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 proposal dossier for each case and also as might be additionally indicated.

Item C1

Installation of renewable electricity generating equipment with associated alterations to the design of part of consented southern composting hall with additional car parking spaces. Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

A report by Head of Planning Applications Group to Planning Applications Committee on 15 February 2011.

Application by New Earth Solutions (Kent) Limited for the installation of renewable electricity generating equipment with associated alterations to the design of part of consented southern composting hall building with additional car parking spaces. Blaise Composting Facility, Kings Hill, West Malling (TM/10/3056)

Recommendation: Planning permission be granted subject to conditions.

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

Classification: Unrestricted

Site

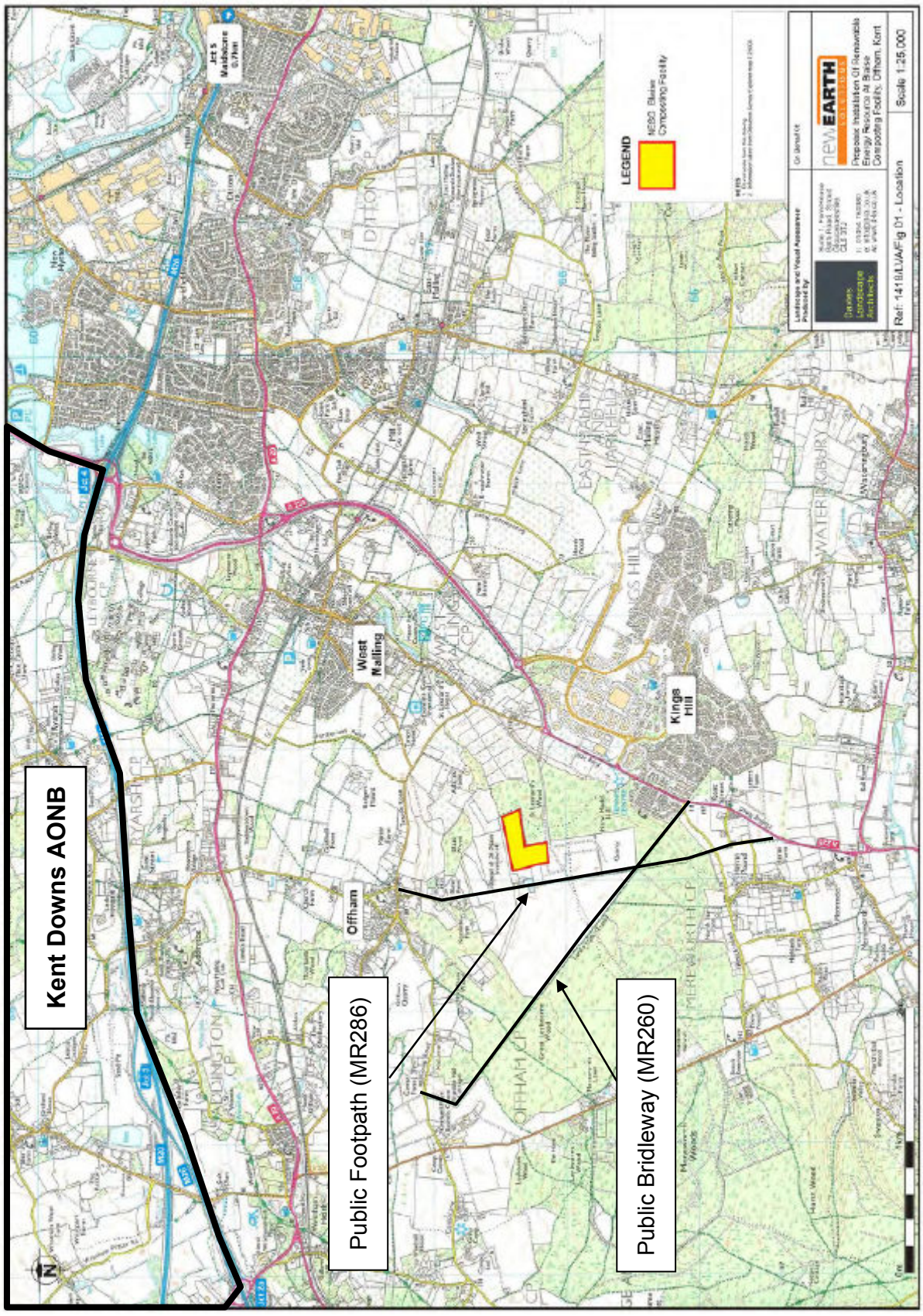
1. Blaise Farm Quarry comprises of a 116 hectare site which benefits from planning permission granted in January 1994 (consent TM/88/1002) for the winning and working of some 57 million tonnes of ragstone over a 62 year period in a series of four phases. Blaise Composting Facility occupies an 'L' shaped previously worked area within the quarry void. The composting facility and wider quarry site lies to the south of the village of Offham, to the south west of West Malling and to the north west of the A228 and the residential area of Kings Hill. The Quarry and Composting Facility are served by a purpose built hard surfaced access road onto the A228 West Malling roundabout located near Kings Hill. The Quarry and Composting Facility is located within the Metropolitan Green Belt as identified in the Tonbridge and Malling Local Development Framework.

2. The area surrounding Blaise Composting Facility comprises of mixed agricultural fields and woodland. Mature woodland is located along the east, south and western perimeters of the quarry, comprising St. Leonards Wood, Great Leybourne Wood and Offham Wood respectively, and are designated as Local Wildlife Sites. The nearest residential property, Blaise Farm House, is located some 590 metres to the north west of the application site. The remains of the Chapel of St. Blaise (a Scheduled Ancient Monument) lie approximately 100 metres to the north of the application site. A Public Right of Way (Footpath MR286) lies approximately 130 metres to the west of the application site but would be unaffected by the proposals. This Public Right of Way is due to be diverted around the western boundary of the quarry site as part of the ongoing future mineral operation. *A site location plan is attached on page C4.2.*

