SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

Planning Permission: TM/97/1064/R2, R5, R12 and R14 – Application for a Non-Material Amendment to allow revisions to approved details and timescales for the restoration of Margetts Pit Landfill Site, Margetts Pit, Burham, Rochester, Kent.

A report by Head of Planning Applications Group to Planning Applications Committee on 13 March 2013.

TM/97/1064/R2, R5, R12 and R14 – Revisions to approved restoration contours and restoration planting together with extension of the timescales for completing infilling, final placement of soils, restoration together with details of proposed aftercare. Margetts Pit Landfill, Margetts Pit, Burham, Rochester, Kent. Aylesford Newsprint Limited.

Recommendation: Approval be given to allow revisions to approved details and timescales for the restoration of the site.

Local Member: Mr. Peter Homewood Unrestricted

Site Description and Background

1. Margetts Pit is situated approximately 3.5 km south of the centre of Rochester and is equal distance north of Maidstone. This former Chalk quarry is cut into the lower slopes of the North Downs in the Medway Valley with the surrounding landform sloping down from the north-east to south-west from the steeper hills of the North Downs to the River Medway. The landfill covers an area of approximately 15.9 hectares. It forms the northern boundary to the village of Burham with its northern, western and a large proportion of its southern edge lying adjacent to agricultural land.

2. The site is accessed via Margetts Lane from the junction of Margetts Lane and Scarborough Lane. To the east of the site Margetts Lane joins Court Road, with Court Road continuing east to its junction with Rochester Road. Rochester Road continues south, changing to Pilgrims Way to its grade separation junction with the A229. The A229 provides access to the motorway network, the M2 and M20.

3. Infilling at the site first commenced in the mid 1960's when Reed Paper Mills (now known as Aylesford Newsprint Limited (ANL)) were allowed by the then landowner, Blue Circle Cement, to deposit waste from their nearby waste paper recycling operations. ANL purchased the site in 1966. In February 1998 permission was granted (Ref. TM/97/1064) in respect of minor amendments to the approved restoration scheme which made provision for adjustments to final restoration contours and seed mixes which proposed a chalk grassland afteruse.

