

Variation of condition (iii) of planning permission AS/87/802 and condition (1) of planning permission AS/02/645 to allow the continued operation of the existing rail aggregate terminal for a further temporary period pending the conclusion of matters to allow granting of permission for a permanent facility at the site. Sevington Railhead, Waterbrook Park, Ashford. – AS/07/1973.

A report by Head of Planning Applications Group to Planning Applications Committee on 15th January 2008.

Variation of condition (iii) of planning permission AS/87/802 and condition (1) of planning permission AS/02/645 to allow the continued operation of the existing rail aggregate terminal for a further temporary period of up to 3 years and subsequent delay in restoring the site, pending the conclusion of matters to allow granting of a separate permission (AS/06/4 & AS/06/5) for a permanent facility and its subsequent full implementation, Sevington Railhead, Waterbrook Park, Waterbrook Avenue, Sevington, Ashford, Kent.

Recommendation: Permission be granted subject to conditions.

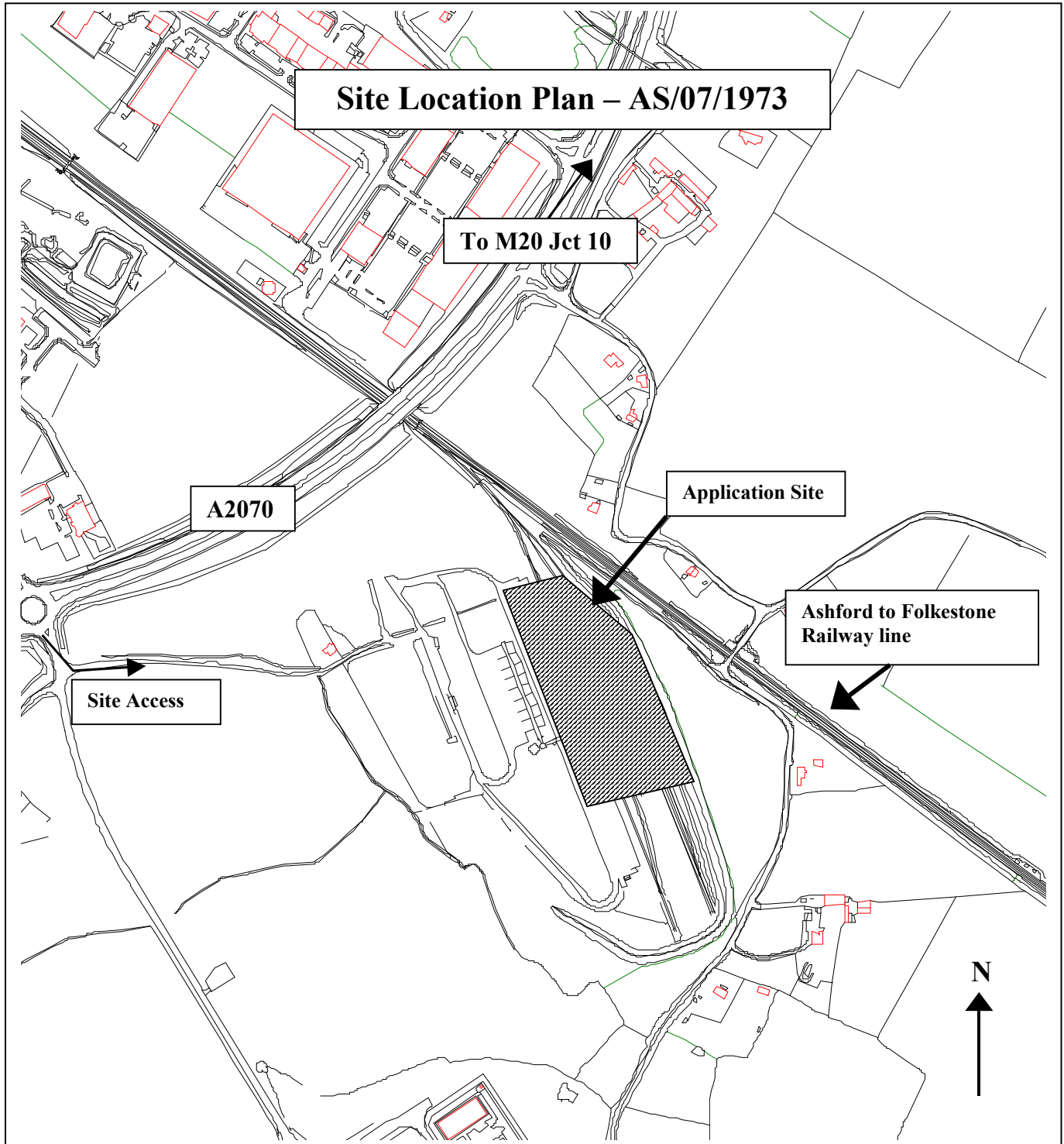
Local Member: Mr C. Findlay and Mr S.J. Koowaree

