SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

KCC/SW/0010/2015 (SW/15/500348) – Land off Barge Way, Kemsley Fields Business Park, Kemsley, Sittingbourne, Kent, ME10 2FE

A report by Head of Planning Applications Group to Planning Applications Committee on 9 September 2015.

This application has been submitted by Environmental Compliance Limited on behalf of 4Evergreen Technologies Limited who are proposing to install an advanced thermal conversion and energy facility at the Kemsley Fields Business Park to produce energy and heat. The project will involve: construction of new buildings to house the thermal conversion and energy generation plant and equipment; construction of associated offices; erection of external plant including storage tanks; and the erection of a discharge stack at Land off Barge Way, Kemsley Fields Business Park, Kemsley, Sittingbourne, Kent, ME10 2FE.

Recommendation: Subject to the completion of a legal agreement to secure the provision of suitable offsite reptile receptor site, permission be granted subject to conditions.

Local Member: Mr R Truelove and Mr L Burgess and adjoining Member Mr M Baldock
Unrestricted

Site Description

1. The planning application site is situated on land off Barge Way, in Kemsley to the north of Sittingbourne. The site comprises a rectangular shaped parcel of land which is approximately 1.8 hectares in size. The site forms part of the wider Kemsley Business Park Complex and has direct access via a purpose-built access road into the business park via the B2005 Swale Way westbound towards the A249 at the Grovehurst Junction which in turn leads to both the M2 and M20 motorways. The site lies within close proximity to the Swale Site of Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site. A site location plan is included below.

Proposal

2. The applicant proposes to install an advanced thermal conversion and energy generation facility (also referred to as pyrolysis) in order to produce energy (in the form of electricity and heat) for export to the National Grid and for utilisation by adjacent businesses. The proposed development comprises the following:

    - Construction of new buildings to house a thermal conversion and energy generation plant and equipment;
    - Construction of offices and visitors centre;
    - Erection of external plant including storage tanks;
    - The erection of a 30m high discharge stack;

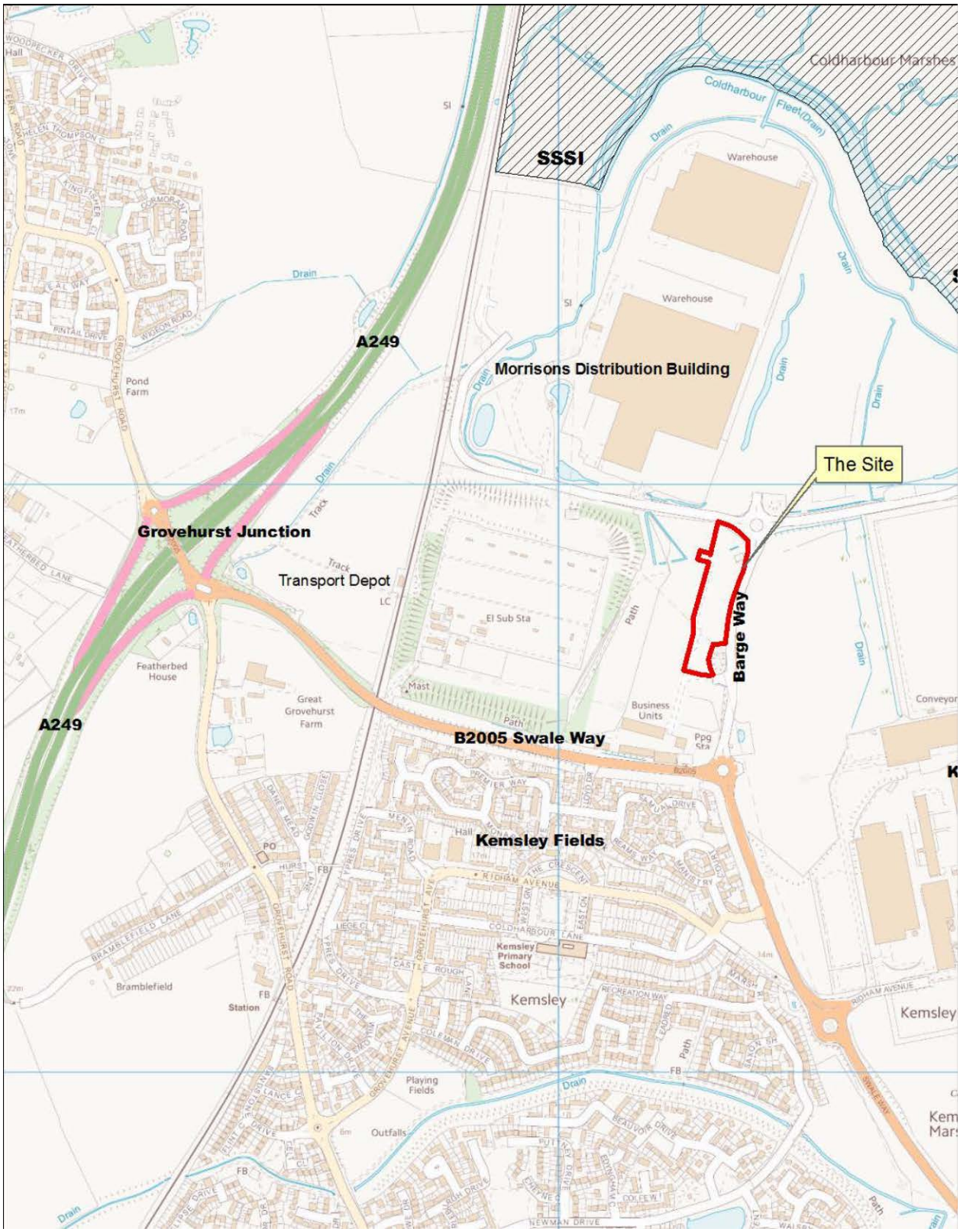

Figure 1: Site Location Plan

- Heat generation and use;
- Storage facilities; and
- Waste management.

Process Description

3. The proposed facility would have the capacity to utilise some 48,000 tonnes per annum of Refuse Derived Fuel (RDF) (consisting of largely combustible components of municipal waste such as plastics and biodegradable waste) along with other feed stocks including clean, recycled wood. Material would be delivered to the site by HGV via the existing primary highway routes (M20 and M2). Vehicles would be weighed on arrival and enter the facility where fuel would be checked and screened within an enclosed facility. Fuel would be dried utilising the waste heat generated by the thermal process and then fed through a ferrous separator before being fed into electrically heated pyrolysis units where fuel is broken down into a synthesis gas (syngas) and a residual carbon char which would be transported off site for disposal or reuse.

4. The process is described as the thermal degradation of a substance in the absence of oxygen. The temperatures during pyrolysis are typically between 300°C and 800°C with the materials produced after pyrolysis being syngas (a gas mixture that comprises carbon monoxide, carbon dioxide and hydrogen) and a solid carbon rich residue, known as char.

5. The syngas would be cooled and cleaned before being used to generate electricity via a gas engine. The applicant states that although the pyrolysis process does not involve combustion, the gas engines used to create electricity produce exhaust gases which are cleaned before being discharged via a 30m high stack.

6. Once fully operational the facility would generate some 10.4MW of electrical power, of which 2.2MW would be used on site and 8.2MW would be available for export to the National Grid.

7. A process flow diagram is included below (see Figure 2) along with a plan showing the general layout of the site (figure 3).

