

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

A report by Head of Planning Applications Unit to Planning Applications Committee on 21 March 2006.

Development of new factory to manufacture aerated concrete products with outside storage and parking and new access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham, Sevenoaks by H + H Celcon Ltd.

For Decision

Local Member: Mrs. V Dagger

Unrestricted

Introduction


1. A planning application seeking permission for a new works adjacent to the existing blockworks was received in July 2003 but was invalid. Following a report to committee in December 2003 the application was held in abeyance whilst an Environmental Impact Assessment was carried out. This was duly submitted in January 2005 and the application went out to consultation immediately after. A further package of information in the form of an addendum to the Environmental Statement was submitted in November 2005, which has been subject to a second round of consultation.

The Site and Background

2. The application site lies to the west and north west of Borough Green, to the north of the A25 and the Maidstone East to London railway line. The village of Ightham is to the west (and south-west) of the application site. The Dark Hill roundabout on the A25 provides access under the railway to the application site and forms the south-western end of the Borough Green Bypass. The Bypass was granted planning permission in 1991 and as a result of a need to carry out works to a freight line on the railway, this end of the new Bypass and a rail bridge over it were constructed. This effectively implemented the planning permission even though the majority of the new road and the dedicated roundabout access into the site has yet to be built. (A recent application TM/05/219 permitted in June 2005 effectively renewed the provision of that roundabout).
3. The A227 runs south from Dark Hill roundabout to Tonbridge. The M26 motorway runs east to west approximately 1km to the north of the application site and to the north of that is the village of Wrotham.
4. The application site is to the north of the existing blockmaking works. In total the application site covers approximately 18.85 hectares within the applicant's wider ownership of 35 hectares. The built development area would account for around half of the application site area, the remainder being given over to landscaping.


Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563




Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563



Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563



Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

5. The application site includes former sand workings backfilled to a lower level to provide as part of the approved restoration scheme a nature conservation after use. The site has been subject to extensive naturalisation and has now attained considerable wildlife interest.
6. The site lies within the Metropolitan Green Belt, an Area of Outstanding Natural Beauty (AONB), Special Landscape Area (SLA), an Area of Local Landscape Importance and a Green Wedge. To the west of application site boundary is the Grade II* listed building of Ightham Court and its Grade II registered Historic Park and Gardens. Sandwiched between the existing blockworks and the application site (not within it) is the Grade II Cricketts Farm, to the east of which is a small parcel of land where further sand has been extracted (by the owner of Cricketts Farm) and is currently being infilled with inert material.
7. The nearest residential properties are Cricketts Farm and Cricketts Farm Cottages, to the north of the existing blockworks, and The Dene and West Bank Nursing Home to the north east of the existing site occupying an elevated position above the existing factory.
8. I attach a site plan [page C2.2]. I also enclose reduced copies of the currently approved restoration scheme [page C2.3] and the current proposals [page C2.4]. Larger scale copies of these drawings will be displayed at the meeting.

Proposal

9. The Applicants are proposing to introduce a new building system into the UK known as the Jämerä building system. The Applicants claim that this system could provide aircrete components for an entire house - walls, floors, roof and foundations. Celcon have also developed a 'Thin-Joint' quick-setting mortar system thus enabling rapid construction times for new houses. I will discuss the merits of this type of construction later in this report.
10. The proposed development comprises a main factory building of 12,300 square metre with associated storage area covering 9.58 hectares with the remainder of the application site (about 9 ha) being given over landscaping, including two woodland areas. The factory building would include a boiler house with a 20 metre high emissions stack, 25 metre high mixer tank tower, silos, banded storage vessels, water balancing tanks, sand hopper, 12 autoclave ovens office and amenities area. To the north of the factory building would be an area for the external storage of the manufactured product. A transport office and weighbridge would be located at the site entrance, to the south-west of the factory.
11. Access to the site would be off a dedicated roundabout from the Borough Green Bypass. The completion of the bypass would be funded by the Applicant. This

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

new roundabout would serve the existing factory also. Parking for 44 cars and 24 HGV spaces are to be provided south west of the proposed new factory.

12. The site is a former sand quarry and would be remodelled to achieve a consistent base level of 75.5 m above ordnance datum (AOD). Current levels across the site range from 72-74 m AOD. This remodelling is expected to involve the movement of approximately 250,000 m³ of on-site material (understood to be mainly in-filled inert material), it is not intended to import any materials for this purpose. The sides of the main void (south of the Bypass) would be planted with trees and two additional areas of woodland to the north of the line of the Bypass would be created. The overall landscaped area within the current proposal amounts to about 9 ha compared with the approved restoration scheme, which is in the order of 10 ha. The landscaped areas in the new scheme are more fragmented than in the approved scheme and would circle around the proposed factory.
13. The proposed development would operate 24 hours a day, 7 days a week with a four-shift pattern. A total of 60 people would be employed; 53 skilled and semi-skilled process workers, 7 office, laboratory and canteen staff and also 15 contract drivers once the factory were up and running. The construction of the factory would also generate local employment albeit temporary in nature.
14. The proposed factory could manufacture up to either 4000,000m³ of blocks or 300,000m³ of elements, or any combination of the two, per year. It is proposed that the Applicant would switch production plans depending upon customer orders. Raw materials imported to the application site would include pulverised fuel ash (PFA – a waste by-product from coal burning power stations currently from Kingsnorth), cement, lime anhydrite and aluminium, which together would total 195,000 tonnes per annum. It is intended that sand would be used from the applicant's existing quarry until these reserves are exhausted (about 9 years), following which sand would be imported from nearby quarries.
15. The raw materials would be mixed together and poured into moulds. When the mixture has partially set the resultant cakes are wire-cut into units of predetermined size and transferred to autoclaves for high pressure steam curing. The steam-raising plant includes two boilers, one on duty one standby, which along with the autoclaves would produce clean steam emissions. The manufacturing operations would take place within an enclosed building to prevent odour and dust escaping. The boiler operations would be computer controlled with emissions from the stack continuously monitored.

Main Planning Policy Designations

16. The whole of the application site, the existing factory and the bypass route are within the Metropolitan Green Belt and protected from inappropriate

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

development. The application site is also designated an Area of Outstanding Natural Beauty and Special Landscape Area. The area of the site to the south-east of the line of the bypass is also protected by Green Wedge Policy (P2/19 Tonbridge & Malling Borough Local Plan) and is designated as an Area of Local Landscape Importance. Cricketts Farmhouse which lies immediately to the south of the application site is a Grade II listed building, whilst Ightham Court to the west is Grade II* listed. The land around Ightham Court is also a listed Historic Parks and Gardens. The route of the permitted bypass is safeguarded. Public Right of Way MR244 runs along the eastern boundary and to the south of the application site, however the route of the approved bypass to the north dissects it.

Planning Policy Context

17. There is a range of planning policy implications relating to these proposals. The policy issues are set out in detail in the Environmental Statement submitted with the application. The most significant policies and advice follow:

Government Guidance

18. Government guidance on the location and design of development is contained in Planning Policy Guidance notes (PPG's) and Government Circulars. PPG's are being replaced (through a rolling programme) with focussed statements of national planning policies – Planning Policy Statements (PPS). The Environmental Impact Assessment has been prepared in light of this national guidance.

