (Ref. AS/02/645), which is also currently due to expire on the same date by which the latest permission to permanently expand operations has to be implemented (i.e. 8 May 2011). The existing Rail Depot was originally developed in 1987 to provide aggregates initially for the construction of the Channel Tunnel and whose permission was then subsequently extended to provide similar facilities for the CTRL. Having become an established site it has since become an important strategic location for the distribution of aggregates onto the open market and this is reflected in the relevant development plan policy support which safeguards the site for such uses.

Proposals

5. Subsequent to the grant of the latest permission to expand the site at Sevington the applicants claim the economic recession has resulted in an unprecedented fall in the demand for aggregates nation-wide and in their opinion there is no evidence to suggest that the markets will return to normal at least in the immediate term. For this reason it is not currently economically viable for them to implement their latest permission to expand their existing facility at Sevington until such times as market conditions become more favourable and which in their view is most likely to be after the permission is due to expire. In order to keep this permission live the applicants have therefore formally applied to extend the date by which it has to be implemented for a further 3 years until 8 May 2014 (Ref. AS/10/295).
6. Meanwhile, in order to maintain continuity of the supply of aggregates from Sevington pending the planned expansion of the site, the applicants have also separately sought to temporarily extend the permission under which their existing operations take place also until 8 May 2014 (Ref. AS/10/294). The rationale being that by this date the permission to expand the operations would have then been implemented.
7. Condition (4) of Planning Permission AS/06/5 currently places a peak hour restriction on lorry movements to and from the site until such times as improvements to junction 10 of the M20 take place together with the completion of new junction 10a. This restriction also applies in respect of proposed junction improvements where Waterbrook Avenue enters on to the A2070. Condition (4) states 'All vehicles shall only enter and leave the site between 0700 to 0800 hours and 0900 to 1700 hours Mondays to Fridays and 0700 to 1300 hours on Saturdays. The condition was imposed as a result of comments made by the highways Agency on the original planning application who considered such a restriction necessary in recognition of the limited capacity at junction 10 of the M20 and on the A2070 Trunk Road.

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8. The applicants claim that the peak hour restriction on lorry movements is both commercially and practically unacceptable. They argue that the period during which lorries would be restricted from entering and leaving the site, particularly those during the morning period between 0800 and 0900 hours associated with the proposed Ready Mix Concrete Plant, is normally the time during which deliveries are made from such operations. Furthermore, they claim the first constraint to the movement of lorries during peak hours (i.e. interim improvements to M20 junction 10 have now been completed since the permission was granted.
9. In order to ensure when implemented that the proposed expanded facility would be commercially viable the applicants have submitted an application (Ref. AS/10/46) to formally vary condition (4) of planning permission AS/06/5 such that between the hours of 0800 and 0900 Monday to Fridays and 1700 and 1800 Mondays to Fridays no more than 15 lorry movements shall enter or leave the site during each of these periods. In support of their application they argue that the number of vehicle movements proposed during these hours is equivalent to those that are currently being generated from their site at Conningbrook whose vehicles also use junction 10 and the A2070. Therefore when operations transfer from Conningbrook to Sevington this would not result in any net increase in lorry movements which are already using the network.

National, Regional and Development Plan Policy

10. **Minerals Policy Statement 1 (MPS 1) 'Planning and Minerals'** gives recognition to the essential role minerals play in the nations prosperity and quality of life and the need therefore to ensure an adequate supply of material to provide the infrastructure, buildings and goods that society, industry and the economy needs. With this principle in mind it advises that mineral planning authorities should therefore aim to provide a framework for meeting such needs whilst seeking to avoid any detrimental effects on the environment through appropriate mitigation. Particular emphasis is given towards the need to safeguard existing, planned and potential railheads and associated storage, handling and processing facilities for the bulk transport by rail of aggregates.
11. **The South East Plan (May 2009) Policy M5;** requires mineral planning authorities to assess the need for rail facilities and to identify strategic sites for safeguarding in their minerals development frameworks. This also requires the safeguarding of existing sites from inappropriate development. In undertaking this assessment mineral planning authorities are required to consider the capacity to supply imported material into the region and also proximity to markets.

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(NB: The Secretary of State for Communities and Local Government has recently announced his intention to abolish Regional Strategies and return decision making powers on planning to local councils. He will be making a formal announcement on this soon. Meanwhile he has stated that he expects local planning authorities to have regard to his announcement as a material consideration in any decisions they are currently taking. However, until there is clear policy advice, in my opinion in considering this proposal the South East Plan remains part of the development plan and regard should therefore still be had to it along with other relevant government guidance and development plan policies together with emerging policy).