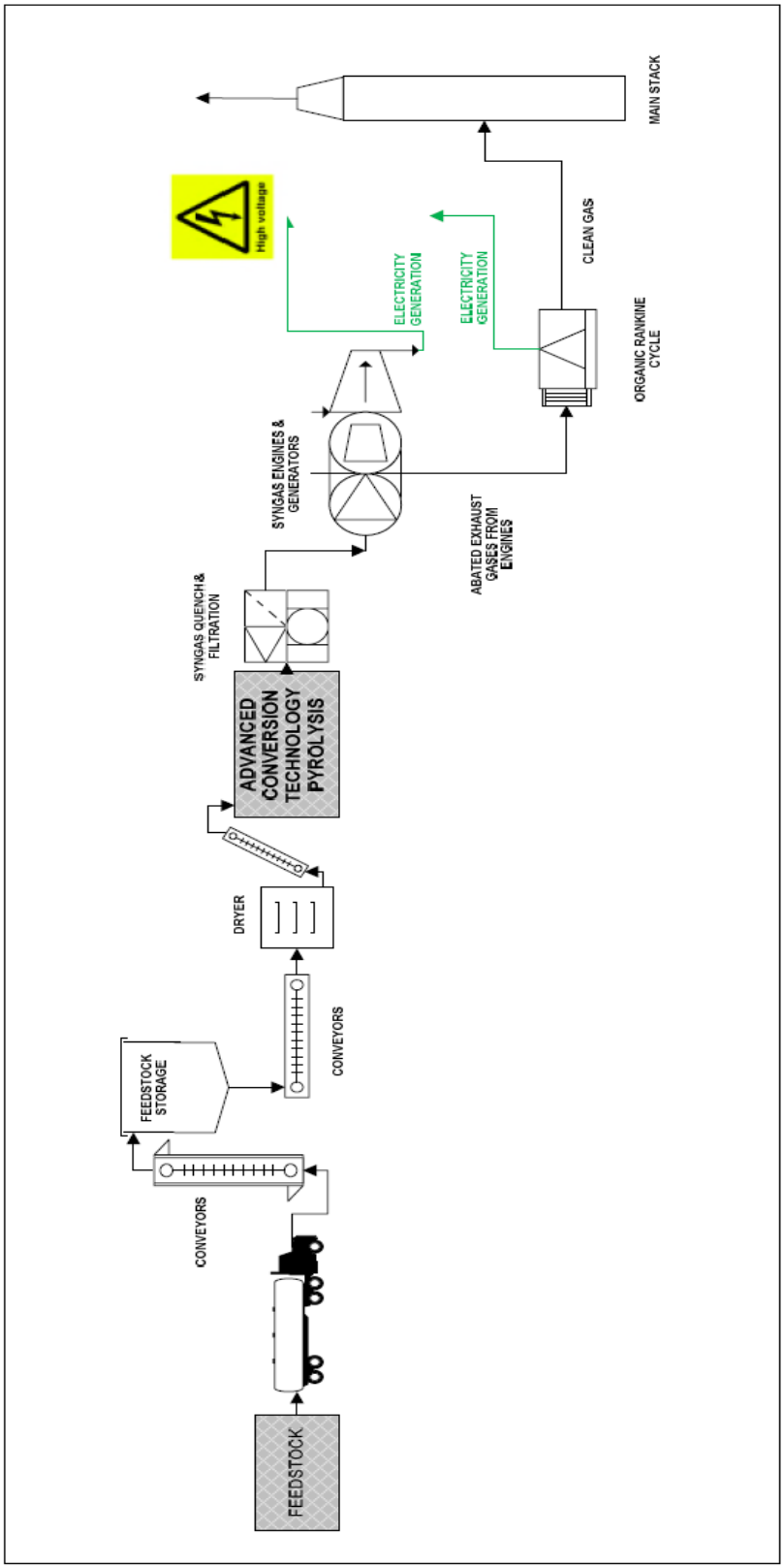

Figure 2 – Process Flow Diagram

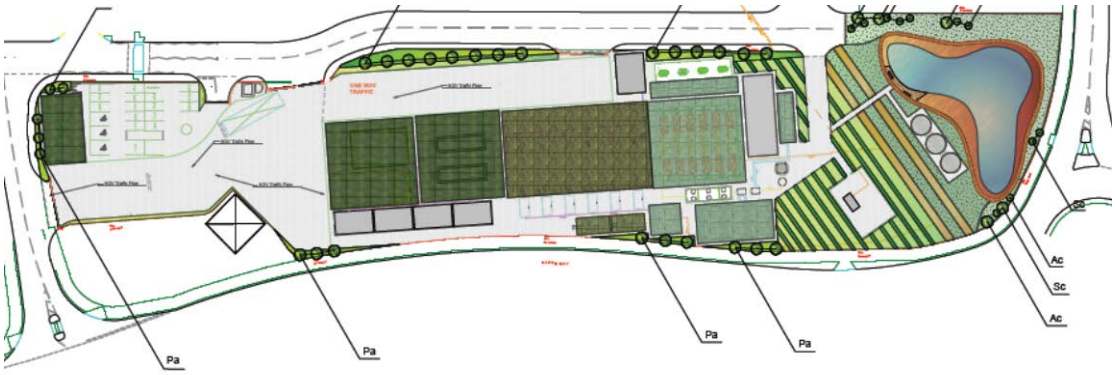

Figure 3: Proposed General Arrangement on Site

Hours of operation

8. Whilst the facility would operate on a 24 hour basis, it would only accept delivery of raw materials to the site within the following hours:

   0700 – 1900 Monday to Friday; and
   0730 – 1730 Saturday and Sunday

Proposed Vehicle Numbers

9. Material would be brought to the site by HGV using the existing highway infrastructure. Routing would therefore be via the M20, M2, A249, Swale Way and Barge Way. The applicant considers that at full operational capacity the development would generate some 20 daily HGV movements (i.e. 10 in/10 out).

10. The planning application included within it environmental information covering, amongst other matters, Air Quality, Human Health, Flood Risk and Drainage, Ecology, Visual Impact, Transport and Noise

11. National Policy Context

The National Planning Policy Framework (NPPF): came into force on 27 March 2012 and should be read in conjunction with the National Planning Policy for Waste published in October 2014 which sets out detailed waste planning policies which local planning authorities should have regard to when discharging their responsibilities to the extent that they are appropriate to waste management.

The NPPF sets out the Government's planning policies and its aim to secure sustainable development in a timely matter. The role of the planning system is seen as contributing to the achievement of sustainable development. The NPPF identifies 3 dimensions to sustainable development which create 3 overarching mutually dependent roles in the planning system namely economic, social and environmental. In this context the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. Of particular relevance these include supporting the transition to a low

carbon future in a changing climate, taking full account of flood risk and coastal change, and encouraging the reuse of existing resources and encourage the use of renewable resources (for example, by the development of renewable energy); and encouraging the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; In facilitating the delivery of these roles and objectives the Framework requires that local planning authorities should look for solutions rather than problems. Local Planning Authorities (LPAs) are therefore expected to work proactively with applicants to secure development that improve the economic, social and environmental conditions of the area.

Planning is seen as playing a key role in reducing greenhouse gas emissions and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. When determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Local Planning Authorities should therefore now approach decision-making in a positive way to foster the delivery of sustainable development with decision-takers at every level seeking to approve applications for sustainable development where possible[1].

The National Planning Policy Framework requires that:

- proposed development that accords with an up-to-date Local Plan should be approved, and

- development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

National Planning Policy Guidance (NPPG): Requiring in the case of waste related development, that applicants should be able to demonstrate that their proposals will not undermine the Waste Planning Strategy through prejudicing the waste hierarchy.

Waste Management Plan for England (WMPE) 2013: The key aim of the WMPE is to help achieve the Government's objective of moving towards a zero waste economy as part of the transition to a sustainable economy. In particular this means using the 'waste hierarchy' (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management. The WMPE provides an analysis of the current waste management situation in England, and evaluates how it will support implementation of the objectives and provisions of the revised Waste Framework Directive (WFD)

The WMPE recognises that national waste planning policy is an important part of delivering the objectives of the revised WFD in assessing the suitability of areas and sites for waste development within local plans and also in the determination of planning applications. It

[1] 1 NPPF, paragraphs 186 and 187

summarises how the 'waste hierarchy' should be applied. The 'waste hierarchy' is both a guide and a legal requirement, enshrined in law through the Waste (England and Wales) Regulations 2011. The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery (including energy recovery), and last of all disposal (e.g. landfill). The term 'other recovery' includes gasification and the Government does not express a preference for one technology over another, since local circumstances differ. Any technology is considered more beneficial if both heat and electricity can be recovered. In this respect particular attention should be given to the location of the plant to maximise opportunities for heat use.

National Planning Policy for Waste (October 2014) (NPPW): The NPPW should be read in conjunction with amongst others the NPPF and the WMPE. The NPPW retains many of the key messages contained in Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management which it replaced, in particular the need to drive waste management up the waste hierarchy recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal. It advises that in preparing Local Plans, waste planning authorities should ensure that the need for waste management facilities is considered alongside other spatial planning concerns, recognising the positive contribution that waste management can bring to the development of sustainable communities. They should also take account of the need for waste management, including for disposal of residues from treated wastes, arising in more than one waste planning authority area but where only a limited number of facilities would be required.

With regard to identifying suitable sites in preparing plans, waste planning authorities should identify the broad types of waste management facility that would be appropriately located on an allocated site or in the allocated area in line with the waste hierarchy. In this context they should consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste management facilities together and with complimentary activities. Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers. They should also give priority to the re-use of previously developed land, and sites identified for employment uses amongst others.

When determining waste planning applications, waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need. Waste planning authorities should recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy. They should also consider the likely impact on the local environment and on amenity.

Conservation of Habitats and Species Regulations 2010 – in considering a European site interest, the competent authority under the provisions of the Habitats Regulations should have regard for any potential impacts a plan or project may have.

12. Energy Policy

National Policy Statements (NPS) EN1 and EN3 – NPS EN1 represents the Government's overarching National Policy Statement for energy which sets out national policy for energy infrastructure. Whilst primarily it is aimed at informing the National Planning Casework Unit on how it should make decisions on applications for nationally significant energy infrastructure projects, it States that '*In England and Wales this NPS is therefore likely to be a material consideration in decision taking on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether and to what extent, this NPS is a material consideration will be judged on a case by case basis*'. This overarching NPS forms part of a suite of NPSs issued by the Secretary of State for energy and climate change. A further 5 technology specific NPSs for the energy sector include NPS EN3 Renewable Electricity Generation (both onshore and offshore). NPS EN3 taken together with NPS EN1 provides the primary basis for decision making for nationally significant energy and renewable energy infrastructure. It is concerned with impacts and other matters which are specific to biomass and including energy from waste (EfW), onshore and offshore wind energy. It considers electricity generation from renewable sources of energy is an important element in the Government's development of a low carbon economy.

Energy underpins almost every aspect of our way of life. As we move towards 2050 the ways in which we use energy will be transformed. The Government's aim is that we become less dependent on some forms of energy, as new and innovative low carbon technologies and energy efficiency measures are taken up. The UK has committed to sourcing 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020 and it is therefore recognised that new projects will need to come forward urgently to ensure that we meet this target. EfW is seen as one of a number of renewable energy resources. The principle purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery.

UK National Renewable Action Plan (UKNRAP) 2010 - The UKNRAP recognises the need for the UK to radically increase its use of renewable energy which should look to make the most of our renewable resources in order to provide a secure basis for the UK's future energy needs. It seeks to increase the proportion of energy obtained from renewable sources in order to increase the security of our energy supplies and also provide opportunities for investment in new industries and new technologies. The UK Government believes that climate change is one of the gravest threats we face, and that urgent action at home and abroad is required. It is considered that the development of renewable energy sources along with other types of low carbon development will enable the UK to play its full part in international efforts to reduce the production of harmful greenhouse gases. This is consistent with the objectives as now set out in the NPPF which sees planning as supporting

the delivery of renewable and low carbon energy and associated infrastructure in order to provide resilience to the impacts of climate change.

The UKNRAP sets out measures that will enable the UK to reach its target for 15% of energy consumption to be from renewable sources by 2020 although this should not be seen as representing an upper limit. In 2009 the Department for Energy and Climate Change (DECC) published the results of analysis and modelling to demonstrate how it might be possible to meet this target. It concluded that this target is feasible through domestic action which could be achieved with a proportion of around 30% of electricity demand, including 2% from small-scale sources and 12% of heat demand coming from renewables. The UKNRAP indicated that it was intending to take steps to identify and address those issues that affect the timely deployment of established renewable technologies such as the planning system. Consistent with this approach the NPPF sends a clear signal to LPAs that they should act proactively with applicants to secure development that is consistent with the principles of sustainable development in a timely manner.

The UK Renewable Energy Strategy (2009) – seeks a radical increase in renewable energy use in order to reduce greenhouse gas emissions and diversify energy sources to enable lower reliance on fossil fuels.

13. Development Plan Policy

Kent Waste Local Plan March 1998 (Saved Policies): Policy W11 sets out the criteria against which proposals are required to be considered including support for waste management development within major established or committed industrial or industrial type areas. Policy W17 sets out the need to ensure airborne emissions will not adversely affect neighbouring land uses and amenity. Policy W18 requires adequate controls over noise, dust odours and other emissions. Policy W19 provides Surface and Ground Water protection. Policy W20 Land Stability, Drainage and Flood Control. Policy W21 seeks the satisfactory protection of Ecological Interests. Policy W22 Road Traffic and Access. Policy W25 Site Design and External Appearance

Adopted Swale Borough Local Plan, 2008 (Saved Policies) - Policy E12 (Sites designated for their importance to biodiversity or geological conservation), Policy B2 (providing for new employment), Policy B10 (Ridham as an existing committed employment site), Policy SP1 (Sustainable Development), Policy SP2 (protect and enhance the special features of the visual, aural, ecological, historical, atmospheric and hydrological environments of the Borough and promote good design in its widest sense), Policy SP3 (Economy), Policy SP6 (Transport and Utilities), Policy TG1 (Thames Gateway Planning Area), Policy E1 (General Development Criteria), Policy E9 (Protecting the quality and character of the Borough's landscape), Policy E13 (The Coastal Zone and Undeveloped Coast), Policy T1 (Providing safe access to new development), Policy U3 (Renewable energy) may also be relevant.

