

SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

Regularisation of the layout of the gas control compound permitted under planning consent TM/04/3135 and installation of a new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham, Kent – TM/08/624

A report by Head of Planning Applications Group to Planning Applications Committee on 9 December 2008.

Application by Infinis Limited for the regularisation of the layout of the gas control compound permitted under planning consent no. TM/04/3135 (dated 17 July 2007) and installation of a new landfill gas flare within the compound at White Ladies Gas Control Compound, Teston Road, Offham, West Malling, Kent.

Recommendation: Planning permission be granted subject to conditions.

Local Members: Mrs S. Hohler

Unrestricted

Site

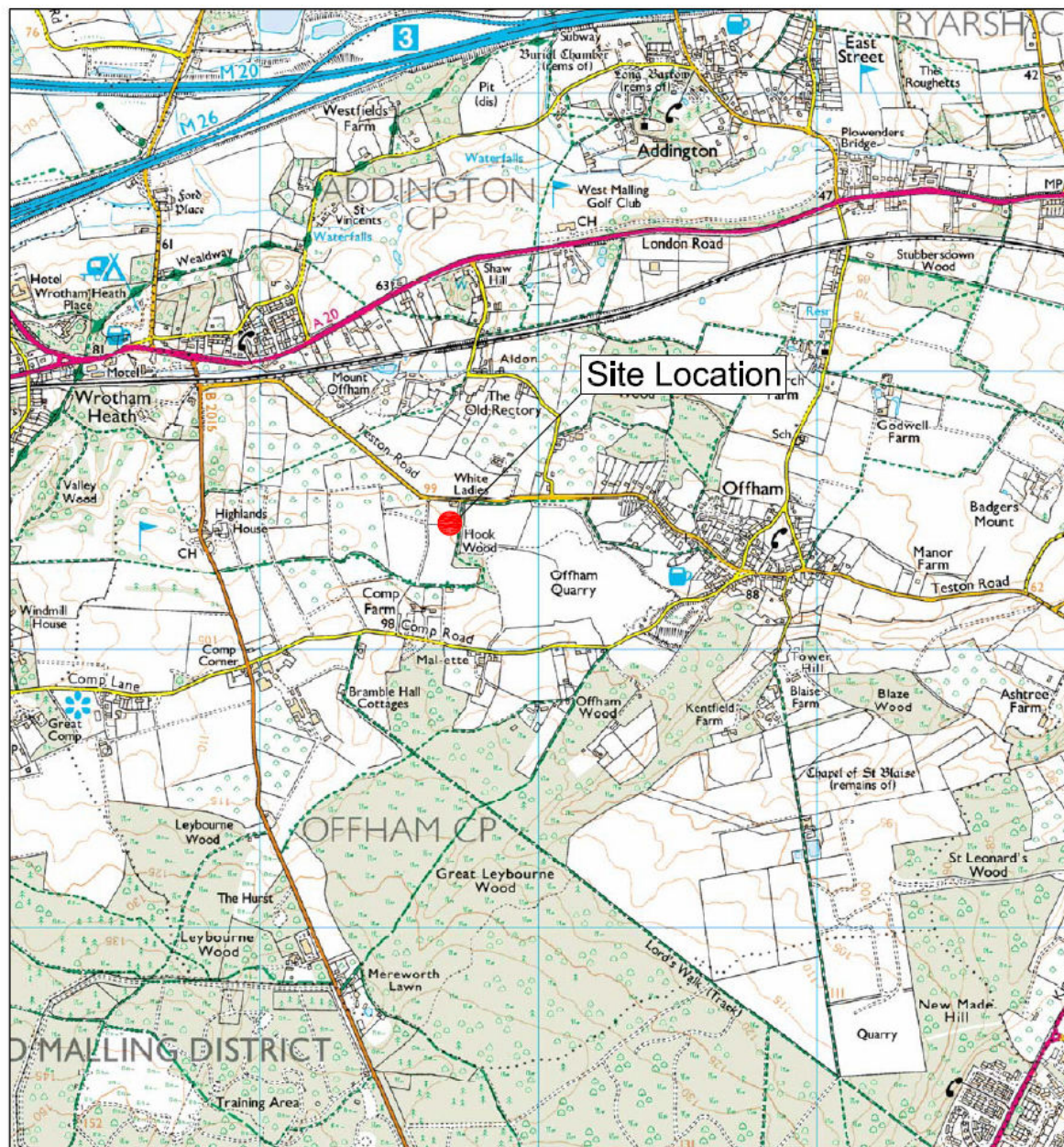
1. White Ladies gas control compound is situated immediately to the north west of Offham Landfill Site and south of Teston Road, from which access to and from the site is obtained. The site is some 400 metres to the west of Offham village. Individual residential properties are located near the site, most notably Comp Farm Oast (300 metres), Hunters Moon (320 metres) and The Roundells (335 metres). The application site is within the Metropolitan Green Belt. *A site location plan is provided on page C1.2*
2. The compound is surrounded by 4 metre high acoustic fence and lies within the grounds of the White Ladies Office Complex. Waste Recycling Group owns the gas control compound and the Landfill Site. However, the gas control compound is leased to Infinis, which owns the infrastructure installed within the compound and is responsible for the day-to-day management of landfill gas and the production of energy from the gas.