12. Kent Minerals Local Plan for Construction Aggregates December 1993;

- Policy CA1:** Requires that proposals for Rail Depots should have no adverse impact on the road network and avoid residential areas.
- Policy CA3:** Proposals for depots to receive aggregates requires that they do not adversely affect local features of identified importance and can be operated consistent with the criteria set out in policies CA16 to 26.
- Policy CA4:** Identifies Sevington as being suitable in principle as an import point for construction aggregates.

The Core Minerals Strategy Development Plan Document. Primary Mineral Development Control Policies Development Plan Document. Construction Aggregates Development Plan Document.

13. Once adopted these documents, which constitute Development Plan Documents (DPD), will form the Kent Development Framework. Their draft policies seek to develop the Government's objectives for minerals planning. As these documents progress towards formal adoption the extent to which they represent a material consideration will gain in weight. Consistent with the objectives of the existing development plan policies, and having regard to these applications the Construction Aggregates DPD makes specific reference to the site in so far as it recognises this relates to an existing planning permission for the importation of construction aggregates and which will therefore need to be protected from development that would prejudice its continued operation.

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Ashford Borough Council Core Strategy July 2008.

14. Identifies strategic locations at the edge of Ashford which are aimed at meeting Ashford's role as a growing sustainable community and where at Waterbrook Park mixed uses of employment are proposed.

15. Consultations

Ashford Borough Council: Raise no objection in principle subject to the imposition of appropriate conditions to control operations and to a deed of variation to the existing Legal Agreement or a new Agreement being entered into to secure the cessation of uses at Conningbrook if this site is to be developed.

Highways Agency: No objection

Kent Highway Services: No objection

Mersham & Sevington Parish Council: Raise objections to the applications. Consider that they will result in continued uncertainty about the proposed development for residents living in close proximity to the site and feel that there have been opportunities for the applicants to develop the site before the recent recession. Also consider that the highway improvements currently required to be completed before peak hour movements are allowed should remain in force to avoid congestion on the local road network.

Local Members

16. The two local Members Mr Andrew Wickham and Mr George Koowaree were notified of the applications initially on 25 January 2010 and then on 12 March 2010. To date I have not received any written comments from them.

Representations

17. The applications were advertised in the local press and notices were posted on site. In accordance with neighbour notification procedures I also wrote to 14 properties in the surrounding area. As a result I have received one letter of representation objecting on the grounds that there would be extra noise from the operations and further stress and danger on the Orbital Roundabout and junction 10 of the M20.

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Discussion

18. Section 38 (6) of the Planning and Compulsory Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Therefore in considering these applications the policies referred to under paragraphs (10) to (14) are particularly relevant.
19. When members were minded to grant permission for the latest proposal to expand and permanently retain the existing Rail Depot at Sevington regard was had to the policy support given at both the national, regional and local level for the protection afforded to such existing facilities. Furthermore, at that time it was recognised that there were sound planning reasons for the establishment of a permanent facility at this location if the longer term growth aspirations of the town were to be realised. In my opinion this position has not changed and the site remains an important strategic location for the supply of aggregates into this part of the county.
20. Following formal consultations and publicity on the proposal, with the exception of the local parish council and a local resident no objections have been raised to the applications. With regard to the nature of these objections, firstly in terms of the potential impact on the local road network. Following extensive discussions with the Highways Agency who are responsible for advising on matters relating to Trunk Roads, they accepted that there would be no net increase in traffic deriving from the development. Therefore they have raised no objection to the proposal on highway grounds provided the proposed number of lorry movements during peak hours is controlled by condition.
21. Regarding the potential impacts from noise, in my opinion given the existing impacts to those properties located nearest to the site from the main London to Dover rail line and the CTRL and having regard to the noise levels generated from the existing traffic on the M20 and A2070, there would be no material increase in noise levels experienced at these properties as a result of the peak hour vehicle movements proposed. I do not consider therefore there are any sound planning reasons for refusing the applications on the grounds of increased noise.
22. Whilst the parish council consider that it is not appropriate to consider extending the implementation of the latest permission given the continued uncertainty this would cause to local residents about the proposed development, I would wish to draw members attention to separate government guidance that has been produced specifically in relation to how Local Planning Authorities (LPA) should consider and determine such applications. Measures have been introduced in order to make it easier for both developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. There are two principle