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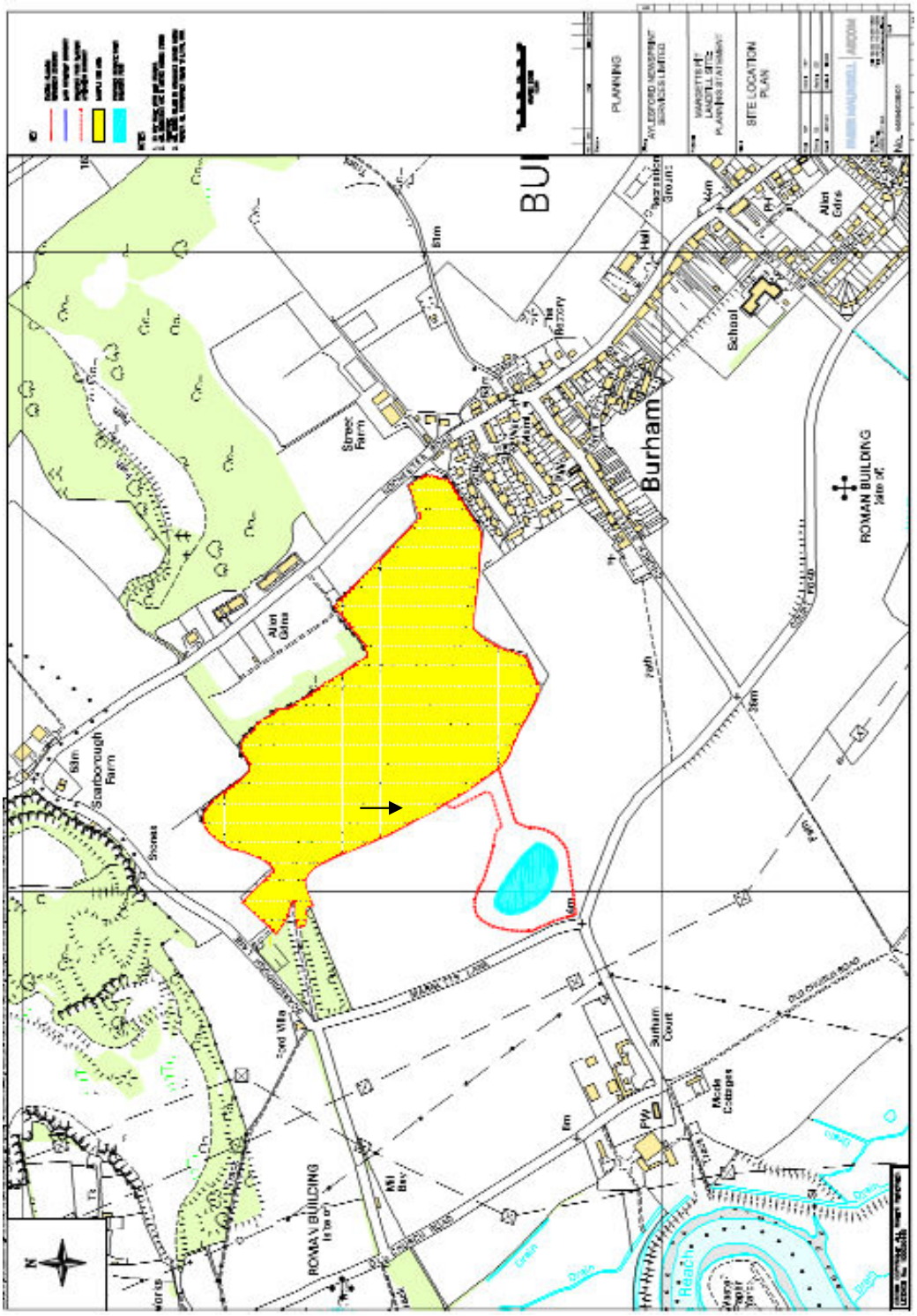
Site Location Plan