Background

3. The landfill gas control compound at White Ladies was initially granted planning permission by the County Planning Authority in August 1995, under permission reference TM/94/370. In 2001, planning permission was granted under application TM/99/912, allowing for the replacement of an existing gas flare, the installation of a

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Site location plan



Rev:	Date:	Amendment:	Name:	Checked:
-	-	-	-	-

Status: Final

Drawing Based Upon:

Legend

Site Location

Land in the Control of the Applicant



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Client: Infinis

Project: Offham (White Ladies) Landfill - Landfill Gas Utilisation Compound

Title: Site Location Plan

Date: Jan 2008 Scale: 1:20,000 Original Paper Size: A4

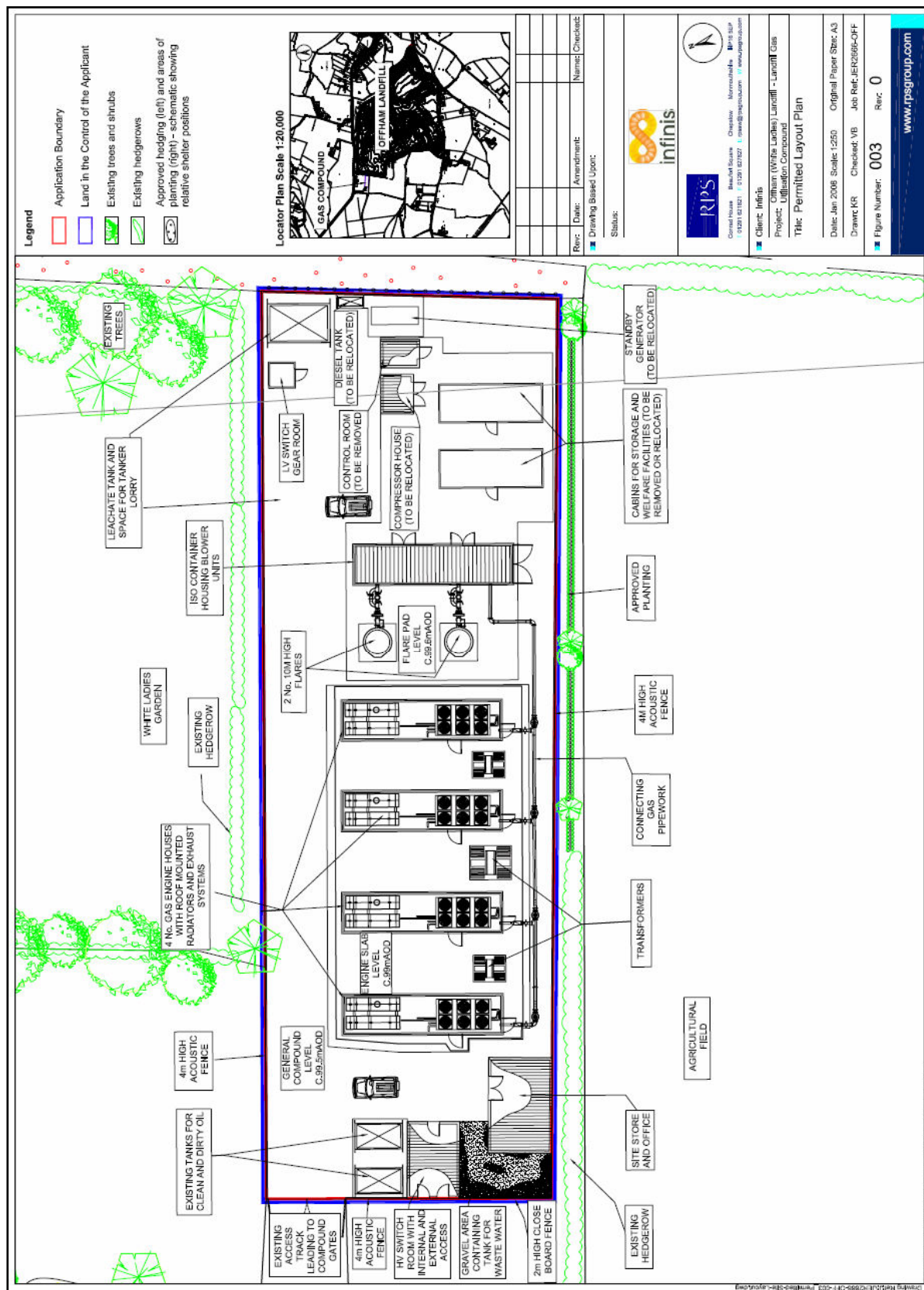
Drawn: KR Checked: VB Job Ref: JER2666-OFF

