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 17 March 2009.

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

Background

1. This application was originally reported to the Planning Applications Committee on 9 December 2008. The report, which included sections on the background, proposal, relevant planning policies, consultee responses and representations, discussion and officer recommendation, is attached at Appendix 1. A site location plan, together with 'as permitted' and 'as proposed' layout plans for the gas control compound, can be found in the original Committee Report (now pages C1.10 – C1.12).

2. At the Committee meeting, three local residents (including representatives of Offham Parish Council) expressed concerns about the proposals and the applicant exercised its right of reply. Several Committee members (including the local member, Sarah Hohler) also sought clarification on a number of issues. The main issues raised related to:

   - noise emissions from the proposed additional landfill gas flare, particularly on surrounding residential amenity;
   - the need for the additional landfill gas flare;
   - the location of proposed landfill gas flare within the existing compound; and
   - hours of use for compound lighting and need for full luminosity details.

3. As a result of these issues, the Committee resolved to defer consideration of the application to allow a site visit. A Members' Site Visit was held on 22 January 2009. Notes of that visit are attached at Appendix 2.

4. The application is being reported back to the Planning Applications Committee for determination following the Members' Site Visit and the receipt of and re-consultation on further information submitted by the applicant.

Further information submitted in support of application by applicant

5. Further information was provided by the applicant following the meeting of the Planning Applications Committee in December 2008 and prior to the Members' Site Visit in January 2009. This information included further details on those concerns which were expressed by Members at the original Committee Meeting in December and which are outlined in paragraph (2) above. Amongst other things, the further information included noise contour predictions for two potential alternative locations immediately to the north and north west of the existing compound. Both locations are outside the current application area and would require extensions to the existing compound.

6. The further information was made available to Members ahead of the Members' Site Visit and has been the subject of further consultations with the Borough Council, Parish Council and KCC's Noise Consultant. The further views received are identified in paragraphs (8) – (10) below.

7. This report includes consideration of comments that have been received on the further consultations undertaken since the application was originally discussed at the Committee Meeting in December 2008. Members should also have regard to the considerations contained in the previous Committee Report when determining this application (see Appendix 1).

Further Consultations

8. **Tonbridge and Malling Borough Council** – The Borough Council has now considered the further information alongside that already submitted by the applicant and raises no objection to the proposed development.

9. **Offham Parish Council** – Maintains its objection. Its views on the latest consultation are attached at Appendix 3.

10. **David Stretton (Representative of Offham Parish Council & Local Resident)** – Mr Stretton makes the following comments:

    - Identifies errors in Table 3 – results and effects on properties. For alternative location A, the + should be a – for the first property, whilst alternative B actually shows an admittedly small benefit for each of the properties in question;
    - States that data from the earlier monitoring reports demonstrates how the compound was in breach of its planning condition for a number of years and supports the local view that considerable distress to homeowners was caused;
    - Concludes that the real worst case scenario – apart from a broken exhaust on one of the generators, would be all three flares operating simultaneously without

the generators [the two Haas flares being needed to cope with gas diverted from the generators should there be a grid failure or other mechanical problems]. States that it would be useful to see the impact on the model in this scenario;

- Similarly, states that the other obvious question is if the additional 'good gas' available can be used to generate an additional 1 MW, then what impact does this have on capacity utilisation of the generators? Can the four generators cope? and finally, will the increased throughput of gas to the generators impact on their contribution to noise and air pollution – and has this been allowed for in the modelling?

11. **KCC Noise Consultant (Jacobs)** – Makes the following comments on the further information:

"Further to our site members meeting and the issuing of Infinis's clarification document, I am still of the opinion, which was in agreement with Andrew Martin *[previous Environmental Health Officer at Tonbridge and Malling Borough Council]* and the subsequent officers of T&MBC; that we are satisfied that the regularisation of the layout of the gas control compound including the installation of the additional flare demonstrate that noise emissions from the facility will not exceed the permitted levels stated in the previously issued Planning Condition.

The documentation submitted *[by the applicant]* in January 26th merely pulls together a number of disparate reports and makes the assessment of the proposals more coherent. There is no fundamental alteration to the noise calculations or to the conclusions of the report."

In response to the further consultee responses received to the further information, KCC's Noise Consultant makes the following additional comments:

"Whilst I can sympathise with the local residents suspicions due to the site's history and their scepticism about the proposed flare, their comments are not entirely accurate.

They comment that details of the assessment of noise levels gets ever more complicated causing confusion and then the rather uncomfortable thought that the statistics are being produced to justify the results. I can relate to this comment, and in particular their comment that all sorts of statistics have been produced over the years and not all the information is presented in the same format making it hard to compare. However, the documentation submitted in January 26th merely pulls together a number of disparate reports and makes the assessment of the proposals more coherent. There is no fundamental alteration to the noise calculations or to the conclusions of the previously submitted report merely the addition of noise contour plots demonstrating the various option's noise footprints.

The Infinis clarification document's main element was the assessment of noise from the length of the flare stack in response to a request from TB&MBC and was meant to demonstrate that the flares main noise source was the low level louvres rather than the top of the flare stack. The design of the additional low-calorific flare requires air-tight louvres unlike standard flares, as the in-rock gas will require less oxygenating, the louvres on the low-calorific flare will be shut for a higher proportion of the time compared to a standard flare therefore producing less noise.

Also included was an assessment of the relocation of the proposed flare, this demonstrate that by siting the flare at the north western edge of the compound noise levels at the adjacent properties would not alter significantly from the current proposed position.

The Parish Council conclude that they wish to see a "reasonable compromise. Grant the planning permission for the additional flare but in one of the alternative locations with additional noise mitigation measures." Acoustically there is no rational justification for this and would presumably involve a considerable cost outlay by Infinis to re-engineer the layout of the site.

