

SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

Application for removal of condition 14 of planning permission TM/06/762 at Blaise Farm Quarry Composting Facility, West Malling, Kent – TM/07/4435

A report by Head of Planning Applications Unit to Planning Applications Committee on 18 March 2008.

Application by New Earth Solutions Ltd for removal of condition 14 of planning permission TM/06/762 at Blaise Farm Quarry Composting Facility, West Malling, Kent.

Recommendation: Permit subject to amended condition.

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

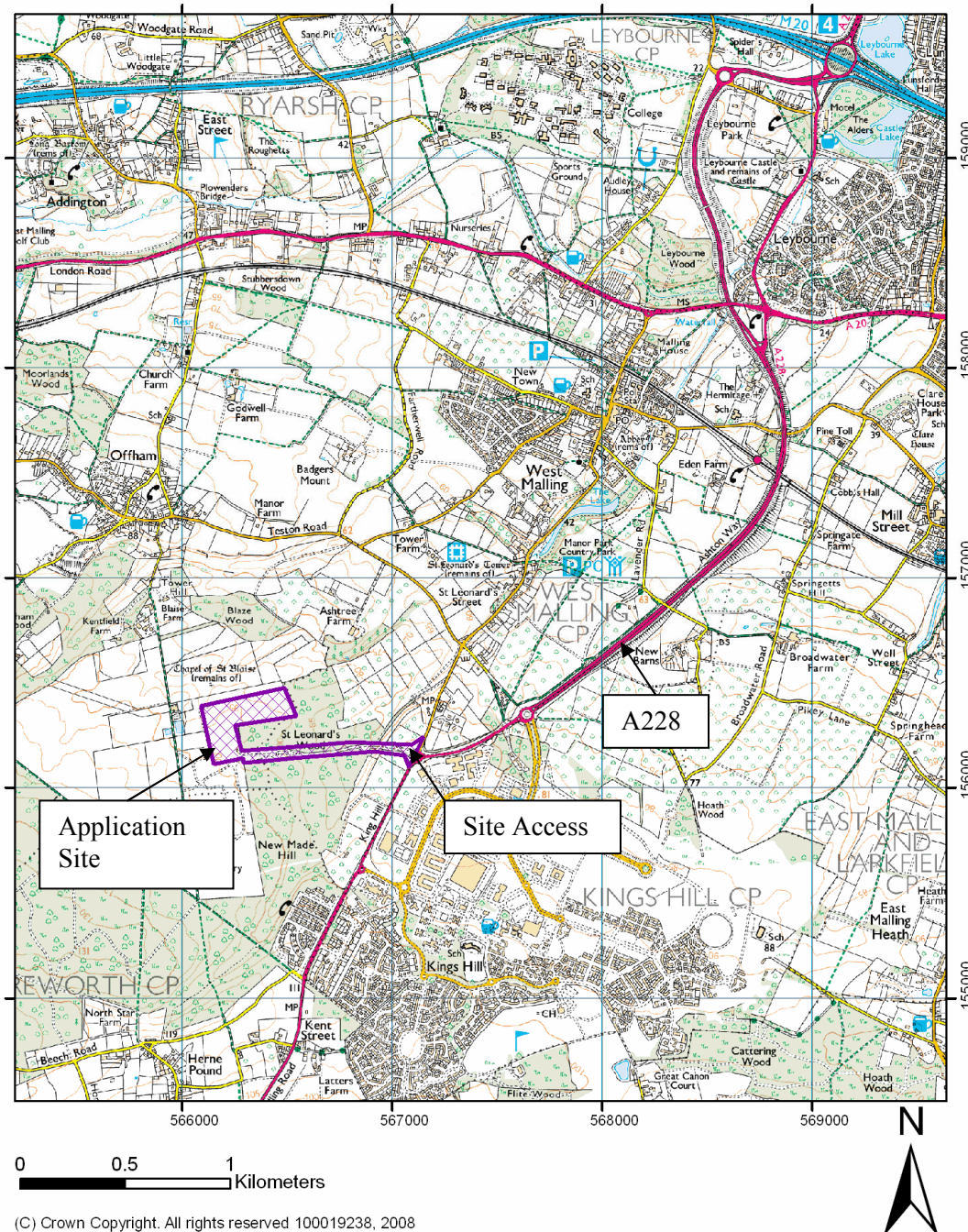
Unrestricted

Site description and background

1. The Blaise Farm Quarry composting facility is being constructed within the excavated quarry void in the north eastern corner of Blaise Farm Quarry near Kings Hill, West Malling in the Parish of Offham. The composting facility will be located about 15 to 20m lower than adjacent ground and be bounded to the east / part south by St Leonard's Wood, to the north by farmland and planting associated with the quarry and to the west / part south by those parts of the quarry that have yet to be started / fully excavated. The nearest residential property (Blaise Farm House) is about 500m to the north west. Access to the composting facility will be via a new purpose built access road from the existing quarry access road and the A228 West Malling roundabout located near Kings Hill. The site lies in the Metropolitan Green Belt and St Leonards Wood is designated as both Ancient Woodland and a Site of Nature Conservation Importance (SNCI). The remains of the Chapel of St Blaise (Scheduled Ancient Monument) lies about 100m to the north of the application site. The quarry has the benefit of a mineral permission (TM/88/1002) granted in 1994 which provides for the winning and working of ragstone over a 62-year period from the start of commercial mineral extraction (i.e. from March 2001).
2. Planning permission for the composting facility (TM/06/762) was granted on 19 September 2006 following the prior completion of a Section 106 (legal) agreement having previously been considered by the County Council's Planning Applications Committee on 20 June 2006.

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3. The planning permission provides for a fully enclosed composting facility (a series of buildings with a gross floor area of 24,153m³) to produce compost mainly from biodegradable materials comprising paper, card, food, vegetable and garden waste delivered by Waste Collection Authorities in Kent collected from household kerbside collection schemes and from Household Waste Recycling Centres (HWRCs), as well as from similar business wastes in Kent. The application proposed that the facility would have a capacity of up to 50,000 tonnes per annum (tpa). The facility was primarily designed to meet the requirements of a Kent County Council (KCC) waste management contract to process up to 25,000tpa of waste derived from Tonbridge and Malling and