PPS1 -	Creating Sustainable Communities
PPG2 -	Green Belts
PPG4 -	Industrial, Commercial development and small firms
PPS7 -	Sustainable Development in Rural Areas
PPS9 -	Biodiversity and Geological Conservation
PPS11 -	Regional Spatial Strategies
PPG13 -	Transport
PPG15 -	Planning and the Historic Environment
PPS23 -	Planning and Pollution Control
PPG24 -	Planning and Noise
PPG25 -	Development and Flood Risk

Mineral Planning Statement 2 – Controlling and mitigating the environmental effects of mineral extraction in England.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

19. **Development Plan Policy**

Kent Structure Plan 1996

- S1 - Seeks to promote sustainable forms of development.
- S2 - Seeks to conserve and enhance the quality of Kent's environment.
- S3 - Seeks to stimulate economic activity respecting the environment and Green Belt constraints
- ENV1 - Seeks to protect of the countryside for its own sake.
- ENV2 - Seeks to conserve and enhance Kent's landscape and wildlife (flora and fauna) habits.
- ENV3 - Seeks long-term protection of Kent Downs and High Weald Areas of Outstanding Natural Beauty. The siting of major industrial or commercial development will not be permitted unless there is a proven national interest, and a lack of alternative sites.
- ENV4 - seeks long-term protection of Special Landscape Areas giving priority to the conservation and enhancement of natural beauty of the landscape over other planning considerations
- ENV19 - Seeks to preserve listed buildings and protect and enhance the character of their settings
- ENV20 - Seeks to ensure that development is planned and designed so as to avoid or minimise any potential pollution impacts.
- ENV25 - Seeks to minimise environmental impact of construction projects
- MGB3 - Sets a general presumption against inappropriate development
- T20 - Seeks to ensure the funding of future transport improvements which are necessary to enable a development project to proceed

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Tonbridge and Malling Borough Local Plan 1998

- P2/16 Protection of Green Belt
- P2/19 Protection of the separation function of areas defined as Green Wedges
- P3/5 Protection of Areas of Outstanding Natural Beauty, the siting of major industrial or commercial development will not be permitted unless there is a proven national interest or a lack of alternative sites.
- P3/6 Seeks conservation or enhancement of the natural beauty of the landscape within the Special Landscape Areas.
- P3/7 Seeks protection of Areas of Local Landscape Importance
- P4/1 Seeks to protect the integrity and setting of listed buildings.
- P6/17 Allows for limited infilling on established sites within the Green Belt (refers to existing factory site)
- P7/4 Promotes maintenance and improvements to the public rights of way
- P7/7 Safeguards the route of the Borough Green Bypass from prejudicial development

Emerging Planning Policy

The Kent & Medway Structure Plan – Deposit Plan September 2003

- SP1 - Seeks to promote sustainable forms of development.
- E1 - Protection of the countryside for its own sake.
- E3 - Conserve and enhance Kent's landscape character and wildlife habits.
- E4 - Seeks long-term protection of Kent Downs and High Weald Areas of Outstanding Natural Beauty. The siting of major commercial development will not be permitted unless there is a proven national interest, and a lack of alternative site or unless appropriate provision can be made to minimise harm to the environment.
- E5 - Seeks long-term protection and enhancement of Special Landscape Areas giving priority to the conservation and enhancement of natural

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

beauty of the landscape whilst having regard to their economic and social well being.

- E8 - Seeks protection and enhancement of biodiversity
- QL9 - Seeks to preserve listed buildings and protect and enhance the character of their settings
- QL10 - Seeks protection of historic landscape features
- QL18 - Green space networks and rights of
- SS8 - Sets a general presumption against inappropriate development in the green belt
- TP7 - Promotes Borough Green and Platt Bypass to be funded partially or fully by development.
- NR4 - Seeks to conserve and enhance the quality of the environment. Development should be planned and designed to avoid, or adequately mitigate, pollution impacts.
- NR5 - Presumption against development sensitive to pollution.
- NR7 - Safeguarding of water quality.

20. The principle change in the strategic context since the adoption of the Kent Structure Plan has been the inclusion of Ashford and the Thames Gateway as two of the Government's four growth areas for the South East. The required level of house building in these areas is significant and the construction industry will be expected to meet the volume and pace of development set by the Government.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Tonbridge and Malling Borough Local Development Framework – Preferred Options Report September 2005

21. This document is in the process of being worked up into a Development Plan Document, which is likely to go before Tonbridge and Malling Members in June/July 2006. Until then it has little weight for development control purposes however it does not propose any major allocation of land within the vicinity of the application site (within the green belt).

22. Consultees

Tonbridge and Malling Borough Council: considers that material planning considerations such as the location of the site, the provision of the bypass, the environmental impacts and the special circumstances promoted by the Applicant must be balanced in the context of sub-regional, countywide and local factors surrounding minerals considerations and strategic highway matters. Were permission to be granted then the following should be secured by legal agreement and /or conditions; completion of the bypass, provision of safe and updated access for pedestrians and cyclists to Wrotham school, need for traffic calming and speed management as a result of modified traffic patterns, site access, noise and odour emissions, provision of landscaping mitigation, external appearance of the buildings, limiting future expansion without consent, protection of ecology, impact on Listed buildings and construction impacts including traffic.

Borough Green Parish Council: Supports the application subject to the council being satisfied as to the impact and public health issues of the emissions. And subject to the the planned crossing and roundabout from the bypass be in place before any factory construction work commences and the bypass be open before the factory becomes operational.

Ightham Parish Council: Object as the proposal is contrary to green belt policy as the provision of the bypass and/or the need to locate next to the existing factory are not sufficient to represent very special circumstances. The proposed factory is not sustainable for staff journeys nor employing local staff. Concerned at the impact upon the listed buildings at Cricketts Farm and their residential amenity. Critical of traffic assessment post 2007 and the capacity of the Whitehill roundabout to take the additional traffic. Concerned at the lack of and unwillingness to carry out surveys and provide mitigation strategies for protected species. The alternative sites study does not take account of the fact that the new factory could produce both blocks and elements and therefore could be footloose, nor does it consider sites outside eof Kent.

Wrotham Parish Council: Object – The Applicants have not considered wharf access for delivery of raw materials in their choice of site contrary to government

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

policy. WPC dispute the life of remaining reserves, the future availability of pulverised fuel ash, the accuracy of the traffic assessment particularly in relation to capacity at Whitehill roundabout. The council also questions the impact upon air quality, the lack of ecological assessment and safeguards, effects upon amenity of listed residential properties, poor alternative sites assessment, and considers there are a lack of 'special circumstances' in the green belt.

Platt Parish Council: No objection as the scheme brings benefits both in terms of traffic relief through Borough Green and Platt and the provision of local employment.

SEERA: Does not consider the proposal would conflict with the Regional Spatial Strategy but the planning authority should be wholly satisfied that there is no adverse impact on the AONB in accordance with Policy E1 of RPG9 and that sufficient mitigation measures can be secured to protect and enhance the landscape. The planning authority should also be satisfied that the biodiversity of the application site is at least maintained in accordance with Policy E2 of RPG9; and that the form of the development proposed is appropriate in a green belt location in line with PPG2 and local planning policy.

Environment Agency: no objection subject to a condition requiring water vole survey and mitigation scheme, object to culverting of water courses and state scrub clearance and tree removal should be done outside the bird breeding season. Appropriate remediation should be established if contamination is found.

Mid Kent Water: Very concerned that there are no specific environmental assessments or land-use investigations to clarify the potential for contamination. However if their involvement in the approval of assessments and mitigation can be guaranteed by condition they would be prepared to withdraw their objections.

