

**By: Nick Chard, Cabinet Member for Environment, Highways and Waste
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To : Cabinet 14th September 2009

Subject : Kent International Gateway Planning Inquiry

Classification : Unrestricted

Summary

This report updates the report on the Kent International Gateway considered by Cabinet on 30th March 2009, and seeks Cabinet endorsement of the County Council's position at the Planning Inquiry in the light of amendments to the scheme and the expiry of the Kent and Medway Structure Plan.

Background

1 On 30th March 2009 Cabinet considered a report on the planning application for a Strategic Rail Freight Interchange (SRFI), known as the Kent International Gateway, at Junction 8 of M20, and its far reaching implications for transport and planning in Kent. The report sought Cabinet agreement to KCC's appearance at a planning Inquiry to oppose the proposal, the appointment of legal counsel and the retention of technical consultants.

Cabinet resolved :

- (i) that KCC's objections to the Kent International Gateway planning application, and its appearance at a planning enquiry to oppose the proposal be endorsed;
- (ii) the Executive Director, Strategy, Economic Development and ICT be authorised to appoint consultants and counsel as necessary, in consultation with the Cabinet portfolio holder for Regeneration; and
- (iii) the creation of a small reserve to manage expenditure fluctuations arising from the appeal process be noted.

2 Since this resolution the position has progressed in a number of respects :

- 1. Maidstone Borough Council's Planning Committee has considered the proposal
- 2. A date for the Planning Inquiry has been established and KCC has appointed counsel
- 3. KCC has submitted a summary of its case to the Planning Inspectorate
- 4. The Kent and Medway Structure Plan has been replaced by the South East Plan
- 5. The appellant has submitted an amended scheme, and KCC has commented on the changes

3 The purpose of this report is to confirm that Cabinet continues to support the County Council's objections to the KIG proposal, and its appearance at the planning Inquiry in support of Maidstone Borough Council.

Maidstone Borough Council : Planning Committee Resolution

A public meeting of the MBC Planning Committee took place on 7th May, and resolved that

if the Applicant had not appealed on the grounds of non determination, the Council would have refused the application. There are 18 “deemed reasons for refusal” that are similar to KCC’s objections to the planning application as a statutory consultee. These can be seen on the Maidstone Borough Council web site.

The Planning Inquiry

4 The Planning Inquiry is scheduled to begin on 13th October and to last for 8 weeks. KCC has appointed Craig Howell Williams QC, and will present evidence in support of the Borough Council on strategic policy, highways, Public Rights of Way and archaeology. The Inquiry will also consider objections to an Order for the proposed stopping up and diversion of rights of way across the appeal site that has been published by the Department for Environment, Food and Rural Affairs. KCC has objected to this Order because the effect would be to create new routes that are significantly poorer in terms of amenity than those existing.

Summary of the KCC Case

5 KCC has submitted to the Planning Inspectorate a summary of the case it will make at the Inquiry (the Rule 6 Statement). This reflects KCC’s objections to the planning application as a statutory consultee, as summarised in the Cabinet Report of the 30th March (paragraph 10).

6 The main points of the case that KCC will make are summarised in the conclusions to the Rule 6 Statement as follows, and these will be developed by officers under delegated authority through the evidence presented at the Inquiry :

1. KCC intends to support MBC in its objections to the appeal proposal. In that regard it will liaise with the Borough Council in order to reduce the prospect of duplicated evidence.
2. KCC will argue that there are key strategic, environmental and other policy based objections to the proposal that override any argument of need for rail freight interchanges.
3. Moreover, the appeal site is in the wrong location to achieve significant transfer of road freight to rail, and therefore will not achieve reduction of carbon emissions. It will generate additional road traffic on a congested section of M20, contrary to policy.
4. The proposal is not based on sound forecasts of cross Channel rail traffic, or the capture of road traffic to rail, and does not appear to take full account of other proposals for SRFI with which it would need to compete.
5. The additional traffic generated by the KIG proposal would have a severe adverse impact on the town’s highway network, not just in the vicinity of the site access. This traffic would threaten the delivery of the Maidstone BC Local Development Framework.
6. The proposals do not accord with regional, local and strategic policies for the location of major new employment of this type.
7. The proposal would have a severe negative impact on the setting of the AONB and views from it, and is not consistent with current planning policies for landscape protection and visual amenity.

8. The development would be a major extension of the urban area into open countryside, and intrude into the important strategic gap designated to the north of Maidstone.
9. No sufficient assessment of the site's archaeological value has been completed. Moreover, were any fixed remains of significance to be found, the construction and earthworks envisaged would probably mean that they could not be preserved.
10. The close proximity of this major development to residential areas will have a combined impact on the community from noise, visual intrusion, and traffic that would be contrary to planning policy, and the applicable criteria for the location of SRFI's.
11. Other sites are available to meet the identified need for SRFI's in the SRA policy and the South East Plan.
12. For all of these reasons Kent County Council will recommend that the appeal be dismissed.

Kent and Medway Structure Plan

7 Both the Maidstone Committee Report and KCC's Rule 6 Statement refer to the planning policies of the Kent and Medway Structure Plan. Following the adoption of the South East Plan in May 2009, the Structure Plan expired on 6th July 2009, three years after its adoption. It is no longer a part of the development plan, to be considered when decisions are made on major developments. KCC has duties to advise and assist in the context of regional planning although KCC's future statutory role in strategic planning will depend upon legislation currently in Parliament. KCC remains the Highways authority and is the accountable authority for other important, statutory functions for Kent.