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changes that have been introduced which differ fundamentally from the way in which normal applications are required to be considered. Firstly, LPAs are advised to take a proportionate approach to consultation and in deciding which bodies to consult are asked to take account of who had a particular interest, or raised concerns about the proposal at the time of the original application. Linked to this, LPAs are asked to take a positive and constructive approach towards such applications, in particular they should have regard to the fact that the development proposed in an application for extending the implementation date would by definition have been judged to have been acceptable at the time at which it was first granted permission. Therefore unless there have been any material changes in circumstances LPAs would normally be expected to be supportive of such proposals. In my view as explained above in paragraph (19), there have been no material changes in circumstances since the last application was determined.

23. The existing permission for the proposed expansion and retention of the current Rail Depot is tied to a separate Legal Agreement requiring the cessation of certain operations at the applicants nearby site at Conningbrook Quarry as they are replaced at Sevington. Key clauses in the Agreement relate to an 18 month time scale within which operations are required to cease at Conningbrook upon the implementation of the permission. Given that the permission has yet to be implemented these clauses still apply. However, Legal Services have advised that should permission be granted to extend the implementation of the current permission, given that this would effectively be a new permission in its own right it would need to be tied to a new Agreement in order to ensure the County Council's position is not compromised and that the cessation of those current operations at Conningbrook which are to be replaced at Sevington can be secured. With the exception of relatively minor alterations to the wording of the Agreement involving changes to the application reference number, the new Agreement would by and large be the same as the present one. Therefore should members be minded to grant permission I would recommend that this be subject to the satisfactory completion of a Legal Agreement in order to secure the cessation of certain operations at Conningbrook Quarry as currently reflected in the existing Agreement. The applicant has agreed to these terms the details of which are set out under Appendix 1 of this report.

Conclusion

24. The site represents an important strategic location in terms of providing the key facilities necessary to meet the future demand for aggregates. In my view this is particularly important in order to meet Ashford's role as a growing sustainable community. I am satisfied that provided appropriate conditions are imposed controlling operations, there are no overriding objections to the applications which are consistent with both national and regional guidance together with the relevant development plan policies against which these types of

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developments should be considered.

Recommendation

25. I RECOMMEND that;

- (A) SUBJECT TO the satisfactory completion of a legal agreement to secure the terms set out under Appendix 1 PERMISSION BE GRANTED to Application Reference AS/10/295 to extend the time scale for the implementation of Planning Permission AS/06/5 until 8 May 2014
- (B) PERMISSION BE GRANTED to Application Reference AS/10/46 as a variation to condition (4) of Planning Permission AS/06/5 to allow no more than a combined total of up to 15 lorry movements to enter or leave the site between the hours of 0800 to 0900 Mondays to Fridays and no more than a combined total of up to 15 lorry movements to enter or leave the site between the hours of 1700 to 1800 Mondays to Fridays.
- (C) PERMISSION BE GRANTED to Application Reference AS/10/294 as a variation of Planning Permission AS/02/645 to extend the period for the retention of and operation of the existing Rail Aggregate Depot until 8 May 2014.

Case Officer: Mike Clifton 01622 221054

Background Documents: See Section Heading

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APPENDIX 1 TO ITEM C1

PROPOSED TERMS

For Agreement in connection with Planning Application AS/10/295 – to extend the time scale for the implementation of Planning Permission AS/06/5 until 8 May 2014.

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

1. The applicant shall covenant with the County Council that within eighteen months from the date of the commencement of the development , not to continue the following uses permitted at Conningbrook Quarry, Willesborough Road, Ashford, granted under:-

Planning Permission: AS/89/1389; -	Rail Aggregate Depot
-	Concrete Batching Plant

Planning Permission: AS/94/1424; -	Construction and Demolition Waste
	Recycling Facility

2. The applicant will notify the Head of Planning Applications Group of the County Council in writing 14 days prior to its intention to implement the permission.
3. Within one month of cessation of the uses in the permission referred to in 1. above the applicant shall submit to the County Council a scheme to secure the satisfactory restoration of the land.
4. The applicant to pay all the County Council's legal and professional costs incurred in the preparation and completion of the said legal agreement and the legal costs already incurred by the Head of Planning Application Group prior to the completion of the agreement.