

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

A report by Head of Planning Applications Group to Planning Applications Committee on 7 December 2010.

AS/10/1010 – Application to vary condition (1) of Planning Permission AS/06/4 to extend the timescale for the implementation of planning permission AS/06/4 (The operation of a waste transfer station) until 8 May 2014. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited. (MR. 921 674)

Recommendation: Permission BE GRANTED subject to conditions.

Local Member: Mr G Koowaree and Mr A Wickham

Classification: Unrestricted

Background

1. The application was considered by the Planning Applications Committee on the 2 November 2010 when Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO conditions in the resolution in paragraph 23 of the report attached in appendix 1 to this report. At that time the County Council determined the application on the basis that the South East Plan (May 2009) (i.e. the Regional Strategy) was no longer part of the development plan. The Secretary of State had announced that the Regional Strategies were to be revoked with immediate effect on 6 July 2010. This information had been relayed to all Local Planning Authorities by Steve Quartermain, Chief Planner, Department of Communities and Local Government in his letter of the same date.
2. As a result of the judgement in the case brought by Cala Homes in the High Court, which held that the powers set out in section 79 [6] of the Local Democracy, Economic Development and Construction Act 2009 could not be used to revoke all Regional Strategies in their entirety, Regional Strategies were re-established as part of the Development Plan on 10 November 2010. Notwithstanding this, Steve Quartermain advised Local Planning Authorities and the Planning Inspectorate on 10 November 2010 that they should still have regard to the Secretary of State's letter to Local Planning Authorities and to the Planning Inspectorate dated 27 May 2010. In that letter he had informed them of the Government's intention to abolish Regional Strategies in the Localism Bill and that he expected them to have regard to this as a material consideration in any planning decisions. Steve Quartermain also advised that: a proposed clause of the Localism Bill will enact the earlier commitment to abolish Regional Strategies; that the Bill is expected to begin its passage through Parliament before Christmas; and that this will return decision-making powers in housing and planning to local authorities.
3. He further advised that Local Planning Authorities and the Planning Inspectorate should still have regard to the above letter in any decisions they are currently taking. However, the Quartermain Letter is now being challenged in the High Court and must in my view carry very little weight until such time as the as the Court decision is known.
4. As the decision notice relating to this application had not been issued at the time of the judgement that the Secretary of State had acted beyond his powers in the revocation of the

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

Regional Strategies, it is necessary to consider whether a different conclusion would have been reached had the policies of the South East Plan been considered alongside the previously existing development plan policies when members resolved to grant permission. The 2 November committee report is attached as Appendix 1. This further report considers the impact of the South East Plan now being part of the development plan. In determining this application members should consider both reports.

5. South East Plan

- Policy CC1 seeks to achieve sustainable development in the region and identifies priorities which amongst other matters reduce greenhouse gas emissions thus ensuring the South east is prepared for the inevitable impacts of climate change.
- Policy CC2 requires local authorities, agencies and others to develop policies which help reduce the region's carbon emissions.
- Policy W16 recognises the need for facilities, such as bulking and transfer stations, to minimise travel by smaller waste collection vehicles.
- Policy W17 recognises that many facilities will need to be developed close to the source of waste and will therefore generally be close to urban areas.

Discussion

6. Members will be aware that Section 38(6) of the Planning and Compulsory Purchase 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the policies outlined in paragraph 6 above and paragraphs 6-8 of Appendix 1 are of greatest relevance. The key issue to consider as a result of the South East Plan still being part of the development plan is whether consideration of relevant policies in the Plan would lead to a different conclusion on the application to that reached at the November Planning Applications Committee.
7. The above policies help underpin the South East Plan's primary objective which is to help achieve more sustainable development by protecting the environment and combating climate change. When members were asked to consider the application at their meeting last month their attention was drawn to what the applicants considered were the advantages of being able to bulk up waste collected locally for onward transportation to the Waste to Energy Facility at Allington in terms of reducing vehicle miles and the amount of carbon emissions. These were the principle issues that were dealt with in my previous report in the context of both National Guidance and saved development plan policies within the Kent Waste Local Plan when members resolved to grant permission.

Conclusion

8. In my opinion the policies in the South East Plan as set out under paragraph 6 above add further strength to the case for permission to be granted. Accordingly in my view there are

Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

no justifiable grounds for refusal and I remain satisfied that the proposed development is in accordance with the development plan, gives rise to no material harm subject to the imposition of conditions that I would intend to attach to any permission, and there are no other material considerations that indicate otherwise. I therefore recommend accordingly.