Swale Transportation Strategy Draft, Consultation Draft December 2014 – supporting and complementing Swale Borough Council's emerging Local Plan taking into account committed planned and forecast levels of development.

14. Emerging Policy

Kent Minerals and Waste Local Plan (KMWLP) 2013-30 (Proposed Main and Additional Modifications) July 2015: As set out in the NPPF the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF requires that policies in local plans should follow the approach of the presumption in favour of sustainable development. The KMWLP is therefore founded on this principle. Policy CSW1 gives support where, when considering waste development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development as set out and supported by National Policy.

Consistent with one of the Government's key aims to reduce the volume of Municipal Solid Waste (MSW) and Commercial and Industrial Waste (C&I) being sent to Non-hazardous landfill, the KMWLP seeks to establish a policy framework against which future proposals for waste related developments will facilitate the management of waste up the Waste Hierarchy (Policy CSW2). Policy CSW4 of the Plan sets out the County Council's strategy for securing sufficient waste management capacity to manage at least the equivalent of the waste arising in Kent plus some residual non-hazardous waste from London. In order to achieve this, the KMWLP has to plan for all forms of waste management in the Waste Hierarchy which helps accommodate the transition towards those forms of waste development which sit towards the top of the Waste Hierarchy. The Plan seeks to address this transition by seeking to rapidly provide a more sustainable option for the mixed non-hazardous waste that is going to landfill by identifying sites for energy recovery.

The preference identified in response to early consultations on the Plan was for a mix of new small and large sites for waste management. This mix gives flexibility and assists in balancing the benefits of proximity to waste arisings whilst enabling operators of large sites to exploit economies of scale. The location of waste sites in appropriate industrial estates was also the preference identified from consultations. This has the benefit amongst others of using previously developed land which will be given priority over greenfield sites. Policy CSW6 gives effect to this locational criterion and applies both to sites which are identified in the Waste Sites Plan and those that are not. In order to meet the need identified in Policy CSW7 for future waste management capacity permission will be granted for built waste management facilities subject to no unacceptable adverse impacts on sensitive receptors, the environment and communities. Such principles are consistent with those set out in the NPPW.

One of the fundamental aims of the KMWLP is to reduce the amount of MSW and C&I waste being sent to non-hazardous landfill. In order to achieve this there will need to be a substantial increase in waste recovery capacity during the plan period if a rapid shift away from landfill is to occur.

Policy CSW7 provides a strategy for the provision of new waste management capacity for non-hazardous waste. The policy will increase the provision of waste management capacity for recovery while recognising the need to drive waste up the hierarchy. These include sufficient recovery facilities including EfW to meet a required additional capacity of some 562,000 tonnes per annum by the end of the plan period with provision for an additional capacity of some 375,000 tonnes per annum being met by 2016.

The KMWLP has been given public scrutiny before a Planning Inspector at an Independent Examination (IE) held earlier in April and May this year representing a key stage in its preparation towards formal adoption. Having listened to the various representations and in order to try and alleviate any concerns, during the course of the IE a number of modifications to the Plan were discussed with the Inspector to ensure the soundness and legal compliance issues and also to improve the Plan. These modifications are currently out to formal consultation upon the completion of which responses will be collated before being submitted to the Planning Inspector for him to take into consideration in his final report which is expected at the end of this year prior to the Plan being formally adopted

The NPPF advises that decision-takers may give weight to relevant policies in emerging plans according to amongst other matters the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given). In my opinion the emerging policies in the KMWLP are fully consistent with the NPPF and therefore should be afforded significant weight in the determination of this application.

Swale Borough Council Emerging Local Plan (December 2014) Policy CP1 – building a strong, competitive economy, Policy CP2 – promoting sustainable transport, Policy CP4 – requiring good design, Policy ST1 – sustainable development, Policy A1 – existing committed employment locations (including Kemsley and Ridham), Policy DM6 – managing transport demand and impact, Policy DM14 – general development criteria, Policy DM19 – sustainable design and construction, Policy DM20 – renewable and low carbon energy, DM24 – conserving and enhancing valued landscapes, Policy DM28 – biodiversity and geological conservation, Policy DM30 – landscape and biodiversity enhancement.

15. Consultee responses

Swale Borough Council: The Borough Council raise no objection subject to the following criteria:

(1) No objection from Kent Highway Services, Natural England, or the Kent County Council Biodiversity Officer;
(2) Amendment of layout to set buildings back and provide a 5m-wide landscaping strip adjacent to Barge Way, and submission of a scheme of tree planting;
(3) High quality external materials;
(4) Any conditions recommended by other consultees.

The Borough Council have indicated that item (2) above is, in their view, considered to be particularly important to the success of the proposals. Without the provision of a 5m-wide landscaping strip adjacent to Barge Way the Council considers that the development will have a significant negative impact upon the character and appearance of the area. In this regard attention is drawn to the substantial soft landscaping to the front of the adjacent Morrison's depot.

Iwade Parish Council:

The Parish Council objects on the grounds that there are already four similar facilities in the Ridham area and there is real concern about the cumulative impact this is having on the important neighbouring Ramsar/SSSI site and nearby residents. They state:

"The main concerns are roads; on the Transport Statement there are 10 lorry movements per day; worst case scenario 20 per day; then add to this additional cars at one per hour.

There will be a lorry every 15 minutes, plus a car every hour. This will result in more traffic going on to the Grovehurst roundabout, which is already at capacity as stated in Swale's Local Plan. If this application goes ahead we would ask that a condition is included in the approval to limit the lorry movements to 10 per day, which is stated in the report.

If approved we would ask that silencers be put on the safety valves to reduce noise.

The Parish Council and residents want to see monitoring of emissions and air quality in the area, due to there being the Biomass plant within a two mile radius and monitoring and also noise levels should be checked regularly. Both Iwade and Kemsley Field residents have real concerns regarding this."

County Fire Officer: No objection.

Environment Agency: No objection is raised - the EA consider that the proposed facility is unlikely to contribute to exceedences of the air quality Environmental Quality Standard (EQS) for human health and agree with the applicants' conclusion that there would be no significant risk from the proposed facility.

Highways England: No objection.

Kent Highways and Transportation: No objection.

Kent Wildlife Trust: No comments received.

National Grid: No objection raised.

Natural England: No objection is raised however they advise that Kent County Council as the Competent Authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that the plan or project may have (see Appendix A).

Lower Medway Drainage Board: No objection.

Biodiversity Projects Officer: No objection is raised subject to the imposition of planning conditions requiring reptile mitigation and monitoring measures be carried out as specified in paragraphs 3 and 4 of the reptile and amphibian method statement.

Heritage Conservation (County Archaeologist): No objection is raised.

Landscape Officer: No objection on landscape grounds.

AMEY (Noise, Air Quality, Odour):

Construction and Operational Noise: No objection subject to the imposition of conditions

Air Quality: No objection subject to a condition requiring those mitigation measures detailed in section 6 of the dust assessment to be adhered to.

Local Member(s)

16. The Local County Members Mr R Truelove and Mr L Burgess, along with the adjoining Member Mr M Baldock were notified of the planning application 20 January 2015. To date, no comments have been received.

Publicity

17. The application was publicised by the posting of a site notice, advertisement in the local newspaper and the individual notification of 1,389 nearby properties.

Letters of representation

18. To date 18 letters of representation have been received. Concerns are raised in relation to the continued development of the Ridham industrial estate as well as the overall cumulative impacts and effects on local residents. In addition there is ongoing concern that the existing road infrastructure is not sufficient to cope with additional traffic in the area. In summary concerns are raised in relation to the following:

Amenity

- Potential noise impacts from the development
- Cumulative noise impacts
- Noise and vibration impacts from additional HGV movements
- Continued concerns relating to odour in the area
- Dust impacts
- Visual impacts of the proposed stack
- Close proximity of an industrial activity to residential properties is unacceptable
- Potential health impacts from emissions
- Pollution resulting from the stack
- Amenity impacts should the site become flooded

Vehicles

- Concerns over increased vehicle movements in the area
- Adverse impacts of additional vehicles using the Grovehurst junction
- Impacts of traffic using the Sheppey Way during peak times
- Queuing traffic could increase air pollution

- the traffic impact assessment does not consider the impact of the recently opened haulage company (which is not yet fully operational)
- Existing traffic/HGVs using the local road network continue to ignore the 40mph speed limit

Discussion

19. 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. The application will need to be examined having regard to both national guidance and the relevant development plan policies applying to the site together with any relevant material planning considerations arising from consultation and publicity. In my opinion, the main determining issues in this particular case can be summarised under the following headings:

    - Need
    - Traffic
    - Air Quality
    - Noise
    - Nature Conservation and Ecology
    - Landscape and Visual Impact

Need

20. There is strong planning policy support for renewable energy generating development and Government Guidance indicates that local planning authorities should promote and encourage development of renewable energy resources to address climate change. The wider environmental and economic benefits of proposals for renewable energy projects are material considerations that should be given significant weight in determining whether proposals should be granted planning permission.

21. Policy EN3 of the National Policy Statement for Renewable Energy Infrastructure supports electricity generation from renewable sources of energy and states that this is an important element in the Government's development of a low-carbon economy.

22. One of the key aims of Government policy is to reduce the volume of Municipal Solid Waste (MSW) and Commercial and Industrial Waste (C&I) being sent to non-hazardous landfill through the establishment of alternative more sustainable waste management facilities. Energy from Waste Plants (EfW) are seen as playing an important role in helping to achieve this objective which not only help divert waste from landfill but also help towards securing the country's future energy supply. Whilst traditionally EfW plants involved the mass burn incineration of non-recycled waste, Government is seeking to encourage an increase in the amount of energy generated from renewable low carbon technologies. Whilst at present we cannot prevent, re-use or recycle all of our waste, even after extensive and sophisticated recycling techniques, the residual material left over from these processes still has a value as a

fuel source. This has been recognised in a recent publication produced by DEFRA in February 2014 'Energy from Waste. A guide to the debate' which is aimed at stimulating discussions over the role energy from waste might have in managing waste in the future in a more sustainable way.

23. The NPPF sets out the Government's planning policies and its aim to secure sustainable development. On March 2014 the Government launched its National Planning Practice Guidance (NPPG). This new guidance is closely linked to the NPPF and consolidates previous practice guidance. With regard to planning for renewable and low carbon energy the NPPG states ' *Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable* '.

24. Policy exists at both the national, regional and local levels which give support in principle for the establishment of the type of facility which seeks alternative waste management solutions to landfill disposal. These include facilities where waste should be recovered as a resource to produce energy. Such objectives also support the aim of how planning should contribute towards the achievement of sustainable development by reducing the carbon footprint by lowering emissions and stabilising climate change.