Therefore in terms of noise, I am still of the opinion which is in agreement with officers of T&MBC; that we are satisfied that the regularisation of the layout of the gas control compound including the installation of the additional flare demonstrate that noise emissions from the facility will not exceed the permitted levels as stated in the previously issued Planning Condition."

Local Member

12. The County Council Member Mrs S. Hohler was notified of the further information on 26 January 2009.

Discussion

13. 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 Development Plan policies outlined in the appended report (see Appendix 1 – paragraph 13) are of greatest relevance.

14. The main issues to be considered in this subsequent report relate to those issues expressed by Members, as identified in paragraph (2) above and any additional views expressed by consultees and local representatives on the further information submitted in support of this application by the applicant. In summary, these issues relate specifically to: -

- noise emissions from the proposed additional landfill gas flare, particularly on surrounding residential amenity;
- the need for the additional landfill gas flare;
- the location of proposed landfill gas flare within the existing compound; and
- hours of use for compound lighting and need for full luminosity details.

<u>Noise from additional landfill gas flare</u>

15. Members will recall that the application for the installation of a proposed new landfill gas flare has generated considerable opposition, most notably on the grounds of a potential increase in background noise levels at nearby noise sensitive residential properties. The issue of noise has been extensively discussed within the previous report presented to the Planning Applications Committee in December 2008 (see Appendix 1). However,

further to the deferral of this application pending a Members' Site Visit, the applicant has submitted further information in support of their application which, amongst other matters, relates to noise issues.

16. The further information submitted in support of this application by the applicant sought to provide further clarification on some of the inconsistencies in the information previously submitted regarding predicted noise emanating from the proposed new landfill gas flare. As previously noted, this information has been the subject of further consultation with the relevant stakeholders and any further views received to date have been documented and are considered within this report.

17. It can be concluded from Offham Parish Council's latest consultee response (see Appendix 3) that it still has concerns over the installation of the proposed new landfill gas flare. It remains sceptical about the information submitted by Infinis, both in support of this application and in recent *[noise]* monitoring reports submitted pursuant to previous planning consents, on the basis that each further set of noise statistics causes more confusion and no one set is comparable to another. The Parish Council's overriding concerns with the current application remain with the potential increase in background noise to the detriment of Offham residents (particularly those in closest proximity to the compound where the proposed flare would be located) and the position of the proposed additional flare itself (as discussed further below). In addition, the Parish Council has highlighted a range of technical noise issues which have been considered by the County Council's Noise Consultant.

18. Notwithstanding the noise objections raised by Offham Parish Council and local residents (as detailed in both this and the previous Committee Report), I am mindful of the professional / technical advice received from KCC's Noise Consultant and Tonbridge & Malling Borough Council (Planning & Environmental Health Officers). Neither the Borough Council nor the County Council's Noise Consultant raises an objection to the proposal. In response to the various technical noise issues raised by the Parish Council and local residents, KCC's Noise Consultant has additionally advised that there is no rational justification in acoustic terms for the re-location of the flare outside the existing compound site.

19. As discussed in the previous Committee Report (see Appendix 1), noise levels emanating from the gas control compound are restricted by an existing condition on the 2004 consent (TM/04/3135) which requires that noise levels during night-time periods shall not exceed 39dB at nearby noise sensitive properties. I previously recommended that this condition could be attached to any new consent to ensure that the same limit is applied to any new plant and equipment installed within the compound.

20. Based on the technical advice received, I remain 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 justification to refuse this application on noise grounds, providing that existing noise controls and measures to demonstrate compliance are maintained / extended to cover both existing and new equipment.

Need for additional landfill gas flare

21. As set out above, the Parish Council and local residents have also questioned the need

for the installation of an additional gas flare. The further information submitted by the applicant reiterates that the need for the proposed flare is largely driven by the need for effective management of the 'poor quality' (in-rock) landfill gas. The fact that much of the landfill site was constructed before the inception of modern thinking and regulation on landfill engineering means that large parts of the site do not benefit from modern containment methods. This has led to the installation or a system of boreholes and pipework around the landfill (known as the 'in-rock' system) designed to extract this poor quality gas (with a higher oxygen content than the gas collected directly from within the body of the waste) which would otherwise migrate well beyond of landfill gas off site and potentially result in pollution or other problems. The high oxygen content of the in rock-gas results in gas at, or near, its explosive limit and as a result of this explosive potential, the poor quality gas requires specialist equipment to safely extract and dispose of it.

22. At present, the poor quality gas is being mixed with 'good gas' collected from within the landfill and subsequently combusted through a modified flare operating 24 hours a day. This modified flare was not designed for this purpose and has previously resulted in noise problems as it struggled to cope with the high oxygen content of the gas. As a result of the existing set-up, 'good gas' needed to make poor quality gas safe enough to combust is being diverted away from engines located within the compound which would otherwise have produced power for the National Grid. It has been suggested by the applicant that approximately 500m³/hr of good quality gas is currently being diverted away from the engines for the purposes of mixing with poor quality gas. This equates to just under 1 MW of energy that would otherwise have been exported to the National Grid and roughly equates to enough power for 1000 homes.

23. As previously concluded, any increase in the amount of gas available to generate electricity should be viewed favourably in terms of sustainable development and in planning policy terms, most notably against Policies NR2 and NR5 of the Kent and Medway Structure Plan.

Location of landfill gas flare

24. The specific location of the proposed new landfill gas flare has been a key issue for the Parish Council. The issue was raised during the previous Committee Meeting in December 2008 and again at the Members Site Visit in January 2009. The Parish Council has suggested that alternative locations for the proposed flare be considered outside of the current compound. This would inevitably involve the physical extension of the size of the existing gas control compound, together its associated acoustic fencing.