English Nature: Object, the information provided for protected species as it stands is insufficient to determine the impact the development will have on protected species. Also consider the number of surveys for reptiles is insufficient and the time of year that these took place (July-August) not ideal, nor do they give details of weather conditions on the day.

Kent Wildlife Trust: Object, no account has been taken of PPS9, inadequate and inappropriate surveys carried out for great crested newts and reptiles and no evidence is provided that the development would lead to ecological enhancement.

KCC Biodiversity Officer: Object, a detailed mitigation strategy for great crested newts should be submitted for approval prior to any permission being granted. The survey effort for reptiles is inadequate and as above a detailed mitigation strategy should be submitted. Survey details for water voles and a mitigation strategy should be submitted, same for bats. There is no consideration of effects upon breeding birds. Details of how the scheme contribute to targets set in the UK and Kent BAP

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

have not been provided.

English Heritage: No comment other than ‘ the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.’

Highways Agency: No objection subject to parking standards being set low and a request for a travel plan (to cover both existing and proposed development).

Division Transport Manager: confirms that the proposed bypass would bring local relief through Borough Green and Platt, would wish to see satisfactory improvements to White Hill roundabout, a moving the pelican crossing to the north of the new roundabout on the A227 and contributions to a new traffic management strategy for the surrounding area. Approval of highway details (including a travel plan) should be required prior to starting works and all highways works being completed prior to first occupation of the new factory.

Public Rights of Way: satisfied that the new factory and access at Ightham Sandpit would not affect Public Footpath MR244. However the condition of MR244 is still less than satisfactory, having been severely compromised by continual development at the site and would therefore welcome any opportunity to divert the footpath permanently.

Jacobs

Odour – no objection

Noise – The predicted noise levels at Cricketts Farm and Cricketts Fram Cottages are unacceptable and would have an adverse effect upon the residential amenity of those properties.

Dust – no objection subject to mitigation measures identified.

Network Rail: No comment

KCC Heritage (Archaeology): No objection

Countryside Agency: no views received

DEFRA: National Land Management Team – Where there are surplus soil resources due to the proposals these should be used in a sustainable way. This may include consideration of their use on other land in the area to effect a satisfactory standard of restoration.

National Grid: no comments

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

CPRE: Object to inappropriate development in the green belt, critical of the Alternative Sites Study, the Bypass is less needed now as an improved access into the existing works has now been provided, the road is not essential to the development. There are also air quality issues on this part of the M20.

Local Member

23. The Local Member, Mrs Valerie Dagger, was notified of the application on 31 January 2005 and upon the addendum and supplementary to the application on 22 November 2005.

Publicity

24. The application was publicised by way of site notices, advertisement in the local newspaper and a neighbour notification exercise. Upon receipt of the addendum to the Environmental Statement the application was re-advertised and a reconsultation exercise with neighbours and those making representations was undertaken.

25. Initially approximately 80 letters of representation had been received, (mainly from residents in Ightham and Wrotham) as well as a lengthy submission from the Keep Boroughs Green group. The following were the main points of objection:

Green Belt, Landscape and Ecology

- The site is within the Green Belt and is an Area of Outstanding Natural Beauty which should be protected against development.
- The proposal will damage an existing habitat occupied by protected species.
- The scale and size of the proposed development and its 24 hour operation would create an industrial landscape instead of the present rural atmosphere.
- The conditions on the mineral permission required the site to be fully restored and therefore it must be viewed as a greenfield site
- The proposal is not appropriate in the Green Belt as there are no 'very special circumstances', there is no proven national interest and inadequate evidence on the lack of alternative sites.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Traffic

- The proposed development would generate significant number of HGV movements within the vicinity of a school.
- The increased traffic movements would be detrimental to the area and would be certain to increase further when on-site sand reserves run out and raw materials have to be imported from elsewhere.
- The offer to fund the bypass is a bribe; the County Council should find another way to fund the construction of the Bypass.
- The construction of the bypass would increase the traffic levels through all neighbouring villages
- The majority of the raw material currently used is not sand but pulverised fuel ash from Kingsnorth Power station in North Kent, to avoid traffic crossing Kent the factory should be located nearer there.
- The bypass should not be considered until additional slip roads off the M26 are built.

Amenity Impacts

- The existing factory already causes noise pollution, a second factory will only make matters worse.
- The factory emissions and the increase in traffic will result in an unacceptable effect on air quality in the area, as will the increased use of pfa.
- The bypass would take passing trade away from the local shops causing a serious effect on the viability of Borough Green.
- The proposed development would be detrimental to the listed buildings.
- Liquid effluent from the factory already affects local watercourses.

Economic

- The present workforce is not locally based and in any case Ightham has one of the lowest unemployment figures in Kent, the new development should be located in area of high unemployment.

26. Since re-publicising the application an additional 30 letters of representations have been received, the following new objections have been made:

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

General

- The addendum offers nothing to make the proposals any more acceptable.
- As the new factory could produce both blocks and elements it is totally footloose and does not need to be located next to the existing factory.
- The justification for selecting Ightham Sandpits in the alternative site selection is transparently weak and retrospective. It is based solely on convenience and profitability for the applicant in being able to expand operations adjacent to one of their existing factories.
- Government advice on the use of legal agreements to secure planning gain requires that it must be 'directly related to the proposed development' and 'fairly and reasonably related in scale and kind to the proposed development', these conditions are clearly not met in this case.

Green Belt, Landscape and Ecology

- Unless KCC takes a stance against this proposed development, it will open the floodgates for development in the greenbelt.

Traffic

- The Applicants have ignored the advice contained in PPG13, which requires consideration for such factories to be located where wharf or rail connections could be used.
- There is much misleading comment that there is overwhelming support for the bypass.

Amenity Impacts

- The proposal would lead to further light pollution.
- The new factory would make Cricketts Farm and Cricketts Farm Cottages uninhabitable.

27. Borough Green Traffic Action Group submitted a lengthy representation insisting that the bypass and outstanding traffic calming measures (pedestrian crossing) be resolved as soon as possible by KCC for the benefit of the residents of Borough Green and Platt.

28. The Keep Boroughs Green campaign has also made additional representations on the addendum maintaining their objections (same comments as above).

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Discussion

Introduction

29. The application is for a new factory to produce aerated concrete (aircrete) products, including tongue and groove aircrete elements for ground and upper floors and roofs, and aircrete lintels and steps to form staircases. The new factory also has the potential to produce blocks. The proposed system of building manufacture is hailed as being extremely flexible, quick to construct and of high thermal efficiency. The proposal includes a new access into the site from the permitted (not yet built) Borough Green Bypass. The submitted document confirms the Applicant's intent to fund the bypass including land acquisition and construction costs. Subsequently the Applicants have agreed in principle to fund further traffic calming measures along the A25, a new pedestrian crossing close to Wrotham School and improvements to Whitehill roundabout. The issue of costs associated with these additional works will be discussed later in the report. The site lies within the Metropolitan Green Belt and has been advertised as a departure from the Development Plan.
30. Determining Authority - Schedule 1 of the Town and Country Planning Act 1990 defines those categories of applications which fall as 'county matter', two parts of which apply to this proposal. In essence these are:
- (i) The use of land, or the erection of any building for the carrying out of any process for the manufacture of any article from a mineral where the land forms part of or adjoins a site to be used for the winning or working of minerals.
 - (ii) Carrying out of operations where the land in question forms part of a site used or formerly used for the winning or working of minerals where those operations would conflict or prejudice compliance with a restoration or aftercare condition.
31. It was agreed with the Borough Council that the proposal was a 'county matter'; and should therefore be dealt with by the County Council.
32. Initial considerations of the submission in late 2003 identified a deficiency of information in a number of areas. Of importance was the conclusion that the proposal should be subject to a full Environmental Impact Assessment (EIA) as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The preparation of the EIA took a good deal of time but was eventually forthcoming in December 2004, when the application was made valid. Whilst this was not usual practice and was against the protocol for handling planning applications it was agreed with the Borough Council that the applicants be given more time to prepare the detail essential to allow full consideration of the proposal. The County Council wrote to the

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Applicants in March 2005 requesting additional information in the form of an addendum to the Environmental Statement. The Addendum was submitted in November 2005.