Recommendation

9. I RECOMMEND that PERMISSION BE GRANTED to extend the timescale for the implementation of planning permission AS/06/4 until 8 May 2014 SUBJECT TO conditions covering amongst other matters; hours of working including peak hour restrictions, number of vehicle movements, landscaping and floodlighting, noise, dust and odour controls, archaeological investigations, drainage, footpath diversions, ecological mitigation, details of low energy internal lighting to be employed in the waste transfer building and details of the design of any heating to be employed within the waste transfer building prior to being installed which shall have regard to the BREEAM energy standards.

Case Officer: Mike Clifton 01622 221054

Background Documents: See Section Heading

APPENDIX TO ITEM C3

Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

Item C2

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

A report by Head of Planning Applications Group to Planning Applications Committee on 2 November 2010

AS/10/1010 Application to vary condition (1) of Planning Permission AS/06/4 to extend the timescale for the implementation of planning permission AS/06/4 (The operation of a waste transfer station) until 8 May 2014. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford (MR. 921 674)

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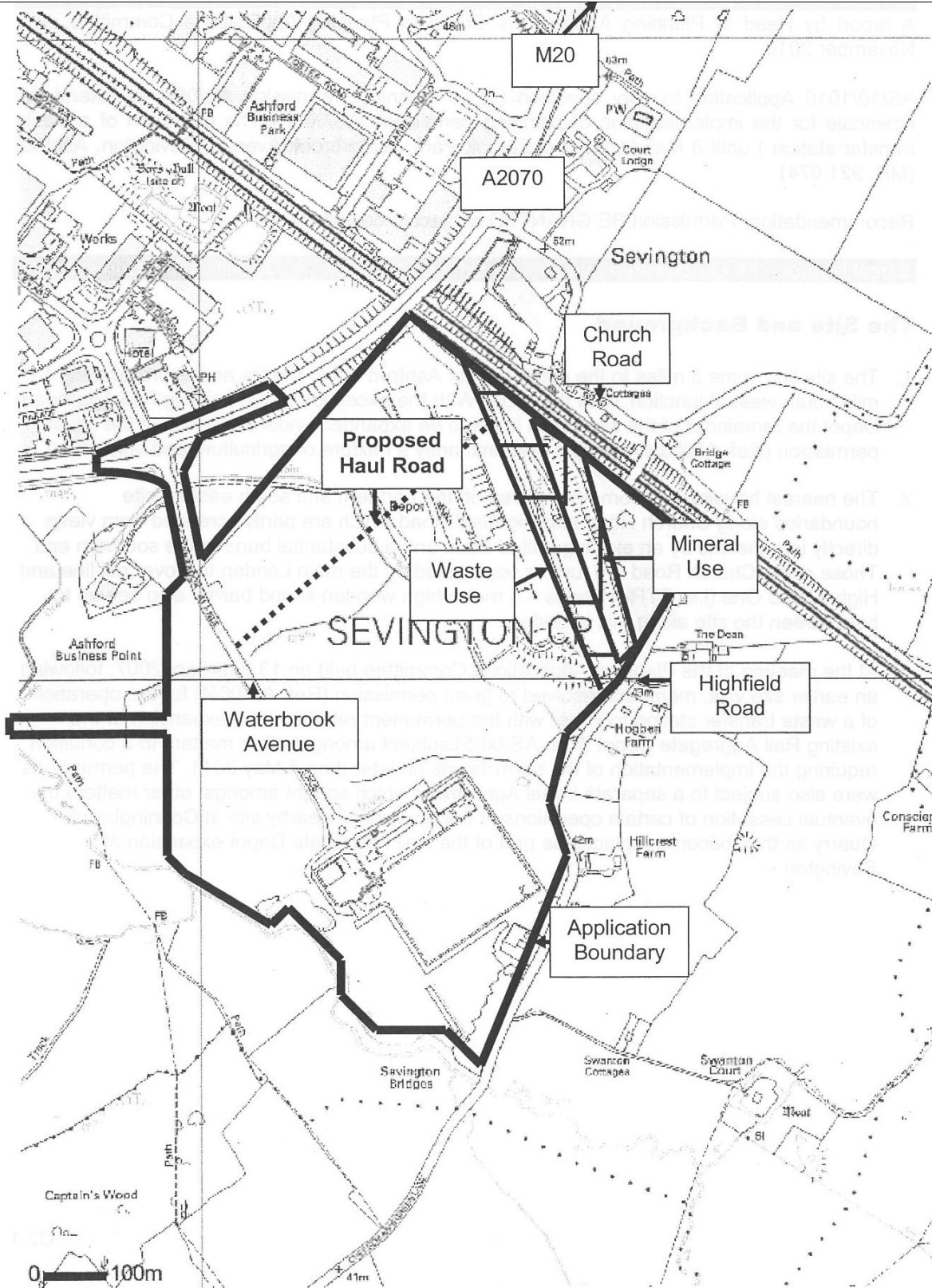
The Site and Background