25. In an attempt to address the issue of an alternative location for the proposed flare, the applicant's further submission included various noise modelling data which has attempted to model the noise scenarios for various different locations of flare stack. This information has been formally shared with all relevant stakeholders, including Tonbridge & Malling Borough Council, Offham Parish Council and the County Council's Noise Consultant. The latest response from the Parish Council (see Appendix 3) recommends that planning permission be granted for the proposed new flare on one of the alternative locations considered by the applicant (i.e. either immediately to the north or north west of the existing compound).

26. Having considered the further information provided by the applicant relating to alternative flare locations, the technical advice received to date shows that there would

be no significant benefit, in noise terms, in locating the flare outside the existing compound. It would also increase the overall size of the compound itself. It should be noted that neither the County Council's Noise Consultant nor Tonbridge & Malling Borough Council have raised objection to the current application on the basis of the proposed location of the flare.

27. As the alternative locations referred to in the further information are not part of the current proposals and are outside the current application area, Members should note that it would not be possible to formally consider these under the current application. Instead, if Members are not satisfied with the current proposals they should refuse planning permission. This could lead to the applicant submitting a further application for one or more of the alternative locations or exercising its right of appeal against the refusal of planning permission. However, it is worth noting there would be general policy presumption against the extension of the existing compound (i.e. 'built development') given its location within the Metropolitan Green Belt and that any such proposals would give rise to additional visual amenity and landscape issues that would need to be fully justified. For these reasons, together with the professional advice received that there would be no significant acoustic benefit to re-locating the proposed flare in an alternative location, I consider that there is no justification to support an alternative flare location in this particular case.

28. It should also be noted that, based on the noise modelling data provided by the applicant for the alternative flare locations, the re-location of the proposed flare to one of the alternative locations would actually result in an increased background noise level at one of the nearest residential properties (The Oast) above and beyond that which is currently proposed.

Compound Lighting

29. Although concerns have been expressed about the proposed levels of lighting within the compound, it should be noted that the proposed lighting scheme is already installed and has been operational for some considerable time. This element of the proposal is therefore retrospective. Whilst it is unfortunate that the County Council is being asked to retrospectively approve the lighting scheme, it is worth noting that no complaints have been received about lighting emitted from the compound to date.

30. The proposed lighting is required to enable safe working in the compound during the normal working day when natural light is inadequate or to facilitate essential maintenance or emergency works during the evening or night. The lighting would only be used when needed and would be extinguished, through the use of a motion-sensor, when personnel are not on site. Members were able to see the lighting arrangement during the site visit.

31. As previously concluded, I consider that this aspect of the proposal accords with the objectives of Policy W25 of the Kent Waste Local Plan and Policies NR5 and WM2 of the Kent and Medway Structure Plan. However, any approval should be conditional on the lighting only being used during normal working hours when natural lighting is inadequate or when required for essential maintenance or emergency works at other times.

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

Conclusion

32. Having considered the various objections to and implications of the proposals as detailed within the appended report (see Appendix 1), together with the further issues arising from the Committee Meeting in December 2008, the Members' Site Visit in January 2009 and any further views received from consultees and interested parties to date, I remain of the opinion that the regularisation of the layout of the gas control compound and the addition of a new landfill gas flare are consistent with development plan policies. I also continue to 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. I am also satisfied that the proposed (existing) lighting is appropriate.

33. Whilst I note the Parish Council and local residents' original concerns (as detailed in the initial Committee report) and those further concerns that have been raised relating to the potential for noise nuisance to increase and the desirability of an alternative location for the landfill gas flare, I am satisfied that the facility could continue to operate within the noise levels prescribed under application TM/04/3135. Based on the professional / technical advice received, I consider that there is acoustically no rational justification for the re-location of the proposed flare outside of the built confines of the compound and note that there would be a general policy presumption against further extensions to the existing compound in Metropolitan Green Belt terms without specific justification.

34. Accordingly, I recommend that planning permission be granted subject to conditions.

Recommendation

35. I RECOMMEND that 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 in TM/04/3135), extended to cover the additional landfill gas flare and associated equipment;
- Provision of an annual compliance monitoring report (as prescribed under TM/04/3135), extended to include all new equipment;
- Landscaping scheme to 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

Background Documents: see section heading.

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.