Item C1

Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

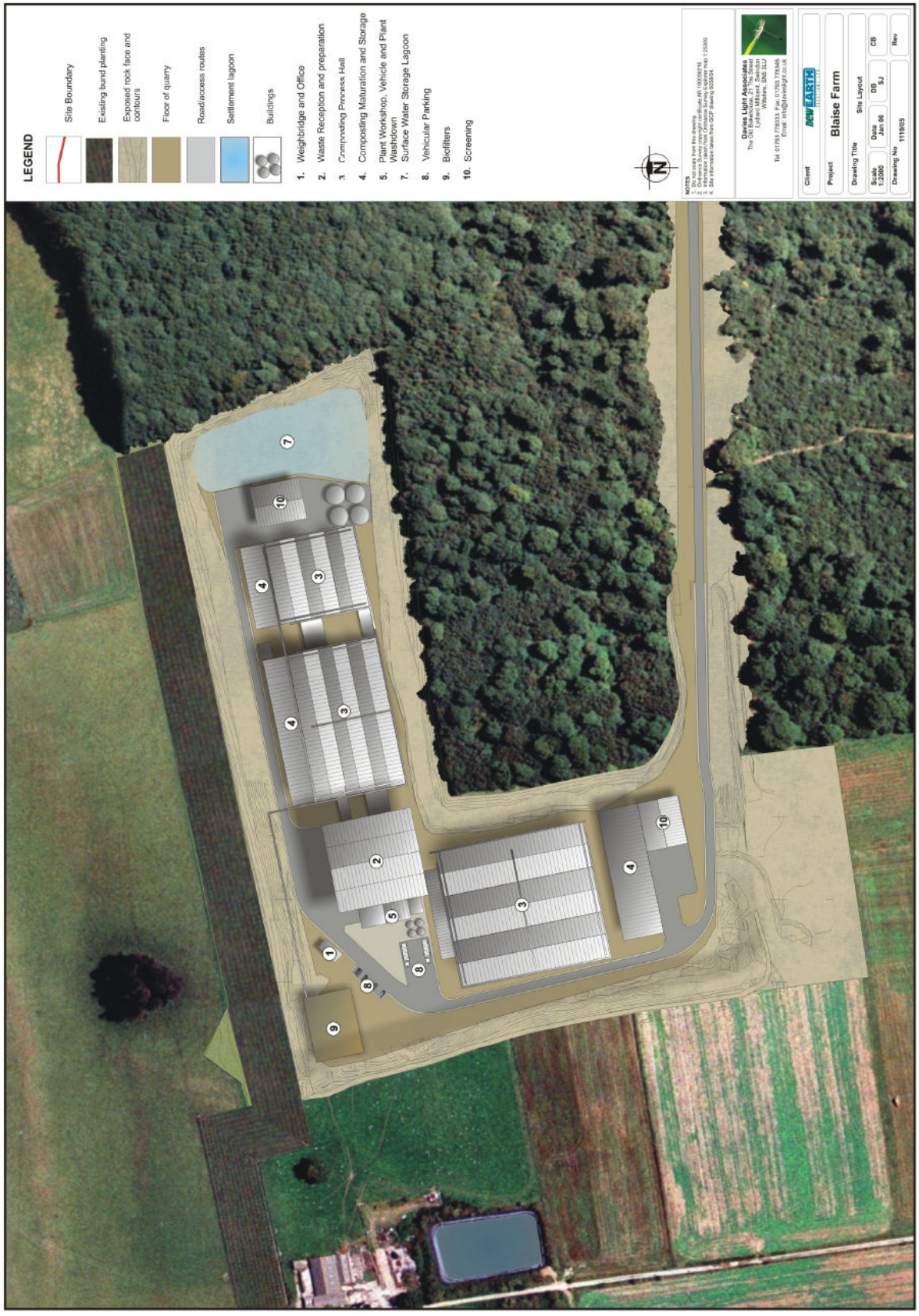
Site Location Plan



Item C1

Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Composting Facility (as consented showing Phase 2 Southern Composting Hall)



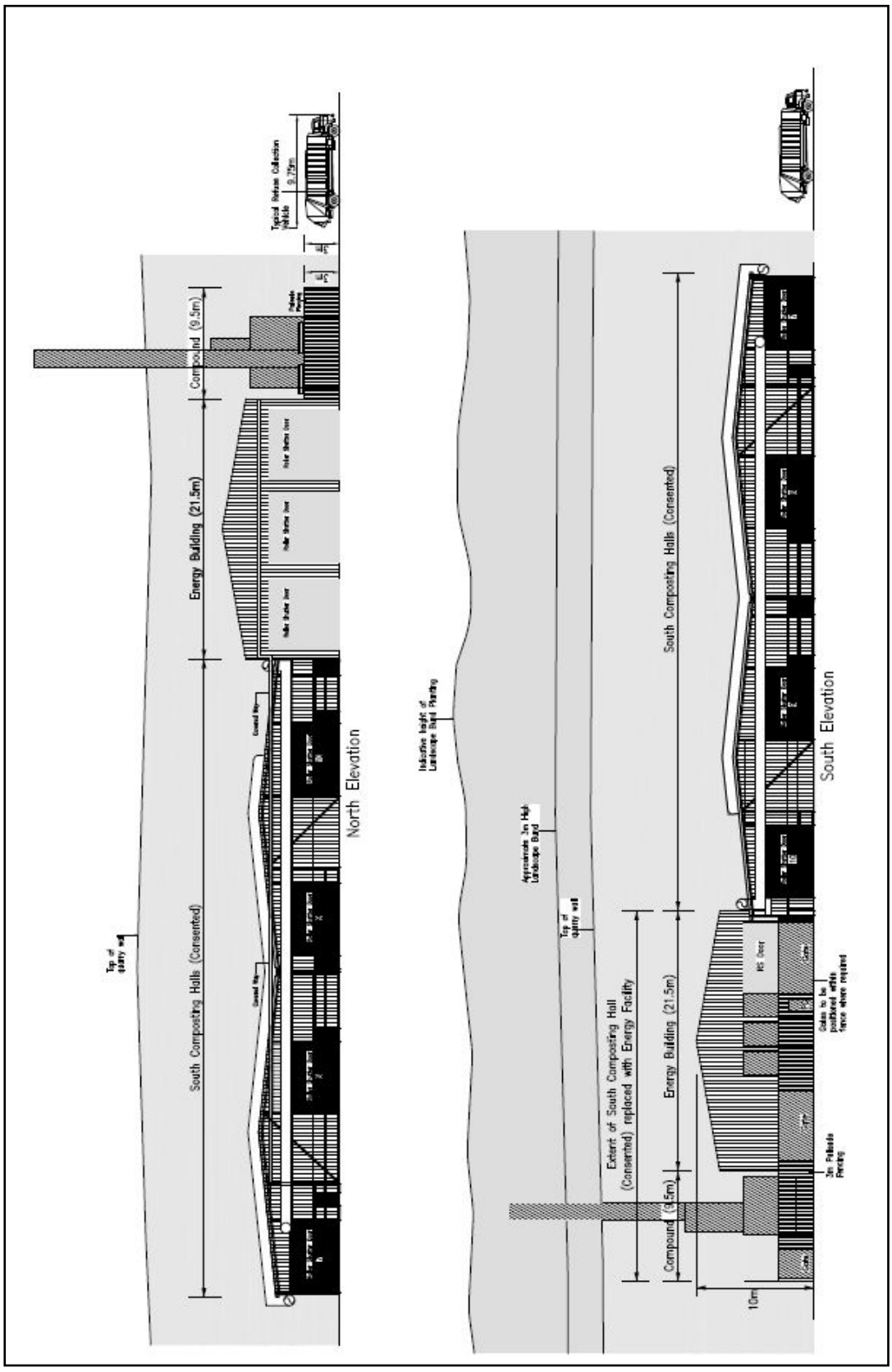
Item C1

Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Proposed Energy Building and Composting Facility