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/06/4) 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 High Speed One (i.e. CTRL) whose 4.5 metre high wooden sound barrier also serves to help screen the site along this boundary.

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/06/4) for the operation of a waste transfer station together with the permanent retention and expansion of the existing Rail Aggregate Depot (Ref. AS/06/5) subject amongst other matters to a condition requiring the implementation of the permissions no later than 8 May 2011. The permissions were also subject to a separate Legal Agreement which sought amongst other matters the eventual cessation of certain operations at the applicants' nearby site at Conningbrook Quarry as they become replaced as part of the Rail Aggregate Depot expansion at Sevington.

Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.



Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

3. At the meeting of the Planning Applications Committee held on 15 June 2010 permission was granted to extend the period during which the permission to retain and expand the existing Rail Aggregate Depot (Ref. AS/06/5) is required to be implemented until 8 May 2014. 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 provided 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. In granting permission for extending the implementation of the existing permission members were mindful of the adverse effects the economic recession has had, particularly on the construction industry. They accepted the applicants assertion at that time that it was not economically viable for them to implement the permission pending an upturn in market conditions which in their opinion would not have returned to normal until after the existing permission had expired (i.e. 8 May 2011).

Proposal

4. Having received permission to extend the date by which the proposal to expand the existing Rail Aggregate Depot has to be implemented, in order to keep the existing permission for the waste transfer station live the applicants have now also formally applied to extend the date by which it has to be implemented until 8 May 2014 and which coincides with the latest date on which the adjoining Rail Aggregate Depot permission is also due to be implemented. In support of their application they make a similar case to that which they previously made in respect of their earlier Rail Aggregate Depot proposal as set out under paragraph 4 above in respect of the effects of the current economic downturn. In particular they draw attention to separate government guidance which has been produced specifically in relation to how Local Planning Authorities should consider and determine such applications where the aim should be to make it easier for both developers and LPAs to keep planning permissions alive for longer during the economic downturn. The intention being that they can then more quickly be implemented when economic conditions improve.
5. The applicants have also drawn attention to a report earlier this year by the Director of Environment, Highways and Waste to the Cabinet Member for Environment, Highways and Waste in respect of the procurement of a Waste Transfer Station and Household Waste Recycling Centre to serve the Ashford Area. The report makes reference amongst other matters to what is considered to be the current disadvantages of transporting Ashfords' waste in refuse collection vehicles (RCVs) to the Waste to Energy Facility at Allington. Firstly, because the carbon emissions from road transport are greater than they would be if the waste could be bulked-up locally for onward transportation in larger vehicles; secondly the journey times for refuse collection vehicles could be utilised towards more efficient refuse and recycling collection services to the public. The report also refers to an anticipated growth in housing in the Ashford area leading to an increase in demand for household waste services.

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

National, Regional and Development Plan Policy

6. **Planning Policy Statement 10 (Planning for Sustainable Waste Management), Planning Policy Statement 23 (Planning and Pollution Control) and Waste Strategy 2007:** together provide for a more integrated and effective framework for delivering the significant expansion in new waste facilities required to meet EU obligations. PPS10 underlines the importance of planning for and consenting the necessary number and range of facilities in order to ensure that adequate provision is made for the future management of our waste.
7. **Saved Policies of the Kent Waste Local Plan (March 1998);**
 - Policy W9: Identifies the site as suitable in principle for proposals for waste separation and transfer.
 - Policy W18: Requires that waste management operations can be properly controlled to ensure there are no adverse effect from noise, dust or odours particularly in respect of its potential impact on neighbouring landuses and amenity.
 - Policy W22: Requires that a satisfactory means of access to the site can be provided including any offsite improvements if they are considered necessary and the number of vehicle movements that would be generated by the proposal can be safely accommodated on the local highway network having regard to the existing network capacity.