History of the Site and Surroundings

35. The site has a long history of sand workings and brick and block manufacture commencing prior to the introduction of the modern Town and Country Planning System in 1948. The original permission for sand extraction was granted in 1951. Since then, there have been a series of permissions granted for the sand reserves beneath and to the east and south of the line of the permitted Borough Green bypass. Permissions to work the remaining reserves of sand exist in the southern working section and east of the works. Permission MK/4/51/43 to the east of the existing blockworks is estimated to contain some 400,000 tonnes of sand. Permissions TM/87/1851 and TM/85/1436 on the line of the proposed bypass are estimated to contain some 160,000 tonnes. The application site was previously worked for sand under these 1980's permissions. Under a separate submission the Applicant has sought to extract and stockpile the remaining reserves which would be sterilised by the bypass, were it to be built. This would be done through a revised working, restoration and aftercare scheme.
36. The site was partly restored at a lower level using imported, inert waste under a 1991 restoration scheme. The restoration scheme was subsequently amended with a revised scheme TM/02/583 requiring further works that have been partially completed with some areas of planting outstanding. The amendment sought shallower side slopes, greater emphasis on nature conservation with the provision of woodland and grassland and covered an area of approximately 16 ha.
37. The existing works adjacent to the application site were permitted in 1988 on land adjoining the railway line that runs to the south, on the basis that it made use of on-site sand reserves then around 25 years.
38. The bypass itself was permitted under reference TM/91/636, its route has been safeguarded in the Tonbridge and Malling Borough Local Plan (TMBLP). Part of the bypass from the Dark Hill roundabout under the railway line has been implemented and therefore the remainder is capable of completion. Planning permission was recently granted for a dedicated roundabout into the existing works. Permission granted previously for this roundabout had lapsed.

Principle Issues

39. The application site is located within the Metropolitan Green Belt (MGB) where Planning Policy Guidance Note 2 (PPG2) - Green Belts is clear that 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

permanently open:'. There is presumption against inappropriate development and PPG2 states that such development should not be approved, '...**except in very special circumstances**. Inappropriate development is, by definition, harmful to the Green Belt.' PPG2 makes it clear that it is for the applicant to show why permission should be granted.

40. The scale and height of the building and structures proposed are such that they would have a significant impact upon the MGB. The applicant acknowledges that the proposed factory would be inappropriate but submits that the very special circumstances of the scheme are:
41. Provision of the Borough Green Bypass as a major public benefit in accordance with the requirements of the Development Plan;
42. Unique operational requirements of the applicant in terms of the need to deliver combined loads from both factories of aerated concrete products with its associated sustainable transport benefits and the ability to share on-site management and expertise.
43. However I have also included consideration of the following issues:
 - Location requirements in terms of access to raw materials and the product market;
 - National need requirements in terms of the provision of the Jamera Building System building products, an innovative Modern Method of Construction (MMC); and
 - Availability of suitable, available and commercially viable alternative sites.
44. Each of the above issues will be discussed and considered to establish whether it can be agreed that those 'very special circumstances' do indeed exist. It will then also be necessary to consider the environmental impacts of the proposed scheme on the site and surrounding vicinity.

Delivery of the bypass

45. As stated above the bypass has been partially implemented and therefore remains an extant planning permission, having also been safeguarded in the TMBLP. Policy TP7 recognises that the scheme would be funded partially or fully by development. It is unlikely that the bypass would go forward without external funding. The Applicant has made representation both to the Kent Structure Plan Review and the Tonbridge and Malling Local Development Framework Issues Report seeking the appropriate review of the Green Belt boundary to provide for the enabling development necessary to fund the bypass. The Local Plan at Policy P6/17 makes provision for sites within the greenbelt that could be subject to

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

acceptable infilling, this includes the existing factory site, but not the application site.. However the Borough Council has advised that the issue be pursued through the development control process.

46. The line of the bypass lies on land within the ownership of the Applicant (approx. 60%) and Cemex (formerly RMC) (approx. 40%) and therefore both parties would need to be signatories to a legal agreement to give over that land. Initially Cemex offered their land on the understanding that Celcon also obtain planning permission for an access from the proposed bypass to their land both north and south of the route. All of this land is also within the green belt and any future aspirations for the development of this land would be subject to policy restraints. Cemex have re-confirmed in writing that they would be prepared to give up their land although I have yet to receive clarification that this would be unconditional.
47. It is also not clear whether Cemex in agreeing to give over their land would be prepared to sign a legal agreement to this effect in so far as they would only relate to the line of the Bypass.
48. The Applicant submits that provision of the bypass offers substantial highway benefits in transferring significant vehicle movements off the immediate highway network. The Division Transport Manager (DTM) comments on the position as follows:

“I consider that the predicted figures provided by the applicant’s transport consultants provide a reasonable indication of the likely percentage changes to existing traffic flows in the local area. These show a 38% reduction on the A25 through Platt (east of the A227) and a 53% reduction on the A25 to the west of the A227.

The predicted reduction of flow on the A25 (east) results primarily from the transfer of traffic to and from the M20/M26 motorway interchange onto the section of the A20 between the M26 junction and the A227 at Wrotham.

This section of the A20 would be subject to a significant increase in traffic flows of the order of 30-40% or some 5000-6000 extra vehicles per day. These additional flows would impact on some 37 residential properties along this road. A further 10 properties on the A227 opposite Wrotham School will be subject to additional traffic arising from the construction of the by-pass. I am not aware whether the environmental impacts of these increases have been fully assessed but it is fair to say that the properties on the A20 are fairly well set back from the edge of carriageway

However, it should be noted that some 379 properties on the A25 and A227 (south) would benefit from a significant reduction in traffic flows. The A227 south of the by-pass junction would be reduced by some 55%.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

There would also be increases in the traffic flows at the Whitehill Roundabout at Wrotham and it is evident that this junction would need to be improved to cater for year of opening traffic and future growth. It is understood that the applicants would be willing to fund these works but they are reluctant at this stage to commit resources to detailed design work for such improvements.

The capacity of this junction and indeed the A20 itself could well be a controlling factor in the likely level of transfer from the A25 through Borough Green and Platt. The current assessments are based on an opening year of 2007 and clearly it is unlikely that the by-pass will be completed by that date.

The local highway network as a whole will be under increasing pressure post 2007 with or without the by-pass due to normal traffic growth. However, the assessments submitted do provide a useful indication of the changes in flows that would result from the by-pass construction.