Tunbridge Wells over a 15 to 20 year period, as well as similar waste from Maidstone and Sevenoaks, although it was always envisaged that any spare capacity would be used for waste sourced from other parts of Kent (including Medway). The application was accompanied by a traffic impact report which concluded that the proposed location would meet the proximity principle for nine Districts (including Medway) in north, west and mid Kent and an alternative sites assessment report which concluded that of the four District areas considered (Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks), and in the absence of alternative sites in urban areas and non-Green Belt locations, only three locations (including Blaise Farm Quarry) offered practical opportunities for development of the facility based on the criteria used for assessment.
4. The conditions attached to the planning permission of particular relevance to the current application are 5, 12 and 14. Clause 5.3 of the Section 106 agreement is similarly important as this effectively repeats the terms of condition 12. Condition 5 requires that the development be carried out and completed in all respects strictly in accordance with the submitted / approved documents, plans and drawings, condition 12 requires that waste shall only be imported from Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks except in those circumstances that are identified (see paragraph 37 below) and condition 14 requires that no more than 50,000tpa of waste shall be imported to the site for composting in any calendar year. Other conditions and clauses in the Section 106 agreement will be referred to as necessary later in this report. It is also worth noting that now the planning permission has been implemented, an earlier permission (TM/03/1155) for a composting facility in the centre of Blaise Farm Quarry will not now be implemented.¹ It should further be noted that the dualling of the West Malling by-pass and by-passing of Leybourne Way (to the north of Blaise Farm Quarry) has now been completed and that the KCC waste management contract to process biodegradable waste from Tonbridge and Malling and Tunbridge Wells has now been let.

The Proposal

5. The application proposes that condition 14 of planning permission TM/06/762 be removed. Condition 14 states:-
 14. No more than 50,000 tonnes of waste shall be imported to the site for composting in any calendar year.

¹ This was secured by clause 7.1 of the Section 106 agreement.

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Reason: To ensure that the development is carried out in accordance with the approved plans and details and to accord with the objectives of Kent Waste Local Plan Policies W10 and W18.

However, the applicant has indicated that it would be prepared to accept that condition 14 be amended to allow up to 100,000tpa of waste to be imported to the site if the County Council is not minded to remove the condition entirely. I am satisfied that the application can be treated on this basis.