25. In my opinion this proposal is fully consistent with adopted Government policy and would help contribute towards securing the country's future energy supply consistent with the principles of sustainable development as set out in the NPPF and the guidance set out in the NPPG.

Traffic

26. The NPPF states that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It also advises that development likely to generate significant amounts of vehicle movements should be supported by a Transport Statement or Transport Assessment.

27. Policy SP6 of the Swale Borough Local Plan requires new development to be planned and located close to the principal highway network and policy T1 states that development will not be permitted where volumes of traffic would be generated in excess of the capacity of the highway network unless the network can be appropriately improved to address the issues. Policy T1 also notes that development will be considered inappropriate where it would require the inappropriate formation of a new or intensification of an existing access. Policy W22 of the Kent Waste Local Plan (KWLP) states that permission will normally be refused where a development would adversely affect the safety or exceed the capacity of the highway and Policy W27

notes that where relevant a development should secure the interests of users of public rights of way.

28. The proposed site falls within the existing Ridham Industrial complex (now referred to as the Kemsley Business Park), (identified as an employment area in the Swale Borough Local Plan), which has been the subject of a number of planning applications and subsequent permissions recently. The access to the site is directly off Barge Way, a dedicated route built in 2006 to serve the Industrial Estate. A number of proposals have been granted planning permission by this Committee and the Borough Council has also granted planning permissions for major housing development, the Morrisons Distribution Centre and more recently, a 24 hour transport depot which is located close to the application site. Inevitably as business and residential development has progressed over the last few years, traffic impacts have become a major concern locally - these relate to safety as well as volume of traffic. Concerns over traffic and road capacity are therefore again reflected in the comments received from the Parish Council in relation to this proposal.

29. In support of this planning application, the applicant has submitted a transport assessment (TA) which indicates that the maximum vehicle numbers associated with the proposed development, once operational, would be some 20 movements per day (i.e. 10 in/10 out). Those 10 daily trips would be associated with waste deliveries to the site, which would be restricted to the proposed hours of 0700 – 1900 hours Monday to Friday and 0730 – 1730 hours on a Saturday and Sunday.

30. The TA indicates that the 48,000 tonnes per annum fuel capacity of the facility would generate deliveries equating to one inbound movement on the highway network every 90 minutes.

31. Both the Highways Agency and Kent Highways and Transportation have been consulted on the planning application and have assessed the proposal against national policy guidance and conclude that the proposal does not represent a significant impact on the strategic road network. On this basis both have raised no objection to the proposal on highways grounds.

32. Notwithstanding the Parish Council's assertions that the Grovehurst junction is at full capacity, Swale Borough Council themselves have raised no objection to the proposal subject to there being no objection from Kent Highways on traffic impact, capacity or safety grounds. Having regard to this and given the relatively small number of daily vehicle movements associated with this proposal, in my opinion the development meets the requirements of the relevant national objectives and development plan policies. The NPPF requires that development should only be prevented or refused on transport grounds where the cumulative effects of the development are severe. I would therefore find it very difficult to defend refusing the planning application on traffic impact grounds.

33. However in the event that planning permission is granted I would recommend the imposition of a planning condition which restricts the daily vehicle numbers to 20 movements per day.

Swale Transport Strategy

34. Whilst it would be difficult to justify refusing this planning application on the basis of 20 vehicle movements per day (10 in/10 out), Members will already be aware from previous reports to their committee, that there are ongoing concerns relating to traffic impacts on the Grovehurst roundabout/A249 junction. Those concerns continue to be reflected in comments received from Iwade Parish Council, as well as from local residents at Kemsley Fields. Notwithstanding there being no objection from KHT, Highways England and the Borough Council in relation to this particular application, I am aware that a transportation strategy is being developed by the Borough Council which seeks to address the broader transport issues in the Swale area generally and that matters concerning the future long term impacts on the Grovehurst junction are to be considered and addressed as part of this strategy. I would therefore anticipate that wider solutions to the local road infrastructure will be promoted separately in this regard.

Air Quality

35. In relation to air quality, the NPPF states that the planning system should contribute to conserving and enhancing the environment and reducing pollution by: preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability[2]. Whilst air quality is a material planning consideration in relation to this proposal, there is inevitably likely to be some cross-over with the need for the Applicant to secure an Environmental Permit (EP) from the Environment Agency. The NPPG advises that assessments should be proportionate to the nature and scale of the proposed development and the level of concern about air quality. In this case a number of concerns are raised in relation to air quality and therefore consideration needs to be given to whether the proposed development could lead to an unacceptable risk from air pollution, prevent sustained compliance with EU limit values or national objectives for pollutants or fail to comply with the requirements of the Habitats Regulations.

36. The applicant has submitted an Air Quality Assessment which assesses the cumulative impacts of emissions both during the site construction stage and at full operational capacity. It provides within it the mitigation measures that have been incorporated into the design proposals, in order to minimise the potential adverse impacts and risk associated with the proposed development. The assessment considers whether adverse air quality impacts are likely to arise and draws conclusions as to whether these are significant.

Site Construction

37. The applicant identifies within the assessment any likely effects on air quality from dust generated at the construction stage and at the point when site clearance works would take place (from materials handling and removal etc.). The applicant states that

[2] Para 109, NPPF

the effects of construction related dust are likely to be limited to areas downwind within 200m of the site. They propose a number of mitigation measures, which would form part of a construction environmental management plan (CEMP) which would be submitted prior to the commencement of any work on site. Those mitigation measures are set out below.

Proposed mitigation to be included within a CEMP:

Communications	• Display the name and contact details of person(s) accountable for air quality and dust issues on the site boundary. This may be the environmental manager/engineer or the site manager; and • display the head or regional office contact information.
Construction Environmental Management Plan	• Develop and implement a CEMP approved by the Local Authority which documents the mitigation measures to be applied, and the procedures for their implementation and management.
Site Management	• Record all dust and air quality complaints, identify cause(s), take appropriate measures to reduce emissions in a timely manner, and record the measures taken; • make the complaints log available to the local authority when asked; and • record any exceptional incidents that cause dust and/or air emissions, either on- or off- site, and the action taken to resolve the situation in the log book.
Monitoring	• Carry out regular site inspections to monitor compliance with the CEMP, record inspection results, and make an inspection log available to the Local Authority when asked; and • increase the frequency of site inspections by the person accountable for air quality and dust issues on site when activities with a high potential to produce dust area being carried out and during prolonged dry or windy conditions.
Preparing and Maintaining the Site	• Plan the site layout so that machinery and dust-causing activities are located away from receptors, as far as is possible; • erect solid screens or barriers around dusty activities or the site boundary that are as at least as high as any stockpiles on site; • fully enclose site or specific operations where there is a high potential for dust production and the site is active for an extensive period; • avoid site runoff of water or mud; • keep site fencing, barriers and scaffolding clean using wet methods; • remove materials that have a potential to produce dust from site as soon as possible, unless being re-used on site. If they are being re-used on-site cover as described below; and • cover, seed, or fence stockpiles to prevent wind whipping.
Operating Vehicle/Machinery and Sustainable Travel	• Ensure all vehicles switch off their engines when stationary – no idling vehicles; • avoid the use of diesel- or petrol-powered generators and use mains electricity or battery-powered equipment where practicable; and • impose and signpost a maximum-speed-limit of 15 mph on surfaced and 10 mph on un-surfaced haul roads and work areas (if long haul

	routes are required these speeds may be increased with suitable additional control measures provided, subject to the approval of the nominated undertaker and with the agreement of the local authority, where appropriate).
Operations	• Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques such as water sprays or local extraction, e.g. suitable local exhaust ventilation systems; • ensure an adequate water supply on the site for effective dust/particulate matter suppression/mitigation, using non-potable water where possible and appropriate; • use enclosed chutes, conveyors and covered skips; • minimise drop heights from conveyors, loading shovels, hoppers and other loading or handling equipment and use fine water sprays on such equipment wherever appropriate; and • ensure equipment is readily available on site to clean any dry spillages, and clean up spillages as soon as reasonably practicable after the event using wet cleaning methods.
Waste Management	• Avoid bonfires and burning of waste materials.
Measures Specific to Construction	• Avoid scabbling (roughening of concrete surfaces), if possible; and • ensure sand and other aggregates are stored in bunded areas and are not allowed to dry out, unless this is required for a particular process, in which case ensure that appropriate additional control measures are in place.
Measures Specific to Trackout	• Avoid dry sweeping of large areas; • ensure vehicles entering and leaving sites are covered to prevent escape of materials during transport; • record all inspections of haul routes and any subsequent action in a site log book; and • implement a wheel washing system (with rumble grids to dislodge accumulated dust and mud prior to leaving the site where reasonably practicable).

38. Amey, the County Council's consultants on air quality matters have considered the mitigation measures proposed, against the latest guidance published by the Institute of Air Quality Management (IAQM). They confirm that the supporting information is a robust assessment of the potential risk of nuisance from dust and PM10 during construction works, identifying dust risk to be negligible provided the mitigation measures proposed are fully adhered to. I am therefore satisfied that provided these measures are adopted and appropriately conditioned, the residual effects at the construction phase would be insignificant.

Operational Phase

39. With regard to the potential impacts at the operational phase, it is proposed that on-site operations would be contained within a fully enclosed building which I would fully support.

40. An atmospheric dispersion modelling study has been undertaken which assesses the impact of any releases from the 30m high discharge stack of the proposed development. The study comprised two main elements:

    ii) the preliminary stack height screening assessment, the purpose of which was to determine a suitable stack height by modelling worst case emission scenarios for a range of stack heights; and
    ii) the modelling study, the purpose of which was to determine the impact of emissions from the proposed plant for the selected height.

41. The study compared the maximum predicted ground level concentrations of emissions at various sensitive receptors including Swale Way, Kemsley and Kemsley Primary School. These were also compared against ecosystems and vegetation limits in respect of the nearby areas designated for their national and internationally recognised ecological importance. The study also took into account the cumulative effects of the proposed development in combination with other existing and proposed developments in the area. In order to define baseline conditions against which any additional impacts could be assessed it was assumed that all of the other existing and proposed developments were operational simultaneously. A worse case approach to the atmospheric dispersion model was therefore adopted.

42. The study concluded that the proposed facility would not exceed short-term or long-term air quality standards. In addition, at the nearest residential sensitive receptors located approximately 200 metres to the south of the site the predicted pollutant ground level concentrations were less than the maximum predicted levels. Maximum predicted pollutant ground level concentrations were also found not to exceed the limit values for the protection of ecosystems and vegetation.

43. As already mentioned, whilst the operator would need to secure an Environmental Permit which would set out very strict controls over the operation of the facility, mitigation measures include ongoing monitoring to ensure that pollutant levels remain strictly within the set limits and monitoring equipment would be used to trigger a plant shutdown should air emissions be exceeded in accordance with the EP conditions.