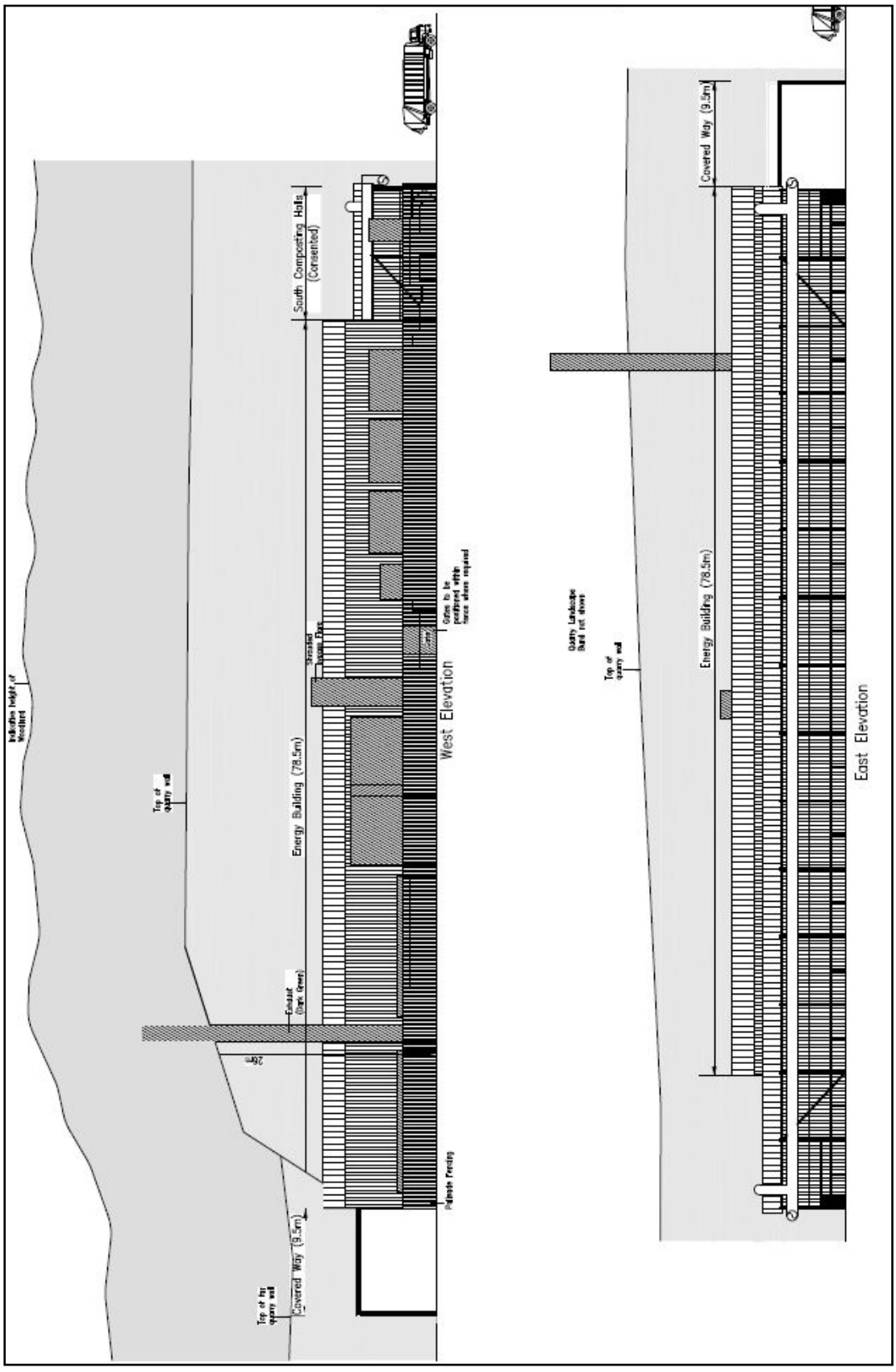
Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Proposed Elevations (Sheet 1 of 2)



Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Proposed Elevations (Sheet 2 of 2)



Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Background

3. The existing Blaise Composting Facility, operated by New Earth Solutions, treats source segregated waste collected from both municipal and commercial waste contracts. The existing composting facility manages green/garden, food, vegetable and cardboard (GFVC) waste streams, utilising a fully enclosed composting process to produce compost. The Blaise Composting Facility currently comprises a series of composting buildings including waste reception, composting and maturation halls, together with a site office, weighbridge, biofilter, water storage tanks and a surface water balancing pond. This facility was granted planning permission on the basis of a 50,000tpa composting facility in September 2006, under permission reference number TM/06/762 and first became operational in September 2008. The terms of the existing planning permission time-limit the facility to a period of 20 years from the commencement of commercial composting operations (i.e. until 2028) after which the site shall be restored for forestry, ecological and amenity afteruses, consistent with the wider restoration required pursuant to the Blaise Farm Quarry mineral planning permission (TM/88/1002).

4. Planning permission was subsequently granted to increase waste imports at the facility from 50,000 to 100,000tpa in March 2008, under permission reference number TM/07/4435. The current facility is operating with an annual throughput of around 50,000tpa of source segregated green/garden, food, vegetable and cardboard waste streams. In order for the applicant to increase their waste throughput at the site to the consented 100,000tpa, the applicant would need to implement additional composting buildings as part of Phase 2 of the original Composting Facility permission (TM/06/672).

5. A number of recent planning permission have been granted for alterations to the operation of the existing Composting Facility, the most significant being permission TM/09/3321 granted on appeal which extended waste catchment to now include Kent, Medway, Surrey, East Sussex, West Sussex, Brighton and Hove (for the life of the permission), from within the London Borough's of Bromley and Bexley (until 31 December 2015) and from Essex (until 31 March 2014 and limited to no more than 10,000tpa). Planning permission TM/09/3321 is now the key planning permission for which the current Blaise Composting Facility operates under.

6. It should be noted that a number of complaints have been received about odour emanating from the New Earth Composting Facility at Blaise Farm Quarry since the beginning of 2010. Odours have been experienced in parts of Offham, Kings Hill and West Malling. These concerns were discussed with New Earth Solutions Ltd (which initiated a review of its operations) and with representatives of Tonbridge and Malling Borough Council, the local Parish Councils and the Environment Agency at the Blaise Farm Liaison Committee meetings and independently. The review examined all areas of the composting facility and its operation and led to a number of apparent deficiencies being identified. These included problems with the operation of the ventilation system (e.g. fans, ductwork, trip switches and dampers) designed to extract air from within the buildings and remove odours, management practices (e.g. leaving doors open, particularly during turning operations, as a result of poor visibility and an unpleasant environment as a result of inadequate ventilation) and the leachate tank having no lid and being open to the atmosphere. The operator prepared an odour reduction plan designed to rectify these and other problems. Some equipment has already been improved or replaced and other measures are planned to be implemented by the end of March 2011. Whilst the problems have not yet been fully

rectified and it would appear that the local community remains to be convinced that the site can be operated without giving rise to odour nuisance, I am satisfied that the measures that have either been taken or are planned should serve to significantly reduce odour emissions. I also remain satisfied that the facility is capable of operating without giving rise to unacceptable odour, although ongoing monitoring (particularly by the Environment Agency which is primarily responsible for odour control under the Environmental Permit) will clearly be required to ensure that the proposed improvements do rectify the problems, that no new issues arise and that the facility operates satisfactorily without causing further problems for its neighbours.

Proposal

7. This application is made by New Earth Solutions (Kent) Limited and seeks planning permission for the installation of renewable electricity generating equipment with associated alterations to the design of part of the consented southern composting hall building with additional car parking spaces. The application arises as a result of the applicant examining incoming waste streams over the past two years of operation at Blaise, in particularly identifying one specific element of the waste stream that require disproportionate amounts of time and energy to treat. This material is defined as 'oversize' biomass, and comprises thick woody and fibrous material from green/garden waste collections as well as compressed and dense cardboard. Oversized material is currently processed a number of times through the composting process, requiring high levels of energy use and taking up valuable space in the composting halls, which could arguably be more effectively used for more readily compostable material. In the applicant's experience the oversized material does not fully break down in the composting process and has to be screened out to maintain the quality of the compost produced. The applicant therefore presents the argument that the re-circulation of 'oversized' material within their existing facility not only requires a considerable amount of energy to be expended in shredding and processing such materials, but that it also reduces the efficiency of the overall composting facility. Based on current operations, the applicant has identified that this 'oversized' material typically accounts for between 20% - 25% of the incoming GFVC waste stream managed at the facility, dependant on the type of source segregated waste received.

8. To address this operational concern, the applicant proposes the installation of pyrolysis technology within the Blaise Composting Facility. This technology is a modern method of generating renewable energy from biomass material through the thermal degradation of a substance in the absence of any external oxidising agent (other than that contained in the biomass itself) within non-pressurised kilns. The end products of the pyrolysis process are a high calorific (energy rich) fuel gas containing hydrogen, carbon monoxide, methane and solid char. The energy rich gas collected from the process would be fed to engines on site which would, in turn, be used on-site to power the wider composting operations. The application details that char can be utilised in a variety of ways, including being blended with compost as a soil enhancer (subject to appropriate regulatory controls), as a fuel in conventional power generation and in biomass co-firing.