8 KCC's objections to the KIG proposal and the Maidstone Borough Committee report therefore also refer to the policies of the South East Plan which is now the statutory strategic plan.

The amended scheme

9 The appellant for the Kent International Gateway submitted supplementary environmental information to Maidstone Borough Council on 3rd July 2009, and published this under the Environmental Impact Assessment Regulations. Representations to Maidstone Borough Council were invited by 7th August.

The main changes proposed to the scheme that KCC noted are :

- the two rail connected warehouse units 01 and 02 have been reduced in size from 171,000 to 141,000 sq m, and warehouse units E and F are replaced with a single unit
- the total quantity of commercial space is reduced from 374,000m² to 300,000m²
- changes have been made to the landscape framework, including retention of the more woodland in the centre of the site
- 2 vehicle lay-bys have been added to help meet the security requirements.
- amendments have been made to the drainage strategy.
- a sedum covered 'green roof' is proposed for the acoustic shield

10 KCC's comments on the amended scheme were agreed by the Cabinet Member for Environment, Highways and Waste as follows :

Traffic and Access

11 KHS still objects to the KIG proposal on the grounds set out in the Kent County Council's Rule 6 Statement. KCC is particularly concerned that the delay in finalising traffic information outlined in that letter could cause difficulties for its highways witness at the Inquiry.

Rail Freight

12 The appellant's submissions state that the background to the development of the rail freight interchange has not been affected by the changes to the scheme, although the total quantity of commercial space would be reduced from 374,000m² to 300,000m². No new information has been provided to alter the County Council's views on this matter.

Landscape and Visual Aspects

12 The supplementary information is helpful in understanding the landscape and visual implications of the amended scheme. However, the scheme changes are marginal in the context of this very major development as a whole.

Public Rights of Way

13 The County Council has objected to the stopping up and diversion of PROW, and the loss of amenity and suitability that the scheme would cause to their users. The amended scheme alters the details of those objections but does not remove them.

Socio Economic Impacts

14 As a result of the reduced warehousing floor space the appellant estimates that the number of full time equivalent jobs on the site would be reduced from 3,500 to 2,900. However the number of jobs that would be generated would be within a range determined by the use of the site, and this could exceed 2,900. The amended scheme does not therefore remove the County Council's concern with regard to employment policy and strategy.

Heritage and archaeology

15 KCC objected to the scheme on the basis of inadequate information for a proper determination of the application. The amended scheme does not alter the County Council's objection. The appellant has undertaken further surveys and this work continues.

Ecology and Wildlife Conservation

16 While the amended scheme retains more woodland in the centre of the site, and provides a larger Landscape Framework, the fundamentals of the scheme in terms of development footprint and reconfigured landform remain very damaging.

Noise and Vibration

17 The County Council objected to the cumulative impact on the community, including the effect of noise. KCC would wish to have the benefit of the local planning authority's noise

consultant on the degree to which noise impacts would be ameliorated by the scheme changes.

18 KCC expressed the view that overall the changes do not overcome the objections to the proposal set out in the County Council's Rule 6 Statement.

Financial Implications

19 A small budget reserve has been established to manage expenditure fluctuations arising from the appeal process, as resolved by the 30th March Cabinet meeting. This is being used for KIG and other inquiries to smooth year on year budgeting and is not additional funds. The KIG Inquiry is now expected to last at least 8 weeks. This carries additional costs for the attendance of counsel. I estimate that the total cost of KCC's appearance at the Inquiry and consultants advice will be upto £160,000 in the current financial year. This does not include a share of any costs incurred by Maidstone Borough Council. Given other commitments I expect the budget reserve to be exceeded this year.

Next Steps

20 Maidstone Borough Council have advised the planning Inspector that should it be decided to accept the proposed changes as amendments to the application, they are prepared to make every effort to meet the Inquiry timetable. However, the Borough Council has given warning of the possibility of delays in their preparation, having regard to the late stage at which the amendments have been submitted, and the fact that the Appellant has yet to supply a substantial amount of information.

21 Similarly, the County Council aims to complete the preparation of its evidence to the Inquiry timetable, but has also expressed concern at the late submission of changes to the scheme, and the outstanding information, notably on highways and archaeology.

22 "Statements of Common Ground " dealing with the facts that can be agreed by the appellant and the local planning authority, are due to be finalised in batches on 1st and 15th September, and may contain matters to be reported to Cabinet verbally.

Recommendations

It is **recommended** that Cabinet:

- (i) note the amended scheme, and endorse KCC's views as agreed by the Cabinet Member for Environment, Highways and Waste
 - (ii) note the replacement of Kent and Medway Structure Plan by the South East Plan
 - (iii) endorse KCC's Rule 6 Statement and its case against the Kent International Gateway proposal
 - (iv) agree to KCC's appearance at the planning Inquiry in support of Maidstone Borough Council
 - (v) note that the budget reserve for inquiries is likely to be exceeded this year
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Background Documents

KCC Cabinet Report of 30th March 2009

KCC Rule 6 Statement of 30th May 2009

KCC reply to the consultation on the Supplementary Environmental Statement : Letter 7th August 2009

KCC objection to an Order for stopping up and diverting rights of way. Letter of 13th August

The following can be seen on the Maidstone Borough Council web site :

Outline Planning application for KIG October 2007

Maidstone Borough Council Committee Report of 7th May 2009 –

Maidstone Borough Council Rule 6 Statement of 30th May 2009

Supplementary Environmental Statement of July 2009

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