6. In support of the application, the applicant states:-

- (a) A recent appeal decision relating to a waste facility development in King's Lynn has confirmed guidance set out in PPS10 and PPS23 that there should not be duplication of control between the planning and waste management licensing regimes and it should not be necessary to use planning conditions to control the pollution aspects of developments that are subject to the prior approval of the licensing authority responsible for pollution (the Environment Agency). The Inspector determined that the amount of waste brought to the site is a matter for the licensing authority and appropriateness, in land use terms, of the site being used for waste treatment has been established by the granting of planning permission.
- (b) The Environment Agency will determine through technical assessment the volume of waste that the facility is capable of processing without causing environmental pollution or any harm to animal or human health and will impose a control on waste imports in granting a licence.
- (c) Notwithstanding the Environment Agency determination of the volumes of waste that can be processed, the restriction on HGV movements imposed by condition 17 (41 in / 41 out on any weekday and 21 in / 21 out on a Saturday) remains unaffected and in force so there would be no impact on the level of HGV movements (i.e. a maximum of 82 HGV movements per day).
- (d) The figure of 50,000tpa was only intended to be an estimate of average annual input as required by question 1C of the of the planning application form. The figure was calculated on information available at the time and was based on calculating the relationship between 2 factors: (i) the assumed pattern of waste deliveries, which included significant peaks; and (ii) the volume of waste in the windrows housed within the composting halls. The 50,000tpa figure was then transposed into the planning permission as an absolute figure which was inappropriate bearing in mind the estimated and average context of the figure supplied.
- (e) In July 2007 the pattern of waste deliveries from the Kent waste contract was confirmed which significantly reduced seasonal peaks providing a more even distribution of waste deliveries over the year. This results in less composting hall floorspace being left under or unused awaiting a peak delivery period. Balancing out peaks increases the capacity of the composting halls above the 50,000tpa limit.
- (f) The windrow turner has been modified by incorporating vertical blades to form a windrow with a trapezoid cross section rather than a triangular one which means that more waste can be placed in each windrow thereby increasing the tonnage

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- of waste and overall capacity of the composting hall.
- (g) The waste material is shredded to produce a small particle size which increases the bulk density of the waste placed in the windrow thereby increasing the tonnage of waste within a windrow and overall capacity of the composting hall.
 - (h) The turner modification and shredding process are changes to operational practices developed after the planning application was submitted and have been used at the Poole composting facility for over 12 months. Independent consultants have verified that the Poole facility is operating at 50,000tpa.
 - (i) The approved built footprint of the Blaise Farm composting facility comprises the equivalent of two Poole facilities and the permitted buildings at Blaise Farm are therefore capable of processing significantly more than the 50,000tpa limit imposed. To restrict the inputs to this level is therefore an artificial constraint which would result in the Blaise Farm facility operating at a sub-optimal level of efficiency.
 - (j) Operating the facility at more than the 50,000tpa will have no implications on noise or odour emissions. The bio-filter at Blaise Farm is twice the size of that at Poole and is designed to handle the air volume from both of the composting buildings. Noise modelling was based on the assumed peak conditions whereby all the windrows in all the composting halls were being aerated by the suction pumps.
7. The applicant has also submitted a report prepared by Eunomia Research & Consulting Ltd (dated 21 February 2008) on potential organic waste arisings from the nine District areas (including Medway) referred to in paragraph 3 above, together with its own analysis based on this, in order to demonstrate that the potential organic waste arisings from within the main catchment area (i.e. the four District areas of Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks) would be greater than the estimated overall capacity of the Blaise Farm Composting Facility (i.e. 100,000tpa). The report includes information on biodegradable waste collected from kerbside, as well as that from household waste recycling centres and the commercial and industrial sector. The analysis concludes that between 149,991tpa and 170,661tpa of biodegradable waste would be available from within the four Districts based on 4 scenarios.

Planning Policy Context

8. **National Planning Policies** – the most relevant National Planning Policies are set out in PPG2 (Green Belts), PPS10 (Planning for Sustainable Waste Management), PPS23 (Planning and Pollution Control) and Waste Strategy for England 2007.
9. **Regional Planning Policies** – These include Policies E1 (areas of cultural importance), E2 (biodiversity), E3 (Green Belts), W4 (sub-regional self-sufficiency), W5 (targets for diversion from landfill), W6 (recycling and composting targets), W7 (capacity requirements) and W17 (location of waste management facilities) of the adopted Regional Spatial Strategy (RPG9) and Policies BE7 (management of the historic environment), NRM4 (conservation and improvement of biodiversity), NRM5 (woodlands), CC10a (Green Belts), W4 (sub-regional self-sufficiency), W5 (targets for diversion from landfill), W6 (recycling and composting targets), W7 (capacity requirements) and W17 (location of waste management facilities) of the emerging

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South East (SE) Plan.