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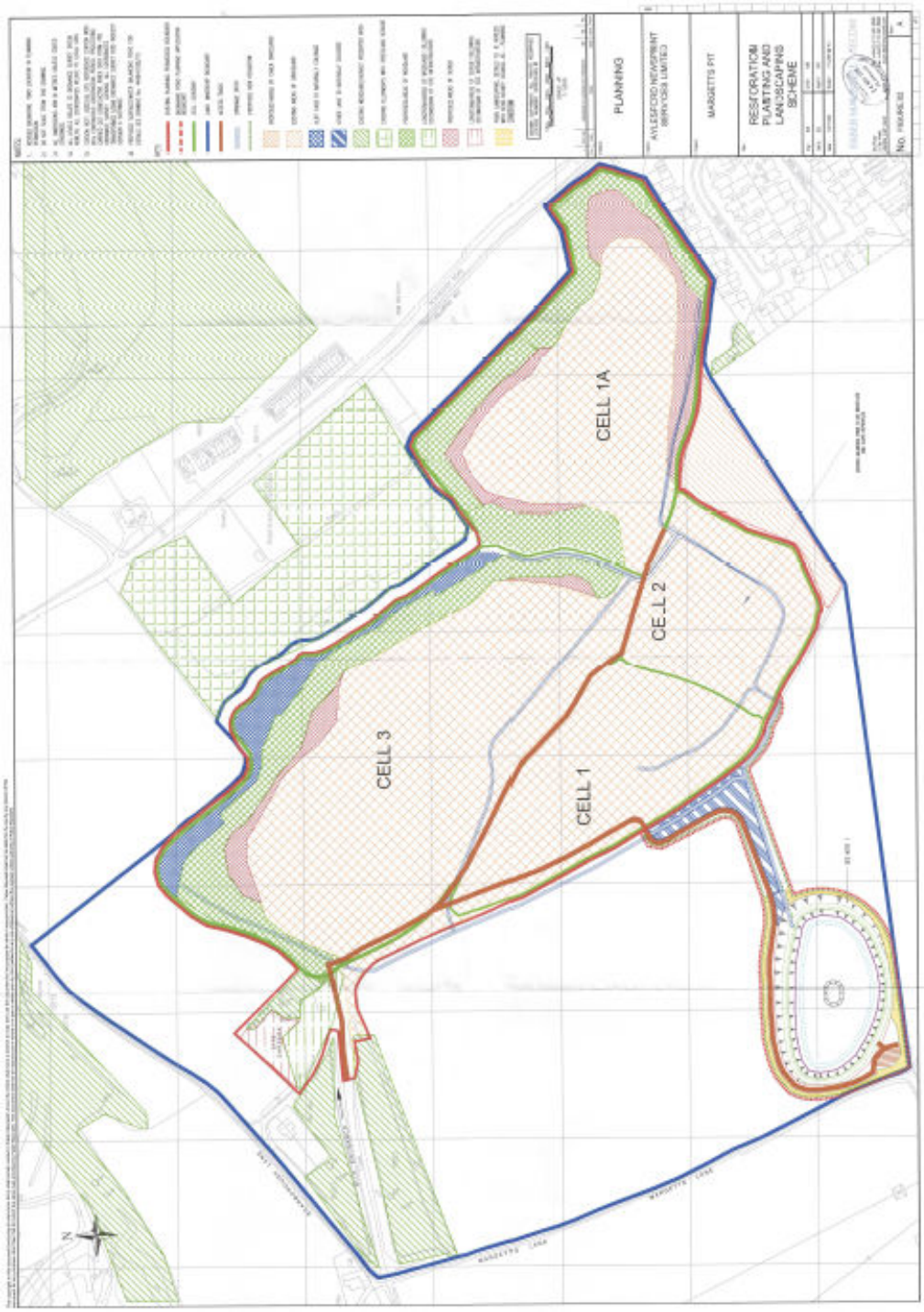
Restoration Planting and Landscaping Scheme Figure 2A



4. The Waste Management Licensing Regulations under which the site originally operated as regulated by the Environment Agency (E.A.), were amended in 2000 by the new European Landfill Directive which required existing landfills to operate under a much tighter regime. Those landfills that could not comply with the Directive were required to close by July 2009. For Margetts Pit this meant that with the exception of Cell 1A which falls within the far eastern section of the site, the remaining Cells 1,2 and 3 had to comply with this deadline. In order to achieve this ANL sought further amendments to the approved restoration scheme to allow the final restoration gradients to be further reduced and thus reduce the volume of materials required to be imported to the site in the hope that sufficient volumes could be imported to secure the closure of Cells 1, 2 and 3 by July 2009. Cell 1A was also proposed to be completed by December 2012. The County Council formally approved these variations in July 2008, allied to which separate permission was granted for the creation off site of a surface water balancing pond into which surface water from the restored landfill is designed to passively drain and disperse. This form of drainage system was stipulated by the Environment Agency. The rationale behind the approved scheme was to ensure that once the site is finally closed and restored surface water will naturally shed from the area avoiding rainwater percolating down through the waste into the underlying groundwater and thus avoiding the potential for pollution to the public water supply.

5. With the exception of Cell 1A, the infilling of Cells 1, 2 and 3 with waste was completed by July 2009, albeit they remain to be fully restored with final cover materials before being seeded. Under the currently approved scheme Cell 1A still has some 375,000 cubic metres of void remaining to be infilled in order to achieve the approved final restoration contours in this remaining area of the site. In support of their application the applicant's state that the reason for the delay in completing the infilling of Cell 1A together with the final restoration of the site has been due to the lack of availability of materials. This they claim has largely arisen as a result of the current economic recession where construction projects that generate waste suitable for restoring the site has slowed / stopped. Conditions 2, 5, 12 and 14 of planning permission TM/97/1064 address the following matters:-

   Condition 2: Development to take place in accordance with permitted / approved details;
   Condition 5: Final landform and surface restoration levels to accord with those approved;
   Condition 12: Site to be restored to the proposed afteruse for nature conservation / chalk grassland in accordance with permitted / approved details;
   Condition 14: Aftercare scheme including steps necessary to bring the land to the required standard for nature conservation use.