Figure Number: 001 Rev: 0

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Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Permitted Layout Plan (as approved under TM/04/3135)



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Legend

- Red line: Volcanic Boundary
- Blue line: Land in the Control of the Applicant
- Green line: Existing trees and shrubs
- Green line: Existing hedgerows
- Green line: Proposed boundary (left) and area of planting (right) - approximate showing relative similar positions
- Orange line: Existing lighting (as-built)

Area of proposed new 7.5m high 'in-rock' landfill gas flare

Landfill Gas Compound Layout - 1:200

Cross Section A-A : 1:200

PROPOSED REMOVED FOR CLARITY

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new gas flare and ancillary plant, as well as an extension of the original acoustic fence. In 2003, planning permission was granted under application TM/02/3536 for the installation of two additional gas utilisation engines and two replacement engines, new control room and associated plant and buildings and two replacement flares within the compound. In 2004, when the landfill gas control equipment was installed on site, the layout differed from the one approved under the 2003 consent (TM/02/3536). As a result, a retrospective planning application was submitted in August 2004 to regularise the compound's layout in line with the 'as built' installation. This application was granted planning permission by the County Planning Authority (TM/04/3135) in July 2007.

4. Planning permission TM/04/3135 included a number of planning conditions. Conditions 1, 6, 9, 10, 11 and 12 are of particular relevance to the current proposals. Condition 1 requires that the development be carried out as permitted. Condition 6 states that no external lights shall be installed or erected unless otherwise approved beforehand by the County Planning Authority. Condition 9 restricts noise from operations at the site to no more than 39dB at any noise sensitive property between 1900 and 0700 hours as expressed in terms of the rating level $L_{A,T}(\text{Free Field})$ as defined in BS4142. Condition 10 requires annual noise monitoring to demonstrate compliance with condition 9. Condition 11 requires the acoustic fence surrounding the compound to be maintained so that it remains effective as an acoustic screen. Condition 12 requires landscape planting to be undertaken and maintained for the life of the facility.

Proposal

5. The proposed development comprises of three elements:
 - (i) The installation of a new 7.5m high landfill gas flare within the gas control compound to specifically deal with 'in-rock' landfill gas (low calorific gas collected from the perimeter of the site);
 - (ii) Regularisation of the layout of the permitted compound to accommodate the installation of the proposed gas flare; and
 - (iii) Details of external lighting within the gas control compound pursuant to condition (6) of the 2004 consent (TM/04/3135).
6. The gas control compound currently installed at the site collects gas produced within the body of the adjoining landfill site, as well as the gas generated through the perimeter gas collection system. The characteristics of the landfill gas and in-rock gas are different in that the methane content of the in-rock gas is lower than the one of the gas collected within the main body of the landfill. The in-rock gas has a methane content of less than 15%, resulting in its calorific value being considered as 'low'.
7. The current gas control compound comprises of four landfill gas engines and two flares, together with associated plant and equipment. Unlike the gas generated within the landfill's body, the low-calorific value of the in-rock gas collected via the perimeter collection system makes it unsuitable for electricity generation and cannot be used by the engines installed within the compound. As a result, the in-rock gas is currently being controlled by the existing flares. However, the existing flares are not specifically designed to burn low-calorific gas and, in order to ensure that safety issues are adequately addressed, the in-rock gas has to be blended with landfill gas to achieve a

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sufficient calorific value.

8. As identified in paragraph 5(i) above, the proposal involves the installation of a new 7.5 metre high flare, specifically designed to deal with low calorific value gas. This new flare would have a capacity of 1,500m³/hr and would be dedicated to the control of the in-rock gas, only requiring a small amount of landfill gas to operate within the emissions standards prescribed by the Environment Agency's guidance on landfill gas flaring. In this way it would enable more landfill gas that is capable of being used as a fuel to be used to generate electricity. The new flare would be designed to operate continuously (24 hours per day, 7 days a week) alongside existing equipment within the gas control compound in order to provide effective gas management for the adjacent landfill site.