10. **Kent Structure Plan (2006)** - These include Policies SP1 (conserving and enhancing Kent's environment and ensuring a sustainable pattern of development), SS2 (extent of the metropolitan Green Belt), EN1 (protecting Kent's countryside), EN3 (protecting and enhancing countryside character), EN7 (county and local wildlife designations), EN8 (protection, conservation and enhancement of biodiversity), EN9 (trees, woodland and hedgerows), NR5 (pollution impacts), NR8 (water quality), TP12 (development and access to the primary / secondary road network), TP15 (development traffic & HGVs), TP17 (traffic and management of minor roads), WM1 (integrated waste management), WM2 (assessment criteria for waste proposals), WM4 (planning for waste management capacity) and WM6 (assessment of strategic waste management facilities)
11. **Kent Waste Local Plan (1998)** – These include Policies W6 (consideration of need / harm), W10 (criteria for composting proposals), W18 (noise, dust and odour), W19 (ground and surface water), W20 (land drainage and flood control), W21 (nature conservation), W22 (road traffic and access), W31 (landscaping) and W32 (aftercare).
12. **Tonbridge and Malling Borough Local Plan (December 1998)** - Identifies that the application site lies in the Green Belt.
13. **Tonbridge and Malling Borough Council Local Development Framework Core Strategy (September 2007)** – Policies CP1 (sustainable development), CP3 (Metropolitan Green Belt).
14. **Kent Joint Municipal Waste Management Strategy (April 2007)** – The most relevant Policies are 8 (which states that the Kent Waste Partnership will achieve a minimum level of 40% recycling and composting of household waste by 2012/13 and will seek to exceed this target) and 12 (which states that the Kent Waste Partnership will work to secure composting capacity including in-vessel in the County to enable the authorities in the east of Kent to provide an efficient and cost-effective service for management compostable wastes).

Consultations²

15. **Tonbridge and Malling Borough Council** – No objections. All conditions attached to consent reference TM/06/762 should remain in force.
16. **Offham Parish Council** – No objections to the removal of planning condition 14 on the basis that the principle of use of the land for waste treatment has already been established and that the applicant states that the increase in capacity will have no impact on noise or odour emissions or on the level of HGV movements permitted by condition 17. If there is subsequently any increase in noise, odour or HGV movements then we would have very serious concerns and objections.

² All consultee responses were received before the applicant confirmed that it would be willing for the application to be treated on the basis of a maximum of 100,000tpa being permitted by condition 14 rather than the removal of the condition.

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17. **West Malling Parish Council** – Objects on the grounds that the original environmental benefits would be negated by this increase in the catchment area.
18. **Mereworth Parish Council** – Is concerned that this would lead to increased lorry movements and is strongly of the view that these vehicles do not come through the village.
19. **Kings Hill Parish Council** – No objection.
20. **SEERA** – The County Council, in considering whether to remove planning condition 14 of the existing planning permission, should be satisfied that the proposal is in accordance with guidance in PPG2 (Green Belts) to comply with the objectives of Policy E3 of RPG9 and Policy CC10a of the draft South East Plan. If the County Council is minded to remove planning condition 14, it should also address the following through appropriately worded conditions and/or legal agreements to secure: appropriate mitigation measures concerning air quality (including odour emissions) and noise to the satisfaction of the Environment Agency, to accord with the objectives of Policy E7 of RPG9 and Policies NRM7 and NRM8 of the draft South East Plan.
21. **SEEDA** – Has no detailed comments on the proposed removal of condition 14, however, considers that maximising the volume of waste sent for recycling (including composting) will assist local authorities in meeting landfill targets. Supports the establishment of facilities that will contribute towards delivering the Regional Economic Strategy (RES). Target 12 of the RES seeks to achieve a 30% increase over the 2003 baseline in GVA (Gross Value Added)³ generated per tonne of materials entering the waste stream by 2016. Therefore, considers that the development of the composting facility will assist in the delivery of this target.
22. **Environment Agency** – No objection. Has confirmed that although it has not yet received a waste management licence application, the applicant is correct in stating that the volumes of waste permitted to be accepted at the site would be controlled through conditions on any licence granted.
23. **Transportation Manager (West Kent)** – No objection subject to the retention of the existing HGV movement restrictions.
24. **KCC Waste Management Unit** – Has accepted the assumptions and findings of the Eunomia report and agreed that there would be the potential for at least 100,000tpa of biodegradable waste arising from within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks.

Representations

25. The application has been publicised both by site notice and newspaper advertisement and 12 local residential / business properties were notified. At the time of writing this

³ GVA measures the contribution to the economy of each individual producer, industry or sector in the UK.

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report, three letters of objection has been received.⁴ The grounds of objection are as follows:-

- The removal of the 50,000tpa restriction would not recognise the exceptional nature of the original planning consent for a waste management facility in the Green Belt and the factors taken into account by the Planning Committee when making its decision in June 2006;
- The proposal would result in a much higher average number of daily vehicle movements than originally envisaged and considered. Had KCC known of what is now proposed it may have come to a different decision or placed further constraints on the development;
- KCC should, as an elected planning authority, maintain control over site capacity;
- The proposal would lead to waste being imported from a wider area than originally proposed and undermine the proximity reasons for the location of a facility to serve Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks due to increased journey times and associated vehicle pollution. It would also reduce the ability of KCC to ensure that the proximity principle is adhered to;
- The planning decision in Kings Lynn should not be seen as setting a precedent. Questions whether that facility was in the Green Belt and whether its capacity / travel assumptions were radically amended 18 months after planning permission was granted; and
- The removal of condition 14 would reduce the effectiveness of elected representatives and their officers to act on local concerns.

