

Item C3

Variation of condition 9 of planning permission SW/05/1203 to amend permitted stockpile heights at Ballast Phoenix Incinerator Bottom Ash (IBA) Recycling Plant at Ridham Dock Industrial Complex, Iwade, Sittingbourne, Kent, ME9 8SR – SW/12/1184 (KCC/SW/0310/2012)

A report by Head of Planning Applications Group to Planning Applications Committee on 7th June 2013.

Application by Ballast Phoenix Ltd for Variation of condition 9 of planning permission SW/05/1203 to amend permitted stockpile heights at Ballast Phoenix Incinerator Bottom Ash (IBA) Recycling Plant at Ridham Dock Industrial Complex, Iwade, Sittingbourne, Kent, ME9 8SR – SW/12/1184 (KCC/SW/0310/2012).

Recommendation: Permission be granted subject to conditions.

Local Member: Mr Roger Truelove & Mr Lee Burgess

Classification: Unrestricted

Site

1. The application site is located within the Ridham Dock Industrial Complex, to the north of Sittingbourne and Kemsley and to the east of Iwade village. It lies within an area identified as suitable in principle for the preparation of Category A (inert) waste for re-use and the separation and transfer of category B and C (slowly degradable and putrescible) waste in the Kent Waste Local Plan (March 1998). The same area is also identified in the Kent Minerals Local Plan: Construction Aggregates (1993) as suitable for wharves and depots to receive and dispatch aggregates and is safeguarded for such purposes. The Ridham Dock Industrial Complex is located near to a number of important nature conservation designations including The Swale Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI) and the Elmley Marshes National Nature Reserve (NNR).

Background

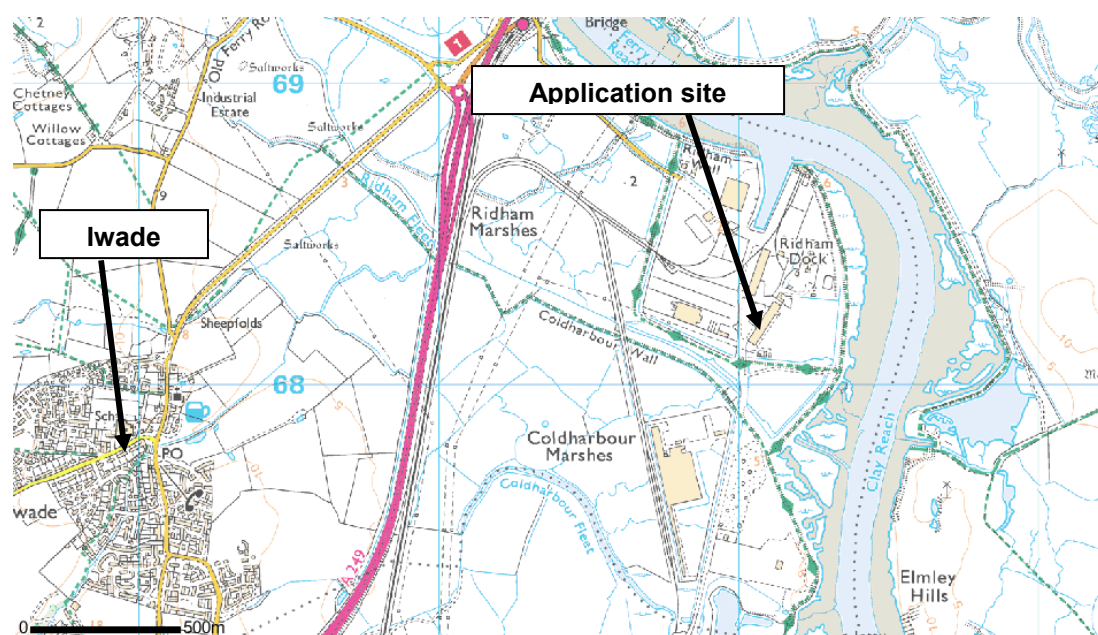
2. Planning permission for a plant to process incinerator bottom ash into secondary aggregates for recycling at the site (SW/05/1203) was granted subject to a number of conditions on 6 April 2006. Since then a number of details required by the permission have been approved and planning permission (SW/09/1998) granted to revise the site layout.
3. The site has been operational since 2009, receiving incinerator bottom ash (IBA) from the Allington waste to energy facility in Maidstone and producing a recycled product called incinerator bottom ash aggregate (IBAA). The permission currently allows the external storage of IBA which is classified as a non-hazardous waste and the external storage of the recycled product (IBAA). The IBAA is used as a secondary aggregate (i.e. a direct replacement for sand, gravels and stone).