9. In order to accommodate the installation of the new gas flare and associated plant, some items of equipment already installed within the compound, need to be relocated. In addition, some of the equipment permitted under the 2004 consent (TM/04/3135) was installed at a slightly different location within the compound to the one indicated on the permitted layout plan. As a result, part (ii) of the proposed development, as detailed in paragraph 5 above, seeks to regularise the layout of the compound. The changes proposed to the gas control compound can be identified on 'Proposed Layout Plan' on page C1.4 when compared against the 'Permitted Layout Plan' (as permitted under TM/04/3135) on page C1.3. For clarification the items of plant and equipment affected by these changes are listed below:
 - Diesel tank has not been installed alongside the eastern boundary of the compound, as shown on the 'permitted layout', but alongside the northern boundary;
 - Stand-by generator, shown to the east of the compound on the 'permitted layout', has been installed alongside the northern boundary, next to the diesel tank;
 - One of the welfare and storage Portakabin's shown on the 'permitted layout' has been removed from the site, whereas the other one will be relocated alongside the eastern boundary of the compound;
 - Control room shown on the 'permitted layout' will be removed following the installation of the new flare; and
 - One of the engines and its associated transformer have been installed at a slightly different position to that shown on the 'permitted layout'.

10. As identified in paragraph 5(iii) above, the proposal includes details of external lighting within the gas control compound provided for under the terms of the 2004 consent (TM/04/3135). The 2004 consent stated that *'no external lighting shall be installed or erected at the site unless otherwise approved beforehand in writing by the County Planning Authority'*. The proposed lighting scheme has already been installed and has been in operation for some considerable time. This element is therefore retrospective. The justification for the provision of external lighting is that the compound needs to be accessible 24 hours a day for essential site maintenance and it is therefore necessary to provide adequate lighting to ensure the health and safety of employees using the gas compound during such night-time periods. The lighting scheme comprises a number of wall-mounted lamps positioned along the compound's fence which are controlled by a motion sensor to ensure that lights are only illuminated when site operatives are working in the facility. With the exception of two lights at the entrance to the compound, all lighting is contained within it.

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Further Information

11. Further information was provided by the applicant in May 2008 responding to concerns raised by consultees and interested parties. This included: information relating to the site ownership; further information relating to the need of the additional gas flare and its impacts in terms of landscape and visual amenity and within the Metropolitan Green Belt; and additional information concerning noise measurements. The Borough Council, Parish Council, Environment Agency and the KCC Noise Consultant were consulted on this additional information.
12. Whilst this information went some way to addressing the concerns raised, the applicant was asked to provide a further noise assessment to demonstrate that the proposed new flare could operate alongside the existing equipment whilst still complying with the noise limit imposed by condition 9 of planning permission TM/04/3135 (i.e. 39dBL_{Ar,T(Free Field)}). The methodology for this further assessment was agreed beforehand by both the County Council's Noise Consultant and Tonbridge & Malling Borough Council's Environmental Health Officer. This further noise assessment was submitted in October 2008 and was the subject of further consultations with the Borough Council, Parish Council, Environment Agency and KCC's Noise Consultant. This report includes consideration of comments that have been received on all three consultations.

Planning Policy Context

13. The planning policies summarised below are relevant to consideration of the application:

National Planning Policies – the most relevant National Planning Policies are set out in PPG2 (Green Belts), PPS10 (Planning for Sustainable Waste Management), PPS22 (Planning for Renewable Energy), PPS23 (Planning and Pollution Control) and PPG24 (Planning and Noise).

Regional Planning Policies – the most relevant Regional Planning Policies are set out in RPG9 (as amended) and the emerging South East Plan. These include RPG9 Policies E3 (Green Belts), E7 (Air and Water Quality), W12 (Other Recovery and Diversion Targets), W13 (Landfill Requirements) and emerging South East Plan Policies CC10a (Green Belts), NRM9 (Air Quality), NRM10 (Noise), NRM13 (Renewable Energy Targets), W12 (Other Recovery and Diversion Targets), W13 (Landfill Requirements) and C3 (Landscape and Countryside Management).

Kent and Medway Structure Plan (2006) – These include Policies SP1 (Conserving and Enhancing Kent's Environment and Ensuring a Sustainable Pattern of Development), SS2 (Extent of the Metropolitan Green Belt), EN1 (Protecting Kent's Countryside), EN3 (Protecting and Enhancing the Countryside Character), EN9 (Trees, Woodland and Hedgerows), NR2 (Energy Generation), NR3 (Renewable and Sustainable Energy Production), NR5 (Pollution Impacts), NR8 (Water Quality) and WM2 (Assessment Criteria for Waste Proposals).

Kent Waste Local Plan (1998) - These include Policies W18 (Noise, Dust and Odour), W25 (Plant and Buildings) and W31 (Visual Impact and Landscaping).

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Tonbridge and Malling Borough Local Plan Saved Policies (1998) – Identifies that the application site is in the Metropolitan Green Belt.

Tonbridge and Malling Borough Council Local Development Framework Core Strategy (2007) – This includes Policy CP3 (Green Belts).