Local Members

26. County Council Members Mrs S Hohler, Mrs T Dean and Mr R Long were notified in December 2007.

Discussion

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the policies outlined in paragraphs 8 to 13 are of greatest relevance. Also of particular relevance is Circular 11/95: The Use of Conditions in Planning Permissions (1995) which sets out the general criteria for the validity of planning conditions. These “six tests” are that conditions should be:-

- Necessary;
- Relevant to planning;
- Relevant to the development permitted;
- Enforceable;
- Precise; and

⁴ All three responses were received before the applicant confirmed that it would be willing for the application to be treated on the basis of a maximum of 100,000tpa being permitted by condition 14 rather than the removal of the condition.

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- Reasonable in all other respects.
28. Prior to the publication of PPS10, Government advice required planning authorities to consider whether waste planning applications constituted the Best Practicable Environmental Option (BPEO). Case law established that consideration of BPEO to individual applications should be afforded substantial weight in the decision making process. PPS10 moved the consideration of BPEO principles to the Plan making stage where it is to be considered as part of the Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA) process applied to the Plan. However, where planning authorities' current waste policies have not been subject to the SA / SEA process (as is the case with the Kent Waste Local Plan) it is still appropriate to consider planning applications against the principles of BPEO. Until such time as the Kent Waste Development Framework (WDF) reaches a more advanced stage, applications will be considered against Policy WM2 of the Kent & Medway Structure Plan to ensure that they deliver facilities that are *"of the right type, in the right place and at the right time"* in accordance with paragraph 2 of PPS10. This approach is also consistent with the underlying principles of the adopted and emerging Regional Spatial Strategy for the South East (i.e. RPG9 and the draft SE Plan).
29. Since planning permission has already been granted for the Blaise Farm Quarry composting facility and the permission has been implemented by development works it is not necessary or appropriate to reconsider the principle of a composting facility at this location. However, it is necessary to consider whether as a general principle it is appropriate to leave the amount of waste that may be imported to the site to the waste management licence, thereby removing any planning controls on this, and whether the implications of the removal of condition 14 of planning permission TM/06/762 would be acceptable in planning terms.

Is it appropriate (in principle) to leave the amount of waste that may be imported to a waste site entirely to the waste management licence?

30. PPS10 contains guidance on the responsibilities of, and relationships between, the planning and pollution control authorities. Specifically, paragraph 26 states that *"waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities"*. Paragraph 27 states that *"Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the use of substances to the environment at the lowest practicable level and ensure that ambient air and water quality meet the standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of the land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced."* Paragraph 32 states that *"It should not be necessary to use planning conditions to control the pollution impacts of a waste management facility where the facility requires a permit from the pollution control authority. In some cases, however, it may be appropriate to use planning conditions to control other aspects of the development. For example, planning conditions could be used in respect of transport modes, the hours of*

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operation where these may have an impact on neighbouring land use, landscaping, plant and buildings, the timescale of the operations, and impacts such as noise, vibrations, odour, and dust from certain phases of the development such as demolition and construction.” Similar, albeit older, guidance is contained in PPG23.

31. The applicant places considerable reliance on one appeal decision dated 23 August 2007 relating to conditions attached to a planning permission granted by Norfolk County Council in 2006 for a change of use from existing industrial / warehouse units to waste transfer / treatment station and ancillary offices and storage on an industrial estate in King's Lynn. The appeal sought the removal of nine of the thirteen conditions that had been attached to the planning permission. The contested conditions included those requiring the cessation of development within 20 years, a 5,000tpa limit on waste imports, a requirement to maintain a record of output / production, a restriction on waste types to those specified in the permission and various site drainage and related matters. The conditions had been imposed (as appropriate) to safeguard amenity and hydrological interests. The condition of most relevance to the current application is condition 3 which stated that *“No more than 5,000 tonnes of waste per annum shall be brought onto the site.”* This was imposed *“To ensure orderly working in the interests of the amenities of the surrounding area to accord with the Waste Local Plan Policy WAS13.”*