44. The Environment Agency (EA) has been consulted on the planning application and has subsequently received a Permit application, the content of which they have had regard to in informing the County Council of their formal views on the planning applcation. The EA has raised no objections in relation to stack emissions. Irrespective of whether planning permission is granted the applicant would not be able to operate the facility until such times as he obtains a Permit from the EA. I am therefore satisfied that with regard to stack emissions appropriate controls would be put in place to ensure there would be no adverse cumulative effects as a result of this proposal.

Noise

45. The NPPF states[3] that planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

46. Planning authorities should take account of the acoustic environment and consider whether or not a significant adverse effect is occurring or likely to occur, whether or not an adverse effect is occurring or likely to occur, and whether or not a good standard of amenity can be achieved[4]. The Noise Policy Statement for England (NPSE) sets out the Government's long-term vision to 'promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development' which is supported by the following aims:

- Avoid significant adverse impacts on health and quality of life;
- Mitigate and minimise adverse impacts on health and quality of life.

47. The NPSE defines the following concepts as:

- SOAEL - significant observed adverse effect level' as the level above which significant adverse effects on health and quality of life occur;
- LOAEL - Lowest Observable Adverse Effect Level; and
- NOEL - No Observed Effect Level.

48. In general terms it is considered that a noise impact with an effects level which is lower than SOAEL is acceptable (providing the effect is mitigated to a minimum).

49. The proposed site is located off Barge Way to the north of Sittingbourne and is within the existing Kemsley Business Park. The Business Park itself includes within it development which is operational on a 24 hour basis and would sit alongside the main route in and out of the existing Ridham Industrial Estate for HGV traffic. Residential properties are located to the south of the site. Industrial premises are sited to the south-east, east and north-west of the proposed site. Coldharbour Marshes SSSI lies more than 500m to the north with the Swale SSSI over 1 km away to the east. The

[3] Para 123, NPPF
[4] Planning Practice Guidance

nearest residential properties to the proposed development are located to the south of Swale Way approximately 200 m to the south of the southern site boundary (see Figure 4 below).

50. A noise impact assessment has been undertaken which assesses the potential noise impact associated with the construction and operation of the proposed development. Typically the assessment considers the potential effects resulting from both the construction and operational stages of the proposal and whether any mitigation measures are likely to be required in the event that planning permission is granted.

Construction Phase

51. The applicant considers that activities associated with the construction of the proposed buildings and 30m high stack could be likely to give rise to noise and /or vibration impacts.

52. The applicant estimates that there would be 2 HGV deliveries (4 movements) per hour associated with construction and specifies that construction operations would take place during the hours of 07.30 – 19.00 Monday to Friday and 07.30 – 17.30 on Saturday and Sunday.

53. The Applicant has used BS5228 which provides guidance of the assessment of construction noise relative to the existing ambient noise level.

Period of Assessment	Category A	Category B	Category C
Evenings & weekends (Saturday 13.00 – 23.00 & Sunday 07.00 – 23.00)	55	60	65
Daytime (07.00 – 19.00) and Saturdays (07.00 – 13.00)	65	70	75

Table 2: Construction Noise Threshold of Significant Effect
(Noise Impact Assessment)

54. The Category A threshold is to be used when ambient noise levels are less than the Category A values. Category B threshold values are to be used when ambient noise levels are the same as the Category A values and Category C is used when ambient noise levels are higher than the Category A values. If the total noise level (ambient plus construction noise) exceeds the appropriate category threshold value, then a significant effect is deemed to occur.

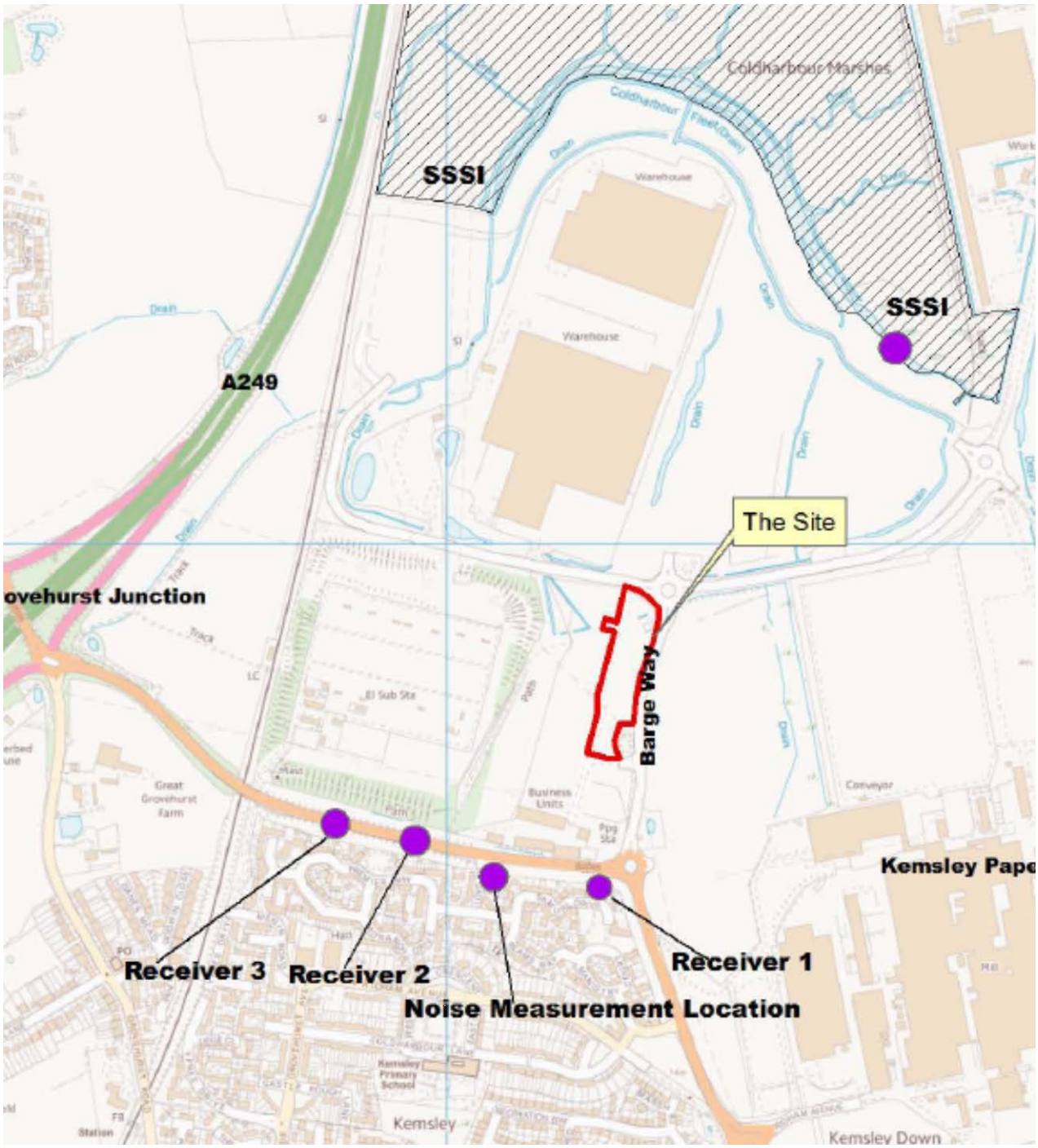

Figure 4: Noise Receptor Locations

55. Construction noise levels have been predicted for the nearest sensitive receptors. The calculations, summarised below, assume the construction works are at the closest point to the receptor. The applicant considers that construction noise levels would reduce as workings move further away from the receiver point. It is assumed that

during construction works a hoarding would surround the site boundary and would consist of a close boarded fence with a minimum surface density of 12kg/m^2 and an overall height of 2m.

Phase	Receptor & Construction Noise Level, dB $L_{Aeq, 1 hour}$			
	Receiver 1	Receiver 2	Receiver 3	SSSI
Months 1 – 5	50	47	43	45
Month 2 during piling	50	47	44	46
Months 6-7 & 10-14	48	45	41	43
Months 8 & 9	49	46	42	44
Months 15-17	49	46	43	44

Table 9: Summary of Calculated Construction Noise Levels
(Noise Impact Assessment)

56. The average hourly ambient noise level at the nearest residential property is 61 dB L_{Aeq} during the weekday period (including Saturday morning) and 58 dB L_{Aeq} at the weekend. A threshold of significant effect of 65 dB for construction noise has been derived using these figures and the criteria given in Table 2.

57. The total noise level including ambient and construction noise would be approximately 61 dB during the week and 59 dB at weekends. These values are well below the threshold value of 65 dB therefore construction noise is considered to be acceptable.

58. Mitigation measures and general best practice proposed include the following:

- Careful selection of working methods and programme;
- Selection of quietest working equipment;
- Use of regular maintained and appropriately silenced equipment;
- Shutting down of equipment when not in use i.e. maintain a no idling policy;
- Positioning of equipment behind physical barriers, i.e. existing features, hoarding etc;
- Direction of noise emissions from plant including exhausts or engines away from sensitive locations;
- Handling all materials in a manner which minimises noise;
- Switch all audible warning systems to the minimum setting required by the Health and Safety Executive; and
- The implementation of a Construction Environment Management Plan (CEMP)

59. Having regard to the conclusions of the assessment on construction noise impacts and provided those measures proposed and set out above are employed at the site during construction of the facility I am satisfied that noise levels would be below the

threshold of significant effect and are therefore acceptable in planning terms. Construction vibration levels would not be significant.