APPENDIX 1 - 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*

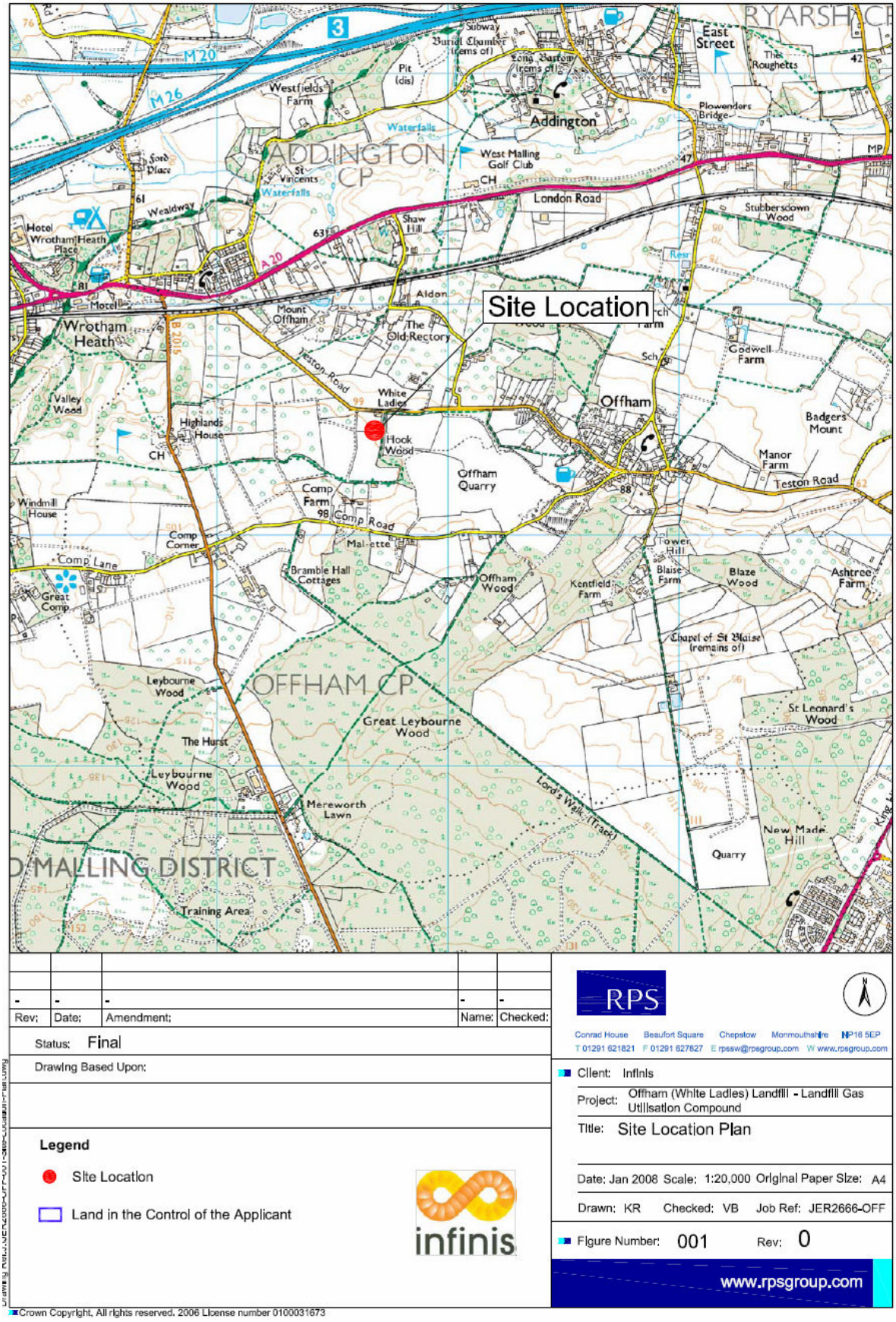
2. The compound is surrounded by 4 metre high acoustic fence and lies within the grounds of the White Ladies Office Complex. Waste Recycling Group owns the gas control compound and the Landfill Site. However, the gas control compound is leased to Infinis, which owns the infrastructure installed within 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

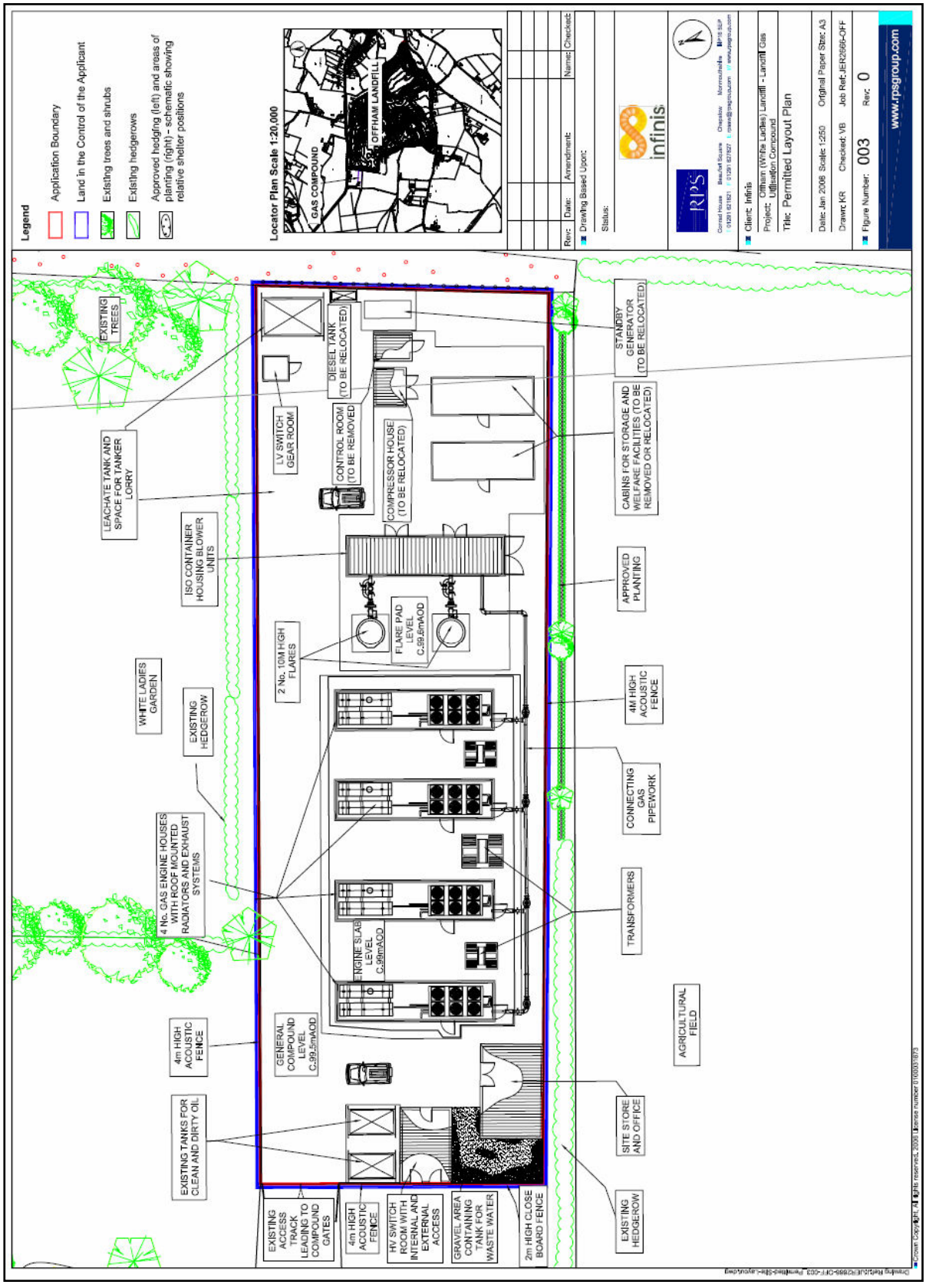
Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