Consultations

14. **Tonbridge and Malling Borough Council** – The Borough Council initially objected to the proposals on the grounds that there was insufficient information to show that acoustic amenity of nearby residential property would not be detrimentally harmed. These objections were maintained following the receipt of the additional information submitted in May 2008. However, it is understood that this objection will be withdrawn following its consideration of the additional noise assessment submitted in October 2008 which demonstrates that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit. Formal written confirmation of this is awaited at the time of writing this report and Members will be updated as necessary at committee.

15. **Offham Parish Council** – Objects. Its comments are summarised below:

Based on original application

Object to the proposals unless further information can be provided to address the following:

- Although it may prove difficult to alter the location of the specific plant within the compound, the Parish Council has consistently urged that noise producing plant should be located at the furthest point possible from the village boundary;
- Offham is known for having a very low level of light pollution. The village has resisted street lighting for this reason. The requested level of lighting for the compound would not be consistent with this policy and certainly contrary to the wishes of the vast majority of local residents;
- It could be argued that one more flare stack, slightly lower than the existing two, will have a marginal impact on the amount of plant already existing. However, marginal as it may be, it will have an impact and a negative one at that in Green Belt terms. The only 'very special circumstances' that would be relevant in relation to this application is stated necessity to comply with EU legislation that landfill gas be controlled and treated;
- The two existing flare stacks at 10m high are visible above the acoustic fencing and planting and therefore have a negative visual impact. The additional flare stack, although lower, is also higher than the 4m high acoustic fencing and planting and will therefore be visible and have an additional negative impact;
- How can the 'predicted noise levels due to the proposed equipment' possibly reduce when two additional pieces of equipment – one flare and one booster – have been added into the equation?
- Inconsistency in noise reports and assumptions for gas compound – imperative that the discrepancies be addressed;
- New flare stack is predicted to increase the decibel level at the key properties by some 6.1 Db. This is a very significant increase and is bound to cause a nuisance and generate many complaints.
- Any increase in the overall noise pollution from the site would be to the detriment

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to the local community and would lead to the Parish Council strongly objecting to this proposal. Subject to this critical issue being fully addressed our other concerns regarding visual impact and the external lighting could then be further considered.

Based on further information submitted in May 2008

In the absence of any more substantive information to address our queries and concerns we write to confirm that we strongly object to this application for the following reasons:

- After undertaking our own research and relying on information previously given to use by WRG and others at Liaison Meetings, we do not believe that this additional flare stack is genuinely required *‘to provide finer environmental control and enhanced safety, as it will ensure that adequate measure are provided to mitigate against off-site migration’*. Given that, prior to this application, we have been repeatedly assured that the existing equipment was of sufficient capacity and more than adequate to cope with both current and future needs, we conclude that the need for this new additional flare is driven more by commercial gain;
- Our understanding of the situation is that, under the current system, the ‘in-rock’ gas is collected and mixed with a proportion of directed ‘good’ gas and the mix is burnt/flared off. The rest of the ‘good’ gas is used for electricity generation and sold. As far as we can determine, the proposed system will mean that no ‘good’ gas has to be mixed with the ‘in-rock’ gas result in commercial gain to the applicant;
- Our principle objection to the application is, from the information supplied, the very high risk of unacceptable additional noise pollution. Irrespective of whether or not the methods of calculation are correct, or comparable, in any event all the statistics prove that the site is currently operating either at, or with statistical adjustment, just below the permitted noise levels;
- Horrified by the suggestion that a ‘noise survey could be carried out following the installation of the proposed flare in order to ensure that the gas control compound continues to operate within the noise level prescribed by the extant consent’. This is not acceptable, bearing in mind it took ¾ years of persistence by ourselves for the noise problems from the original equipment in the compound to be addressed;
- Firmly believe that the site can run perfectly efficiently without the additional flare stack and that the risks associated with its installation, particularly the issue of noise, are simply not acceptable to the local residents.

Based on noise assessment submitted in October 2008

- The height of the stack at 10 metres is 6 metres above the acoustic attenuation fence in situ. The noise profile clearly shows that, although the maximum noise output occurs at heights below two metres at levels of up to 97 dB, 89 dB is shown at the top of the stack. This begs the question as to whether an attenuated 97 dB has a greater effect than an unattenuated 89 dB;
- There is no consideration in the report of either directional noise factors as may be caused by e.g. a prevailing wind, nor is there any consideration of potentially variable rates of gas mix or inflow rates, which are both likely contributors to variability in noise profiles as predicted;
- The report addresses only the technical issue raised by TMBC in relation to assumptions made about the proposed additional flare stack operating in isolation and the pattern of noise levels emanating from various heights of the

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stack;