The proposed improvements to the Whitehill Roundabout should not be out of balance with the capacity of the route as a whole. Longer term relief to the A25 and the A20 would be dependent on improvements to the M25/M26/A21 interchange at Sevenoaks.

The capacity of the proposed by-pass itself is more than adequate for future growth and there is no doubt that the construction of the by-pass would mitigate the impact of the development now and in the future. The issue is whether the by-pass delivers net benefits that outweigh any greenbelt objections and negative impacts on parts of the A20 and A227.

In the case of the latter there does appear to be a net benefit for local residents but I am unable to judge whether this would outweigh other objections and negative impacts.”

49. It is therefore acknowledged that the bypass would remove traffic from the A25 and A227 (south) but increase traffic on the A20 and A227 (north). The DTM comments further that “The impact of the proposed Borough Green and Platt Bypass will be relatively local. In my previous comments I indicated the likely impact on the A25 east and west of the A227 in Borough Green. It is not anticipated that there will be any noticeable impact on traffic flows on the M20 or the M26 and changes to traffic flows on the A20, A25 and A227 will be local to the area of Borough Green, Platt and Wrotham.”

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

50. It is generally acknowledged that the length of the A25 from Wrotham Heath to Sevenoaks is a primary route because of the lack of east facing slips at the M25/M26/A21. I am advised that the provision of these slips is likely to be addressed as part of a future phase of the M25 widening but there is no firm programme date for this work and no details of any modifications to the above mentioned interchange.
51. It is therefore considered that whilst the bypass would impact locally by shifting vehicles away from Borough Green and Platt the longer-term solution to removing traffic from the wider area has to be via the introduction of east facing slips.
52. The Applicant further submits that there are no known alternative schemes within the locality able to provide funding and land to deliver the bypass. As such the proposal offers the only means of meeting the Development Plan commitment and therefore must be considered as the very special circumstance to over ride green belt policy. Members may agree that it is unlikely that there would be any other development coming forward likely to be able to fund the bypass, but that is not in my opinion, good enough reason to ignore government guidance on maintaining the openness of green belt. Even acknowledging that planning permission exists for the bypass the net benefit as indicated by the DTM would be relatively limited to the residents of Borough Green and Platt. This has to be balanced against the disbenefit to residents on the A20 and A227. Furthermore the provision of the bypass does not resolve the traffic problems of the wider area that could be addressed to a much greater extent by the east facing slips at the M25/M26 and A26.
53. I have not therefore been convinced that the offer to bring forward the provision of the bypass overcomes the inappropriateness of the development and does not by itself represent the 'very special circumstance' that would make the proposal acceptable in green belt policy terms. I have investigated case law regarding the issue of whether the provision of a bypass could be considered adequate 'very special circumstances' sufficient override green belt policy. Whilst I accept that no case is ever directly comparable my conclusions that the provision of a bypass would not be sufficient to outweigh the detriment that would be caused by a development to the open countryside are supported.

Combined Loads

54. The Applicant submits that the new works would enable production of the reinforced building elements alongside blocks produced from the existing works and the combined delivery on each separate load of the full range of aerated products to construction sites in Kent, London and the South-East. It is also proposed that the new facility would benefit from the use of on-site silica sand and future potential local sources as well as a wide range of other benefits gained from proximity to the existing works including management and staffing

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

expertise. (The issue of sand reserves will be discussed further later in this report).

55. Following discussions with officers the Applicant has confirmed that the second factory has the capability to produce blocks as well as elements. The Applicant would not be prepared to restrict production to elements only for commercial reasons, which in my view undermines the need for the two factories to co-locate. Confidential evidence from a number of house builders in the form of exchange of emails does not convince me that the possibility of delivering all building components on one vehicle to a construction site is adequate reason for the two factories to be located side by side. Whilst I accept that there would be economies of scale in management and staffing issues of co-location, the new factory, having the ability to also produce blocks, could effectively be footloose. A factory capable of producing either elements or blocks does not therefore need to be located adjacent to the existing factory.
56. I am not convinced on that basis that the new factory must be located at Borough Green. The Scale and height of the proposed buildings would undoubtedly have a significant impact to the detriment of the MGB. Accordingly I cannot support the Applicants submission that the potential to deliver combined loads by co-locating the two factories presents a 'very special circumstance'.

Access to raw materials

57. The Applicant argues that the Borough Green site offers the benefit of having 9 years supply of on-site permitted sand reserves and 5 active sand pits located within approximately 10 km of Borough Green. The existing factory requires approximately 20,000 tonnes of sand per annum. The proposed factory would require between 20,000 tonnes and 85,000 tonnes of sand per annum depending on the products produced and market demand. (Manufacture of elements uses more sand than blocks). The application does not make it clear as to the quality of sand they would need for either the manufacture of blocks or elements in the proposed factory. It states, "The sand requirements of the existing factory are very much dependant upon demand, however approximately 20,000 tonnes per annum is typically required". The addendum to the Environmental Statement goes on to say, "With half of all soft sand workings in Kent located within approximately 10km of Borough Green, there is likely to be significant available provision to meet the requirements of the proposed and existing plant" manufacturing requirements." The original Environmental Statement refers to "...reliance will be placed upon alternative sources of silica sand...". Without details of the required specifications it would be extremely difficult to determine whether the availability of permitted sand reserves meets those requirements. Indeed availability of industrial sand from some of those quarries is questionable given the quantities available and existing supply contract commitments.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

58. The existing factory currently uses large quantities of Pulverised Fuel Ash (PFA) from Kingsnorth Power Station as an alternative raw material to sand. The Applicant submits that, "The sand requirement will increase post 2016 when PFA supply is curtailed with the decommissioning of Kingsnorth Power Station." The exact date of decommissioning is yet to be confirmed, so the supply of PFA could still be the main source of raw materials for some time to come.
59. I conclude that there is doubt over the supply and type of raw materials to be used in the manufacturing process. I accept that it is very difficult to predict with certainty the availability of raw materials from sites that are not within the ownership of the Applicant. However it is this very point that leads me to conclude that the second factory, without greater certainty of where the raw materials would come from, does not have to be located at Borough Green within the MGB.

Access to the Product Market

60. The Applicant submits that the new range of products would mostly serve a 30-mile radius market including London, Kent and South East England. It is also acknowledged that the growth areas of the Thames Gateway and Ashford would provide the main potential market areas outside London. Other factories are located at Pollington, Nr Goole and at Westbury in Wiltshire, and it is argued that a second factory at Borough Green would provide the company with national coverage in terms of the Jamera products. I have no reason to disagree with the principle point of their argument that a site within the south east region would be better located to meet the proposed market needs. This point also accords with SEERA's observations on the application as the Regional Planning body. However this alone does not justify releasing a substantial green belt site. Alternative sites within the locality are discussed later in this report.

National Need for Jamera Building Concept

61. It is acknowledged that many of the Jamera building system products meet the definition of a Modern Methods of Construction (MMC) which facilitate fast construction of buildings with certified standards. The planning application is accompanied by an economic report by the Director of Economic Affairs at the House Builders Federation (John Stewart). The report concludes that:
- Southern England will see a substantial increase in house building over the next 15-20 years;
 - To achieve the scale of increase envisaged, the house building industry will have to expand its capacity substantially by increasing the supply of skilled labour and by a wider adoption of MMC's.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

62. It is submitted that the Jamera System and the proposed new factory proposed at Borough Green, would meet many of the requirements to achieve this capacity expansion and substantial rise in house building. It further concludes that the Jamera system rates highly in sustainability terms, using either a waste product or on-site reserves, so avoiding the need to import materials. It also argues that because the proposed plant would be located within the greater South East region, transportation of the finished product is minimised. The products could in the longer-term be recycled as well as meeting the thermal efficiency requirements of building regulations.
63. The need for faster, more efficient and sustainable construction methods to meet housing demand presently and in the future is not disputed. However none of the above factors demonstrate why the County Council should disregard national green belt policy by allowing an inappropriate use at this location.