32. As the applicant points out, the appeal was upheld by the Inspector and all nine conditions appealed (including condition 3) were deleted on the grounds that the Inspector considered that these were unnecessary / unreasonable in terms of Circular 11/95. In reaching her decision, the Inspector states that: *“The amount and detailed type of waste being brought to the site is a matter for the licensing authority. By granting planning permission the Council has accepted that, in land use terms, this is an appropriate location for a waste transfer / treatment facility. It is up to the waste licence to deal with the likely impact upon pollution or public health of the type of waste of waste to be handled within the site. Any variation in the amount or types of waste would need to be the subject of a waste management licence modification application to the Environment Agency which in turn would involve consultation with the local planning authority. The Council is concerned about the traffic which may be generated by any increases in waste handling, but the site is on a relatively modern industrial estate which has good connections to the main road network. There is no substantiated evidence before me that, in this case, increases in the amount of waste which would be compatible with the requirements of the waste licence would lead to an unacceptable increase in vehicular movements.”*

33. Notwithstanding the Inspector's decision, I am of the opinion that whilst it may be appropriate to leave the amount of waste that may be imported to a waste site entirely to the waste management licence in some circumstances (such as those in King's Lynn where it relates to the use of a site on a modern industrial estate, involves relatively small amounts of waste and is clearly related to potential local amenity impacts) I do not accept that this will always be the case, particularly where there are strong planning reasons for conditions to be attached to the planning permission. At Blaise Farm Quarry there are very important planning reasons for imposing a maximum limit on waste imports in the planning permission and I am satisfied that retaining such a condition could meet the six tests for conditions set out in Circular

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11/95 provided it is satisfactorily worded. The reasons for retaining planning control of maximum waste imports by condition is discussed further below.

What are the implications of removing condition 14 of planning permission TM/06/762 and would removal be acceptable in planning terms?

34. Kings Hill Parish Council has objected to the proposals on the grounds that the environmental benefits of the original permission would be negated by an increased catchment area whilst Mereworth Parish Council has expressed concerns that the proposal would lead to increased HGV movements (including through the village). Three local residents have also objected on similar grounds (see paragraph 25), as it would reduce local accountability and as they reject accepting the Kings Lynn case as a precedent. Although Offham Parish Council has not objected to the proposal, it has said that it would object strongly and be concerned if there is subsequently any increase in noise, odour or HGV movements. No objections (in cases subject to conditions) have been received from Tonbridge and Malling Borough Council, Kings Hill Parish Council, the Environment Agency, SEERA and the Transportation Manager (West Kent). SEEDA supports the proposal.
35. Although the reason for imposing a 50,000tpa maximum waste import limit in condition 14 was *“to ensure that the development was carried out in accordance with the approved plans and details and to accord with the objectives of Kent Waste Local Plan Policies W10 and W18”*, planning permission TM/06/762 needs to be read in its entirety and other conditions and the reasons for imposing these are also relevant. Policies W10 and W18 of the Kent Waste Local Plan relate, respectively, to proposals for composting and digestion and noise, dust and odour.
36. Planning permission TM/06/762 was granted on the basis that the County Council accepted that there were very special circumstances sufficient to justify the development of a 50,000tpa composting facility to (primarily) serve Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks in the Green Belt at Blaise Farm Quarry. These and related issues were dealt with in detail in the previous Committee Report.⁵ The very special circumstances included that there were no alternative sites in urban areas and non-Green Belt locations in Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks (based on the results of an alternative site assessment exercise for the four Districts). Since there was no assessment of whether alternative sites may exist in other Districts in Kent, a strict interpretation of what is now Policy W17 of RPG9 and the draft SE Plan would have led to waste sources being limited strictly to Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks.
37. However, in acknowledgement that waste sourced from Swale, Ashford, Dartford, Gravesham and Medway would be almost as proximate as that from a number of locations within the four Districts (based on a traffic impact assessment report) and to ensure that the remaining 25,000tpa capacity over and above that referred to in paragraph 3 above could be utilised if further contracts were not immediately forthcoming, the County Council resolved to permit waste from these other areas as

⁵ Paragraphs 54 to 69 on pages C1.15 to C1.21.

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exceptions subject to further conditions. This is reflected in condition 12 (and repeated in clause 5.3 of the Section 106 agreement) which states:⁶

12. Waste imported to the composting facility shall only be sourced from within the Districts of Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks except in the following circumstances:

- (i) those occasions where there is sufficient capacity to handle the additional wastes at the Blaise Farm composting facility without diverting wastes from sources within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks Districts; and
- (ii) where the additional wastes would otherwise be exported from the County or landfilled; and
- (iii) where the additional sources of permitted waste are from within Swale, Ashford, Dartford and Gravesham Districts and the Medway Authority area.