- There have been no satisfactory responses to queries about overall noise levels likely to emanate from the site as a whole. Presumably the comments included in the original supporting evidence, that noise levels at sensitive local properties would increase by up to 6.1dB, therefore still stand;
- Given the last annual noise report from November 2007 demonstrated that the planning constraint was only just complied with, (after the rounding down of one statistic), we conclude that any increase in noise output from the site would prove unacceptable to local residents;
- The additional report does nothing to change the views of Offham Parish Council and, if anything, reinforces the belief that the proposed development would be detrimental to the local environment. Offham Parish Council therefore wishes to confirm its strongest objections to the proposal and recommends that KCC reject it. Furthermore, having previously received assurances that no noise increase would be permitted by further development at the White Ladies site, should KCC planners be minded to recommend acceptance of the plan, Offham Parish Council would propose to present objections to Committee.

16. Environment Agency – has no objection in principle but make the following comments:

'This proposal indicates that certain facilities are to be moved and a new flare installed. A detailed programme of change over is required, especially for the control room. The operational continuity of gas control at this site is paramount to prevent off-site migration and impacts on adjacent properties. There have been problems in the past with commissioning new flares from the point of view of operational control of gas and also leading to noise problems. A careful programme of installation and changeover for control mechanisms is required.

The (*landfill*) site is now closed and final capping and restoration is in progress. This enhances the need for full gas control.

Any amendments to gas control or utilisation systems will also require formal agreement by the Environment Agency in accordance with the relevant authorisation'.

17. KCC Landscape Consultant (Jacobs) – notes that the proposed changes and additional flare will be sited within the existing compound and the current mitigating planting maintained. Given these factors, the landscape effects arising from the proposal would be negligible.

18. KCC Noise Consultant (Jacobs) – comments set out below, but in summary raises no objection to the proposal following the submission of the detailed noise assessment report.

Based on original application

From the noise assessment provided [with the original submission] it is demonstrated that noise emissions from this facility will not exceed the permitted levels as controlled by planning consent TM/04/3135. However, I would wish to be provided with the calculations of this assessment to satisfy my of their accuracy. In addition, I would be grateful to receive spectral noise information on the proposed new gas flare.

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Based on the further information submitted in May 2008

Requested further clarification on noise issues.

Based on noise assessment submitted in October 2008

Following the submission of the 'Sound Intensity Measurement Assessment', is satisfied with the previously agreed methodology adopted for the sound intensity measurements. From the noise assessment provided, it is demonstrated that noise emissions from the facility will not exceed the permitted levels as controlled by application TM/04/3135.

Representations

19. The application has been publicised by the posting of a site notice at the main entrance to the gas control compound and newspaper advertisement in the local press. In addition, 8 residential properties surrounding the site were notified of the proposals. At the time of writing this report, 39 representations have been received objecting to the proposed development. The main reasons of objection are summarised below: -
- Concerned with significant noise increase as a result of additional landfill gas flare – compound already operating very close to the maximum permitted noise levels;
 - Understand there are a number of discrepancies between the information submitted as part of this application and that previously submitted in a Compliance Monitoring Report (January 2008) in relation to the gas control compound;
 - Having suffered for several years before the operators responded, relatively recently, to the excessive noise issues by re-engineering the existing flare stacks, it would prove totally unacceptable if additional plant should return conditions to those of some three years ago;
 - Strongly object to this current application and will continue to oppose any further development at the site which exacerbates the damage to the local environment caused by operations remaining on the former landfill site after its recent closure to landfill;
 - Negative visual impact of yet another large flare stack;
 - Extensive quantity of external lighting that we believe will have an additional negative effect on our immediate environment;
 - We residents have suffered enough in this lovely village from the traffic, smells, noise and litter caused by the use of land as a landfill site. Just as it looked as if the site was at last about to be restored to the village as an amenity we now have this new proposal for a further landfill gas flare.

Local Member

20. The County Council Member Mrs S. Hohler was notified of the original application on 22 February 2008. Mrs Hohler was also notified about the further information submitted in both May and October 2008.

Discussion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the policies outlined in paragraph (13) above are of greatest relevance.

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22. The main issues to be considered in respect of this application for the provision of a new landfill gas flare, the regularisation of the plant and equipment within the gas control compound and the approval of an external lighting scheme relate specifically to:-
- Noise issues arising from the installation of a new 'in-rock' landfill gas flare;
 - The need for a new landfill gas flare;
 - Landscape and visual amenity impacts; and
 - Green Belt.