Site location plan



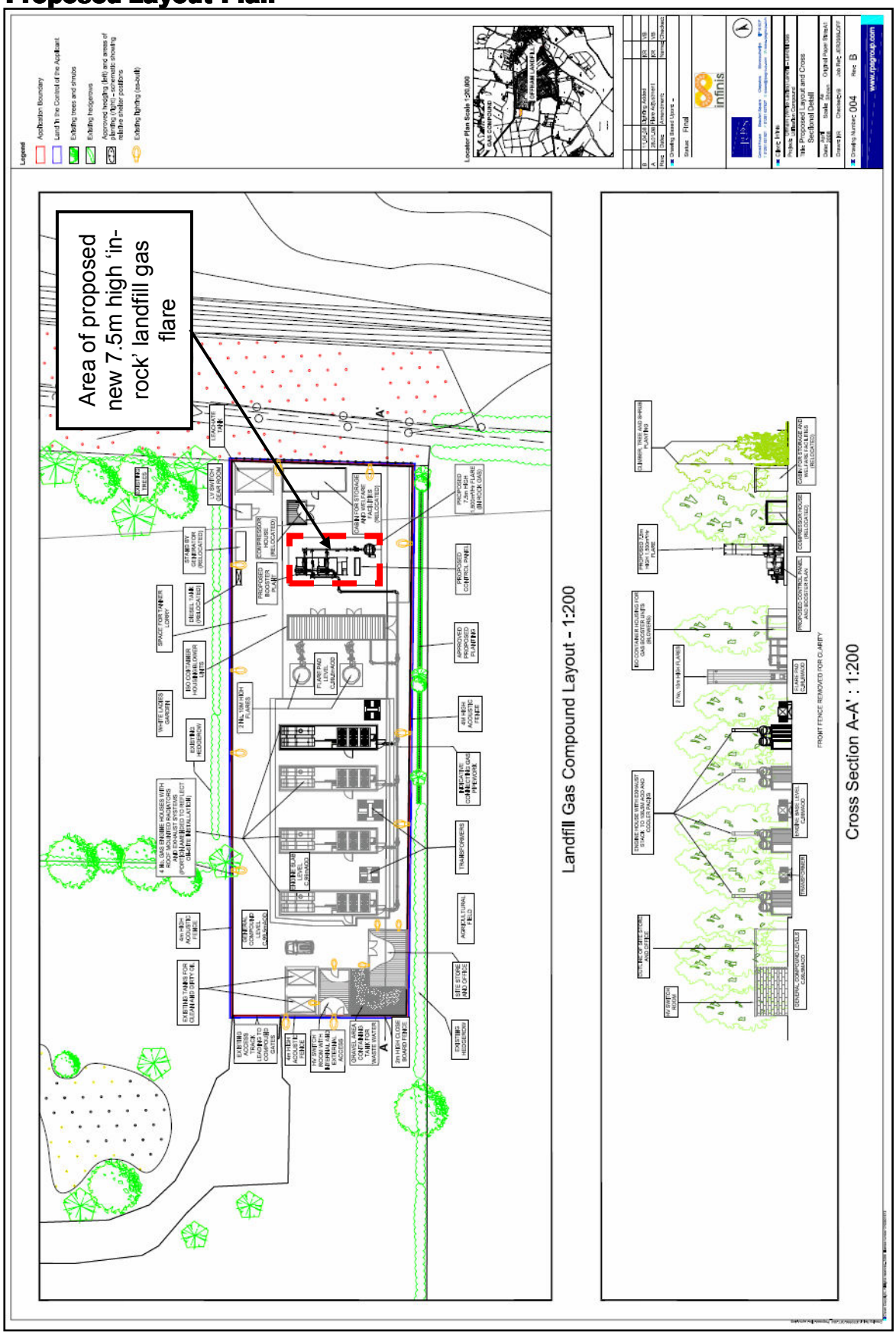
Regularisation of the layout of gas control compound and new landfill gas flare at White Ladies Gas Control Compound, Teston Road, Offham – TM/08/624

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



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

Proposed Layout Plan



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 $L_{Ar,T(Free\ Field)}$) 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

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.

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. 39dB$L_{Ar,T(Free\ Field)}$). 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).

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

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 than 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

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 <u>no objection</u> to the proposal following the submission of the detailed noise assessment report.

    <u>Based on original application</u>
    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.

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.

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

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.

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.

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;

- 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

Background Documents: see section heading.

APPLICATION TM/08/624 – REGULARISATION OF THE LAYOUT OF THE GAS CONTROL COMPOUND PERMITTED UNDER PLANNING CONSENT TM/04/3135 AND INSTALLATION OF A NEW GAS FLARE AT WHITE LADIES GAS CONTROL COMPOUND, TESTON ROAD, OFFHAM

NOTES of a Planning Applications Committee site visit to White Ladies Gas Control Compound, Teston Road, Offham on Thursday, 22 January 2009.