Absence of suitable, available and commercially viable alternative sites

64. In carrying out a Scoping Opinion upon the proposal officers requested that an alternative sites assessment be carried out in response to the sites location in the green belt and in accordance with the requirements of the EIA Regulations. The Applicant has always disputed the requirement for such an assessment on the basis that the Development Plan requires enabling development funding of the Borough Green Bypass under Kent Structure Plan policy. It is stated that “The bypass is therefore dependant upon enabling development, for all practical purposes, coming forward within the line of the Bypass, which can provide land for the Borough Green Bypass and derive benefit from the Borough Green Bypass. In addition, the form of enabling development proposed by the Applicant presents operational requirements closely related to the existing Borough Green works which justify the proposed site adjacent to the existing factory.”
65. Notwithstanding the above the Applicant has carried out an assessment of potential alternative site opportunities. Following initial considerations of the assessment officers sought further justification as to why in their opinion the Borough Green site represented the best option. Officers asked that the assessment should involve a comparison of the magnitude and significance of the effects of the alternatives considered, as well as the commercial viability of all alternative sites. In response the Applicant has revisited the assessment of each alternative against the site selection criteria and also commissioned a detailed commercial viability assessment by Harrisons Surveyors involving research into acquisition costs of alternative sites. The financial detail of the latter has been provided in confidence to officers, the conclusions of that report will be discussed later.
66. The following alternatives were considered:

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

- Northfleet Power Station
- Swanscombe Peninsula West,
- Waterbrook Site , Ashford
- Orbital Park, Ashford
- Canal Basin Area, Gravesend
- Rugby Cement , Halling
- Ridham, Sittingbourne
- Kingsnorth Power Station Site

against the following site selection criteria:

- Outside the Green Belt and Area of Outstanding Natural Beauty (AONB)
- Access to the strategic road network to serve the market
- Access to raw materials
- Adequate Available Land
- Exclusive Occupancy and Security
- Able to accommodate purpose built buildings
- Available for immediate occupation
- Reasonable proximity to the existing Borough Green works to benefit from economies of scale
- Reasonable proximity to the existing Borough Green works to benefit from on-site management, staffing, training and technical expertise
- Ability to provide national coverage with combined loads from existing Borough Green blockworks

67. Not surprisingly the assessment concluded that although the magnitude and significance of the effects of development at these alternative sites were, in principle, comparable with the Borough Green site all could be discounted against the criteria for site selection. In summary none of the sites were found to be realistically suitable, available or commercially practical to meet the requirements of the Applicant. It is notable that the assessment only considered sites within Kent, and specifically it did not consider any within south east London, which is a large area of their product market. However it is acknowledged that the proximity to product market must be weighed against the vehicle mileage associated with accessing raw materials.

68. I would argue that the Alternative Sites assessment did not submit the sites to a rigorous comparative examination. The magnitude and significance of effects has not been weighted on all of the sites when compared to each other. There are other criteria that could have been applied to each of the sites. For example, the availability of alternative modes of transport taking up advice contained in PPG13 "Transport", for raw materials and finished product and proximity to the market for finished product. Points 8-10 of the site selection criteria are largely superfluous as all sites other than Borough Green would by definition fail on these criteria.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

69. The Harrisons report provides additional financial and commercial information assessing the practical and commercial viability of each assessed site for manufacturing use. This report also considered two additional sites to those listed above namely the Isle of Grain and Neats Court , Isle of Sheppey. The report concludes that the eight sites in the alternatives assessment are completely unavailable or the owners would not dispose of land for the proposed use either for commercial or planning reasons. Of the two remaining sites Grain is too distant and the complexity and costs of land preparation are currently incalculable. Kingsnorth is available but to date all prospective purchasers have been unable to conclude a site acquisition or development of any significant size. Until the owners can remove the uncertainty in respect of access, site development costs and servicing it is argued this site cannot provide a suitable alternative location for major manufacturing uses.
70. The report concludes that there is no site currently available that would provide a realistic and viable alternative for the Applicant. It is acknowledged that the restrictions placed on sites by Local Plans, the unsuitability of many major sites for B2, and the operation of the property market favouring higher value uses, combine to make it very difficult for large B2 users. Having said that as discussed above there are some criticisms of the rigour of the Alternative Sites Assessment. Given its location within the green belt, I have to be certain that the Borough Green site is the only available site. The total cost of establishing a second factory at Borough Green has yet to be fully established in terms of site remediation, mitigation, provision of the Bypass and other highway improvement costs. I cannot therefore conclude that given the negative score the application site has in terms of location, preparation and associated development funding that it is the optimum site.

Conclusion on the issue of 'Very Special Circumstances'

71. The provision of the Bypass may resolve a local highway issue, but in my view does not address the issues of highway congestion in the wider area, that could be dealt with more substantially by the provision of east facing slips on the M25/M26/A21. The case for combined loads is not supported by hard evidence particularly given the ability of the proposed factory to continue to produce blocks. The choice of site based on the access to raw materials is not substantiated. The principle consideration in the choice of the application site has to be its location within the Metropolitan Green Belt, where the openness of the location must be retained. Given this situation the need for this factory to be located at Borough Green in order to contribute to the governments rapid house building programme cannot be supported. It has not been demonstrated through the alternative sites assessment that Borough Green is the optimum location for a second factory. I do not therefore support the Applicants argument that 'very special circumstances' exist sufficient to override the normal restraint policy in this sensitive location.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Environmental Impacts

72. In addition to considering the principle policy issue it is also appropriate to give attention to the specific environmental impacts the proposal may have. Below is discussion of the key issues that have arisen in terms of the likely impacts of the proposed development.

Landscape

73. As set out above the site is covered by a number of specific planning designations which seek to protect the landscape quality of the area. Besides its green belt designation the site is also within the Kent Downs and High Weald Areas of Outstanding Natural Beauty (AONB) and Special Landscape Area (SLA). Policy within the adopted Structure Plan and the emerging Kent and Medway Structure Plan (ENV3 and E4 respectively) seeks long-term protection of the AONB and states that the siting of major commercial development will not be permitted unless there is a proven national interest, and a lack of alternative sites or unless appropriate provision can be made to minimise harm to the environment. This status is supported by the Tonbridge and Malling Borough Local Plan (Policy P3/5). The SLA is afforded similar protection in the Structure Plan (Policy ENV4 and E5) and Local Plan (policy P3/6) in that proposals should seek to conserve and enhance the natural beauty of the landscape over other planning considerations.

74. The site also lies within the Green Wedge and Area of Local Landscape Importance (ALLI). These designations are applied under policies P2/19 and P3/7 of the TMBLP and essentially object to any development that is likely to extend the urban areas or significantly adversely affect the local function that those areas perform in maintaining separation between existing settlements. The scale and mass of the proposed buildings as well as the large area of hardsurafacing proposed would in my view be contrary to these policies. Although the proposal involves an element of ground remodelling, planting and bunding to screen the development, the presence of such a large built structure with a 20-metre high emissions stack and 25 metre high mixer tank tower would be almost impossible to screen completely. As such it is considered that the proposed factory at this location would have a significant impact upon the landscape quality of the area.