Operational Phase

60. The applicant's assessment considers the level of noise associated with normal operation of the plant (operational on a 24 hour basis), including those associated with HGV deliveries (which would be restricted to between the hours of 0700 and 1900 on weekdays and 0730 and 1730 at weekends). An assessment of noise levels has been carried out in accordance with BS4142 and has been carried out for both weekly and weekend operations. See tables 7 and 8 below:

	Noise Level, dB		
	Receiver 1	**Receiver 2**	**Receiver 3**
Daytime (07.00 – 19.00)			
Representative Background Sound Level	55 dB $L_{A90,15\ min}$	55 dB $L_{A90,15\ min}$	55 dB $L_{A90,15\ min}$
Specific Source Noise Level	43 dB $L_{Aeq,\ 1\ hour}$	40 $L_{Aeq,\ 1\ hour}$	39 $L_{Aeq,\ 1\ hour}$
Rating Sound Level	48 dBA	45 dBA	44 dBA
BS 4142 Assessment Level	-7 dB	-10 dB	-11 dB
Evening (19.00 – 23.00)			
Representative Background Sound Level	45 dB $L_{A90,15\ min}$	45 dB $L_{A90,15\ min}$	45 dB $L_{A90,15\ min}$
Specific Source Noise Level	36 dB $L_{Aeq,\ 1\ hour}$	37 $L_{Aeq,\ 1\ hour}$	38 $L_{Aeq,\ 1\ hour}$
Rating Sound Level	36 dBA	37 dBA	38 dBA
BS 4142 Assessment Level	-9 dB	-8 dB	-7 dB
Nighttime (23.00 – 07.00)			
Representative Background Sound Level	39 dB $L_{A90,15\ min}$	39 dB $L_{A90,15\ min}$	39 dB $L_{A90,15\ min}$
Specific Source Noise Level	36 dB $L_{Aeq,\ 15\ min}$	37 $L_{Aeq,\ 15\ min}$	38 $L_{Aeq,\ 15\ min}$
Rating Sound Level	36 dBA	37 dBA	38 dBA
BS 4142 Assessment Level	-3 dB	-2 dB	-1 dB

Table 7: weekday BS 4142 Noise Impact Assessment
– plant operation and daytime HGV deliveries

	Noise Level, dB		
	Receiver 1	**Receiver 2**	**Receiver 3**
Daytime (07.00 – 19.00)			
Representative Background Sound Level	49 dB $L_{A90,15\ min}$	49 dB $L_{A90,15\ min}$	49 dB $L_{A90,15\ min}$
Specific Source Noise Level	43 dB $L_{Aeq,\ 1\ hour}$	40 $L_{Aeq,\ 1\ hour}$	39 $L_{Aeq,\ 1\ hour}$
Rating Sound Level	48 dBA	45 dBA	44 dBA
BS 4142 Assessment Level	-1 dB	-4 dB	-5 dB
Evening (19.00 – 23.00)			
Representative Background Sound Level	43 dB $L_{A90,15\ min}$	43 dB $L_{A90,15\ min}$	43 dB $L_{A90,15\ min}$
Specific Source Noise Level	36 dB $L_{Aeq,\ 1\ hour}$	37 $L_{Aeq,\ 1\ hour}$	38 $L_{Aeq,\ 1\ hour}$
Rating Sound Level	36 dBA	37 dBA	38 dBA
BS 4142 Assessment Level	-7 dB	-6 dB	-5 dB
Nighttime (23.00 – 07.00)			
Representative Background Sound Level	40 dB $L_{A90,15\ min}$	40 dB $L_{A90,15\ min}$	40 dB $L_{A90,15\ min}$
Specific Source Noise Level	36 dB $L_{Aeq,\ 15\ min}$	37 $L_{Aeq,\ 15\ min}$	38 $L_{Aeq,\ 15\ min}$
Rating Sound Level	36 dBA	37 dBA	38 dBA
BS 4142 Assessment Level	-4 dB	-3 dB	-2 dB

Table 8: Weekend BS4142 Noise Impact Assessment
– Plant operations and daytime HGV deliveries

61. The assessment indicates that in the worst case which is during the weekends when waste deliveries are taking place at the site between the hours of 0700 to 1900, the difference between the BS4142 rating sound level and the representative background sound level would be no greater than -1dBA. Whilst I am mindful that such hours extend beyond those normally associated with weekend operations, in my view on the basis of the noise levels predicted they would not result in any adverse effect on the local amenity.

62. The assessment indicates that for operation of the plant, the level of noise impact at the nearest properties would have a low noise impact (as defined in BS 4142). It concludes that the level of noise impact would be around Lowest Observed Adverse Effects Level, as defined in the Noise Policy Statement for England and the National Planning Practice Guidance.

63. The County Council's noise advisor AMEY has been consulted on the application and advises that on the basis of the information submitted in support of the proposal the proposed development is unlikely to result in any adverse impacts on the nearest residential receptors and therefore no objection is raised to the application on noise grounds. In my view having regard to the conclusions of the Noise Assessment and the comments made by Amey I do not consider there are any overriding noise objections to the proposal.

Nature Conservation and Ecology

64. Paragraph 118 of the NPPF advises that when determining planning applications, authorities should aim to conserve and enhance biodiversity, making particular reference to the need to ensure that development on land (in this case outside) a SSSI is not likely to have an adverse effect either individually or in combination with other developments. In addition protection is also afforded to the nearby SPAs and Ramsar sites.

65. Whilst the site itself is not covered by any statutory nature conservation designations it lies close to habitats which form part of the Swale SSSI and the Medway Estuary and Marshes SSSI. These SSSIs are part of the Swale SPA and Ramsar Site and the Medway Estuary and Marshes SPA and Ramsar Site.

66. Neither the County Council's Biodiversity Officer nor Natural England (NE) has raised an objection to the proposal. The County Council as the 'Competent Authority' consider that having undertaken an Appropriate Assessment in accordance with the Habitats Regulations, there would be no likely significant adverse effect upon the Swale SPA and Ramsar. NE now confirm that based on the information contained in the application it is their view that the proposal is not likely to have a significant effect on the Swale SPA and Ramsar Site, either alone or in-combination with other plans and projects in the area. A record of the County Council's Appropriate Assessment is included at appendix A.

Reptiles

67. Suitable reptile habitat was identified on the planning application site following the extended Phase 1 habitat survey undertaken in August 2014. These habitats included semi-improved grassland, scrub, rubble piles and scattered logs etc. A small number of artificial reptile refugia and partially erected Great Crested Newt/reptile drift fencing was observed along the eastern and northern site boundaries indicating that reptiles may have previously been recorded on site. A reptile survey was therefore recommended.

68. A survey was undertaken between September and October 2014 and a low population of slow worms and common lizards were recorded on site. In addition, the juvenile common lizards found, indicates that a breeding population is present. The slow worms were concentrated to the northern end of the site, and the lizards were mostly found around the edges, however the habitat was considered suitable to support reptiles across the site. No grass snakes were recorded during the survey however

habitat suitable to support grass snakes was recorded on and immediately adjacent to the site including the semi-improved grassland and ponds.

69. In order to facilitate the proposed development the Applicant confirms that the habitats identified as being suitable to support reptiles would be lost as a result of the proposed development, therefore to ensure their ongoing protection it is proposed that reptiles be translocated to a suitable off-site receptor area prior to the commencement of any works taking place on site.

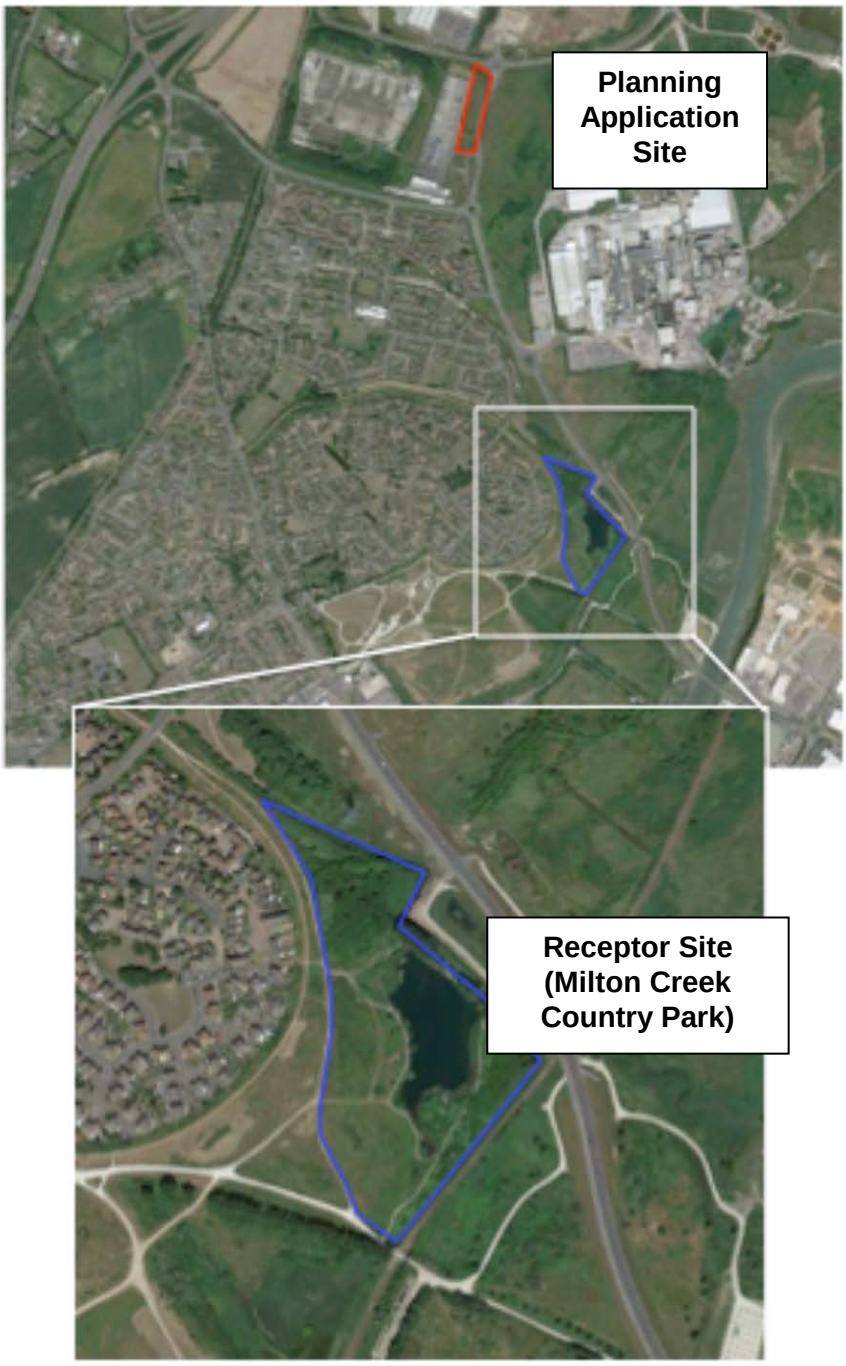

Figure 6: Proposed Receptor Site

70. The receptor site, land at Milton Creek Country Park, is located to the south of the planning application site (see Figure 6 above). In consultation with the County Council's Biodiversity officer, the applicant has provided a reptile mitigation strategy and translocation methodology, along with sufficient evidence to demonstrate that the site has sufficient carrying capacity to enable translocation. Given the application site's location within the existing business park it offers limited carrying capacity for protected species, therefore it is considered that for the long term health of the existing reptile population their translocation to an alternative site would be beneficial. In this case, given the site's location and limited opportunity to provide connectivity, I fully concur with the views of the County Council Biodiversity Officer who is fully supportive of their translocation to off site. In the event that Members resolve to grant planning permission, the off-site receptor area at Milton Creek County Park, would need to be secured by way of a separate section 106 legal agreement (see appendix B for agreed Draft Heads of Terms). In addition I would recommend that any permission should include a planning condition requiring the applicant to carry out development in accordance with the submitted Reptile and Amphibian Method Statement.