MEMBERS PRESENT: Mr R E King (Chairman), Mrs S V Hohler (Local Member), Mr S J G Koowaree, Mr J F London, Mr J I Muckle and Mr W V Newman.

OFFICERS: Mr J Wooldridge and Mr J Moat (Planning); Mr R Woolley (Jacobs); and Mr A Tait (Legal and Democratic Services).

TONBRIDGE AND MALLING BOROUGH COUNCIL: Mr M Balfour (Councillor & Local Resident); Mr M Broome (Planning) and Mr C Kennard (Environmental Health).

OFFHAM PARISH COUNCIL: Mrs C Innes and Mr D Stretton.

THE APPLICANT: Infinis Ltd: (Ms J Kwabla and Mr T Thomas); RPS (Mr D Humpheson).

(1) The Chairman opened the meeting. He explained that the site meeting had arisen from a decision by the Committee to inspect the site before determining the application. Accordingly, its purpose was for the Committee Members to familiarise themselves with the site and to listen to the views of interested parties.

(2) Mr Wooldridge briefly introduced the application. He explained that the landfill gas control compound had initially been granted planning permission by the County Planning Authority in 1995. He then explained that subsequent planning permissions had been granted for the site in 2002, 2003 and 2007, the details of which were contained in the Officer Report to Planning Applications Committee on 9 December 2008. He explained that the applicant was now seeking to install a new 7.5m high landfill gas flare within the compound to deal with the "in-rock" landfill gas. This was 'poor quality' gas that is collected from the gas wells at the site perimeter which is currently mixed with the 'good quality' gas obtained from the main landfill site in order to become suitable for burning in one of the existing gas flares.

(3) Mr Wooldridge continued by saying that the application also sought a regularisation of the layout of the permitted compound to accommodate the installation of the proposed gas flare, as well as including details of external lighting.

(4) Mr Wooldridge explained that the application site lies within the Metropolitan Green Belt.

(5) Mr Wooldridge then said that the Planning Applications Committee had been concerned over the questions of: the effects of noise emissions on the residential environment; the need for the gas flare; its proposed location within the compound; and the hours of use for the lighting and consequent luminosity. Further information had therefore been sought and received from the applicants, which would itself require further formal consultation. This meant that it was likely that the application would be reported to the March meeting of the Committee.

(6) Ms Kwabla (Infinis) agreed with the content of Mr Wooldridge's introduction and then

pointed out the location of the external lighting. These, she said, were mainly inward-facing to the compound, and consisted of 250 watt regular standard lighting units, which gave off limited overspill into the local community.

(7) Members were then taken into the Gas Control Compound where they were shown the 1 megawatt engines with their silencers and exhaust systems which were used to burn the 'good quality' gas which was collected from the gas control system within the adjacent landfill site. They also saw the flares, one of which was being used to burn the 'poor quality' gas mixed with some 'good quality' gas.

(8) Mr Wooldridge pointed out the location of the proposed new flare at the eastern end of the compound (nearest to the adjacent landfill site). This flare would, at 7.5m, be 2.5m shorter than the existing 10m high flare stacks.

(9) Mr Wooldridge then pointed out the location of the nearest residential properties. These consisted of Comp Farm Oast (approximately 300 metres to the south) and Hunters Moon (320 metres) and The Roundells (335 metres) to the North East. He explained that the prevailing wind was South Westerly.

(10) In response to a question, Mr Humpheson (RPS) said that that the acoustic fencing surrounding the gas control compound was 4m high.

(11) Mr Humpheson then replied to a question from Mr Muckle by saying that the maximum amount of equipment that would be running at any one time would be 4 engines and the new flare.

(12) Mr Humpheson also said that the current flares would only be used in exceptional circumstances such as when the engines were shut down and could not be used to produce electricity.

(13) Mr Thomas (Infinis) said that it was envisaged that the gas engines would be in operation for 6 to 7 years, although the site would continue produce gas for at least 30 years. As the amount of gas available declined, the Company's assets would be switched to more profitable sites. It was impossible to be more specific about the end date as gas curves were very difficult to predict. However, appropriate gas control measures would need to be maintained at the site.

(14) Mr Thomas continued by saying that the electricity generated by the gas burning was sufficient to power approximately 1000 homes per engine. Infinis were currently using 3 engines, with the agreement of the Environment Agency, to avoid pulling too much gas out of the landfill site at any one time.

(15) Ms Kwabla confirmed that no flame would be visible from the gas flare and that only the heat haze would be visible above (as was currently the case with the existing flare stacks).

(16) The discussion then turned to the noise levels. Mr Humpheson referred to the data contained in the supplementary papers which had been made available to Members on the day of the Meeting. He said that new acoustic gates would not serve any purpose as there was no residence that would be advantaged by such mitigation. He also stated that increased tree planting would only be beneficial if they were higher than the current 4 metre high acoustic fence and of a sufficient depth to allow further noise mitigation. Given the space available, he noted that this was not practical and would offer no significant benefit in this instance.

(17) Members then walked to various points around the site where noise levels were measured. These were:-

- A point just North of the acoustic screening: 55db (including traffic noise);
- A point just South of "White Ladies": 52.5db; and
- A point just in front of "White Ladies": Not recordable owing to the amount of traffic in the vicinity.

(18) Mr Humpheson said that the noise levels had been recorded at below 35 dbs when measured from the nearby residential properties.

(19) Mr Balfour said that the atmospheric conditions would cause the noise levels to vary. For example, during summer evenings a high pitched whine emanating from the site was audible at the nearby residential properties.

(20) Mr Stretton from Offham Parish Council asked Members to bear in mind that, up to a certain point, the noise levels increased as you moved away from the attenuation provided by the acoustic fence at the White Ladies Gas Control Compound.