Noise

23. As noted above, the proposed installation of a new landfill gas flare has generated some considerable opposition, most notably on the grounds of a potential increase in background noise levels. A number of residential properties are located within the vicinity of the site and the nearest property (Comp Farm Oast) is located approximately 300 metres from the gas control compound. Policy W18 of the Kent Waste Local Plan and Policy NR5 of the Kent and Medway Structure Plan are of particular relevance in terms of potential adverse noise impact on neighbouring land uses and amenity.
24. Members will note from paragraph (2) above, that the entire gas control compound is surrounded by a 4 metre high acoustic fence which provides significant noise attenuation for the local environment. It is also noted that the noise levels emanating from the gas control compound are restricted by an existing condition (9) on the 2004 planning consent (TM/04/3135) which sets out that noise levels during night-time periods shall not exceed 39dB at nearby noise sensitive properties. The question as to whether or not the proposed new gas flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit is a key consideration.
25. It should be noted that a recent [noise] Compliance Monitoring Report (January 2008), which is an annual requirement placed on the operator of the gas control compound as a condition of the 2004 planning consent (TM/04/3135), has shown that the compound is currently operating within its prescribed noise level limits.
26. As a result of the concerns received relating to noise levels from statutory consultees and interested parties, a sound intensity measurement report was requested from the applicant to further consider the potential for any increased noise levels at nearby residential properties. As previously noted, the methodology for this report was agreed beforehand in joint discussions between the County Council's Noise Consultant, Tonbridge and Malling Borough Council's Environmental Health Officer and the applicant's noise specialist. Following the submission of the sound intensity measurement report in October 2008, the County Council's Noise Consultant has advised that the applicant has been able to demonstrate that noise emissions from the proposed facility, with the inclusion of the new landfill gas flare, will not exceed the levels permitted by planning permission TM/04/3135. It is also understood that Tonbridge and Malling Borough Council's Environmental Health Officer is now satisfied that this is the case.
27. Notwithstanding the noise objections raised by Offham Parish Council and local residents, on the basis of the professional / technical advice received and subject to formal confirmation of the Borough Council's position, I am satisfied that the installation of the proposed 'in rock' gas flare would accord with Policy W18 of the Kent Waste Local Plan and Policy NR5 of the Kent and Medway Structure Plan and that there is no

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justification to refuse the application on noise grounds provided existing noise controls and measures to demonstrate compliance are maintained / extended to cover both existing and new equipment.

Need

28. The Parish Council and local residents have questioned whether there is a true need for the installation of the additional gas flare and see no need for this on the basis that the existing equipment already works and the applicant has previously demonstrated compliance with the existing noise condition. It has also been argued that the applicant is driven by a desire for greater financial profit through the installation of the new flare rather than any need for additional safety measures for the management of low-calorific ('in-rock') gas.
29. Whilst a case of need can be considered as a material factor in the determination of a planning application, the financial profit of an applicant is not a reason for approval or refusal. Similarly, whilst the current gas collection system appears to be working acceptably at present this is not a reason for refusal. In considering need, it should also be noted that the installation and use of the proposed new flare would enable more gas to be used to generate electricity on site. Although this has not been quantified any increase in electricity production should be viewed favourably in terms of sustainable development and associated planning policy such as Policies NR2 and NR5 of the Kent and Medway Structure Plan.
30. I accept that lighting is required to enable safe working in the compound during the normal working day (0800 to 1800 hours Monday to Friday and 1800 to 1300 hours on Saturdays) when natural lighting is inadequate or to facilitate essential maintenance or emergency works during the evening or night. I note that the lighting would only be used when needed and that it would be switched off when personnel are not on site. I am also satisfied that the actual lighting proposed is necessary to provide the required illumination. This would accord with the objectives of Policy W25 of the Kent Waste Local Plan and Policies NR5 and WM2 of the Kent and Medway Structure Plan. Any approval of the lighting should be conditional on it only being used when required for essential maintenance or emergency works. Whilst it is unfortunate that the County Council is being asked to retrospectively approve the proposed lighting scheme, it is worth noting that no complaints have been received about lighting from the compound since it has been installed.

Landscape and visual impacts

31. The main landscape and visual impacts as a result of this proposal arise from the installation of an addition landfill gas flare and any impacts associated with the lighting. The proposed 'in-rock' gas flare would be 7.5 metre high and would be visible above the 4 metre high acoustic fencing surrounding the gas control compound. Although the additional flare would be lower than the existing two 10 metre high flares, and a similar height to the existing four 7 metre high engines, it is important to consider its visual appearance upon the wider landscape. In this instance, it is important to consider Policies EN1 and WM2 of the Kent and Medway Structure Plan and Policies W25 and W31 of the Kent Waste Local Plan.