Unrestricted

The Site and Background

1. Sevington Railhead lies some 3 miles to the South East of Ashford Town Centre, South of Junction 10 of the M20 and immediately south of the Ashford – Folkestone railway line and Channel Tunnel Rail Link (CTRL). It extends to some 18ha and was originally granted temporary planning permission in 1987 (Ref. AS/87/802) for a bulk materials railhead associated with the construction of the Channel Tunnel. It was also included in the CTRL Act 1996 and was subsequently used to supply materials for the construction of the CTRL.
2. Since the original permission a further application (ref. AS/02/645) to extend the use of the site was granted in July 2002, which allowed the importation and distribution of aggregates into the general market for a temporary period. In August 2006 a further application was submitted (Ref. AS/06/1749) to extend this temporary period until 31 December 2007, with subsequent restoration of the site by July 2008. This application remains undetermined and shall on satisfactory conclusion of application AS/07/1973 would be withdrawn.
3. Last February following a site visit Members of the Planning Applications Committee resolved to grant two separate permissions (AS/06/4 & AS/06/5) to Robert Brett and Sons Ltd (Bretts) for the expansion and permanent retention of the existing Sevington Rail Aggregate Importation facility, together with the associated development of a waste recycling/transfer facility. The resolution was made subject to the satisfactory completion of a Legal Agreement in order to secure amongst other matters the cessation of similar existing facilities operated by Bretts at their nearby site at Conningbrook Quarry, which would effectively be replaced by those at Sevington.

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Proposal

4. Pending the completion of the Legal Agreement to be attached to the permanent permissions granted to Bretts referred to in paragraph (3) above, which would allow them be formally issued, Bretts have submitted a further application (Ref. AS/07/1973) which is the subject of this report. This application seeks a further extension of time pursuant to condition (1) of planning permission AS/02/645 to operate the existing railhead for a period of up to 3 years from when the permissions for the permanent retention of the existing railhead and associated waste transfer/recycling have been formally granted. In the event that the permissions are not then implemented provision is made in the application pursuant to condition (iii) of planning permission (Ref. AS/87/802) for the restoration of the site.
5. In support of their proposal Bretts draw attention to what have been unforeseen difficulties in completing the Legal Agreement following the resolution by Members to grant permission for the permanent aggregate and waste facilities. Furthermore it is estimated that the development and commissioning of the site for permanent use will take some 18 to 24 months. Bretts assert that the site is already identified as being of strategic importance by virtue of its designation under current development plan policies and which has been endorsed in the resolution taken by Members to grant permission for a permanent facility at the site. In their opinion the continued operation of the existing aggregate depot pending the completion of the permanent facility represents the most sustainable way of maintaining the supply of aggregates to Ashford.