(21) Members then walked along the footpath between the landfill site and the Gas Control Compound. Mr Wooldridge pointed out some of the existing gas infrastructure on the adjacent landfill site. He explained that further restoration work would be taking place on site during the year, including drilling and further recontouring of differential settlement.

(22) Mr Koowaree asked why the existing flares were painted grey when green would better match the local landscape. Mr Wooldridge replied that the colour was designed to reflect the fact that they were viewed against the sky from most locations near the site.

(23) The Chairman thanked everyone for attending. The notes of the visit would be appended to the report to the determining Committee meeting.

VIEWS OF OFFHAM PARISH COUNCIL TO THE ADDITIONAL SUBMISSION FOR PLANNING APPLICATION TM/08/624 – DATED 13 FEBRUARY 2009

There has been much correspondence and discussion following the original submission of this planning application in February 2008, culminating in the report to the KCC Planning Applications Committee on the 9th December 2008, further lengthy discussions at the Site Liaison Meeting on the 14th January 2009 and the KCC Planning Applications Committee Site Meeting on the 22nd January 2009.

It seems to us that the detail on the assessment of the noise levels seems to get ever more complicated, with additional statistics causing more confusion as no one set is comparable to another leaving us with the rather uncomfortable thought that the statistics are being produced to justify the results rather than the other way round.

Need for the Proposed Flare

Our simple understanding of the need for the proposed flare is that it will enable the poor quality gas to be separated totally from the "good gas", the latter gas being of financial value as it supplies the National Grid.

Whilst this separation is of financial benefit to Infinis, we have not queried Infinis' justification for the proposed flare on the basis that the separation of the gases will result in a more effective extraction system and minimise the migration of landfill gas off site.

Noise

Our overriding concern with the application remains with the position of the proposed additional flare and the potential increase in noise to the detriment of Offham residents, particularly those in closest proximity to the compound where the proposed flare is to be located.

The problem we have with all of the information provided to date is that the statistics produced by the applicant are continually changing and, when queried, the response has been that none of the past information submitted is accurate. Now the applicant is asking us to rely on their interpretation of "manufacturer's data" rather than any of the previously submitted Noise Compliance Reports.

Bearing in mind that Offham struggled for 3-4 years for it to be acknowledged that the existing flares were operating in excess of the permitted noise levels and modifications to the flares were finally made which reduced the noise levels, we are justifiably sceptical of simply accepting a set of statistical data that works in the applicants favour at face value. Furthermore, whilst modifications to the existing flare stacks reduced the level of noise it should be noted that the site continues to operate towards the upper end of the permitted noise levels, leaving very little margin for error.

Putting aside all the technical arguments and justifications, quite simply we as Offham residents have suffered from problems with noise emanating from the existing flare stacks in the past and we do not wish to repeat this experience. Hence we are not seeking to be obstreperous and oppose the proposed flare stack we are simply requesting that it is located at the other end of the compound, furthest away from any residential property in order that any risk of increased noise is minimised. From our point of view this does not seem to be a very big thing to ask.

Historically all sorts of statistics have been produced and not all of the information is presented in the same format hence it is hard to compare like with like:

- The "Results" (in this latest report – January 2009) from September 2005 and October 2006 clearly indicate that the site was operating in excess of the 39dB limit.

- A Noise Impact Assessment dated January 2007 which formed part of a retrospective application to amend the layout of the Gas Control Compound produced "Measured Noise Level Data" for the three test locations that gave readings all in excess of 44dB and "Predicted Noise Levels" of 37.5dB, 37.3dB and 38.2dB.

- Revised Annual Noise Compliance Monitoring Report dated November 2007 gave "predicted noise levels" (table 7.3) of 32.1dB, 31.6dB and 33.5dB, but actual "corrected measured noise levels" (table 8.1) at each of the three locations as 37B, 37dB and 39dB

- In the original application for the proposed additional flare RPS produced a Noise Assessment dated January 2008. This report produced "Measured Noise Level Data" for the three test locations that gave readings below the permitted 39dB. It is worth noting however that the readings were all in excess of 32dB.

- A further table from this January 2008 report calculates a Cumulative Assessment of current and proposed equipment and gives total predicted levels at the three locations of 38.2dB, 37.6dB and 36.1dB (table 7.4).

- Table 2 in the latest information submitted dated January 2009 produces totally different sets of figures and a dramatic reduction from previous submitted figures by a factor of 12-14dB or more.

- This significant difference in figures is dismissed by the applicant on the grounds that it "is principally due to the influence of the weather". We do not accept that all of the previously submitted figures can simply be dismissed on the grounds of weather or as has been suggested verbally to us that the information used was inaccurate. At the time of submitting each of these reports the applicant was happy to rely upon them and it is only now, when challenging the conclusions reached, that a totally new set of statistics have been produced that give totally different results in the applicants favour.

- Furthermore the applicant acknowledges that when adding "calculated noise levels" to their "extrapolated noise levels" the noise levels increased by up to 6.1dB but dismiss this by stating that "although a 6dB change in noise level is considered to be a quadrupling of the noise energy, the derived increase of 6.1dB overstates the true impact as both flares are assumed to be operating, which would not be the case under normal operating conditions."

- More tellingly the applicant goes on to say that "in any case, it should be noted that a 6.1dB increase would not result in a breach of the planning condition". However, it would if using the figures from any of the previously submitted noise reports rather than relying on the significantly reduced figures of this latest report.

- It is worth noting that despite all assurances given, even on the predicted statistics used in this latest report, Figures 3 and 4, although marginal, clearly show an increase in noise levels in that the decibel rings on the plan widen in Figure 4 over figure 3. Presumably this is the 6dB increase.