9. An overview of the pyrolysis process is provided for Members information as follows: Oversized material would be prepared within the existing reception and screening halls. Oversized material would then be transferred to the electricity generating installation via a tractor and sheeted trailer. The oversized biomass material would enter the building via a covered way and roller shutter doors which would be closed prior to the material being off-loaded. A loading shovel would then load the biomass

into a purpose built bunker within the new building, where a mechanised rake system would feed the biomass through the plant. The bunker system would store sufficient quantities of oversized material to enable the installation to generate electricity during times when oversized is not delivered (i.e. during the night, on Sundays and on restricted Bank or Public Holidays). Prior to the biomass entering the pyrolysis units it would be dried using heat gained from the electricity generating process itself. A thermal rotating drum dryer would be installed within the energy building and would pass heat from the engine exhaust stack over the waste, drying it to the optimum moisture level for the pyrolysis process. The oversized material would then be fed into the pyrolysis units which would heat the biomass to between 850 and 950 degrees Celsius without the presence of oxygen in non-pressurised kilns. When heated in the absence of oxygen, the biomass material would undertake physical and chemical changes, breaking down into smaller constituent compounds – including methane, carbon monoxide, carbon dioxide and hydrogen, as well as water vapour and other trace elements. These gas compounds would provide the constituent components of the fuel gas, which would be used to generate electricity. Prior to utilisation of the fuel gas, the gas would be purified to increase the life and efficiency of the gas engines. The purification process incorporates particulate removal and dewatering plant and an oil quench to remove a small quantity of liquid tars produced. Periodically the small quantities of tars produced would be removed from the site for authorised disposal. Fuel gas would be stored in storage buffer tanks located in the compound prior to use in the engines. Three engines would be located within the compound, each individually contained within an acoustically shielded container. The gas engines would share a multi-core exhaust stack, which would be 26 metres high from the floor level of the quarry void (as discussed further in paragraph 11 below).

10. The supporting information sets out that the pyrolysis equipment proposed would generate 2.25MW net electricity. The majority (up to 2MW) of electricity would be used on-site at Blaise to power the composting operation, with any surplus electricity being supplied locally into the electricity network. The application details that the generation of renewable electricity on site at Blaise for use within their composting operation would offset the release of fossil fuel greenhouse gasses produced from the combustion of fossil fuels in a conventional power station, which would otherwise be required to supply electricity to the facility. The application details that as an example, the generation of 2.25MW of renewable energy on site would offset 7,200 tonnes of carbon dioxide per annum, the same level of carbon dioxide that is emitted by over 2,600 average cars per annum.

11. The proposed pyrolysis facility comprises 1,688 sq. metres of building floorspace, 1,322 sq. metres of external compound and covered way, a 100 sq. metres sub-station compound and 9 additional parking bays, all located within the permitted footprint of the Blaise Composting Facility. The site of the proposed building and external compound would occupy the original footprint of approximately one third of the consented, but not yet constructed, southern composting hall. The proposed energy building and compound area, at 31 metres wide in total, would be slightly wider than the consented bay of the not yet constructed southern composting hall building, which would be 27 metres wide. The proposed energy building and compound would be the same length as the southern composting hall building, being 90 metres in length. The proposed building would measure 21.5 metres wide, 78.5 metres in length and 10 metres high to the roof ridge, the same height as the existing waste reception building at the site. The new building would be constructed in materials to match those used in the existing composting facility, those being grey coated profiled steel sheeting to both the roof and walls, with green roller shutter doors. The proposed external compound along the western and southern elevations of the energy building would be

divided into three zones, accommodating (amongst other elements) the following key plant: a series of generator sets; heat recovery units; gas purifiers; coolers; oil, gas and water storage tanks; filter presses; and char, nitrogen and caustic storage containers. In addition, a 26 metre high and 0.7 metre diameter multi-core exhaust stack would be located within the energy compound. This would be finished in a dark 'brown-green' colour, and would protrude approximately 10 metres above the existing Blaise Farm Quarry void. An 11 metre high and 2.4 metre diameter shrouded bypass flare is also proposed, although this would not protrude above the quarry void. The application details that the flare is required for any process generating flammable gas and would be operated on a very limited 'emergency' basis in the event of multiple engine failure. The energy compound is proposed to be surrounded by a 3 metre galvanised steel fence with access gates.

12. A sub station compound is proposed, measuring some 20 metres by 5 metres, and would be enclosed by 3 metre high galvanised security fence. This compound would accommodate the electricity sub-station, switchgear equipment and transformers. An underground electricity cable would be laid from this sub station along the northern edge of the quarry access road to connect with a sub station at Kings Hill.

13. Nine additional car parking spaces would be provided to serve staff and visitor needs for both the existing and consented composting operation and the proposed electricity generating installation.

14. The application details that the proposed electricity generating installation would not alter the primary purpose of Blaise Composting Facility, in essence to produce compost from collected waste. At full 'built as consented' operating capacity (100,000 tonnes process per annum) the installation is intended to produce renewable energy from between 20,000 and 25,000 tonnes of biomass oversize. In order to achieve this capacity, permission is being sought for the installation of three modular pyrolysis units and associated plant within a fully enclosed building and external compound (as outlined above). Each pyrolysis unit would be capable of processing around 7,000 to 8,000 tonnes of oversize per annum. Based on the anticipated operating capacity of the pyrolysis plant (up to 25,000tpa) approximately 3,150 tonnes of char would be produced per annum. The char would be stored in enclosed bunkers within the compound area and due to its value as a carbon rich resource would be transported off site, for such uses as outlined in paragraph (8) above. Process water would also be produced from the drying of the oversized material prior to it being pyrolysed, together with a limited amount of water being produced during the gas purification stage. In total, approximately 7,500 tonnes of water would be produced per annum, some of which would be re-used on site in the composting process, as irrigation water, whilst the remaining surplus would be tankered off site for authorised discharge.

15. The application details that the electricity generating installation would operate as an ancillary operation to the principle composting operation at Blaise. Therefore the application confirms that the applicant is not seeking to vary any of the existing planning controls covering the consented Blaise Composting Facility. The following general operating controls covered by planning condition would therefore apply:

- The total maximum amount of waste able to enter the Blaise Composting Facility would remain at 100,000 tonnes per annum (*i.e. the current consented level, but not the current operating level*);
- Waste would continue to only be sourced from the current geographic catchment - Kent, Medway, Surrey, East Sussex, West Sussex, Brighton and Hove (for the life of the permission), from within the London Borough's of Bromley and Bexley (until 31

December 2015) and from Essex (until 31 March 2014 and limited to no more than 10,000tpa);
- The total number of HGVs that can enter and leave the Facility would be limited to 41 loads (82 movements) per day Monday to Friday and 21 loads (42 movements) on Saturday;
- HGV deliveries and exports would be limited to between 07:00 to 18:00 Monday to Friday with limited movements on Saturdays and Public Bank Holidays;
- HGV routing would not change from that detailed in the existing S106 Agreement. This requires HGVs to avoid surrounding villages unless collecting waste or delivering compost in those villages;
- Environmental controls, including those relating to the emission of noise, light and odour would remain in place (and more detailed controls within the Environmental Permit); and
- The restoration and aftercare of the entire site at the end of the planning permission.

16. The application proposes the continuous 24 hour operation of electricity generation. This would require a limited number of site personnel to be on-site during the night. Movement of oversize biomass from the Composting Facility to the proposed electricity generating installation, and the delivery of ancillary supplies and any collections of discharge water and solid char would be confined to the following times:

- 07:00 to 18:00 Monday to Friday;
- 07:00 to 13:00 Saturdays;
- No movements on Sundays;
- 07:00 to 17:30 on Bank and Public Holidays; and
- No movements on 25 and 26 December and 1 January.

17. The application is accompanied by various supplementary reports, including an air quality assessment, a noise impact assessment and a landscape and visual impact assessment. Considerations relating to odour, dust, drainage and flood risk, external lighting, ecology, transport and utilities have all been taken into account by the applicant within this application. The key findings of those considerations are summarised below.