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4. The site also has an Environmental Permit issued by the Environment Agency which restricts the waste types that can be accepted at the site to non-hazardous IBA. The current Permit does not restrict external storage or stockpile heights. However, the current planning permission requires that materials are stored in stockpiles within 3m high “A frame” bays to a height not exceeding 1m from the top of the bay. This limits the permitted storage height of the IBA and IBAA material to 2m.

5. There are a number of waste and industrial activities located within and near to the Ridham Dock Industrial Complex which involve the external storage of materials. Some of these have planning permissions granted by the County Council. Whilst some of these permissions contain no limits on stockpile heights, such as the nearby aggregate sites operated by Brett Aggregates Ltd (SW/94/900) and Thames Steel Ltd (SW/95/810), others have restrictions ranging from 3m to 6m. 3m high stockpiles are permitted for the external storage of wood waste (SW/12/445), and 4m high stockpiles for maturation material (SW/13/431) within the waste recovery and in-vessel composting facility operated by Countrystyle Recycling Ltd, 4.5m and 5m high stockpiles are permitted for the waste wood storage area for the approved Ridham Biomass Power Plant (SW/12/1132) and 6m high stockpiles are permitted at both the recently permitted change of use of a wood storage building to wood shredding and wood storage in the external yard at Unit 17 Ridham Dock (SW/12/927) and the SITA UK site at Unit 15A (SW/11/503). The surrounding area also contains a number of existing or permitted industrial activities that allow external storage of materials and which have planning permissions granted by Swale Borough Council. These include Kemsley Paper Mill (external paper storage areas) and the Knauf Plant (a large external gypsum stockpile). The Knauf Plant has a further planning permission for an open air gypsum store (SW/06/0617) which allows stockpile heights of up to 6m within a bunded area.