Proposal

6. As mentioned above, in order to avoid pollution to the underlying groundwater it is essential that suitable final restoration gradients are secured across Cell 1A to ensure surface water naturally sheds from the area. In order to secure this as soon as it is practicable the applicants propose further reducing the approved gradients across this

part of the site in order to reduce the volume of materials needing to be imported. As a result of the further reduction in gradients the total volume of fill needing to be imported has reduced from 375,000 cubic metres down to 160,000 cubic metres. This latest scheme has followed discussions between the applicant, E.A. and the County Council. The E.A. have stipulated that 160,000 cubic metres of fill is the minimum volume of material required to achieve a satisfactory gradient across the site, below which any shallower gradient created would not enable surface water to properly shed across the site and therefore would run an unacceptable risk of pollution to the underlying groundwater. Whilst based upon waste inputs over the past 12 months the proposed finished profile would be achieved within 3.5 years, in order to allow for flexibility the applicant has requested a further 4 year extension (i.e. until December 2016) to allow for the completion of infilling, along with a further 1 year for the completion of placing restoration materials across the whole site. However, should an opportunity arise to increase the rates of infill which would allow the completion of infilling and restoration within a shorter period (e.g. to take advantage of any short term availability of fill from local construction projects), the applicant has stated that this would also be undertaken within the previously accepted maximum number of daily lorry movements of 150 (75 in / 75 out). Other minor revisions are also proposed in respect of alterations to seed mixes and tree and scrub planting together with details of proposed aftercare.

Planning Policy Context and Government Guidance

7. The most relevant Government Guidance and Development Plan Policies against which this proposal should be considered are summarised below:

National Planning Policy Framework (March 2012) (NPPF)

8. The NPPF is a material consideration in planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development. Sustainable means ensuring that better lives for ourselves does not mean worse lives for future generations. Planning decisions should ensure that a site is suitable for a new use taking account of ground conditions or former activities such as pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment. Amongst other things, the NPPF also promotes the conservation and enhancement of the natural environment and requires that decisions prevent unacceptable effects on the natural environment and amenity.

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management

9. PPS10 requires Waste Planning Authorities to work effectively with Pollution Control Authorities to ensure the best use is made of expertise and information, and that decisions on Planning Applications and Pollution Control Permits are delivered expeditiously. A key objective is to ensure the disposal of waste without endangering human health and without harm to the environment.

South East Plan (2009)

10. The most relevant policies are: NRM2 which seeks to avoid adverse effects of development on water quality, NRM5 which encourages local planning authorities to seek opportunities to achieve a net gain of biodiversity across the region and W14 which seeks to achieve high quality restoration and where appropriate, aftercare of waste management sites.

11. *Members will already be aware of the relevant South East Plan (SEP) policy considerations in relation to the proposals, in that The Plan was revoked and later reinstated pending the enactment of the Localism Bill. Members will also be aware that they have to have regard to the policies in the SEP and the Government's intention to abolish the Regional Spatial Strategies as material considerations. However, the weight to be accorded is a matter for decision makers. Members will note that the Localism Bill has now been enacted and whilst the SEP remains in effect, in a written Ministerial Statement the Secretary of State for Communities and Local Government has recently announced the Coalition Government's decision to revoke the Regional Strategy for the South East of England as of 25 March 2013.*

Kent Waste Local Plan (1998)

12. The most relevant saved policies are: W6 (consideration of need), W18 (Noise, Dust and Odour), W19 (Groundwater protection) and W31 (Visual Impact and Landscaping).

Tonbridge and Malling Borough Core Strategy 2007

13. The site falls within the Strategic Gap subject to which Policy CP5 applies which seeks to protect the area from development which would harm it's function.