18. The submitted air quality assessment report identified that the most appropriate exhaust stack for the facility would be 26 metres, which would be around 10 metres higher than the existing quarry rim. The installation would be operated and monitored under regulatory controls, through an Environmental Permit, which would provide specific limits on discharges to air. Air quality monitoring undertaken demonstrates that with the operation of the proposed electricity generating installation and the continued operation of two diesel engines, the predicted change in annual contribution of nitrogen dioxide (used as a proxy for other emissions), would be 'small' at the closest sensitive receptor, and 'very small' at the nine other receptors. The significance of this change is considered 'minor' at the closest sensitive receptor and 'neutral' at all other receptors. However, as the installation of the electricity generating installation is intended to provide all on-site electricity, a scenario where the diesel generators are not operated was assessed. The assessment of this scenario demonstrates that the predicted annual change of nitrogen dioxide would be 'very small' at all sensitive receptors, with a significance of 'neutral'. To control the potential release of dust, biomass material would be transported from the existing reception and screening halls to the energy building using a sheeted trailer. Within the energy building dust suppression would be controlled through the processing of the feedstock material within an enclosed and negatively aerated building. Solid char (one of the process outputs) would be removed from the pyrolysis units via enclosed conveyors

and stored in fully enclosed bunkers until removed from the site via HGVs. Furthermore, to accord with the requirements of an Environmental Permit and to monitor the production of renewable energy, a Continuous Emission Monitoring System would be installed within the energy building to monitor the emission levels at the installation.

19. The application details that the potential for emissions of odour from the proposed energy generating facility would be limited. The temporary storage and drying of the biomass would take place within an enclosed building, which would provide a barrier to the movement of any odour. Once the biomass material has been dried, the metabolism of microbes that produce odour would be substantially curtailed. The application proposes that extracted air from the bunker storage and drying area would be used as the ventilation air for the electricity generators, in turn creating the negative pressure ventilation and achieving further odour control. The char produced from the pyrolysis process would be organically stable as it would have been heated to over 850 degrees Celsius and therefore there would be no risk of the release of odour from this output.

20. An assessment of the environmental noise impacts of the proposed installation has been undertaken by the applicant. This assessment has identified that at each of the closest noise sensitive receptors, the addition of the noise arising from the proposed installation would not exceed the background noise levels, either during day or night time periods. It has assessed the impact of the proposed energy centre combined with the partial implementation of Phase 2 of the Southern Composting Hall.

21. An assessment of drainage and flood risk has been submitted within the application. This details that no significant changes are proposed by this development than were previously considered at the time of the main Composting Facility development. Rain water from the buildings would be collected and diverted via drains to the existing balancing pond on site, after which the water naturally percolates into the permeable Hythe Beds. Surface water from the Composting Facility passes through petrol and oil interceptors before draining into the existing on site balancing pond. The energy building and compound areas would be constructed with a double protection system to ensure that there would be no discharge of liquids to the ground. To control water run-off in the event of a fire, the energy building would be constructed with a 150mm concrete upstand, capable of containing about 250,000 litres of fire water, far in excess of the amount required in such event. All fuels, oils and lubricants associated with the proposed development would be stored in appropriately bunded tanks.

22. A landscape and visual impact assessment was submitted with the application. This assessed the impact of the proposed development upon the landscape, Green Belt and neighbouring Public Right of Way. The assessment identifies that views of the proposed installation from public viewpoints would be limited to the proposed exhaust stack only, as the building would be located below the natural landform within the quarry void, screened by existing woodland and landscape bunds. Protruding no more than 10.8 metres above the quarry rim, views of the proposed exhaust stack would be limited to two sections of public footpath MR286. From these viewpoints the visual effect from these views has been considered to be 'minor adverse'. From all other local viewpoints, the assessment concludes that no aspect of the proposed development would be visible and therefore the landscape and visual effect would be 'none'. Distant views from parts of the North Downs AONB and Trosley Park have been considered to be 'neutral' due to the long distance, where it is considered that the proposed exhaust stack would be difficult, if not impossible, to identify within the

landscape. Overall, the assessment found that the proposal is deemed to have a minimal minor adverse impact upon the local character and visual amenity.

23. The energy building and compound is proposed to operate 24 hours a day, requiring external lighting to allow the safe operation of employees working on the site. This lighting has been designed to minimise light spill through the use of modern flat glass down-lighting. External lighting would be controlled by Passive Infra Red sensors to ensure that when not required, external lighting is extinguished.

Planning Policy

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

(i) **National Planning Policies** – the most relevant National Planning Policies are set out in PPS1 (Delivering Sustainable Development) and it's Supplement (Planning and Climate Change), PPG2 (Green Belts), PPS5 (Planning for the Historic Environment), PPS9 (Biodiversity and Geological Conservation), PPS10 (Planning for Sustainable Waste Management), PPG13 (Transport), PPS22 (Renewable Energy), PPS23 (Planning and Pollution Control) and PPG24 (Planning and Noise).

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

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

Policy CC1 The principle objective of the Plan is to achieve and to maintain sustainable development in the region. Sustainable development priorities for the South East are identified as (amongst others) reducing greenhouse gas emissions and ensuring sustainable levels of resource use.

Policy CC2 Climate change mitigation measures will be supported, including encouraging the use of renewable energy and reducing the amount of biodegradable waste landfilled.

Policy CC3 Supports the adaptation of existing development to reduce its use of energy

Policy CC4 Supports proposals which include a proportion of the energy supply of new development from decentralised and renewable or low-carbon sources.

Policy C4 Outside nationally designated landscapes local planning authorities should recognise and aim to protect and enhance the diversity and local distinctiveness of the region's landscape.

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

Policy NRM9 Planning proposals should contribute to sustaining the current downward trend in air pollution in the region.

Policy NRM10 Promotes measures to address and reduce noise pollution.

Policy NRM13 Target set by 2016 to ensure that 8% of electricity within the region is generated from renewable energy sources. Recognises that renewable energy resources with the greatest potential for electricity generation include, amongst others, biomass.

Policy NRM14 Development proposals should seek to contribute towards the achievement of 154MW of renewable energy within Kent by 2016.

Policy NRM15 Renewable energy development, particularly wind and biomass, should be located and designed to minimise adverse impacts on the landscape, wildlife, heritage assets and amenity.

Policy NRM16 Local authorities should in principle support the development of renewable energy.

Policy W6 Seeks to increase the amount of all waste recycled and composted.

Policy W11 Waste planning authorities should encourage the separation of biomass waste, and consider its use as a fuel in biomass energy plants where this does not discourage recycling and composting.

Policy W12 Seeks to promote and encourage the development and demonstration of anaerobic digestion and advanced recovery technologies that will be expected to make a growing contribution towards the delivery of the regional targets for recovery, diversion from landfill, and renewable energy generation over the period of the Plan.

Policy W14 Encourages high quality restoration and aftercare to help deliver wider environmental and social objectives of this Plan.

Important note regarding the South East Plan:

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 (the South East Plan in the case of Kent) were re-established as part of the Development Plan on 10 November 2010. Notwithstanding this, DCLG's

Chief Planner Steve Quartermain advised Local Planning Authorities 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. The 10th November 2010 Quartermain Letter is now being challenged in the High Court and must in my view carry little weight until such time as the Court decision is known. This is currently awaited. Department of Communities and Local Government advice on this matter reads:

'Local planning authorities and planning inspectors should be aware that the Secretary of State has received a judicial review challenge to his statement of 10 November 2010, the letter of the Chief Planner of the same date and to the Secretary of State's letter of 27 May 2010 on the ground that the Government's intended revocation of Regional Strategies by the promotion of legislation for that purpose in the forthcoming Localism Bill is legally immaterial to the determination of planning applications and appeals prior to the revocation of Regional Strategies.

The Secretary of State is defending the challenge and believes and is advised that it is ill founded. Nevertheless, pending determination of the challenge, decision makers in local planning authorities and at the Planning Inspectorate will in their determination of planning applications and appeals need to consider whether the existence of the challenge and the basis of it, affects the significance and weight which they judge may be given to the Secretary of State's statements and to the letter of the Chief Planner'.