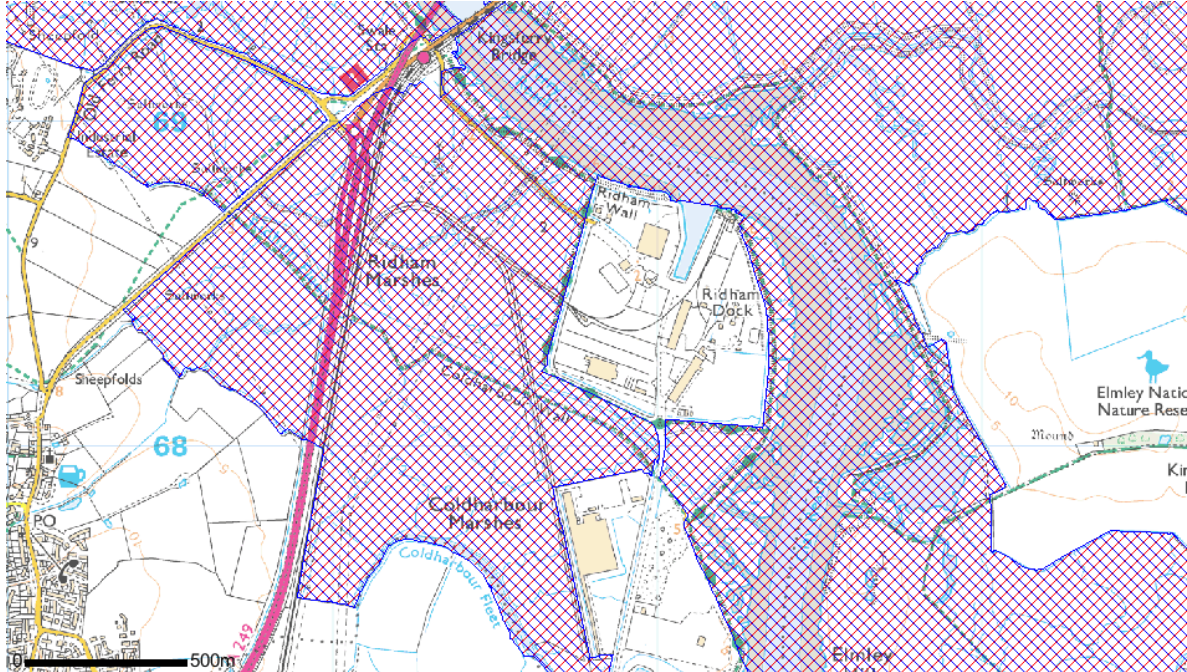
General Location Plan



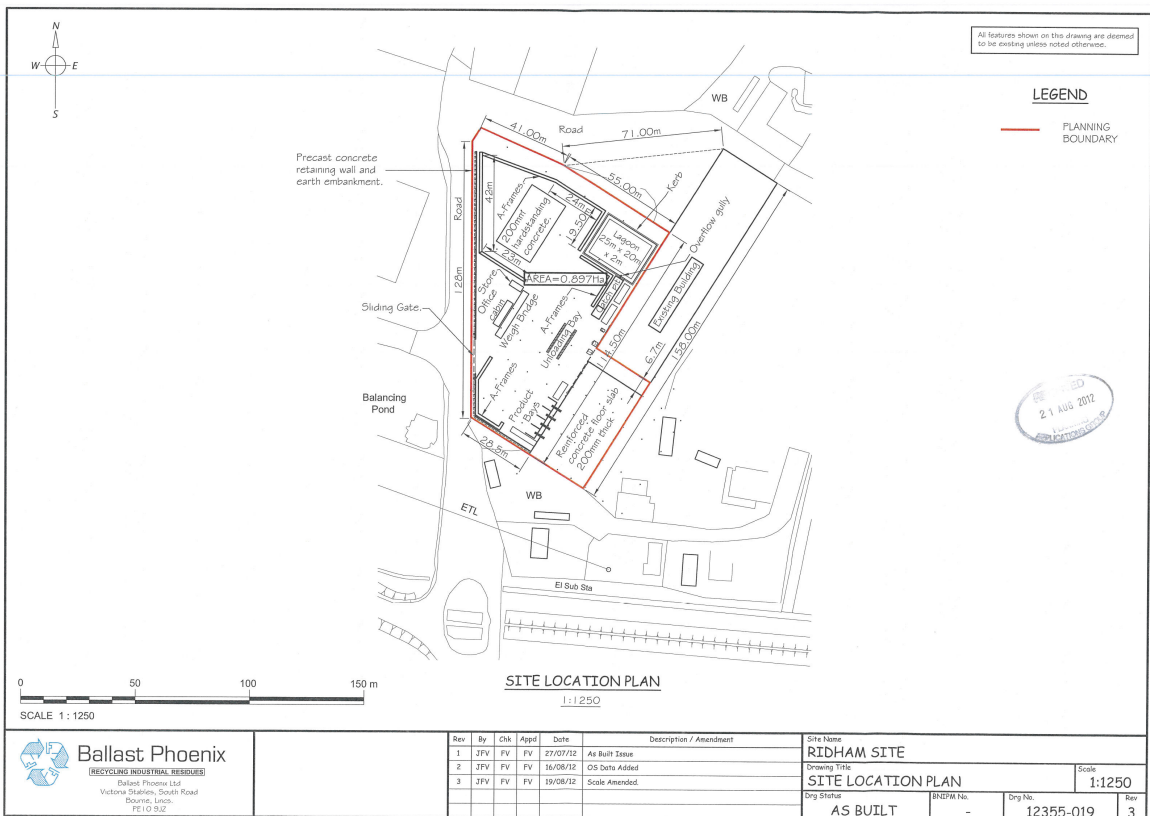
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Location of designated areas (SPA, Ramsar, SSSI, Elmley Marshes NNR)