6. National, Regional and Development Plan Policy

Minerals

Minerals Policy Statement 1 (MPS1) 'Planning and Minerals' gives recognition to the essential role minerals play in the nation's prosperity and quality of life and the need therefore to ensure an adequate supply of material to provide the infrastructure, buildings and goods that society, industry and the economy needs. With this principle in mind it advises that mineral planning authorities should therefore aim to provide a framework for meeting such needs whilst seeking to avoid any detrimental effects on the environment through appropriate mitigation. Particular emphasis is given towards the need to safeguard existing, planned and potential rail heads and associated storage, handling and processing facilities for the bulk transport by rail, of aggregates including recycled, secondary materials.

Development Plan Policy

Kent and Medway Structure Plan July 2006

Policy TP15: Requires development to be well related to the primary route network.

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- Policy EN1:** Seeks to protect and enhance Kent's countryside for its own sake
- Policy EN3:** Requires Kent's landscape and wildlife habitats to be protected, conserved and enhanced.
- Policy EN8:** Aims to protect conserve and enhance wildlife habitat and species, especially through long term management and habitat creation schemes.
- Policy MN1:** Supports proposals for the provision of minerals through recycling, the use of secondary materials and the facilitation of imports.
- Policy MN3:** Sets criteria for assessing proposals for minerals including associated plant, buildings and minerals recycling facilities.
- Policy MN4:** Seeks to protect and safeguard existing marine and rail depots.

Kent Minerals Local Plan for Construction Aggregates December 1993 (saved policies)

- Policy CA1:** Requires that proposals for Rail Depots should have no adverse impact on the road network and avoid residential areas.
- Policy CA3:** Proposals for depots to receive aggregates requires that they do not adversely affect local features of identified importance and can be operated consistent with the criteria set out in Policies CA16 to 26.
- Policy CA4:** Identifies Sevington as being suitable in principle as an import point for construction aggregates.
- Policies CA16 to CA23:**
Set out the operational criteria against which proposals for minerals will be considered.

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

In November 2006 following pre-submission public participation with the community and other stakeholders on the preferred options, the County Council formally submitted these documents to the Secretary of State for independent examination. Once adopted the documents, which constitute Development Plan Documents (DPD), will form the Kent Development Framework and also become a part of the Kent Development Plan. Their draft policies seek to develop the Government's objectives for minerals planning. As these documents progress towards formal adoption the extent to which they represent a material consideration will gain in weight. Consistent with the objectives of the existing development plan policies, and having regard to this application, proposed Policy CA9 of the Construction Aggregates DPD makes specific reference to the application site in so far as it recognises this relates to an existing site for the importation of construction

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aggregates and which will therefore need to be protected from development that would prejudice its continued operation.

Ashford Borough Local Plan

Under Policy S14 Waterbrook Park is proposed primarily for warehousing and distribution uses (B8) and also suitable for light general employment uses (B1 and B2), whilst S14 (f) specifically seeks to retain the existing railhead and avoid prejudicing opportunities for its future use.

7. Consultations

Ashford Borough Council: - Raise no objection, on the grounds that all other conditions imposed on permission AS/02/645 are adhered to.

Sevington and Mersham Parish Council:– Raise concerns over the continued detrimental impacts from noise, dust and light pollution and would wish to see safeguards implemented if the use of this site is to continue.

Environment Agency: Raise no objection subject to the imposition of conditions

Union Property: Raises no comment on this application.

Highways Agency: Has sought clarification over the potential cumulative impacts from additional traffic that would be generated by this proposal in the context of the two applications for a permanent rail aggregate depot at the site having not yet been implemented, together with applications submitted to Ashford Borough Council for employment development on the remainder of the Waterbrook Park site. Under the circumstances until such times as further information is provided confirming the position considers the application should be refused.

Public Rights Of Way: Have not commented on the current application, however in recognition of the need to divert a public Right of Way which currently crosses the site in connection with the applications for the permanent facility they raised no objection to the previous application (Ref. AS/07/1749) subject to the condition that no additional development affecting the route of byway AE350 should occur until a diversion order is confirmed and a new route is provided and certified. The minimum width of any path diverted shall be 4 metres whose surface shall either remain as grass where they fall outside the immediate development area or surfaced with a type 1 material and finished with a limestone topping or similar where they fall within it.