Ashford Borough Council Local Development Framework Core Strategy July 2008.

8. 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. Policy CS10 requires all major developments to incorporate sustainable design features with a strong emphasis on energy, water and materials with the aim of reducing carbon emissions.

9. Consultations

Ashford Borough Council: Raise no objection in principle subject to

The imposition of a planning condition to secure compliance with Policy CS10 (A) and (B) of the Core Strategy 2008 and a Section 106 Obligation to secure any necessary financial contribution into the Ashford Carbon Fund as required by Policy CS10 (C)

The re-imposition of all other relevant conditions on permission AS/06/4.

A deed of variation of the existing Section 106 Agreement dated 6th May 2008, or a new

Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

Section 106 Agreement being entered into to secure the cessation of uses at Conningbrook if this permission is implemented unless the County Council is satisfied that the uses at Conningbrook are not duplicated by the use at Waterbrook, that there are no adverse impacts arising from the release of this obligation and there are no highway implications to the continuation of the uses at Conningbrook and no other adverse planning impacts arising from the release of this obligation.

Highways Agency: No objection

Kent Highway Services: No objection

Mersham & Sevington Parish Council: No comments received to date.

Local Members

10. The two local Members Mr Andrew Wickham and Mr George Koowaree were notified of the applications initially on 21st July 2010. To date I have not received any written comments from them.

Representations

11. The application was 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 of noise, dust and increased heavy traffic to the area.

Discussion

12. 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 (7) to (9) are particularly relevant.
13. When members were minded to grant permission for the last application to operate a waste transfer station at the site regard was had to the policy support given at both the national, regional and local level for the development of such facilities. Furthermore, at that time it was recognised that there were sound planning reasons for the establishment of a facility at this location, particularly given the longer term growth aspirations of the town in order to allow the handling of Ashfords' future waste arising in a more efficient manner. In my opinion this position has not changed and the site remains an important strategic location to allow for the bulking up and transfer of Ashfords' waste. Also, as referred to in paragraph 6. above this view has previously been made in a report to the Cabinet Member for Environment, Highways and Waste, particularly regarding lorry journeys where currently

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

Ashfords' municipal solid waste is transferred in RCVs to Allington some 30 kilometres distant (i.e. a 60 km round trip).

14. Following formal consultations and publicity on the proposal, with the exception of one local resident no objections have been raised. With regard to the consultation response from Ashford Borough Council, firstly in respect of the need to comply with Policy CS10 of their Core Strategy 2008. Policy CS10 requires that all major developments incorporate sustainable design features to reduce the consumption of natural resources and to help deliver the aim of zero carbon growth in Ashford. To achieve this developments are expected to focus on a combination of energy and water efficiency, sustainable construction materials and waste reduction. They should therefore seek to reduce carbon dioxide emissions through on-site sustainable energy technologies. Together these are expected to result in developments being carbon neutral and should there be any shortfall a financial contribution will be sought into the Ashford Carbon Fund.
15. Having regard to policy CS10 of Ashfords' Core Strategy I am mindful in respect of the proposed design of the waste transfer hall itself that it will consist of a clad steel frame building with little artificial lighting and no heating as large roller shutter doors will be periodically opening and closing during working hours. Furthermore, as discussed in paragraphs 6 above, the entire concept of a waste transfer operation is that it will provide a much more efficient means of handling and transferring waste. Most fundamentally in my opinion, in the context of Policy CS10 of the Core strategy, this would result in a substantial reduction in lorry journeys with a corresponding reduction in carbon dioxide emissions. In this context it is my opinion that it would not be appropriate in this particular case to seek a financial contribution from the applicant towards the Ashford Carbon Fund. However, in order to ensure the proposed facility incorporates sustainable design features, should members be minded to grant permission then I would recommend that conditions be imposed requiring prior to construction of the waste transfer hall, the submission and approval of a scheme of low energy lighting together with a scheme of odour control. Where this involves the use of water it should be required to demonstrate that it will incorporate low water usage. I would also recommend a condition stipulating that no heating shall be installed or used within the building without the prior approval of the waste planning authority, such scheme shall be designed such that it meets the BREEAM¹ 'Excellent' standard for 'energy' credits set out in Policy CS10 of the Ashford Bough Council Core Strategy.
16. With regard to Ashford Borough Council's comments in respect of the consideration of a need for either a deed of variation to the Section 106 Agreement attached to the existing permission or a new Agreement being entered into. The original Agreement was drawn up specifically to prevent the applicant from operating concurrently similar facilities at their sites at Conningbrook Quarry (i.e. Rail Aggregate Depot, Concrete Batching Plant and Construction and Demolition Waste Recycling Facility) and a then unimplemented permission at Chart Leacon (i.e. Waste Transfer Station) with those proposed at Sevington. This was in order to overcome what would otherwise have attracted a formal objection from the Highways Agency on the basis that at that time it was considered junction 10 of the M20