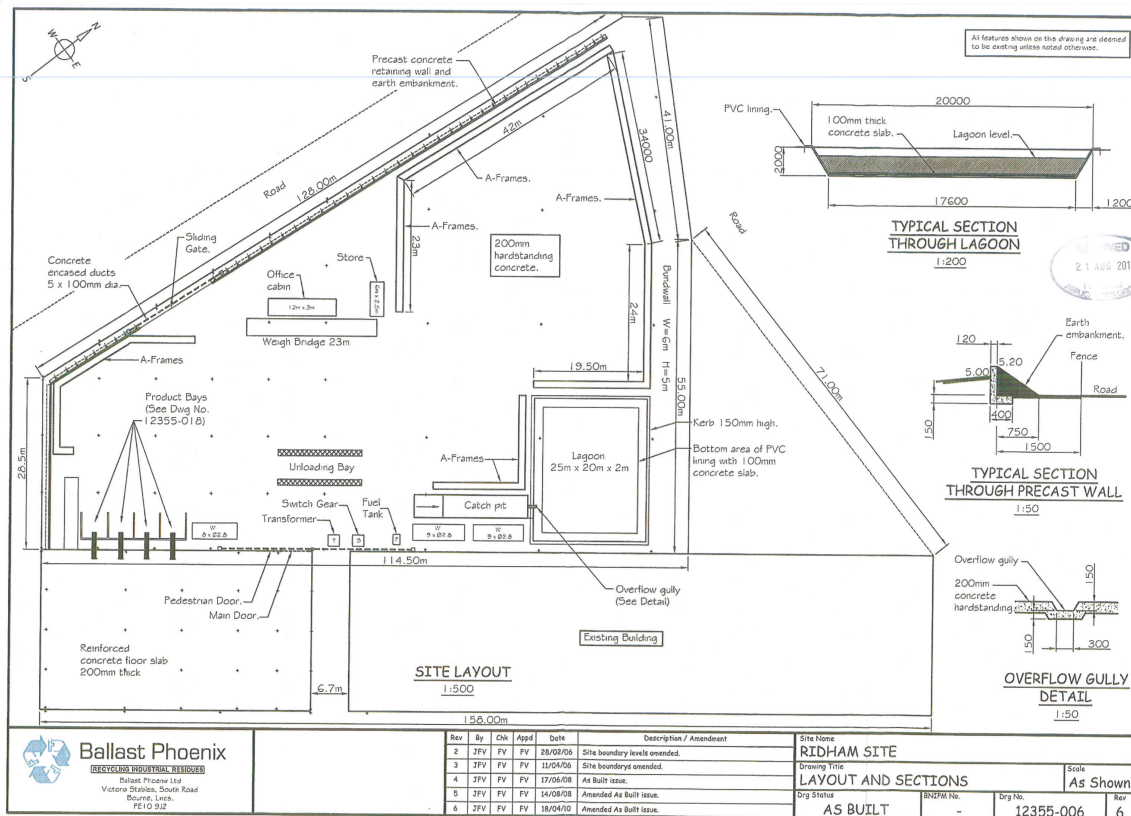


Site Layout



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Site Layout



Proposal

6. The proposal from Ballast Phoenix Ltd (BPL) is to amend the permitted stockpile heights for the external storage of IBA and IBAA such that they would not exceed 6m in height. The applicant considers that the current permitted stockpile levels are no longer appropriate given improvements at the site over time and as the dust suppression and management system now in place at the site is more advanced than proposed at the time the original permission was granted. The applicant considers that this increase represents a minor amendment to its operation. No other changes are proposed.
7. The current application was originally received in August 2012. To further support the proposal and in response to various comments by consultees (including the Parish Council), the applicant has added to the information which was originally submitted. Additional information was provided in December 2012 and in March 2013 and includes a Fugitive Emissions Management Plan and Risk Assessment. This considers the potential for fugitive emissions from all activities at the site, potential pathways from the site, potential impacts on sensitive receptors and measures that would be put in place to reduce risk. It relates to all activities at the site and identifies those that have the potential to cause harm. These include potential dust impacts associated with the transfer of IBA and IBAA to and from stockpiles and whilst these materials are stored in the stockpiles. The measures to reduce the risk of airborne dust reaching sensitive receptors include the unloading of

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IBA directly into the waste reception bay which is fitted with a water quenching system to drench the material to prevent it from releasing dust. The Fugitive Emissions Management Plan and Risk Assessment also includes monitoring and control mechanisms.

Planning Policy

8. The most relevant Government and Development Plan Policies relevant to the consideration of this application are summarised below:

National Planning Policy and Guidance – the most relevant National Planning Policies are set out in the National Planning Policy Framework (NPPF) 2012 (in so far as it is relevant), Planning Policy Statement 10: Planning for sustainable waste management (2005) and the Waste Strategy for England (2007).

Kent Waste Local Plan (1998) – saved Policies W3 (location criteria), W6 (Need), W7 (locations for preparation of waste for reuse), W18 (control over impacts), W19 (protection of water resources), W20 (flood control), W21 (nature conservation), W22 (road traffic and access), W25 (control over operations) and W31 (landscaping).

Kent Minerals Local Plan: Construction Aggregates (1993) – saved Policies CA4 (proposed locations), CA16 (access), CA18 (noise, vibration and dust).

Swale Borough Local Plan (2008) – saved Policies E1 (general development criteria), E11 (protecting biodiversity), B1 (supporting and retaining employment land and business), SP1 (sustainable development), SP2 (Environment), SP3 (Economy), TG1 (Thames Gateway Planning Area) and Swale Landscape Character and Biodiversity Appraisal 2011 supplementary planning document.