75. The approved landscaping and restoration scheme of the former mineral working covers some 16 hectares and seeks to return much of the site back to a nature conservation afteruse. Within this area over 10 hectares comprises planting blocks with a further 6 hectares of grassland. This provides a local biodiversity gain and enhanced conditions on site for a range of protected species. The ES states that the application proposals would seek to fulfil the aims and objectives of the national and Kent Biodiversity Action Plans. However

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

there is no further detail produced as to how that would be achieved other than mention of the establishment of a Local Nature Reserve. I am not aware that this has been progressed with the Borough Council. The area proposed for landscaping in the application is approximately 9 hectares thereby resulting in a net loss of landscape enhancement. Additionally, whilst this is not hugely different from the 'landscaped' area in the approved scheme it is more fragmented as over 3 hectares would be north of the bypass. In the revised scheme the 'southern' areas also lose the 'pastures' in the centre of the site to a factory use which further impacts on available 'wildlife' corridors. The addendum to the ES states that the delivery of the enhancements would be via a Section 106 agreement or a set of planning conditions. I consider that this detail should be provided before any permission could be granted.

Ecology

76. The application site does not have a designation, statutory or non-statutory, for nature conservation. The site as currently restored does however contain a mosaic of habitats, which have the potential to support a range of protected species. Specifically great crested newts, reptiles, water vole, bats and invertebrates could all be present. English Nature, Kent Wildlife Trust and KCC's own ecologist all took the view that insufficient information had been provided to enable them to support the proposals. Following discussions with the Applicant the addendum revisited the ecology chapter, however no further ecological evidence was produced. English Nature comment that:

"we would advise you that the information currently provided for protected species is as it stands is not sufficient to determine the impact that the development will have on protected species. Paragraph 14.7 of the Additional Information and ES Addendum (November 2005) states that "Ecology Solutions are in the process of providing and agreeing...a mitigation strategy to enable the planning process to proceed unhindered". We have been given assurances that this report will be with us shortly but nevertheless, as things stand it is not possible for us to assess what the residual impacts of the development will be on this species and advise you accordingly.

With regard to reptiles we still consider that the number of surveys (four) is insufficient and the time of year that these surveys took place (July-August) not ideal. Even though the number of tins used was high it is much more difficult to attract reptiles to basking areas when the weather is hot and we have no information on the weather conditions of the surveys. We accept that great-crested newt mitigation will also prove beneficial to reptiles but again the absence of this mitigation strategy, combined with insufficient survey effort, means that the potential impacts of the development on reptiles cannot be properly assessed."

77. The report referred to above has now been received and I await further comment from English Nature. I will report their views verbally to Members at the meeting,

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

however planning case law dictates that the report will need to ensure that the potential impacts upon reptiles and amphibians can be properly assessed and mitigated prior to any grant of planning permission.

78. The Application documents still do not provide any further detail as to impact upon water voles, bats or birds other than suggesting that further surveys would be carried out prior to commencement of works. As things currently stand all three nature conservation interests retain their objections to the proposal. The Environment Agency confirms that surveys for water voles must be undertaken and if such animals are found appropriate mitigation and compensation agreed. They suggest that it is essential to develop any ecological mitigation strategies for different species simultaneously to ensure they do not conflict. On the basis of case law I am not satisfied that this is an acceptable approach and consider that these details should be provided before any decision on the planning application is made. As such the proposal would be contrary to Policy E8 of the Kent and Medway Structure Plan.

Ground Conditions and Water Resources

79. The site has historically been used for quarrying sand. Notably it is believed that the site has been in-filled with inert material and the ES states that this would be confirmed through intrusive investigation once planning permission has been obtained. It further goes on to say that the site is partly located on a Total Catchment Zone SPZ. The aquifer status is fairly sensitive, and the potential risk to groundwater from activities on site is highest in the south east, it is estimated that the water table rests at 65m AOD. There are numerous small streams, drains and ponds around the perimeter of the site and its surroundings, and there are also several areas of standing water on site. Standing water was present in the base of the pit approximately 70m AOD, although the site is not known to be at risk of flooding.
80. The residual impacts for the short term of the construction of the development, once mitigation measures have been put in place, are considered in the ES to be minor adverse. These relate primarily to the risks of contamination affecting receptors on site, changes in surface water run-off, and the continued low risk potential for contaminated run-off to reach local watercourses. Landslip risks would be addressed prior to development and therefore the ES asserts that the residual impacts would be beneficial. The residual impacts for the medium to long term of the completed development were considered to be minor adverse and again relate primarily to the risks of contamination affecting receptors on site. Other impacts include the accumulation of land gas, and contamination of soils and water as a result of factory activities. The ES states beneficial impacts relate to the elimination of potentially contaminated land and water as well as eliminating slope instability risks through investigation and remedial measures, once planning permission is granted.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

81. The Environment Agency have commented that “the potential to cause ground water contamination at this site is high and therefore it is essential to fully address the impact of site drainage on the groundwater and surface water systems during the construction phase and working phase of this development.” They go on to suggest a condition seeking determination of past and present uses of the site and adjacent area to ascertain the likelihood of contamination existing on site, with appropriate remediation being determined.
82. Mid Kent Water have taken a similar view expressing concerns over the potential to contaminate important aquifers but have agreed with the Applicant that provided they be party to agreeing the evidence put forward to the EA suggestion above that they would withdraw their objection. They have stated that if they were not able to voice their concerns in the future with regards to the conditions set they would be failing in their statutory obligation to their customers to protect groundwater. They state, “a detailed Environmental Assessment is required and it is at this stage of the planning procedure that the Company has any voice in making sure groundwater supplies are protected.”
83. Without the information requested regarding potential contamination issues I cannot be satisfied that the impacts of the proposed development could be fully assessed and therefore adequately mitigated. To leave the requirement for this information until after the planning application has been determined would in my view be unacceptable. As such I consider the proposal would be contrary to Policies ENV20 of the KSP and Policies and Policies NR4, NR5 and NR7 of the Kent and Medway Structure Plan.

Noise

84. The Applicant as part of the Environmental Impact Assessment has undertaken a noise survey. A number of sensitive receptors have been identified however of most significance is the potential impact upon the nearest residential properties. The Applicant has stated that it is intended that these properties would be acquired for their use as commercial premises. However the noise assessment should be based upon their residential use. I am advised by my noise consultant that there is predicted to be a significant impact at Cricketts Farm and Cricketts Farm Cottages, all of which are indicated by a situation in excess of a "complaints likely" scenario when assessed using BS 4142. This has the potential to significantly affect the occupiers' residential amenity in terms of the effects of noise. The Applicant's noise consultant does briefly consider mitigation in the form of a barrier but he discounts this due its impractical size and goes on to declare that it is considered "acceptable in principle". This is a view not shared by my noise consultant who considers there would be a significant and substantial impact at three properties. It is concluded that the proposed factory would have an unacceptable detrimental effect upon the residential amenity of Cricketts Farm and Cricketts Farm cottages and is therefore contrary to Policies

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

ENV20 of the KSP and Policies and Policies NR4 and NR5 of the Kent and Medway Structure Plan.