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32. Landscape planting was required around the gas control compound and along Teston Road by earlier planning permissions granted by the County Council (most recently TM/04/3135). The site is therefore relatively well screened by semi-mature vegetation planting to the north, east and southern boundaries. However, some of the required planting has either not sufficiently established or has died. Condition 12 of planning permission TM/04/3135 requires the implementation and maintenance of the approved landscape planting for the life of the facility. This will be taken up with the applicant and would assist in further mitigating the proposals. For the avoidance of doubt, I consider that an appropriate landscape condition should be imposed in this case if planning permission is granted.
33. In terms of the wider visual impact of an additional landfill gas flare, I note that the existing compound can be identified from several vantage points both within and outside of the village of Offham itself. Whilst the existing two 10 metre high flare stacks and engine units can be identified above the acoustic fence, I consider that the addition of a single additional flare stack of 7.5 metres in height would not have a significant detrimental visual impact on the wider landscape and would therefore accord with the above development plan policies. It should be noted that the County Council's Landscape Consultant has advised that the wider landscape effects arising from the proposal would be negligible
34. I am satisfied that the other changes within the compound set out in paragraph 5(ii) would have no impact on landscape or visual amenity given that they would be concealed behind the existing 4 metre high wooden acoustic fence. Clearly, the use of the lighting proposed in paragraph 5(iii) could have some visual impact on local amenity. However, given the design and provided it is only used when required I consider this to be acceptable. I therefore consider that the proposed development is in general accordance with development plan policy relating to landscape and visual impacts.

Metropolitan Green Belt

35. As previously noted in paragraph (1) above, the site lies within the Metropolitan Green Belt. As such, Policy SS2 of the Kent and Medway Structure Plan and Policy CP3 of the Tonbridge & Malling Local Plan Core Strategy are of relevance. These carry forward the general presumption against built development in the Green Belt in accordance with Planning Policy Guidance Note 2. However, as the proposals are ancillary to previously permitted mineral working and their subsequent restoration (in terms of the need to maintain landfill gas control), and relate to the provision of an additional flare stack in a previously established compound site, I consider that the impact of such development would be minimal in terms of the overall site context as a whole. As such I do not consider the proposed development to be contrary to Green Belt policy provided that the equipment installed within the compound is removed when no longer required for the control of landfill gas. Such removal of equipment can be secured by condition in this particular case. On this basis, the proposal does not in my view represent inappropriate development in the Green Belt and it is not necessary for the applicant to demonstrate 'very special circumstances'. The Parish Council's objections relating to the inadequacy of the applicant's case for very special circumstances are therefore not relevant in this case.

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Other matters

36. Although no objections have been raised in respect of air quality, it should be noted that atmospheric emissions associated with the new flare are matters for the Environment Agency under the terms of the Environmental Permit which already covers the facility. The Environment Agency's responsibilities in this context are referred to specifically in Informative 2 on planning permission TM/04/3135. The applicant states that the proposed new flare would meet the Environment Agency's published emissions standards and it should be noted that the Environment Agency has not raised any objections in terms of air quality. On this basis, I consider the proposals to be consistent with development plan policies relating to air quality, including Policy NR5 of the Kent and Medway Structure Plan.

Conclusion

37. Having considered the various objections to and implications of the proposals, I consider that the provision of an additional landfill gas flare within the existing gas control compound to deal with low calorific ('in-rock') gas is consistent with development plan policies. I support the applicant's desire to regularise the layout of the compound following several discrepancies between the 'as permitted' and 'as built' layouts, and consider that the slight movement of plant and equipment within the compound itself is largely de minimus in terms of any potential impact from outside of the compound site in terms of visual or noise amenity issues.
38. Whilst I note the Parish Council's and local residents' concerns relating to the potential for noise nuisance to increase, and await formal confirmation that Tonbridge and Malling Borough Council is now satisfied that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit, I am satisfied that the facility could continue to operate within the noise levels prescribed under application TM/04/3135. I consider that the proposals would also be acceptable in landscape terms provided the previously approved landscape planting is corrected and maintained for the life of the facility. I am also satisfied that the proposals are not contrary to Green Belt policy. On this basis, I recommend that planning permission be granted subject to conditions.

Recommendation

39. I RECOMMEND that SUBJECT TO formal confirmation that Tonbridge and Malling Borough Council is now satisfied that the new flare could operate in conjunction with the existing equipment whilst still meeting the current 39dB noise limit PLANNING PERMISSION BE GRANTED SUBJECT TO conditions including those to cover the following aspects:
- Standard time limit;
 - The development to be carried out in accordance with the permitted details;
 - Noise controls (as prescribed under TM/04/3135) be extended to cover additional landfill gas flare and associated equipment);
 - Requirement to provide annual compliance monitoring report (as prescribed under TM/04/3135) be extended to include all new equipment;

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- Landscaping scheme be fully implemented in accordance with details approved under permission TM/04/3135;
- Lighting only to be used when required;
- Removal of plant, equipment and hardstandings when no longer needed for landfill gas control; and
- Restoration of land.

Case Officer: Julian Moat	Tel. no. 01622 696978
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Background Documents: see section heading.
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