Kent Minerals and Waste Development Framework Minerals and Waste Core Strategy: Strategy and Policy Directions Consultation (2011) – draft Policies CSM1 (sustainable development and climate change), CSM5 (secondary and recycled aggregates), CSW1 (sustainable waste management and climate change), CSW2 (waste hierarchy), CSW3 (strategy for waste capacity), CSW5 (strategy for non-strategic waste sites), CSW6 (location of non-strategic waste sites), CSW7 (approach to waste management for MSW and C&I waste), CSW16 (other forms of waste development), DM1 (sustainable design), DM2 (sites of International, national and local importance), DM7 (protection of the water environment), DM8 (health and amenity) and DM9 (cumulative impact).

Consultations

9. **Swale Borough Council** - No objection subject to the following:
- permission being restricted to a two year period;
 - stockpiles being limited no more than 6 metres in height;
 - details of the dust suppression systems being submitted to and approved by KCC prior to installation and being maintained in working order in perpetuity;
 - the site being operated in accordance with the submitted management plan; and

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- any conditions recommended by Natural England, KCC's ecologist and those of any other statutory consultees.

10. Iwade Parish Council – No objection subject to the following:

- stockpiles not exceeding 6m in height;
- any permission being for a temporary period.

The Parish Council suggest that a temporary time period would enable assessment as to whether the increase in stockpile heights would lead to any increase in dust emissions on designated or other areas around the site (including Iwade and Kemsley Fields). In the event that dust sampling during this period could prove that the increased height had not created any problems, it states that permission could then be made permanent. It has also expressed concerns about whether toxins, dioxins and carcinogens may be present in the IBA and requested that any decision take account of whether or not the materials have been tested.

- 11. Environment Agency (Kent Area)** - No objection. Advises that it is satisfied with the additional information provided by the applicant and that operations will be reviewed as part of on-going compliance assessments in relation to the site Permit. The site would continue to be subject to controls under the Environmental Permit and that site operations relating to the external storage of IBA would be further reviewed when the Industrial Emissions Directive is transposed into domestic legislation.
- 12. Natural England** – No objection subject to the development being implemented as proposed and the requirements of the Dust Management Plan and Fugitive Emissions Management Plan and Risk Assessment being complied with. It is satisfied that the designated areas would not be damaged if these controls are in place.
- 13. KCC Noise, Air Quality and Dust Consultant** - No objection. Comments that the dust management system employed at the site would be capable of treating the larger stockpiles and that provided this is maintained the proposal would be unlikely to impact on any sensitive receptors.
- 14. KCC Biodiversity Projects Officer** – No objection. Comments that the Dust Management Plan must be implemented to ensure no adverse impact on designated sites.

Local Member

- 15. Mike Whiting and Alan Willicombe** (the local County Members at the time that the application was received) were notified of the application on 28th August 2012. Roger Truelove and Lee Burgess (the local County Members following the County Council elections in May 2013) were notified of the application on 8th May 2013.

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Publicity

16. The application was publicised by site notice, an advertisement in a local newspaper and the individual notification of 15 industrial / commercial properties.

Representations

17. No letters of representation have been received.

Discussion

18. The application is being reported to the Planning Applications Committee as a result of the fact that Swale Borough Council and Iwade Parish Council have requested that if permission is granted this be limited to two years.
19. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The proposal therefore needs to be considered against the Development Plan Policies and Government Policy and Guidance referred to in paragraph 8 above and any other material planning considerations.
20. The main issues for discussion in this instance are:-
- Need;
 - Location;
 - Environmental and amenity impact (e.g. air quality / dust, drainage and visual impact).

Need

21. The existing planning permission already allows the operator to separate waste metals from the IBA waste stream and process the remaining waste so as to produce a range of IBAA materials of various size specifications which would be suitable for use as a secondary aggregate in construction. The facility therefore contributes to the provision of secondary aggregates and the recycling of waste rather than the disposal of waste by landfill. This is supported by national planning policy (the NPPF and PPS10) which seeks to encourage the provision of secondary aggregates as opposed to the use of primary aggregates and the recycling of waste looking to waste disposal by landfill as the last option within a hierarchy of waste management options.
22. The only waste stream handled at this facility is IBA waste arising from the Allington Waste to Energy facility in Maidstone. There would be no change to the type or quantity or quality of waste to that already dealt with at the facility and which is classified as a non-hazardous waste. Whilst the proposal would not therefore add to the overall tonnage of waste being diverted from landfill to recycling, it aims to make more efficient and effective use of available storage capacity at the site for IBA and for the amount of processed waste (IBAA) being stored before removal off site for use as a construction material. The IBAA is a saleable product and sufficient on site

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storage space is therefore important to the economics of the operation in the current climate.