Consultations

14. Consultation letters were sent out on 13 December 2012.

Tonbridge & Malling Borough Council) Aylesford Parish Council) CPRE (Protect Kent)) South East Water) Biodiversity Projects Officer) Kent Downs AONB Unit)	Have not commented.
Burham Parish Council) Wouldham Parish Council) English Heritage) Environment Agency) Kent Wildlife Trust) Natural England) Southern Water) Landscape Officer)	Raise no objection.

Divisional Transport Manager) Raises no objection.

Local Member

15. The local County Member Mr Peter Homewood was notified on 13 December 2012.

Representations

16. Some 250 local residents were formally notified, as a result of which I received 2 letters of representation objecting to the proposals on the grounds of noise, dust and traffic impacts, one of whom also considered the applicant has had sufficient time to complete the restoration of the site. One has since removed their objection.

Discussion

17. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless other material considerations indicate otherwise. Material considerations include the NPPF which promotes sustainable development and the regional and local plan policies set out above together with PPS10.

18. As discussed in paragraph 4 above, the previously approved proposals which made provision for accelerating the rate of infilling and restoration at the site were originally driven by the need for the operator to comply with the requirements of the European Landfill Directive. Whilst with regard to Cells 1, 2 and 3 the operator completed their infilling within the set Directive deadline (i.e. July 2009), since then they claim that due to the economic recession they have not been able to attract a sufficient volume of material to the site in order to complete the infilling of Cell 1A in accordance with the currently approved restoration scheme. Neither have they managed to attract sufficient volumes of final cover material to date in order to complete the final restoration of any part of the site including any seeding or planting.

19. Whilst the most crucial part of the site operations was to complete the infilling of Cells 1, 2 and 3 in order to comply with the Landfill Directive, having regard to advice from the E.A., particularly in the context of the guidance set out in the NPPF and PPS10 regarding the need to prevent any impacts from pollution, the completion of Cell 1A to a suitable landform still represents a fundamental element upon which the surface water drainage scheme is reliant if it is to properly fulfill its function in the longer term. In order to achieve this the E.A. have advised that 160,000 cubic metres represents the minimum volume of material still required to be imported to this remaining Cell in order to secure the necessary gradient across the area which would allow surface water to naturally shed across the site. Anything less would pose an unacceptable risk of pollution to the underlying ground water and represent a threat to public water supplies contrary to the guidance set out in the NPPF and PPS10 where Waste Planning Authorities are advised that in determining applications they should take account of the need to ensure the disposal of waste without endangering human health and without harm to the environment.

20. As explained in paragraph 6 above, although the duration of operations would increase there would be a reduction in the overall number of HGV movements on the highway required to import the remaining fill materials. To ensure that HGV movements do not exceed those referred to in paragraph 6, I consider that it would be appropriate to make any approval conditional on HGV movements being restricted to a maximum of 150 per day (75 in / 75 out). On other matters regarding potential noise and dust impacts, I am satisfied that the controls imposed by condition under the terms of the existing permission are sufficient to ensure that they can be satisfactorily controlled. I am also satisfied that the minor revisions to the restoration and aftercare are acceptable.

Conclusion

21. Having regard to planning policy and government guidance together with advice from the E.A., I am satisfied that what is proposed represents the most appropriate means by which to secure the long term restoration of the site to the necessary standard in order to prevent any future risk to the underlying groundwater and public water supply and is therefore fully consistent with the principles of sustainable development.

Recommendation

22. I RECOMMEND that APPROVAL BE GIVEN pursuant to conditions 2, 5, 12 and 14 of Planning Permission TM/97/1064 to allow revisions to approved details and timescales for the infilling and restoration of Margetts Pit Landfill Site together with proposed aftercare scheme SUBJECT TO a condition limiting HGV movements to no more than 150 per day (75 in / 75 out) and an informative reminding the applicant that all other conditions imposed under Planning Permission TM/97/1064 remain in effect.

Case Officer – Mike Clifton	Tel no. 01622 221054
Background Documents - see section heading	