- However, we presume that the dB rings in these figures are an interpretation from the modelling and support table 2. These figures we have already queried. In

any event table 2, and presumably the rings do not take into account the 5dB correction figure therefore when looking at these plans the relevant ring is the 34dB ring rather than the 39dB which obviously will be further away from the source of the noise.

- Historically comparison between predicted and actual data has shown that actual results have always been demonstrably above predictions.

- It was quite clear from the site visit that irrespective of all statistical readings there is a distinct "hum" from the compound. This noise is 24/7. Any risk of increasing this audible hum is quite simply not a risk Offham residents wish to take.

Position of the Proposed Flare

In relation to alternative locations for the proposed flare, we appreciate that Table 2 clearly demonstrates no perceptible increase to the human ear but we query these figures in the light of previously submitted material and as indicated above.

Maybe Infinis and RPS are correct and that there will be no audible increase in noise from the additional flare and that the site will continue to operate within the permitted limits. However, bearing in mind that they draw their conclusions based on "manufacturer's data" rather than hard facts they could also be wrong.

Whilst the applicant concludes that the alternative positioning of the proposed flare would make little or no real difference to the outcome in terms of noise propagation. we, on the other hand, would suggest that the model concludes that Alternative 1 (Figure 6) would lead to an improvement for properties in Aldon Lane, at the western end of Teston Road and at properties bordering on the WRG site at the village end of Comp Lane. Please also note that there are some basic mathematical errors in the tabular data comparing the two locations.

From our point of view a simple solution to this problem would be to relocate the proposed additional flare stack to the far side of the compound so that **if** there is any increase in noise levels, the increase in distance will help to mitigate the perceptible increase in noise to such an extent that it does not once again become a problem for Offham residents.

Looking again at the layout of the site compound it would seem that with some reorganisation space could be made available in the bottom corner where there is an existing "site store and office" and "gravel area containing tank for waste water". Furthermore any noise "channels" such as that one indicated in Figure 6 could easily be mitigated with a bolstering of the acoustic fencing so that sound does not escape and the noise circles can be continuous.

Whilst statistically Infinis/RPS have sought to prove that such a relocation would make no audible difference, because the site has, in the past, operated at the margins, and indeed beyond the permitted levels we firmly believe that from a practical point of view such a relocation is essential to minimise the risk to Offham residents.

Additional Facts

- It is acknowledged that this flare stack will be the first of its kind anywhere in the world and furthermore its proposed location is nearer to any residential property than indeed any other even similar flare. The five much smaller low- cal units (of between 5% and 10% in capacity comparison with the proposed flare), operating in Cheshire, are not comparable.

- It is not a replacement flare but an additional flare, albeit that under normal operating conditions it will work instead of the two existing flares. However in cases of emergency all three flares could be called into operation and quite clearly in these instances whatever set of data is used the noise levels will exceed the permitted maximum of 39dB.

- It is important to point out that this proposed flare stack will remain in operation long after the extraction of saleable gas has ceased. This could be for a period of up to 25 years or more. Consequently the location of this flare is of considerable importance to the Village.

- Furthermore there are a number of technical issues raised by the latest information submitted:
  - The sound pressure measure distribution chart (Fig 5) as supplied in supplementary supporting data (October 15, 2008) is based on the 10 metre stack currently in operation. Given that the stack was operating at 60% of maximum capacity, and that its construction differs significantly in its proportions to the one proposed, we have not been convinced of its relevance to the debate.
  - The Current Haas flare operates at about 60% of its maximum capacity, flaring some 1800 cu.m./hour of gas, which comprises 1300 cu.m. from the in-rock system mixed with 500 cu.m. from the main system.
  - The proposed flare would flare just the 1300 cu.m. per hour from the in-rock system. It would therefore be operating at about 87% capacity.
  - It is not clear whether or not the proposed flare stack would only burn 100% in-rock gas or whether it would still require a mix of good and bad gas as has been suggested previously albeit that the percentage of good gas would reduce.

- The latest "modelling" has used manufacturer's data for flare stack noise output. This only seems to provide "ceiling" figures which state that the stack will meet a 69dB level at a distance of 15 metres. Identical figures are supplied with the current Haas flare. However, as the current flare operates at about 60% capacity, the measured noise output is apparently 64dB at 15 metres. As the proposed flare will be operating closer to 90% capacity, it could be argued that the noise output might be closer to the "ceiling" value than the 62-64 range suggested by Infinis.

- The arguments used by Infinis and RPS based on "experience" and "gut feeling" concerning physical size of the stack and its combustion chamber size are simply not robust enough in our opinion. An analogy used by both ourselves and Infinis making comparison between say a 350cc motorcycle and a 150cc motorcycle does not assure us that the smaller machine will be quieter than the larger one - particularly when it will be operated at higher revs!

- Currently, and at the time of the site visit on the 22nd January, only three of the generators are operating. We understand this is because of restrictions imposed by the Environment Agency on the level of "pull" considered acceptable on the in-rock system. It seems reasonable to assume that with all four generators operational and additional pressure required to "pull" the gas from the extraction network, noise levels will automatically be higher than those experienced at the time of the visit.

- A public footpath runs close to the eastern boundary of the compound and at the time of the site visit a strong odour of exhaust fumes was noted. Should the proposed additional flare stack be positioned as per the application, much closer to this boundary, the situation would worsen considerably, making it most unpleasant for those using the footpath.

Finally, our concern is based on a total lack of trust in the data which has been presented. The summary data from past surveys in 2005 and 2006 demonstrates that the compound was operating in excess of the agreed planning limit for a number of years, and at much distress to local residents. Needless to say we are extremely concerned and want to be totally confident that we will not return to such a position.

We conclude therefore by returning to our suggestion of a reasonable compromise. Grant planning permission for the additional flare but in one of the alternative locations with additional noise attenuation features to ensure that the noise mitigation is consistent and there are no "noise tunnels".