Local Members

The two local Members Mr Findlay and Mr Koowaree were notified of the applications on 24 October 2007. To date I have not received any written comments from them.

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8. Representations

The applications were advertised in the local press and notices posted on site. In accordance with neighbourhood notification procedures I also wrote to 11 properties in the surrounding area. As a result I have received representations from 3 local residents objecting to the applications on the grounds that the development would result in an unacceptable impact in terms of;

- Noise, dust and light pollution
- The site becoming permanently established
- There is no longer a need for the site given that the use for which permission was previously granted has now ceased

Discussion

9. 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.
10. In addition to the saved policies of the Minerals and Waste Local Plans account should also be taken of the emerging Development Plan Policies. The operational area of the site is identified under the saved policies of the Kent Minerals Local Plan for Construction Aggregates as being suitable in principle for use as an import point for construction aggregates.
11. The site is also shown in the Greater Ashford Development Framework (GADAF) for mixed employment use. This together with the Borough Council Core Strategy identifies alternative development to that in the current Borough Local Plan in terms of the proposed density and form of development.
12. Also of relevance to this application are the broader implications of the GADAF which represents a 30 year Master Plan and which seeks to direct the comprehensive growth of Ashford leading to the expansion of the town by adding a further 31,000 homes to the existing housing stock. To achieve such growth will require a significant volume of construction materials.

Main Determining Issues

13. Given that the principle of such development at this site has already been established via existing development plan policies and where clearly there will be a future need for such facilities if the longer term growth aspirations of Ashford are to be realised, in the light of consultee comments and representations received, I consider the main determining issues fall under the following categories;
 - Need
 - Public Rights of Way
 - Noise, dust and light pollution

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- Traffic Impacts

Need

14. The application has been made in order to allow Bretts to continue to import aggregates and distribute them from the site into the local market pending the completion of the legal agreement for the permanent re-development of the site. In my opinion there are sound planning reasons for allowing the operation of the site to continue under these circumstances where there is clearly a local demand. For example materials have recently been supplied from the site to complete new Junction 10A improvements of the M20.

Noise / Light Pollution

15. Notwithstanding the objections which have been raised I am mindful that they are similar to those which were raised on the applications for the permanent facilities and when it was considered they could be satisfactorily mitigated via the use of appropriate conditions. The current application does not seek any additional activities above those already occurring at the site. Any existing impacts on the local environment will be further mitigated as the permanent facility is developed which proposes additional noise, dust and landscaping mitigation measures. On balance whilst accepting that the existing site will continue to have an impact pending the development of the permanent facility, I do not consider this outweighs the benefits that would derive from enabling local supplies to be made from the site and which would otherwise have to be imported elsewhere by road.

Public Rights of Way

16. Currently the railhead is obstructing the restricted byway AE350 and as such is an obstruction under the Highways Act 1980. This would normally lead to an objection from Public Rights Of Way (PROW), however as a resolution has already been made to grant planning permission for the development and permanent retention of the facility subject to the completion of a Section 106 Agreement, PROW are reasonably certain this development will therefore go ahead. As such they recommend proposals to formally divert the byway which forms part of the permanent proposal, should be expedited as soon as possible. Accordingly, in the event of permission being granted I would recommend that an informative be included which reminds the applicant that no further development as proposed under the terms of planning applications AS/07/ 4 & 5 for the establishment of a permanent facility at the site shall take place until such times as a formal diversion of Byway AE350 has taken place. Furthermore I would also recommend the applicant be informed to expedite such proceedings as soon as possible.