Reason: As the principles of Best Practicable Environmental Option (BPEO), including the proximity principle, and very special circumstances necessary to justify the Green Belt location have been accepted on the basis that waste will primarily be derived from Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks and to accord with the principles of (amongst others) Waste Strategy 2000, PPG2, RPG9 Regional Waste Strategy (revised June 2006), Kent Structure Plan (1996) Policies S1 and MGB3, Kent & Medway Structure Plan (2006) Policy WM2 and Kent Waste Local Plan Policy W1, whilst acknowledging that a number of other waste sources are similarly proximate and could be used without undermining the reason for permitting a waste management facility in the Green Belt under certain circumstances.

38. Based on comparison between the floorspace of the Blaise Farm Quarry and Poole facilities, I estimate that if the County Council were to permit the removal of condition 14 it would be possible for the Blaise Farm Quarry facility to operate with a maximum capacity of up to 100,000tpa. The applicant accepts this estimate although it stresses that this is dependent on waste being delivered evenly throughout the year without the peaks and troughs originally envisaged. On this basis, it could mean that a further 75,000tpa of waste could potentially be imported to Blaise Farm over and above that already secured by the KCC waste management contract. Whilst it is difficult to assess precisely how much of this additional waste would come from within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks and how much may come from within Swale, Ashford, Dartford and Gravesham Districts and the Medway Authority area, it would be entirely possible for a significant percentage of the balance to come from the latter. Indeed, given the wording of condition 12 it is possible that all of the additional 75,000tpa could do so without breaching the terms of the condition at least until further waste contracts become available or if those contracts are awarded elsewhere. This could mean that at least three times as much waste as originally envisaged could come from outside the Green Belt (at least for some period of time).⁷

⁶ Note that the Planning Applications Committee resolved to restrict the exceptional waste sources further than recommended at paragraph 65 of the 20 June 2006 Committee Report.

⁷ It should be noted that parts of Dartford and Gravesham are also in the Green Belt.

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Unless it can be demonstrated that this additional waste could be sourced from within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks, the proposed change could undermine the initial justification for locating the composting facility at Blaise Farm Quarry in the Green Belt.

39. Also of relevance to the proposal, is the amount of other composting capacity in Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks. Green waste composting facilities already exist at Dunbrik (Sevenoaks) and Conghurst Farm near Hawkhurst (Tonbridge Wells). Dunbrik has a capacity of up to 18,000tpa, however, it generally operates well below this level. It should also be noted that the Dunbrik composting facility would close if a permitted new waste transfer station and enhanced household waste recycling centre (HWRC) is built. The facility at Conghurst Farm is much smaller (up to 11 loads per week), only has the benefit of a temporary planning permission (until 23 June 2010) and can only accept green waste from the HWRCs in Tunbridge Wells and Ashford. As of June 2007, only waste from Ashford had been accepted at the facility. Neither facility can accept the full range of biodegradable wastes permitted at Blaise Farm. The only permitted composting facility that could accept the full range of biodegradable wastes is that at Greatness Quarry (Sevenoaks). Although not yet operational, this facility would be able to accept about 10,000tpa until 7 December 2011 when landfilling should be completed and the site restored. It should also be noted that the Greatness Quarry composting facility has yet to obtain the necessary permit or licence from the Environment Agency.
40. The Eunomia report on potential organic waste arisings and the applicant's own analysis of this demonstrates that the potential organic waste arisings from within the 4 District areas (Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks) would be greater than 100,000tpa (i.e. between 149,991tpa and 170,661tpa). KCC Waste Management Group has accepted that the report's findings in respect of biodegradable waste collected from kerbside and that from household waste recycling centres are reasonable and that, in general terms, its assumptions in respect of commercial and industrial waste are fair. I agree with this. As a result, and even if the other composting capacity in Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks is taken into account, the reason for permitting the composting facility at Blaise Farm Quarry need not be undermined by an increase in permitted waste imports as the intention behind condition 12 would remain intact.
41. Although it seems likely that the Blaise Farm Quarry composting facility may have a maximum capacity of 100,000tpa, and the applicant has suggested that this could not be exceeded due to the existing permitted daily HGV restriction, this is not certain. Various factors, including the size of HGVs delivering waste and collecting compost or reject materials, could affect overall capacity. If condition 14 were removed entirely and the maximum capacity of the facility turned out to be greater than 100,000tpa it is possible that the above justification would be undermined. For this reason, and since the County Council would have no direct control over any maximum capacity that may be applied via the waste management licence, I would not wish to see condition 14 removed entirely. However, I would be prepared to accept that the current 50,000tpa be increased to 100,000tpa since the Eunomia report has demonstrated that more than 100,000tpa of biodegradable waste could arise from within the four District areas. This would be consistent with the intent behind the original planning application and

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still be consistent with the principles of BPEO and accord with the principles of PPG2, Policy E3 of RPG9, Policy CC10a of the draft SE Plan and Policies SS2 and WM2 of the Kent and Medway Structure Plan. It would also accord with the objectives of the Waste Strategy for England 2007 and ensure that available capacity at Blaise Farm is not wasted. The applicant has agreed that the application be treated on this basis and I am satisfied that as the application contains information indicating that the capacity of the facility could increase to 100,000tpa that it would be reasonable for it to be determined accordingly.