23. In my view the efficient and effective use of space is desirable and maximising the potential capacity of an existing site would contribute to sustainable waste management for this waste stream. Planning policy also supports the use of secondary and recycled aggregates to add to the supply of primary land won aggregates and the evidence base for the emerging Kent MWDF indicates that additional capacity for secondary and recycled aggregates will be needed in the period until 2020. The efficient and effective use of existing available capacity is therefore also desirable to achieving sustainable waste management and the efficient use of space is also a core planning principle. However, the potential for additional impacts to arise as a result of the proposal needs to be considered further.

Location

24. The application site is located within the Ridham Dock Industrial Complex which is identified in the Swale Borough Local Plan (Swale BLP) as an existing industrial area. The site is also identified in the Kent Waste Local Plan (Kent WLP) as part of a larger area which is suitable in principle for the preparation of waste for reuse (Policy W7). The application site is also used for waste management operations. The nearest residential properties are at Iwade, approximately 1.8 km to the south west of the site. However, the site is located close to other industrial / commercial properties within the Ridham Dock Industrial area.
25. The Ridham Dock Industrial Complex is located near to The Swale. The Swale contains a number of nationally and internationally important nature conservation sites including a RAMSAR site, a Special Protection Area and a Site of Special Scientific Interest. It is also close to the Elmley National Nature Reserve. These designated sites are protected in planning policy terms by the NPPF which requires that development proposals are appropriate for the location and that the potential effects (including cumulative effects) of pollution on health, the natural environment or general amenity and the potential sensitivity of the area to adverse effects from pollution are taken into account in decision making.
26. The proposal relates to an existing operational site which already has external storage of IBA and IBAA. In planning terms, it has therefore already been determined that the location is acceptable and that there are suitable controls in place in relation to the likely impacts of the use including external storage to a height of 2m in 3m high "A frame" bays. The information submitted by the applicant demonstrates that there is sufficient space on site to accommodate the increased stockpile height within the footprint of the existing "A" frames. The key issue is therefore whether the proposed increase in stockpile heights to 6m would give rise to any unacceptable environmental or other impacts.

Environmental and amenity impact (e.g. air quality / dust, drainage and visual impact)

27. The NPPF states that local planning authorities should aim to prevent unacceptable risks from pollution and conserve and enhance biodiversity when determining planning applications. PPS10 requires that waste planning authorities should consider the likely impact on the local environment and on amenity when determining

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planning applications. Kent WLP Policy W18 requires satisfactory means of control over dust and other emissions, particularly in relation to its potential impact on neighbouring land uses and amenity. Policies W19 and W20 respectively seek to protect ground and surface water interests and safeguard land drainage and flood control. Policy W21 requires consideration of the impacts of a waste management proposal to ecological interests of the site surroundings and provision to be made for safeguarding important features. Swale BLP Policy E1 requires that development should not have an adverse impact on (amongst other things) residential amenity and other sensitive areas. Policy E11 requires that biodiversity interests be maintained or enhanced.

28. Swale Borough Council initially objected to the proposed development on the grounds that the applicant had not demonstrated that the increase in stockpile heights would not give rise to an unacceptable level of dust emissions and because this would be detrimental to air quality and the general amenity of the area contrary to Swale BLP Policy E1. However, following the submission of the additional information in March 2013 it raised no objection subject to (amongst other things) permission being limited to 2 years and details of the dust suppression system being submitted to and approved by KCC prior to installation and being maintained thereafter. It is worth noting that the officer report presented to Swale Borough Council's Planning Committee on 9 May 2013 stated that the Head of Service Delivery did not raise objection and was satisfied that the submitted details demonstrated the ability to manage dust issues and appropriately mitigate them on an ongoing basis. The officer report did not recommend that permission be restricted to 2 years.
29. Iwade Parish Council initially objected on the basis that the applicant had not substantiated a number of statements made in the submitted details relating to noise, dust, odour and traffic, that it had not demonstrated that its operations were not responsible for complaints relating to dust nuisance in the area and as it believed that increasing stockpile heights from 2m to 6m would exacerbate air quality problems generally and lead to pollution of the designated areas. It has also stated that other operators in the area have reduced their external stockpiles as a result of air quality and visual impact concerns and that the cumulative impact of these operations should be considered when the application is determined. These objections were largely overcome following the submission of the additional information in March 2013. However, it remains concerned about the nature of the waste and the potential impact on the designated areas and on Iwade and Kemsley villages and has requested that any permission be limited to 2 years to enable the effects to be monitored.
30. Natural England (*the Government's key advisor on the natural environment with a remit to protect designated areas like those in The Swale*) initially raised a holding objection due to there being insufficient information to determine the effect on the designated areas. However, this objection was removed following consideration of the additional information submitted by the applicant. Natural England now has no objection to stockpile heights being raised to 6m subject to compliance with these details and any requirements of the Environment Agency.
31. The Environment Agency (*the organisation responsible for the permitting of waste management activities such as those undertaken at the site*) has consistently raised

