

SECTION C  
MINERALS AND WASTE MANAGEMENT

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

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**Item C1**

**The development of a waste management facility at the former Tilmanstone Brickworks / Colliery, Pike Road, Eythorne, Dover, Kent – DO/17/1244 (KCC/DO/0256/2017)**

A report by Head of Planning Applications Group to Planning Applications Committee on 16 January 2019.

Application by RH Ovenden Ltd for the development of a waste management facility including the change of use of an existing building to enclose various operations, including a mechanical treatment plant (MRF) and bulking wastes for transfer, the external storage and treatment of waste materials including by crushing and screening and soil washing, the installation of two weighbridges and a weighbridge office, and use as an intermediate shipping point or logistics hub for refuse derived fuel at the former Tilmanstone Brickworks (part retrospective) at the Old Tilmanstone Colliery, Pike Road, Eythorne, Dover, Kent, CT15 4ND – DO/17/1244 (KCC/DO/0256/2017).

Recommendation: Permit subject to legal agreement and conditions.

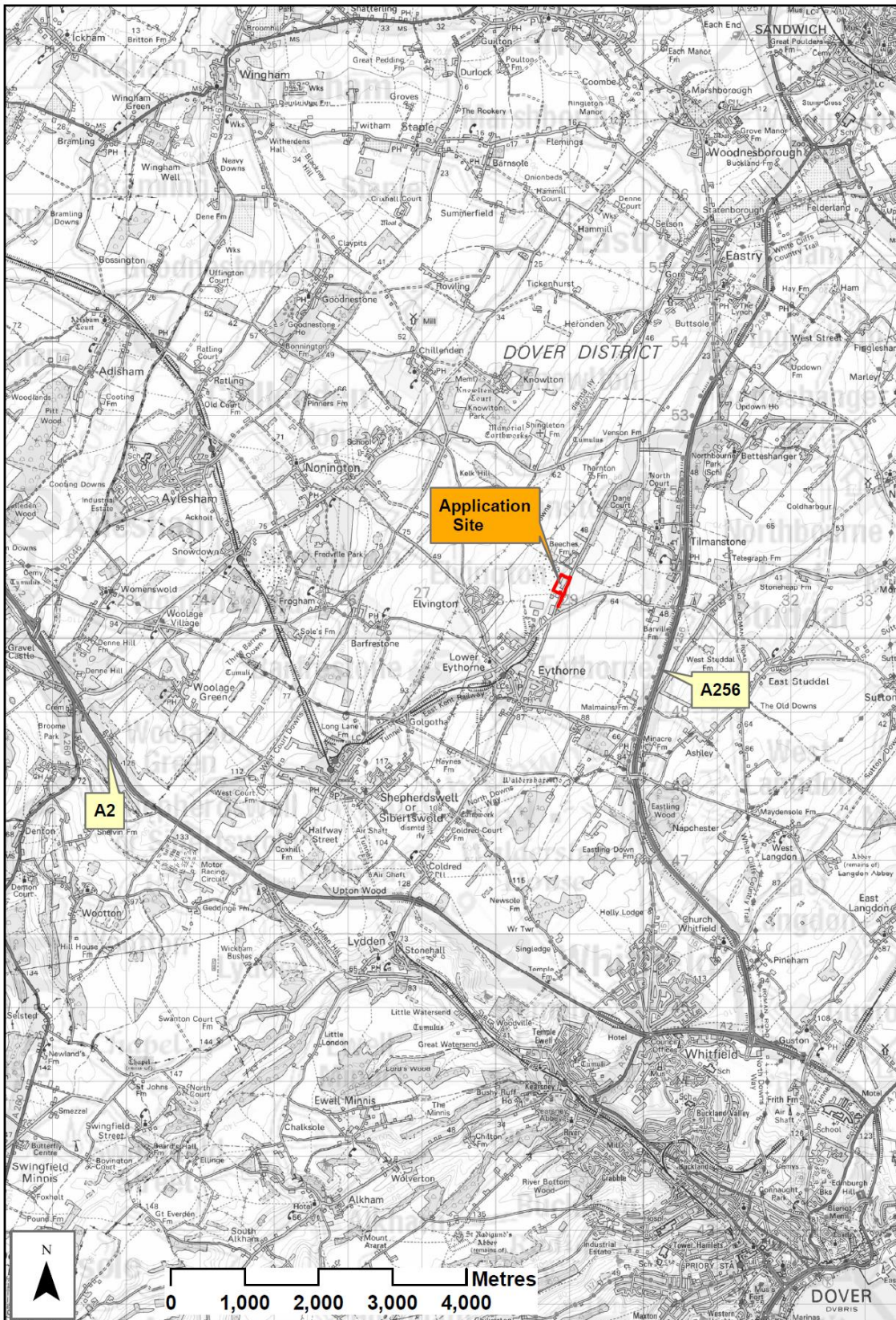
Local Member: Mr G Lymer

Unrestricted

**Site description**

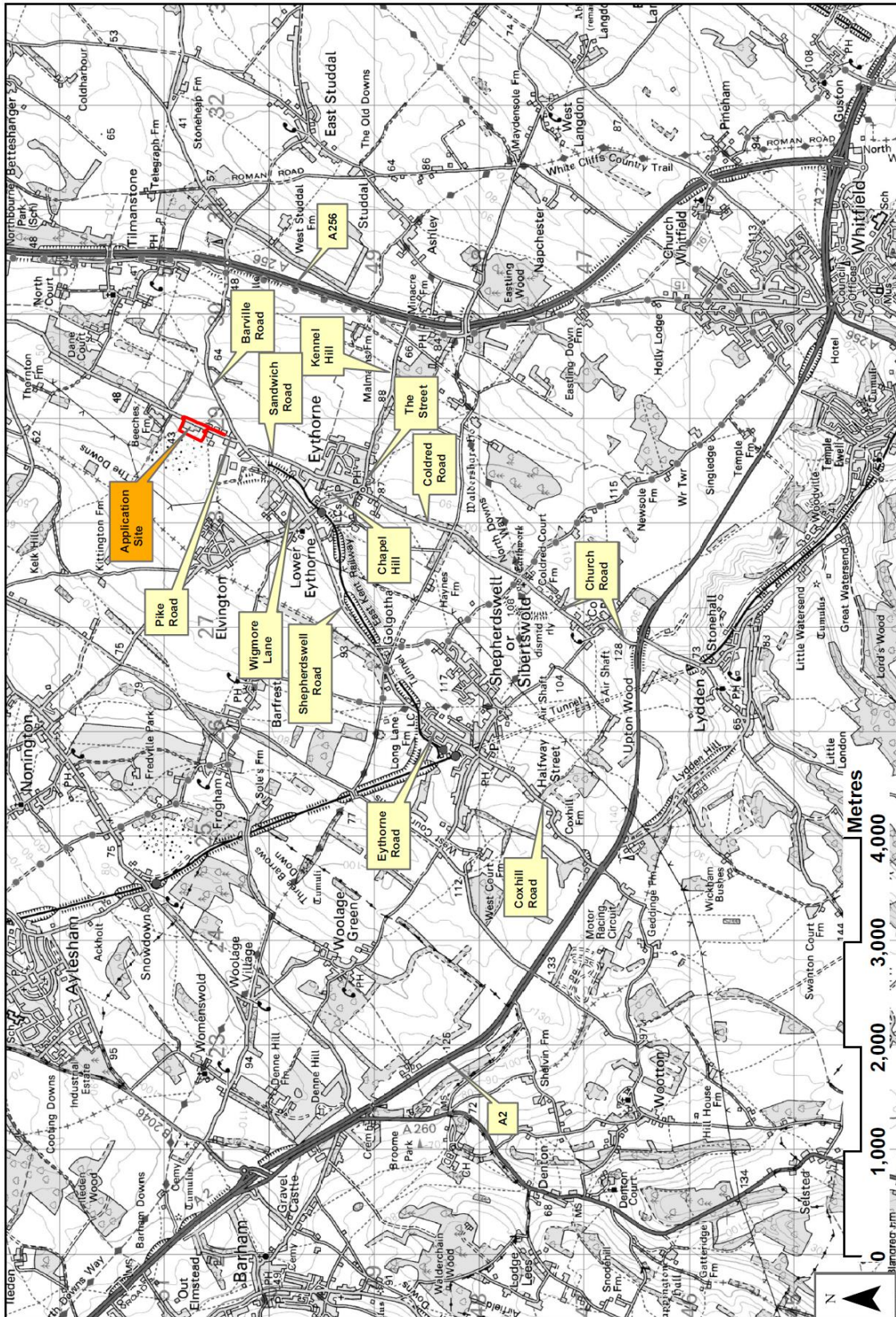
1. The application site is accessed from Pike Road and comprises a former brickworks building and brick storage yard. It lies adjacent to the former Tilmanstone Colliery spoil tip and is part of a cluster of employment uses at the northern end of the Pike Road Industrial Estate. The application site is about 4 hectares (ha) in size, of which about 1ha is covered by the former brickworks buildings, 2.5ha is impermeable / paved (previously used for brick and raw materials storage) and 0.5ha unsurfaced / permeable made ground. The majority of the application site lies at about 57 metres above ordnance datum (m AOD). The former brickworks building is about 11m high.
2. The application site is not within any designated areas or within a Groundwater Source Protection Zone and lies outside any settlement boundary identified in the Dover Local Plan. The site is not allocated for any specific purpose in the Kent Minerals and Waste Local Plan 2013-30 (July 2016), the Dover District Local Development Framework Core Strategy (February 2010) or the Dover District Land Allocations Local Plan (January 2015). However, land immediately to the west of the site (Tilmanstone Spoil Tip (North)) is identified for employment use (B2 – General Industrial Use) by Saved Policy LE10 of the Dover District Local Plan (2002). Parts of the former brick / materials storage area and land between the former brickworks building and Pike Road are identified by the Environment Agency as at risk from surface water flooding.