Biodiversity Enhancements

71. The Applicant is proposing to manage and maintain a biodiversity area which is situated to the north of the application site. It is proposed that this area would be enhanced to increase its value for reptiles and wildlife in general (see Figure 7 below). It would encompass an area of c. 0.17 ha that currently comprises scrubby grassland that is of a moderate to high value for sheltering reptiles, with an additional c. 0.07 ha of land that would provide sufficient work space during construction works. This would be returned as wildlife space following construction activities and would improve the suitability and value of this habitat for wildlife.

Figure 7: Biodiversity area enhancement proposals: earth bund, SUDS wildlife pond with marginal grassed area and hibernacula creation.

72. The County Council's Biodiversity Officer is fully supportive of the proposal to create a biodiversity area to the north of the site provided any works are carried out in accordance with the reptile and amphibian method statement submitted in support of the planning application.

73. I therefore consider that the proposal is fully consistent with the objectives as set out in the NPPF which seeks within it opportunities to gain biodiversity enhancements. I also consider that this meets the objectives of development plan policy W21 of the KWLP and policies SP2, E12 of the Borough Local Plan.

Landscape & Visual Impact

74. Section 11 of the NPPF requires the planning system to contribute to and enhance the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes, geological conservation interests and soils as well as recognising the wider benefits of ecosystem services[5].

75. The proposed development site is situated to the north of Sittingbourne within the Kemsley Business Park Complex, an area composed of a number of large industrial buildings some of which incorporate high chimney stacks namely Kemsley Paper Mill located to the east and the recently constructed MVV waste to energy plant located to the north west. These together with a number of pylons which cross the area to the north, west and east contribute to the overall character of the landscape. The wider surrounding landscape primarily consists of relatively flat agricultural land with an area of higher ground to the west. The channel of the Swale with its associated mudflats and marshes runs to the north and east of the proposed site. The Medway Estuary & Marshes SSSI & Ramsar site and Elmley NNR both partially lie within 2 km of the site.

76. The planning application site is not covered by any national, regional or local landscape designations therefore any associated impacts would be experienced at a local level. The landscape value of the National Character Area and Local Character Areas is considered to be medium. The value of the setting of the SAMs (Scheduled Ancient Monument) and also the SSSI / NNR would be experienced at the local level, so the value of these receptors is considered to be medium. The value of the site elements / setting is considered to be low as land cover is primarily industrial.

77. The applicant has undertaken a landscape impact assessment, which includes a visual assessment of the proposed 30m discharge stack, having regard to policies SP2 and E9 (protection of the Borough's local environment and quality, character and amenity value) of the Borough Local Plan and policies W10 (proposals should not create an adverse impact) and W25 (design considerations of plant and buildings) of the KWLP.

78. The Applicant states early on in the planning application that the site subject of this proposed development is, at just 1.8ha, therefore relatively constrained in its size. Notwithstanding this, careful consideration has been given as to how the development

[5] Para 109, NPPF

might contribute positively to the wider area in landscape terms. The planning application therefore makes provision for the following:

- All new buildings and structures are proposed to be lower than the height of the surrounding buildings, with the exception of the 30m stack.
- Vertical surfaces would be timber clad in a natural finish or where this is not possible box metal sheets in juniper green
- The stack would be a graduated grey

79. In addition the applicant is proposing the establishment of a green roof and habitat structure as an integral part of the building design, the establishment of new landscaped boundaries (scrub with native cherry trees), a large detention basin with marginal planting, natural grassland mixes and a structure of reed-lined scrapes and fruiting hedges (defined within the Planting Plan proposals drawing 705 100 P Rev A).

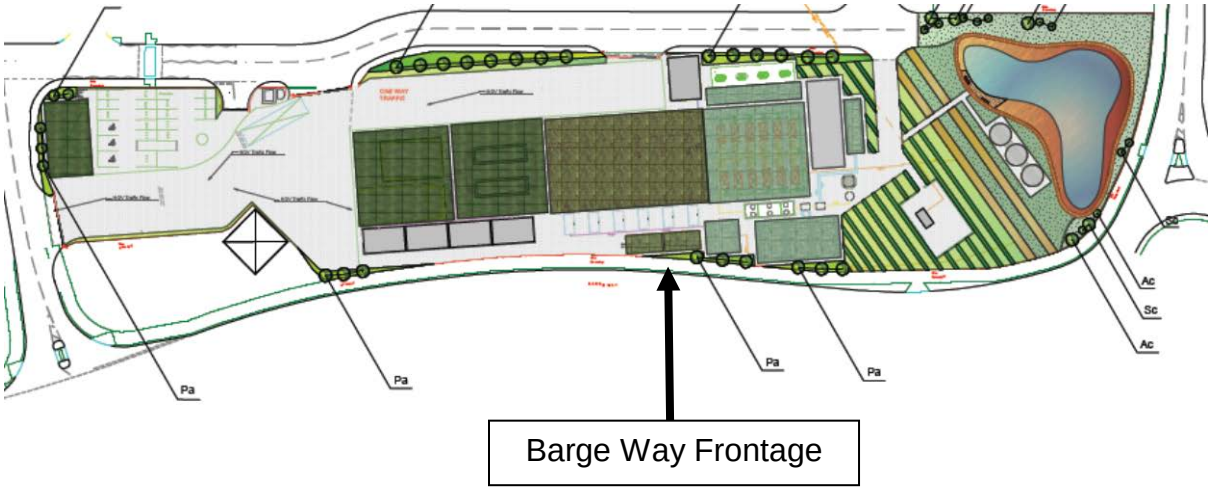

Figure 8: Extract taken from Drawing Number: 705 100 P Rev A

80. All existing hedgerows, trees and water features would be retained as part of the proposals and protected as necessary during the construction period.

81. The applicant's Landscape and Visual Impact Assessment (LVIA) considers the overall importance of landscape effects and a judgement of the potential magnitude of change associated with the proposed development. The results are included in the table below (see Table 1 of the LVIA) with potential receptors identified in column 1. The LVIA describes the proposed development as having a large degree of influence on site character so the magnitude of change is therefore assessed within it as high/adverse on the overall site character with an overall significance of moderate in year 1 and minor in year 15 as the proposed landscape structure matures. However, it is considered that, the successful establishment of a green roof and habitat structure on the site has the potential to provide a positive new feature in the local landscape.

82. The Borough Council, having recently granted permission for other major developments in the area, has sought to improve the area visually. Landscaping proposals therefore appear to have been integral to those developments (including the Morrison's distribution centre). Whilst the Borough Council have not raised any objection to the proposed development in principle, they have requested that consideration be given to the provision of a 5m wide landscape strip along the Barge Way frontage. The applicant has considered ways in which this could be accommodated, however given the sites limited size it has not been able to find a suitable solution which would allow for additional landscaping without compromising the site layout and its practical day to day operation and efficiency. The applicant has however suggested that a 'living fence' could be provided along the Barge Way frontage.

Landscape receptor	Representative photograph location	Landscape Value	Landscape Condition (for LCAs As defined by the Swale SPD)	Sensitivity (for LCAs as defined by the Swale SPD)	Magnitude of change	Importance of effects (yr 1)	Residual importance (yr 15)
NCA 81 Greater Thames Estuary	N/A	M	N/A	N/A	Negligible / Adverse	Negligible	Negligible
Swale LCA 24 Iwade Arable Farmlands	2,3 & 8	M	Poor	M	Low/Adverse	Minor	Negligible
Swale LCA 25 Lower Halstow Clay Farmlands	4 & 7	M	Moderate	H	Low/Adverse	Negligible	Negligible
Swale LCA 1 Chetney & Greenborough Marshes	5	M	Good	H	Low/Adverse	Minor	Negligible
Swale LCA 2 Elmley Marshes	6	M	Good	H	Low/Adverse	Minor	Negligible
Swale LCA 31Teynham Fruit Belt	9 & 10	M	Moderate	M	Negligible / Adverse	Negligible	Negligible
Swale LCA 14 Elmley Island	6	M	Good	H	Low/Adverse	Minor	Negligible
Setting of Murston Old Church SAM	N/A	M	N/A	M	No effect	None	None
Setting of Castle Rough SAM	N/A	M	N/A	M	No effect	None	None
Setting of WW11 Gunsite SAM	4	M	N/A	L	Low/Adverse	Negligible	Negligible
Setting of the Medway Estuary & Marshes SSSI	5&6	M	Good	M	Low/adverse	Minor	Negligible
Setting of the Elmley NNR	6	M	Good	M	Low/Adverse	Minor	Negligible
Overall site character	1,2	L	N/A	L	High/Adverse	Moderate	Minor

Table 1: Overall Importance of Landscape Effects

83. The County Council's Landscape Officer has been consulted on the proposed development and is supportive of the building design and materials chosen including the stack which would be graduated grey, along with the green roof proposed. Whilst it is recognised that the proposed site is limited in its size, support is also given to the inclusion of a 'living fence' alongside some minor revisions to the species proposed as part of the landscaping scheme. I concur with the Landscape Officer's view that the LVIA submitted by the applicant is appropriate in detail for this scheme and that the plant design including the stack reflects similar features of other industrial buildings in the area and therefore suitably accounts for the character of the landscape of the area. In the event that Members are minded to grant planning for this proposal I would therefore recommend that a planning condition be imposed requiring the applicant to submit a revised landscaping scheme which includes details of a living fence along the Barge Way frontage prior to the commencement of any development.

Employment

84. The site falls within an area identified by the Borough Council for employment. The applicant estimates that some 20 jobs would be generated directly on site and numerous others associated with the construction phase and anticipates Brunel University to be involved with the project from a research and development aspect in the event that planning permission is granted. It also remains a priority of the Government to promote sustainable economic growth and jobs, and as a fundamental means to achieve this considers the planning system has a key role to play by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. Government's clear expectation therefore is that there should be a strong presumption in favour of development except where this would compromise the key sustainable development principles set out in national planning policy. In my view this proposal meets the requirements of Policy B2 of the Swale Borough Local Plan, which supports employment opportunities in the area.

Conclusion

85. The proposed development in my view supports the Government's objective to move towards a zero waste economy. The NPPW retains many of the key messages set out in the (now replaced) PPS10 which recognises the need to drive waste management up the waste hierarchy recognising that there is a need for a mix of types and scale of facilities.

86. Policy exists at both the national, regional and local levels which give support in principle for the establishment of the type of facility which seeks alternative waste management solutions to landfill disposal. These include facilities where waste is recovered as a resource to produce energy. Such objectives also support the aim of how planning should contribute towards the achievement of sustainable development by reducing the carbon footprint.

87. There is strong planning policy support for renewable energy generating development and Government Guidance indicates that local planning authorities should promote and encourage development of renewable energy resources to address climate change. The wider environmental and economic benefits of proposals for renewable energy projects are material considerations that should be given significant weight in determining whether proposals should be granted planning permission.