(iii) The adopted 1998 **Kent Waste Local Plan (Saved Policies):**

Policy W3 Waste processing and transfer facilities outside those locations identified on the proposals map will not be permitted unless they can avoid the need for road access and are located within (or adjacent to) and existing waste management operation.

Policy W6 Where a planning application is submitted for waste management development on a site outside a location as identified as suitable in principle in the Plan and demonstratable harm would be caused to an interest of acknowledged importance, need will be a material consideration in the decision.

Policy W10 Seeks to ensure that proposals do not cause significant harm to residential amenity due to noise, dust, odour or visual impact; that the site is accessible to the primary route network; that the proposal would not be unduly obtrusive in the landscape; and that the impact on the natural environment would be minimised.

Policy W17 Seeks to ensure that airborne emissions will not adversely affect neighbouring land uses and amenity.

Policy W18 Seeks to ensure that noise, dust, odours and other emissions will not adversely affect neighbouring land uses and amenity.

Policy W19 Before granting planning permission for a waste management facility the planning authority will required to be satisfied that surface and ground water resource interests will be protected.

Policy W20 Before granting planning permission for a waste management facility, the planning authority will require to be satisfied that proposals have taken account of land settlement, land stability, the safeguarding of land drainage and flood control and minimisation of rainwater infiltration.

Policy W21 Seeks to ensure earth science and ecological interest of the site and its surroundings have been established and protected.

Policy W22 Seeks to ensure that new waste management facilities are adequately served by the highway network.

Policy W25 Seeks to encourage good design principles for new built waste management facilities.

Policy W27 Seeks to safeguard existing Public Rights of Way.

Policy W31 Seeks to ensure adequate landscape proposals are incorporated as an integral part of the development.

Policy W32 Seeks to ensure that an adequate restoration and aftercare scheme is proposed as an integral part of the proposal.

(iv) The adopted 2007 **Tonbridge and Malling Borough Council Local Development Framework Core Strategy:**

Policy CP3 Reaffirms national Green Belt planning policy.

Policy CP14 Seeks to restrict inappropriate development within the countryside.

Policy CP24 Seeks to encourage well designed built development.

(v) The adopted 2010 **Tonbridge and Malling Borough Council Local Development Framework – Managing Development and the Environment Development Plan Document.** The most relevant Policies include Policy NE1

Policy NE1 Seeks to conserve Local Wildlife Sites.

Policy NE3 Seeks to preserve and enhance biodiversity

Policy SQ1 Landscape and Townscape protection and enhancement

Policy SQ6 Mitigating the impacts of noise

25. Other material planning considerations relevant to the determination of this planning application (but not forming part of the Development Plan) include the following: Climate Change Act (2008), Carbon Budgets Order (2009), Renewable Energy Directive (2009/28/EC), UK Renewable Energy Strategy (2009), UK Biomass Strategy (2007) and the Tonbridge and Malling Climate Change Strategy (2008-2011).

Consultations

26. **Tonbridge and Malling Borough Council:** Object to the proposal unless the following criteria can be met:

- no discernable odour beyond that permitted;
- adequate monitoring and enforcement;
- no increase in noise levels
- restriction on HGV movements for the existing composting facility/consented scheme are exerted over the proposal;
- implementation of either this scheme, or the western bay of the already consented Southern Composting Hall be constructed (not both);
- control of the timing of on-site movement of material, deliveries and removals; and
- submission of, and adherence to, details of a suitable surface water drainage scheme.

27. **Offham Parish Council:** Object to this planning application on the grounds that it could add further to the existing odour problems emanating from the site. Also concerned about the potential for noise problems resulting from a 24 hour 365 day operating plant. Consider that the existing problems with the Composting Facility should be eliminated before considering any additional facilities on site.

28. **West Malling Parish Council:** Supports the aspirations of this proposal which it considered extremely commendable. However, expressed concerns about the problem of odours emanating from the site and states that there are currently significant concerns about odours discernable in some parts of West Malling. It also expressed concerns that if water were tankered out from the site then this would generate additional lorry movements.

29. **Mereworth Parish Council:** No objections to the proposal.

30. **Kings Hill Parish Council:** No response expressed to date. Any views received prior to the Committee meeting will be reported to member's verbally.

31. **Divisional Transportation Manager:** No objection to the proposal on the basis that the application does not increase the number of HGV movements to/from the site. Supports the additional parking provision on site and recommends that appropriate controls be employed on site as necessary to guard against the deposit of mud and debris on the public highway.

32. **Environment Agency:** No objection in principle to the application. It reminds the applicant that any new development at the site and/or change in operational procedures as a result, must be in accordance with the Environmental Permit.

33. **Health Protection Agency:** No objections.

34. **County Council's Landscape Consultant:** Considers the advice contained in the applicant's Landscape & Visual Impact Assessment report to be based on the latest guidance and agrees that the proposals would not cause any significant landscape or visual impacts.

35. **County Council's Noise and Air Quality Consultant:** Accepts the findings of the applicant's noise reports that noise would not be an issue on the basis that the nearest houses are some considerable distance from the application site. Also considers that ground level pollutant concentrations and the deposition of contaminants are well below the objectives, therefore having no significant impact upon the nearby residential properties or any adjacent sensitive ecosystems.

36. **County Council's Public Rights of Way Officer:** No comments to make on the proposed development.

37. **County Council's Biodiversity Officer:** No objections.

Local Members

38. The local County Members, Mr. S. Hohler, Mrs. T. Dean and Mr. R. Long were notified of the application on 5 November 2010. No comments have been received.

Publicity

39. The application was publicised by the posting of several site notices (at the site entrance and the adjoining Public Right of Way) and a newspaper advertisement in the Kent Messenger Maidstone Extra. There were no residential properties within 250 metres of the application site to notify in this instance.

Representations

40. No representations have been received.

Discussion

Introduction

41. The application is being reported to the Planning Applications Committee as a result of the objections received from Tonbridge and Malling Borough Council (as detailed in paragraph 26) and Offham Parish Council (as detailed in paragraph 27). In considering this proposal, regard must be had to the most relevant Government Guidance, adopted Development Plan Policies outlined in paragraph (24) and any other key material planning considerations relevant to take into consideration in the decision making process as outlined in paragraph (25). 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.

42. The key planning considerations in this particular case can be categorised under the following headings:

- the impact of the proposals on the openness of the Metropolitan Green Belt and whether the proposals represent "inappropriate development" within such land;
- the visual impact of the proposals on the wider landscape, and key public viewpoints;
- the impact of the proposals on local amenity in terms of the potential for adverse odour, noise, light, dust and air quality issues;
- the impact of the proposals on the local highway network;
- the future restoration and aftercare of the site; and
- any other issues.

Metropolitan Green Belt

43. Members will note that the application site is located within the Metropolitan Green Belt. Government guidance expects that all planning applications for development in the Green Belt will be subject to the most rigorous scrutiny, having regard to the fundamental aim of Green Belt policy as set out in Planning Policy Guidance Note 2 (PPG2) that is to prevent urban sprawl by keeping land permanently open. The openness of Green Belts is considered to be their most important attribute and therefore there is a general presumption against inappropriate development, which is by definition harmful and should not be permitted, unless it can be justified by 'very special circumstances'. Therefore in the context of National Planning Policy and Development Plan Policies that apply, consideration needs to be given to whether or not the proposal involves 'inappropriate development', and if so, whether there are 'very special circumstances' that would warrant setting aside the general presumption against development.

44. The development proposed does not fall within one of the categories of new buildings which are considered to comprise appropriate development within the Metropolitan Green Belt. Therefore, the development will, by *definition*, be harmful to the openness of the Green Belt. However, it is important to note that the site has the benefit from a partially implemented consent for the construction of the remainder of the development (i.e. the Southern Composting Hall and other associated works). In terms of the impact on the visual openness of the Green Belt of the proposed development to those elements of the already consented Composting Facility which would be replaced by the proposal, it is considered that the proposal would have a marginally greater impact. The proposed building and compound area would be slightly wider but the same length as the consented composting hall, although the addition of proposed plant within the energy compound would add additional height and bulk elements over and above the existing building already consented at the site.