¹ Building Research Establishment Environmental Assessment Method

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

- Motorway was operating at full capacity whose vehicle numbers included those associated with the applicants' existing site at Conningbrook and could potentially also have included vehicles associated with the Chart Leacon. The requirements of the Section 106 Agreement therefore ensured there would be no net increase in vehicles using junction 10 as a result of the proposal at Sevington.
17. Just prior to the completion of the Section 106 Agreement the permission for the waste transfer station at Chart Leacon expired and therefore no reference was made to it in the completed version. On this basis given that the original intention was to avoid the duplication of the uses permitted at Chart Leacon occurring at Sevington, there is no longer any need to continue to secure this by Agreement in the event that permission is granted to this latest application. Furthermore, given that the existing uses at Conningbrook do not include a waste transfer station, in my opinion there are no sound planning reasons for requiring their cessation upon the implementation of any future waste transfer operation at Sevington.
 18. With regard to concerns raised in the representation I have received from a local resident in respect of noise, dust and the increase in traffic to the area, firstly 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 generated from the existing traffic on the M20 and A2070, it is unlikely there would any material increase in noise levels experienced at these properties. Furthermore, the potential impacts from noise were considered during the determination of the original planning applications to expand operations at the site when the County Council's noise advisor Jacobs, concurred with this view. In my opinion there have been no material changes in circumstances to alter this view since members made the decision to grant the original permissions.
 19. In terms of the potential impacts from increased traffic in the area no objections have been received from consultees on highway grounds. As discussed in paragraphs 17 and 18 above, given there will be no overall net increase in traffic in the area in my view there are no overriding objections to the proposal on highway grounds.
 20. Potential impacts from dust were also considered during the determination of the original planning applications where it was considered that provided the proposed dust controls which included the employment of spray mist systems were secured by condition, there would be no adverse effects from dust. In the event that members are minded to grant permission I would recommend the re-imposition of conditions previously imposed to control operations at the site including those to ensure no nuisance is caused by dust.
 21. As mentioned in paragraph 5 above, separate government guidance has been produced specifically in relation to how Local Planning Authorities should consider and determine such applications. This includes measures simplifying the procedure 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 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

Item C3

AS/10/1010 – Proposed extension to the period during which planning permission AS/06/4 may be implemented. Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent. Robert Brett & Sons Limited.

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 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, having regard to responses from consultees, since the original application was granted permission there have been no material changes in circumstances that would lead me other than to conclude that the proposal is acceptable in planning terms.

Conclusion

22. The site represents a primary strategic location which in my view will gain greater importance in the context of Ashford's role as a growing sustainable community and where it is anticipated that this will lead to an increase in demand for household waste services. I am satisfied that provided appropriate conditions are imposed controlling operations, there are no overriding objections to the application which is consistent with both national and regional guidance together with the relevant development plan policies against which these types of developments should be considered.

Recommendation

23. I RECOMMEND that PERMISSION BE GRANTED to extend the timescale for the implementation of planning permission AS/06/4 until 8 May 2014 SUBJECT TO conditions covering amongst other matters; hours of working including peak hour restrictions, number of vehicle movements, landscaping and floodlighting, noise, dust and odour controls, archaeological investigations, drainage, footpath diversions, ecological mitigation, details of low energy internal lighting to be employed in the waste transfer building and details of the design of any heating to be employed within the waste transfer building prior to being installed which shall have regard to the BREEAM energy standards.

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