88. This proposal in my view is fully consistent with government policy which considers planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

89. Policy EN3 of the National Policy Statement for Renewable Energy Infrastructure supports electricity generation from renewable sources of energy and states that this is an important element in the Government's development of a low-carbon economy. In my opinion this proposal is fully consistent with adopted Government policy and would help contribute towards securing the country's future energy supply consistent

with the principles of sustainable development as set out in the NPPF and the guidance set out in the NPPG.

90. I am satisfied that on the basis of consultee responses and in particular having regard to the conditions that would be imposed on any future permission, the development could take place such that there would be no adverse cumulative impacts on the local environment. In my opinion the proposal is fully consistent with Government Policy and Guidance together with those relevant development plan policies applying to the site as set out under paragraphs 11 to 13 above. It is also in my view consistent with the emerging policies set out in the KMWLP (see paragraph 14 above) which are founded on the principles of sustainable development as advocated in the NPPF.

91. Government Guidance encourages LPAs to work proactively with applicants to secure sustainable development and as a means of achieving this considers planning has an important role in the delivery of new renewable and low carbon energy infrastructure. Accordingly I recommend that permission be granted for the proposed development.

Recommendation

92. Accordingly I RECOMMEND that SUBJECT TO the satisfactory completion of a Legal Agreement to secure the translocation of protected species from the site to an offsite receptor site that PERMISSION BE GRANTED SUBJECT TO conditions covering amongst other matters;

- Tonnages to be restricted to 48,000 per annum
- restriction on daily vehicle movements
- details of parking for site personnel / operatives / visitors to be submitted
- vehicle parking and turning space details shall be provided,
- precautions to guard against the deposit of mud and similar substances on the public highway.
- The access details to be completed prior to the commencement
- Deliveries shall be restricted to the following times: 0700-1900 Monday to Friday and 07:30-17:30 on Saturday and Sunday;
- Construction operations would take place during the hours of 07.00 – 19.00 Monday to Friday and 07.30 – 17.30 on Saturday and Sunday.
- a remediation strategy shall be submitted if contamination is found present at the site
- Dust mitigation measures to be secured as per section 6.1.2 of the Dust Assessment received 13 April 2015 and included in the CEMP
- noise limit restrictions
- all materials to be handled within an enclosed building
- The installation of a 1.8m high noise barrier along the southern site boundary before the beginning of the operation of the proposed facility;
- A 2m high noise barrier surrounding the site boundary for the duration of the construction works
- submission of a revised landscaping scheme

- Results of reptile monitoring is submitted to the LPA as set out in the Revised *Reptile & Amphibian Method Statement* received don 12 June 2015

APPENDIX A

APPROPRIATE ASSESSMENT
CONSERVATION OF HABITATS AND SPECIES REGULATIONS ASSESSMENT

RECORD OF APPROPRIATE ASSESSMENT (UNDER REGULATION 61 OF THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010)

INTRODUCTION

This is a record of the Appropriate Assessment of the Land off Barge Way, Kemsley project. The assessment has been undertaken by Kent County Council based on the information provided by 4Evergreen Technologies LTD within the planning application (ref KCC/SW/0010/2015). This assessment is required under Regulation 61 of the Conservation of Habitats and Species Regulation 2010.

In accordance with The Conservation of Species and Habitats Regulations 2010 (as amended), Kent County Council as a 'competent authority' under the Regulations, has to be satisfied that the project will not cause an adverse effect to the integrity of any European designated site before it can grant permission for the works.

DOCUMENTS REVIEWED TO INFORM THIS ASSESSMENT

This record should be read in conjunction with the following documentation and correspondence, which provides extensive background information:

- Noise Impact Assessment – Additional Information; dated 18th March; 24 Acoustics
- Information to Support an Assessment under Reg 61 of the Habitat and Species Regulations 2010; Dated 28th April 15; Argus Ecology
- Ecological Assessment of Air Quality Impacts; Dated 28th April 15; Argus Ecology;
- Air Quality Assessment of Heavy Duty Vehicles Emissions from the proposed Garden of England Energy facility; Dated April 2015; 4 Evergreen Technologies
- Design and Access Statement; December 2014; 4 Evergreen Technologies
- Natural England advice letter dated 29th May 2015

ASSESSMENT OF LIKELY SIGNIFICANT EFFECT ON INTEREST FEATURES OF EUROPEAN DESIGNATED SITES

Natural England advised Kent County Council on 29th May 2015 that the project was unlikely to have a significant effect on the interest features for which the Medway Estuary and Marshes and the Swale Special Protection Area and Ramsar site have been classified.

Natural England advised that as the proposal is not necessary for the management of the European site Kent County Council need to demonstrate that the requirements of Regulations 61 and 62 of the Habitat Regulations have been considered when determining the planning application.

The table below sets out the qualifying features of the European site and considers the likely significant effect resulting from the 4Evergreen Technologies Ltd project.

Name of Site	Legal Status	Qualifying Features
Medway Estuary and Marshes	Special Protection Area	This site qualifies under **Article 4.1** of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive: **During the breeding season;** Avocet and Little Tern **Over winter;** Avocet This site also qualifies under **Article 4.2** of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species: **On passage;** Ringed Plover **Over winter;** Black-tailed Godwit, Dark-bellied Brent Goose, Dunlin, Grey Plover, Pintail, Redshank, Ringed Plover, Shelduck **Assemblage qualification: A wetland of international importance.** The area qualifies under **Article 4.2** of the Directive (79/409/EEC) by regularly supporting at least 20,000 waterfowl Over winter, the area regularly supports 65,274 individual waterfowl (5 year peak mean 1991/2 - 1995/6) including: Little Grebe, Dark-bellied Brent Goose, Shelduck Pintail, Ringed Plover, Grey Plover, Dunlin, Avocet, Redshank, Curlew, Great Crested Grebe, Cormorant, Wigeon, Teal, Oystercatcher, Lapwing, Black-tailed Godwit, Whimbrel. Full details can be found here: http://jncc.defra.gov.uk/default.aspx?page=2043
Medway Estuary and Marshes	Ramsar – *Ramsar sites are not designated under European Law but are protected under international agreement (Ramsar Convention) which provides for the conservation and good use of wetlands, and are treated in the UK in the same way as European designated sites with regards to the Appropriate Assessment.*	The site meets the following Ramsar Criterion: Ramsar criterion 2 *The site supports a number of species of rare plants and animals.* Ramsar criterion 5 *Assemblages of international importance:* *Species with peak counts in winter* Ramsar criterion 6 – *species/populations occurring at levels of international importance.* Full details can be found here: http://jncc.defra.gov.uk/pdf/RIS/UK11040.pdf
Swale	Special Protection Area	This site qualifies under **Article 4.1** of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive: **During the breeding season;** Avocet, Marsh Harrier, Mediterranean Gull **Over winter;** Avocet, Bar-tailed Godwit, Golden Plover, Hen Harrier, This site also qualifies under **Article 4.2** of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species: **On passage;** Ringed Plover **Over winter;** Black-tailed Godwit, Grey Plover, Knot, Pintail, Redshank, Shoveler, **Assemblage qualification: A wetland of international importance.** The area qualifies under **Article 4.2** of the Directive

		(79/409/EEC) by regularly supporting at least 20,000 waterfowl Over winter, the area regularly supports 65,390 individual waterfowl (5 year peak mean 1991/2 - 1995/6) including: White-fronted Goose, Golden Plover, Bar-tailed Godwit, Pintail, Shoveler, Grey Plover, Knot, Black-tailed Godwit, Redshank, Avocet, Cormorant, Curlew, Dark-bellied Brent Goose, Shelduck, Wigeon, Gadwall, Teal, Oystercatcher, Lapwing, Dunlin, Little Grebe.
Swale	Ramsar – *Ramsar sites are not designated under European Law but are protected under international agreement (Ramsar Convention) which provides for the conservation and good use of wetlands, and are treated in the UK in the same way as European designated sites with regards to the Appropriate Assessment.*	The site meets the following Ramsar Criterion: Ramsar criterion 2 *The site supports nationally scarce plants and at least seven British Red data book invertebrates.* Ramsar criterion 5 *Assemblages of international importance: Species with peak counts in winter* Ramsar criterion 6 – *species/populations occurring at levels of international importance* Full details can be found here: http://jncc.defra.gov.uk/pdf/RIS/UK11071.pdf

Natural England and the KCC Biodiversity Officer have been formally consulted on the planning application and have provided detailed comments having regard to the sites designation status and having regard to the requirements of Regulation 61 of the Conservation of Habitats and Species Regulations 2010.

Natural England are now satisfied that although, in combination with other developments/sources, the Critical Load will be exceeded at the Swale it is unlikely that it will result in a significant effect on European designated sites. This is because the in-combination assessment is based on all sources operating at maximum capacity and the direction of the wind. The NE response clarifies the reasoning:

The process contribution (PC) from this proposal alone does not breach the maximum Critical Load or Level (CL) for the designated sites. However, as the Predicted Environmental Concentration (PEC) is above 70% of the CL then the applicants have correctly assessed this proposal in combination with other combustion sources.

The in combination assessment has determined that the CL will be exceeded at The Swale, however this assumes that the other in combination sources will all be operating at maximum capacity at the same time; this is unlikely to be the case. Additionally, the location of the other combustion sources in relation to prevailing wind is a relevant factor in determining whether the maximum in combination effect would occur. We do not consider that the maximum amounts modelled would all occur on the same area at the designated site.

CONCLUSION

Kent County Council concludes, that this project alone or in-combination will not have an adverse effect on the integrity of the Medway Estuary and Marshes and the Swale Special Protection Area and Ramsar sites.

APPENDIX B

AGREED DRAFT HEADS OF TERMS

APPENDIX B
DRAFT HEADS OF TERMS

For Agreement in connection with Planning Application KCC/SW/0010/2015 (SW/15/500348) – 4Evergreen Technologies is proposing to install an advanced thermal conversion and energy facility at the Kemsley Fields Business Park to produce energy and heat a project known as the Garden of England Energy Project. The project will involve: construction of new buildings to house the thermal conversion and energy generation plant and equipment; construction of associated offices; erection of external plant including storage tanks; and the erection of a discharge stack

Prior to the issue of the Planning Permission the applicant shall enter into all of the necessary legal agreements required to secure the following matters at no cost to the County Council:

1. Prior to the translocation of protected species from the application site the off-site receptor site (Milton Creek Country Park) shown on Figure 2 of the Reptile and Amphibian Method Statement and Delivery Information document received on 12 June 2015, shall be provided.

2. Habitat management and post-completion monitoring of the receptor site shall be carried out in accordance with the Reptile and Amphibian Method Statement and Delivery Information document received on 12 June 2015.