43. As it is not proposed to alter any of the other existing planning conditions, there would be no increase in the maximum number of daily HGV movements although a greater average number of movements would be possible as has been noted by local residents. Condition 17 restricts HGV movements to 82 (41 in/41 out) Monday to Friday and 42 (21 in/21 out) on Saturdays. The Transportation Manager for West Kent has no objection to the proposals provided the daily maximum is maintained. It should also be noted that condition 18 further restricts HGV movements to 9 to the south on the A228 during each of the peak hours of 08.00 to 09.00 and 16.30 to 17.30. Vehicle routing would continue to be controlled under the terms of the Section 106 agreement to ensure that only HGVs collecting organic wastes from local villages would use local roads. Given this, it is worth noting that HGVs using the site would virtually all use the A228 (a primary road) and that the use of such roads to obtain access to waste management facilities is consistent with the objectives of Policy W22 of the Kent Waste Local Plan and Policy WM2 of the Kent and Medway Structure Plan. On this basis, and given the recent improvements to the A228, I consider that it would be difficult to substantiate an objection on the basis of a higher average number of daily HGV movements. The possibility that further changes might be sought to the permission (e.g. increased daily HGV movements) is not a matter for consideration at this stage and any such proposals would require a further planning application(s) to be submitted.
44. The permitted facility is some distance from the nearest properties and measures to minimise adverse air quality impacts, odour and noise are integral to the development (e.g. biofilters, negative air pressure on buildings). These matters were examined in detail during consideration of the original application and conditions were imposed on the planning permission to safeguard local amenity.⁸ The facility will also require a waste management licence which will include detailed controls on emissions (odour and bioaerosols). No changes are proposed to these conditions and the facility will still require a waste management licence. The only negative impact on air quality and noise that may arise from the proposal would be as a result of any increase in average daily HGV movements. Any increase would not be significant and I am of the opinion that an objection on these grounds would be very difficult to substantiate, particularly given the response of the Transportation Manager (West Kent).
45. The potential increase in HGV movements could also have a slightly greater impact in visual and landscape terms. However, since HGVs would continue to arrive at / leave the site on the A228, enter / leave the site via the purpose built quarry access and as the facility and all associated infrastructure would still be within the quarry void and

⁸ E.g. Conditions 16 (hours of operation), 24 and 25 (noise), 26 (noise, dust and odour).

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largely surrounded by woodland, any landscape and visual impacts on the Green Belt would be minimal. Once again, I do not consider that any objection would be appropriate on these grounds.

Conclusion

46. For the reasons set out above, I do not consider that it would be appropriate to remove condition 14. However, in view of the fact that more than 100,000tpa of biodegradable waste could arise from within Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks (i.e. the main catchment area) I consider that it would be reasonable to vary condition 14 to allow up to 100,000 tonnes of waste to be imported to the site for composting in any calendar year. I am satisfied that this would accord with relevant development plan policies and be consistent with the principles of the BPEO.

Recommendation

47. I RECOMMEND that PERMISSION BE GRANTED subject to condition 14 of planning permission TM/06/762 dated 19 September 2006 being reworded as follows:-

“14. No more than 100,000 tonnes of waste shall be imported to the site for composting in any calendar year.

Reason: To ensure that the development is carried out in accordance with the approved plans and details, to accord with the objectives of Kent Waste Local Plan Policies W10 and W18 and as the principles of Best Practicable Environmental Option (BPEO), including the proximity principle, and very special circumstances necessary to justify the Green Belt location have been accepted on the basis that waste will primarily be derived from Tonbridge and Malling, Tunbridge Wells, Maidstone and Sevenoaks and to accord with the principles of (amongst others) the Waste Strategy for England 2007, PPG2, RPG9 Regional Waste Strategy (revised June 2006) and Kent & Medway Structure Plan (2006) Policy WM2, whilst acknowledging that a number of other waste sources are similarly proximate and could be used without undermining the reason for permitting a waste management facility in the Green Belt under certain circumstances.”

Case Officer: Jim Wooldridge	Tel. no. 01622 221060
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Background Documents: see section heading.
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