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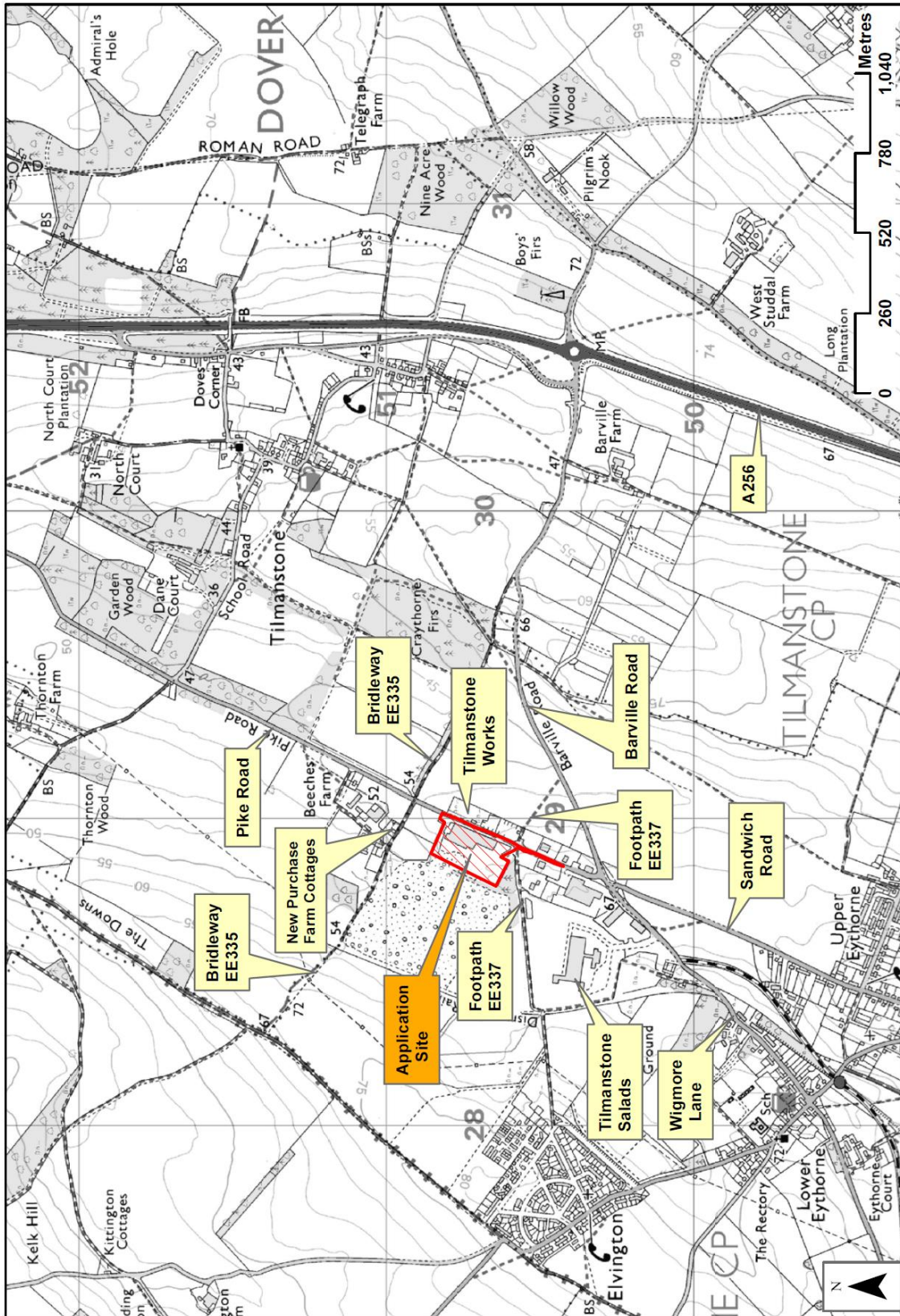