45. It is therefore necessary to consider whether 'very special circumstance' exist which clearly outweigh the harm caused to the openness of the Green Belt by reason of inappropriateness or actual harm. The need for an assessment for proposals for renewable energy provision within Green Belt sites is acknowledged at Paragraph 13 of Planning Policy Statement 22 (Renewable Energy). The applicant has put forward a case of very special circumstances which include, *inter alia:* contributing towards meeting relevant renewable energy targets, the potential to improve local air-quality through a reduced need to use on-site diesel generators to power the existing Composting Facility and also the creation of two full time jobs.

46. I consider that given the limited amount of harm caused to the openness of the Green Belt, over and above that which would be caused as a result of the not yet fully implemented consented scheme, together with the clear benefits of co-location with the existing facilities and the better dealing with oversize element of the existing waste

stream therefore are sufficient *'very special circumstances'* to clearly outweigh any harm caused. For these reasons I consider that the proposals accord with National Green Belt Policy, together with Development Plan Policies covering Green Belt land, notably South East Plan Policy SE5 and Tonbridge and Malling Core Strategy Policy CP3.

Visual impact of proposals on wider landscape and key public viewpoints

47. The building proposed would be similar in scale and general visual appearance to existing buildings which have been constructed on site, with the exception of the provision of the 26 metre high proposed exhaust stack. A thorough landscape and visual impact assessment was submitted with the application, which assessed the impact of the proposed development upon the wider landscape, Metropolitan Green Belt and neighbouring Public Right of Way. The assessment identified that views of the proposed installation from public viewpoints would be limited to the proposed exhaust stack only, as the building would be located below the natural landform within the quarry void, screened by existing woodland and landscape bunds associated with Blaise Farm Quarry.

48. Protruding no more than 10.8 metres above the quarry rim, views of the proposed exhaust stack would be limited to two sections of public footpath MR286. At these viewpoints the visual affect of the proposed exhaust stack on the wider landscape has been considered to be 'minor adverse'. From all other local viewpoints, the assessment concludes that no aspect of the proposed development would be visible and therefore the landscape and visual effect would be 'none'. Distant views from parts of the North Downs AONB and Trosley Park have been considered to be 'neutral' due to the long distance and slim nature of the proposed exhaust stack. Having carried out a site visit around the application site and taken account of public views obtained from Public Right of Way (MR286) I concur with the findings of the landscape and visual impact assessment submitted with the application.

49. The proposed exhaust stack would be finished in a dark 'brown-green' colour (RAL 6008) which I consider would sit well within the wider landscape, against previous quarry workings and woodland planting surrounding parts of the Blaise Farm Quarry site. I note that the County Council's Landscape Consultant (see paragraph 34) has considered that the proposals would not cause any significant landscape or visual impact. I am therefore satisfied that the proposal would not cause a detrimental impact on the wider landscape or when viewed from the nearest public viewpoint (Public Right of Way MR286).

50. Members will note that the life of the existing Composting Facility is tied by planning condition to a 20 year period from the commencement of commercial composting operations (which first started at the site in September 2008) under planning consent TM/06/762. This proposal, which is intended to operate as an ancillary operation to the main Composting Facility, does not seek to vary this operational time period should planning permission be granted. I therefore propose that a condition be attached to any planning consent requiring the development to be removed at the same time as the existing Compost Facility and both areas be restored in accordance with the details approved pursuant to that planning permission (i.e. planning permission TM/09/3231). Such restoration would accord with National Green Belt policies, wider landscape policies which seek to preserve and enhance the countryside and those restoration and aftercare policies contained in the South East Plan (Policy W14) and Kent Waste Local Plan (Policy W32).

51. For the reasons set out above, I consider that the proposals are in general conformity to South East Plan Policy C3, Core Strategy Policy CP14 and Waste Local Plan Policies W25, W27, W31 and W32.

Local amenity considerations

52. The application is supported by a noise report which has assessed the implications of noise production associated with the proposed 24 hour electricity generation operation, together with the operation of the Composting Facility. As the application proposes the continuous 24 hour operation of electricity generation there would need to be a limited number of site personnel on-site during night time periods. Movement of oversize biomass from the Composting Facility to the proposed electricity generating installation, and the delivery of ancillary supplies and any collections of discharge water and solid char would be confined to the following times in order to avoid night-time noise nuisance:

- 07:00 to 18:00 Monday to Friday;
- 07:00 to 13:00 Saturdays;
- No movements on Sundays;
- 07:00 to 17:30 on Bank and Public Holidays; and
- No movements on 25 and 26 December, and 1 January

53. The noise report concluded that the noise from the facility would not adversely affect the closest noise sensitive receptors, either during the day or night time periods. Notwithstanding the concerns expressed by Offham Parish Council regarding the potential for adverse noise impacts 24 hours per day, 365 days per year, the County Council's Noise Consultant (see paragraph 35) has accepted the findings of the applicant's noise report and considers that noise would not be an issue given the considerable distance (approximately 590 metres) to the nearest noise sensitive residential properties.

54. Members will note that there have been a number of recent complaints since the beginning of 2010 about odour emanating from the New Earth Composting Facility. These concerns are currently the focus of a review by the operator, who has put in place a number of operational changes together with physical building measures to limit the escape of odour particles from their existing Composting Facility. An odour reduction plan has been produced by the operator and discussed with the local community and representatives of the Environment Agency, the Borough Council and Waste Planning Authority. Whilst the existing problems have not been fully resolved, I consider that New Solutions Ltd have taken, and are in the process of further implementing measures to serve to significantly reduce odour emissions from the site.

55. This application details that the potential for emissions of odour from the proposed energy generating facility would be limited, with the only potential for odours being within the initial sorting and drying of the oversized biomass which would take place within the proposed building. The applicant proposes the building would include a negative pressure ventilation system. Whilst I can appreciate the concerns expressed by Offham Parish Council on the basis of on-going complaints, I am satisfied that the addition of additional plant and equipment at the site would not add to any existing operational odour problems. The addition of the proposed installation does not seek to import additional waste to the site, nor does it seek to alter the existing consented incoming GFVC waste streams. Furthermore, in planning terms it would not be reasonable or justified to hold the applicant to ransom with their proposed energy development until such time as all existing operational concerns regarding odour are

fully resolved. Moreover, Members should note that the appropriate regulatory body directly responsible for the control of odour at the site rests with the Environment Agency under their Environmental Permit. It should also be noted that the Environment Agency have not raised objection to the proposed development.

56. The application is supported by an air quality assessment report which has identified that the most appropriate exhaust stack for the facility would be 26 metres from the quarry void, rising to around 10 metres higher than the existing quarry rim. The air quality assessment assessed the proposal in terms of two scenarios: if the installation were to operate together with two diesel generators (currently used for electricity generation on site); and if the facility was to provide all on-site electricity and accordingly none of the diesel generators were to operate. The conclusions of this assessment demonstrate that there would be 'neutral' to 'minor' impact on air quality of the installation were to operate together with the existing diesel generators, and a 'neutral' or improvement in air quality of the plant were to operate but the generators be decommissioned from the site. The assessment report also assessed the predicted concentrations of nitrous oxides, sulphur dioxides and ammonia and depositions of nitrogen and acid at relevant sites of ecological importance. These were found to be less than 1% of the relevant critical load, and therefore accordingly, the ecological impacts considered to be insignificant.

57. Members will note that the County Council's Air Quality Consultant (see paragraph 35) is satisfied with the findings of the accompanying report. He notes that ground level pollutant concentrations and the deposition of contaminants are well below the objectives, therefore having no significant impact upon the nearby residential properties or any adjacent sensitive ecosystems. Furthermore, members should be advised that emissions to air are dealt with by the Environment Agency under the Environmental Permitting Regulations.