Air Quality

85. Emissions to the atmosphere from the existing Celcon Plant are subject to control by the Borough Council pursuant to the Local Air Pollution Control regime established under the provisions of the Environmental Protection Act 1990 and the Pollution Prevention and Control Act 1999. The Borough Council state that so far as they are aware the new plant would be subject to the same regulatory regime. They advise that the stringent controls should ensure that unacceptable levels of local pollution would not be caused by the new plant.

Affects on Listed Buildings

86. As stated above there are two listed buildings within the vicinity of the proposal. English Heritage has been consulted upon the proposal and has replied that the application should be determined in accordance with national and local policy guidance. I am satisfied that the effects of the proposal upon Ightham Court and its listed garden can be adequately mitigated. However Policy ENV19 of the Kent Structure Plan and QL9 of the Kent and Medway Structure Plan seek to preserve listed buildings and protect and enhance their settings. Policy P4/1 of the Tonbridge and Malling Local Plan supports this position.
87. The Applicant argues that the Farm has been in close proximity to active mineral workings for many years which had led to substantial screening being provided by mounding, reinforced by hedgerows and woodland in some places. Further mitigation proposed as part of the overall scheme, it is argued, would remediate recognised impacts.
88. I am seriously concerned as to the potential effects of the proposal upon Cricketts Farmhouse. The residential complex surrounding the farmhouse would effectively be totally surrounded by industrial development. Although not within the application boundary I understand it is the intention of the Applicants to acquire Cricketts Farm and change the use of some or all of the buildings to workshops, stores and offices. However I am not aware of an application having been made to the Borough Council. Without details of the intended activities at the farm complex it is impossible to fully assess the potential changes to the context of the setting of the listed building. I acknowledge that the Cricketts Farm site has been subject to active and continuing mineral working for some time, however that working is temporary in nature and subject to a restoration scheme designed to protect the setting once completed. The proposed factory and potential use of this farm complex which would ensure on a permanent basis would have significant detrimental impact upon the setting of the listed building in perpetuity.

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

Conclusion

89. Earlier in this report I have concluded I do not support the Applicants argument that 'very special circumstances' exist sufficient to override the normal restraint policy in this sensitive location. Furthermore consideration of the environmental impacts of the proposed development have highlighted a number of issues where the proposal is in conflict with the policies contained in the Structure and Local Plans. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. I have concluded that beside the principal green belt policy objection the impact of the proposal is such that there are other significant material planning objections. I cannot therefore support the planning application.

Recommendation

90. I RECOMMEND that PLANNING PERMISSION BE REFUSED on the following grounds:
- (i) The proposed site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The Applicant has failed to demonstrate that very special circumstances exist sufficient to demonstrate that those national and development Plan Policies which seek to protect such areas should be overridden. The proposal is therefore contrary to government guidance in Planning Policy Guidance Note 2 - Green Belts, Policies S3 and MGB3 of the Kent Structure Plan 1996, Policy SS8 of the emerging Kent and Medway Structure Plan and Policy P2/16 of the Tonbridge and Malling Borough Local Plan.
 - (ii) The proposed site lies within the Kent Downs and High Weald Areas of Outstanding Natural Beauty (AONB) and Special Landscape Area (SLA) where the primary objective is to protect, conserve and enhance landscape character. The proposal to locate a second factory of significant scale and massing is contrary to Policy ENV3 and ENV4 of the Kent Structure Plan, Policies E4 and E5 of the emerging Kent and Medway Structure Plan and Policies P3/5 and P3/6 of the Tonbridge and Malling Borough Local Plan.
 - (iii) The proposal lies within the Area of Local Landscape Importance between Borough Green and Ightham, specifically identified as an area of woodland, open countryside and mineral workings contributing to the rural character of these settlements as viewed from the A25 and A227. The siting of a large

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

factory with its associated development within this protected area would result in long term damage to the open character of this area contrary to Policy P3/7 of the Tonbridge and Malling Borough Local Plan.

- (iv) The application site lies within the Green Wedge as identified in the Borough Local Plan, where the land performs an important separating function between existing villages. The proposal by virtue of its scale and massing conflicts with this separation function and cannot be adequately designed or landscaped so as not to compromise this function and as such is contrary to Policy P2/19 of the Tonbridge and Malling Borough Local Plan.
- (v) The proposal does not afford adequate conservation or enhancements to wildlife habitats and species and there is no overriding need for the proposed development demonstrated and as such is contrary to Policy ENV2 of the Kent Structure Plan and Policy E8 of the emerging Kent and Medway Structure Plan.
- (vi) The proposed impact upon the sensitive groundwater environment has not been fully assessed and the impact of the proposed development cannot therefore be measured. As such I consider the proposal would be contrary to Policies ENV20 of the KSP and Policies and Policies NR4, NR5 and NR7 of the emerging Kent and Medway Structure Plan.
- (vii) The noise levels associated with the proposed development would have an unacceptable detrimental effect upon the residential amenity of Cricketts Farm and Cricketts Farm cottages contrary to Policies ENV20 of the KSP and Policies and Policies NR4 and NR5 of the emerging Kent and Medway Structure Plan.
- (viii) The siting of the proposed development in close proximity to the adjacent existing factory would result in an unacceptable detrimental effect upon the setting of the Grade II listed Cricketts Farmhouse contrary to Policy ENV19 of the Kent Structure Plan and QL9 of the emerging Kent and Medway Structure Plan and Policy P4/1 of the Tonbridge and Malling Local Plan;

and subject to any minor amendments to these reasons as agreed to be necessary by the Committee.

Consequential variations to other permissions

91. I further recommend that MEMBERS NOTE that the Applicants have also proposed in writing to vary the working, restoration and aftercare scheme for the permitted sand reserves to the west of the proposed factory site (Ref. TM/85/1436 & TM/87/1851). Particularly, they seek to vary Condition 4 of the above permissions to allow the excavation and subsequent stockpiling of the

Item C2

Development of a new factory to manufacture aerated concrete products, access and associated facilities at Ightham Sandpit, Borough Green Road, Ightham – TM/03/2563

sand to the east of the existing factory in a former quarry void. Should Members approve the substantive application this would allow the prior working of sand beneath and to the west of the line of the bypass in advance of the bypass being constructed and thus avoid their sterilisation.

92. Should Members be minded to accept the recommendation set out in paragraph 90 above I WOULD RECOMMEND that this request be REFUSED as there would be no need to remove all these reserves at this point in time.
93. Additionally, there remain outstanding working, restoration and aftercare requirements under permissions TM/85/1436 and TM/87/1851 which the applicants requested originally that completion of working and restoration be extended to 30 June 2006 and by further letter dated 1 March 2006 until 30 June 2008. I have concerns that the submitted schemes of working and restoration remain unapproved and until approved we cannot secure with any confidence the end date of these permissions. In the circumstances it is now urgently necessary to ensure these schemes are submitted in a sufficient and acceptable form to allow them to be approved and to secure controlled working and restoration under the permission. Should Members agree the recommendation in paragraph 90 above I also SEEK AGREEMENT from Members to remind the applicant of this outstanding issue setting a deadline for their submission within 6 months and also refer the matter to the Regulation Committee to consider taking of appropriate enforcement action should the submission of acceptable schemes within this timescale be further delayed.

Case Officer: Andrea Hopkins

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Background Documents - see section heading (or specify particular documents)*