Traffic

17. With regard to the concerns expressed by the Highways Agency (H.A.) over the potential cumulative impacts from traffic, I am mindful that when Members resolved to grant permission for the permanent facilities at the site this was subject amongst other matters to the imposition of a condition restricting heavy goods vehicle movements to and from the site during peak hours. This requirement arose out of advice from the H.A. as a solution to Bretts otherwise having to make a financial contribution towards

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substantive highway improvements. I am also mindful that when fully implemented and generating traffic the permanent facility will not only replace certain elements of Bretts' existing operations at their site at Conningbrook, Ashford but will also replace the existing temporary facility currently operating at Sevington. The question of cumulative impacts from these developments does not therefore arise. With regard to the applications submitted to Ashford Borough Council in respect of the development of the remainder of the Waterbrook Park site, they have confirmed that the applicant GSE have appealed against their non-determination. It is therefore likely that a public inquiry will be held to hear the appeal and therefore any future decision by the Secretary of State is not likely for some considerable time. With regard to the concerns raised by the H.A. over the cumulative traffic impacts from the GSE applications in the context of this current application, I do not consider this warrants any delay in Members making a decision given that traffic impacts and appropriate mitigation will be amongst those issues taken into consideration by the Secretary of State in determining the outcome of the appeal. However, I am mindful of the clarification sought by the Highways Agency over the potential cumulative effects from traffic in the context of other applications currently undetermined relating to the site, which I have since provided to them and understand this has overcome their concerns. Any permission granted will therefore need to be appropriately worded, whilst making provision for any further delays which may be encountered preventing the completion of the Legal Agreement to be attached to the permission for the permanent development of the site, to ensure it prevents the operation of the site taking place concurrently with the permanent facility.

Conclusion

18. Members have previously resolved to grant permission for the permanent retention of the Sevington railhead subject to the satisfactory completion of a Section 106 Agreement. As such this application represents a purely temporary measure to allow for the continued use of the existing Railhead in its current form pending the completion of the s106 Agreement to be attached to the permanent permissions which when implemented will allow the establishment of a modern facility with appropriate mitigation measures built in to ensure its impact in the local environment is kept to a minimum.
19. The site represents an important strategic location in terms of providing the key facilities necessary to meet the future demand for aggregates in the area and is already recognised in both existing and emerging development plan policies as needing to be safeguarded from future development. Most recently the site has been used for the supply of materials to the M20 Junction 10A improvements. In my view there are sound planning grounds for allowing the retention of the existing facility as a local source of supply for aggregates given the ongoing planned growth of Ashford. I am satisfied that provided similar conditions are imposed to those under permission AS/02/645 controlling operations, there are no overriding objections to the proposal which would be consistent with the relevant development plan policies against which this type of development should be considered. Accordingly I recommend that permission is granted subject to the imposition of appropriate conditions .

Recommendation

21. I RECOMMEND that;

Item No. C2

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- (A) PERMISSION BE GRANTED to Planning Application AS/07/1973 to vary condition (1) of Planning Permission AS/02/645 for the retention and operation of the existing rail aggregate importation facility at Sevington Railhead, Waterbrook Park, Sevington for a period of 3 years from the date of this permission or 3 years from the date of a permission granted under applications AS/06/4 & AS/06/5 for the development of a permanent rail aggregate and associated Waste Transfer/Recycling facility at the site, whichever is the later, or on completion of the development proposed under applications AS/06/4 & AS/06/5 whichever is the earlier of the dates, SUBJECT TO the following condition;
- (1) No additional development affecting the route of Public Right of Way AE350 shall take place under the terms of this or any permission until such times as it has been formally diverted.
- (B) PERMISSION BE GRANTED to Planning Application AS/07/1973 pursuant to condition (iii) of Planning Permission AS/87/802 to vary the condition which shall now read; 'In the event that the development proposed under applications AS/06/4 & AS/06/5 have either not been consented or have not been implemented, the site shall be restored within 6 months of the development hereby granted'

Informatives

1. The minimum width of any diverted path crossing the site shall be 4 metres whose surface shall either remain as grass where they fall outside the immediate development area or surfaced with a type 1 material and finished with a limestone topping or similar where they fall within it.
2. All other conditions imposed under planning permission AS/02/645 remain in effect.

Case Officer – Shaun Whyman

Tel no. 01622 221055

Background Documents - see section heading
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