58. For the reasons discussed above I am satisfied that the proposed energy generation installation at Blaise Composting Facility would not have any significant detrimental impact on local amenity through noise, odour or air quality issues. Furthermore I consider the proposals to be in general conformity to South East Plan Policies NRM10 and NRM15 and Waste Local Plan Policy W10.

Highway issues

59. The information submitted in support of the planning application details that the generation of new HGV movements serving the electricity installation only (i.e. those involved in the delivery of process materials or the removal of char) would be offset by the reduction in the removal of compost from the site (as the oversize material would be used for the generation of electricity) and the reduction of tankers delivering diesel fuel to the Facility.

60. The applicants therefore detail that vehicle movements associated with the electricity generation installation would not result in any increase in the existing HGV movements permitted by existing planning consents. No alterations to the consent access arrangements for the site are proposed, nor required as a result of the installation of the renewable energy generating equipment.

61. HGV routing for the existing Composting Facility would not change from that detailed under the terms of the existing S106 Agreement, such that no new Agreement is necessary. These require HGVs to avoid surrounding local villages, unless specifically collecting waste or delivering compost within their area. I therefore consider that the

proposal is acceptable in highway terms and conforms to Waste Local Plan Policy W22. I recommend that the combined number of HGVs at the composting and pyrolysis facilities be restricted to those currently permitted.

Other Issues

62. National planning policy regarding renewable energy as set out in PPS22 details that renewable energy development should be capable of being accommodated in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily. South East Plan Policies NRM13, NRM14, NRM15 and NRM16 actively support the principle of renewable energy development, introducing targets to ensure that 8% of electricity within the region is generated from renewable energy sources by 2016. Similarly, there is support from other material considerations (as outlined in paragraph 25) such as the Climate Change Act (2008), the UK Renewable Energy Strategy (2009), the UK Biomass Strategy (2007) and the Tonbridge and Malling Climate Change Strategy (2008-2011). I consider that the principle of generating renewable electricity from an otherwise inefficient element of the existing incoming GFVC waste stream (i.e. oversized biomass) is a positive step in addressing wider climate change targets. I therefore fully support the principle that the applicant is seeking to achieve in this instance.

63. The application site is not located in an area at risk of flooding. The application provides detail as to the manner in which surface water drainage would be dealt with, which is primarily based on the overall system agreed as part of the initial Composting Facility consent. This system includes the use of oil and petrol interceptors which surface waters would pass through before draining into the existing on site balancing pond, thereafter percolating into the permeably Hythe Beds. The proposed facility has been designed to retain run-off water in the event of a fire at the facility. I note that the Environment Agency has raised no objection to the proposals, and therefore I am satisfied by this element of the proposal, subject to the later agreement of adequate surface water drainage details.

64. The Borough Council has requested that a condition be placed on any planning permission to control that this scheme, or the western bay of the Southern Composting Hall be constructed, but not both elements. Should the applicant choose to implement any subsequent planning permission granted for the energy installation then they would effectively forego the western bay of the already consented Southern Composting Hall on the basis that the footprint of this development directly overlays the existing consented but not yet implemented extension. Whilst it would not be possible to fully implement Phase 2 of the Compost Facility planning permission (TM/06/762) if this proposal were to be implemented, these matters can be satisfactorily addressed under the terms of the existing planning permission.

65. The site area of the proposed energy building and its associated compound facilities would be restored in accordance with wider restoration objectives of the Blaise Farm Quarry. The life of the existing Composting Facility is tied to a 20 year period which commenced from 2008. I propose that in order to secure a satisfactory restoration of this parcel of the wider Composting Facility, consistent with South East Plan Policy W14 and Waste Local Plan Policy W32, that a condition be placed on any consent requiring the restoration of this part of the site in accordance with the details to be agreed under the main Composting Facility planning permission (TM/09/3231).

66. The application does not seek to vary incoming waste streams of GFVC waste to the current Composting Facility, nor does it propose a new waste stream to feed the pyrolysis plant. Instead it seeks to utilise an otherwise inefficient element of the existing waste stream (i.e. oversized biomass) to generate renewable electricity to power the wider Composting Facility. I therefore propose that in order to control the feedstock of the pyrolysis plant exclusively to biomass material brought onto the site under the existing operational planning requirements set out in planning permission TM/09/3231, that a condition be placed on any decision dictating that the proposed facility can only operate using waste imported under the terms of the main Composting Facility planning permission.

Conclusion

67. The proposal seeks planning permission for the installation of renewable electricity generating 'pyrolysis' equipment with associated alterations to the design of part of the consented southern composting hall at Blaise Composting Facility. The application site sits within the Metropolitan Green Belt. For the reasons discussed above I consider the proposals to accord with National Green Belt policy given the limited harm caused to the openness of the Green Belt, over and above the already consented but not yet implemented Southern Composting Hall, together with clearly demonstratable benefits of the co-location of the energy facility and existing Composting Facility. These very special circumstances put forward by the applicant are, in my opinion, in this instance sufficient to set aside the presumption against inappropriate development within the Green Belt.

68. I consider the proposal to be acceptable in wider landscape and visual terms and based on the technical and professional advice obtained relating to noise and air quality do not consider these proposals to give rise to any overriding unacceptable harm to local amenity. Notwithstanding the concerns received from Offham Parish Council relating to existing and on-going odour problems at the site I do not consider that the proposed development would increase in the potential for odour in the locality. I therefore see no reason in planning terms to presume against the grant of planning permission for this facility. Furthermore, I note that the existing odour concerns are being actively monitored and measures have been, and continue to be put in place to take the necessary steps to reduce any concerns as far as possible. I would point out that this matter relates to the existing Composting Facility and therefore is not directly relevant to the consideration of the new energy generation installation. I am therefore satisfied that the matters identified by the Borough Council and Offham Parish Council have been satisfactorily addressed in this instance.

69. As discussed throughout the report, the proposals do not give rise to any significant alterations over and above the existing Composting Facility at Blaise Farm. The proposed installation would operate as an ancillary function to the main purpose of the Facility to compost GFVC waste streams collected from municipal and commercial waste contracts. It is considered that the proposal represents a satisfactory location for such a renewable energy development given its proximity to the fuel source, its relative remoteness from residential properties and limited visual impact. Furthermore I note that there is considerable Development Plan Policy support and primary legislation which advocates the use of renewable technologies in suitable locations. For the reasons set out above I therefore recommend accordingly.

Installation of renewable electricity generation equipment at Blaise Composting Facility, Kings Hill, West Malling – TM/10/3056

Recommendation

70. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO conditions to cover (amongst other matters) the following:

- 5 year implementation period;
- the development to be carried out in accordance with the permitted details;
- movement of oversize biomass from the Composting Facility to the proposed electricity generating installation, the delivery of ancillary supplies and collections of process outputs shall be confined to between the following hours only: 07:00 to 18:00 Monday to Friday, 07:00 to 13:00 Saturdays, no movements on Sundays, 07:00 to 17:30 on Bank and Public Holidays and no movements on 25 and 26 December and 1 January;
- external colour treatment of exhaust stack to be 'brown-green' (RAL 6008) and new energy building to match existing;
- details of surface water drainage to be agreed prior to commencement;
- operation be time-limited to the life of the site as stipulated in main Composting Facility (i.e. 20 years from first commercial composting operations in 2008);
- site restored as part of the details approved on main Composting Facility permission (TM/09/3231);
- pyrolysis plant to operate with only the waste imported to the site pursuant to the existing Composting Facility (as covered by planning permission TM/09/3231);
- combined numbers of site HGV movements restricted to those detailed in main Composting Facility permission (TM/09/3231); and
- appropriate measures to guard against mud and debris being tracked to the public highway.

Case officer – Julian Moat 01622 696978

Background documents - See section heading