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no objection to the proposed development. It initially advised that it would wish to see a formal more detailed risk assessment for the stockpiles at the proposed heights to ensure that all the dust mitigation measures were considered prior to determination. It set out the information that would be need to be submitted for the environmental permit in relation to this and advised that the external storage of IBA did not accord with the best available techniques that would be required by the environmental permit once the Industrial Emissions Directive was transposed into domestic legislation. It also advised that whilst the current environmental permit does not restrict external storage or stockpile heights, this would also need to be reviewed in 2015 when the requirements of the European Industrial Emissions Directive is transposed into domestic legislation. However, following consideration of the additional information submitted in March 2013, it has further advised that it now accepts the applicant's response to its earlier comments and will further review site operations as part of its ongoing compliance assessments for the environmental permit. Given this, it has no objection to stockpile heights being raised to 6m and no particular additional comments that need to be taken account of in decision making relating to this proposal.

32. The 2006 permission (SW/05/1203) required that water sprays be used to provide dust suppression in the "A" frame bays. Since that time, the dust suppression system has been improved such that the whole site is covered by an enhanced system which uses water and mist sprays, a quenching spray for incoming loads, fixed water sprays at the site boundary and at other locations within the site and mobile and remote controlled water sprays for use within the site. These further details have been included in additional information submitted by the applicant and have already been installed at the site and can be further reinforced by condition.
33. Although the site is in a flood risk area, it is already surrounded by a pre-cast concrete retaining wall, solid gates to the same elevations and an earth embankment. No changes to these flood protection measures are proposed. The entire site is surfaced in concrete with drainage directed to a catch pit and lagoon. No changes are proposed to the site drainage and water collection systems. Since there would continue to be no external discharge from the site there would be no additional risk of waterborne pollution as a result of this proposal provided that the existing controls are maintained.
34. Whilst the Parish Council has expressed concerns about the nature of the IBA, it should be noted that this material is classified as non-hazardous waste and is already able to be processed at the site by virtue of the existing planning permissions and environmental permit. The Environment Agency's response is clear that it has had regard to the type, content and classification of waste being handled at the site and considers its continued processing to be acceptable. Given this and the other responses it is not appropriate to revisit the acceptability or otherwise of the waste stream at this stage.
35. As set out in paragraph 5 above, there are a number of activities in the Ridham Dock Industrial Complex and surrounding area that rely upon the open storage of materials and the permitted stockpile heights associated with these are not all the same. Whilst some of these permitted heights may well be a result of historic practices (e.g. the much older permissions are unlikely to include restrictions at all), others may simply reflect the height proposed at the time each application was

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submitted. What is most important is that the permitted height reflects the nature of the materials to be stockpiled and does not give rise to unacceptable environmental or amenity impacts. The nature of the Ridham Dock Industrial Complex is such that it already contains a number of large buildings, structures and stockpiles of materials. The proposed increase in height at the application site would not be out of keeping with the rest of the area and would not lead to any significant additional adverse visual impacts. Both the application site and those other activities in the area and referred to elsewhere in this report that have external stockpiles of materials are subject to a range of regulatory controls designed to prevent pollution and protect people and the environment. These include those provided by the Environment Agency and Swale Borough Council under the environmental permitting regime. Natural England also maintains a key role in seeking to ensure that the nationally and internationally designated areas are protected. All of these organisations have responded to the application in the knowledge that these other activities and external stockpiles exist. Given their responses, I am satisfied that it is not necessary to further consider potential cumulative impact prior to determining the application.

36. Given the above responses from Natural England and the Environment Agency, KCC's Air Quality / Dust Consultant and Biodiversity Officer and Swale Borough Council's Head of Service Delivery (dealing with environmental health issues) have no objection subject to compliance with the submitted details (including the dust management system), since the dust management system (which is already in use at the site) can be secured by condition and all other controls contained in the existing permissions could be replicated if planning permission is granted, I consider that the proposals accord with development plan and national planning policies and that there are no technical reasons to refuse the application.
37. The operator seeks a permanent amendment to increase the stockpile heights. However, both Swale Borough Council and Iwade Parish Council have requested a temporary approval to enable the provision of further reassurance that dust does not impact on local amenity. Swale Borough Council has suggested a 2 year temporary period.
38. The decision making principles in relation to sustainable waste management indicate that the controls within the planning and pollution control regimes should complement rather than duplicate each other and that conflicting conditions should be avoided. PPS10 advises that planning decisions should be made on the assumption that the relevant pollution control regime will be properly applied and enforced and this is repeated in the NPPF. The Environment Agency intend to review the on-site compliance with the Dust Management Plan on an ongoing basis as well as the overall site Permit requirements in 2015. I am satisfied therefore that the pollution control regime will provide a means of regular monitoring and review of all activities at the site.
39. The NPPF provides a presumption in favour of sustainable development whereby proposals that accord with the development plan should be approved without delay unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF. The application, including the submitted Fugitive Emissions Management Plan and Risk Assessment, takes account of the various activities that might give rise to dust and the likelihood and

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consequence of adverse impacts. It concludes that the overall risk to exposure is low. Taking into account the responses from the Environment Agency and Natural England, I am persuaded that the Fugitive Emissions Management Plan contains sufficient and varied control mechanisms and mitigation measures to monitor and then respond to day to day conditions using a dust suppression system including fixed and mobile water sprays and quenching of incoming waste and stockpile management techniques within the proposed 6m limit. The measures proposed also include temporary suspension of operations should weather conditions require this. Given that further information has been provided to satisfy the current standards and expectations of Natural England, the Environment Agency, KCC's Air Quality / Dust Consultant and Biodiversity Officer and Swale Borough Council's Head of Service Delivery (dealing with environmental health issues), I therefore conclude that the information submitted by the applicant demonstrates that the proposal would not have significant adverse impacts on the environment and amenity and that to withhold a permanent permission in favour of restriction to a temporary permission in this particular case would not be justified in planning policy terms. I therefore do not feel it necessary or reasonable to delay decision making by granting permission on a temporary basis or by requiring further detailed submissions in this case.

Conclusion

40. This proposal relates to an existing IBA recycling site and the need, location and potential impacts of the overall operation have already been considered to be acceptable in planning terms. This decision therefore only relates to the acceptability in planning terms of increasing stockpile heights from 2m to 6m at this location.
41. The proposed development itself is acceptable in principle given that it lies within an established industrial estate, on land identified for such uses in the Kent Minerals and Waste Local Plans and at an existing waste management facility. There is also strong policy support for moving waste up the waste hierarchy, away from landfill and increasing waste separation for recycling. I am satisfied that the proposal contributes to sustainable waste management in that it seeks to make more efficient use of an existing waste management site. I am also satisfied that sufficient information has been submitted to assess the proposed increase in stockpile height and that it has been successfully demonstrated that the proposal could be permitted without giving rise to any significant harm to the environment or amenity provided appropriate conditions are imposed to require that the development be implemented as proposed (including adherence to the provisions of the Fugitive Emissions Management Plan and Risk Assessment). On this basis, I am further satisfied that it is neither necessary nor reasonable to only grant a temporary planning permission in this instance.
42. Given the above, I conclude that the proposed development accords with development plan and national planning policies and that there are no material planning considerations sufficient to outweigh the usual presumption on favour of granting planning permission in this instance. In reaching this conclusion, I have had particular regard to the responses from the Environment Agency and Natural England, the fact that Swale Borough Council's Head of Service Delivery (dealing with environmental health issues) raised no objection and was satisfied that the submitted details demonstrated the ability to manage dust issues and appropriately

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mitigate them on an ongoing basis and the fact that the Environment Agency has advised that it will continue to monitor and review operations at the site (including those related to stockpiles and measures to minimise related impacts) as part of its permitting compliance role. I therefore recommend accordingly.

Recommendation

I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

- 5 year implementation period;
- The development to be carried out in accordance with the submitted details;
- Implementation of the Fugitive Emissions Management Plan and Risk Assessment submitted 12th March 2013;
- Monitoring and maintenance of the dust management system;
- Inclusion of all other conditions relevant to the existing permissions SW/05/1203 and SW09/198.

Case Officer: H Mallett

Tel. no: 01622 221075

Background Documents: see section heading