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3. Pike Road Industrial Estate is accessed from the A256 (dual carriageway) roundabout via Barville Road (a single carriageway minor road). A public right of way (Footpath EE337) joins Pike Road adjacent to the site access and runs westwards to Elvington to the south of the application site. There are a number of other footpaths and bridleways in the vicinity of the site. The nearest residential properties (1 and 2 New Purchase Farm Cottages) lie approximately 140m to the north of the application site.
4. The application site lies within the East Kent Arable Belt identified in the Kent Landscape Character Assessment (October 2004) and the Eythorne Arable Mosaic with Parkland identified in the Dover District Landscape Character Assessment (January 2006). Pike Road Industrial Estate forms an isolated pocket of industrial land use within a larger area of subtly rolling chalk valleys with arable and pastoral countryside interspersed with numerous woodland blocks, remnant historic parkland and small scale settlement. The application site, broader industrial area and former spoil tip are reasonably well screened by existing perimeter and other vegetation. Drawings showing the application site, surrounding area and key features referred to in this report are included on pages C1.2 to C1.4.

**Planning History and Background**

5. The application site originally formed part of the Tilmanstone Colliery site. Planning permission (DO/88/1679) was granted by the County Council (KCC) for the brickworks in 1989. A number of subsequent planning permissions were granted / approvals given by KCC which amended / supplemented DO/88/1679 or provided for additional associated development. The brickworks used colliery spoil (shale) and imported clay to manufacture bricks until 2009 when it closed. The applicant states that the site has been used variously for the storage of plant and equipment, vehicle parking and waste management uses since 2010. Amongst other things, planning permission DO/88/1679 (as amended) required the cessation of shale extraction and the restoration of the spoil tip within 40 years (i.e. by 6 October 2029), required the construction of perimeter mounds, restricted the working of shale or any other external stockpiles to the brickworks factory and heavy goods vehicle (HGV) movements to between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays, limited stockpile heights to no more than 4.1m and limited the number of HGV movements associated with the importation of materials and delivery of finished product to no more than 360 (180 in / 180 out) each week. The permission was also subject to a legal agreement that required HGVs to enter and leave the site via Pike Road, Barville Road and the A256.
6. Planning permission (DO/96/383) was granted by KCC for the use of land for the recycling of waste materials on land to the east of Pike Road (opposite Tilmanstone Brickworks) in 1997. A number of subsequent planning permissions (DO/00/68, DO/00/1252 and DO/09/974) were granted by KCC which amended that permission. The most recent permission (DO/09/974) amended the site layout and the wastes handled at the site. The site (known as Tilmanstone Works) was operated by RH Ovenden Ltd and dealt primarily with construction and demolition (C&D) waste. Operations and HGV movements were restricted to between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays (with no work other than site cleaning and essential maintenance at other times). Amongst other things, the

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permission limited stockpiles heights to no more than 4m and HGV movements to 100 (50 in / 50 out) each day (although unrestricted movements were allowed on up to 12 days a year if prior notification was given to KCC). The same vehicle routeing referred to above was also required.

7. The applicant (RH Ovenden Ltd) has largely vacated the Tilmanstone Works site and relocated most of its waste recycling operations to the former brickworks site (i.e. the site which is the subject of the current application), although Local Authority waste is still dealt with at the permitted site. An application (DO/17/952) has been submitted to Dover DC for a change of use of the Tilmanstone Works site and adjoining coal yard to a reserve log storage facility with ancillary portacabin offices. The log storage facility and offices would be used by Euroforest Ltd to support the Biomass Combined Heat and Power (CHP) plant at Discovery Park, Sandwich (which commenced operating in 2018). Application DO/17/952 proposes the storage of up to 20,000 tonnes (t) of logs in stockpiles of up to 6m high and operations between 07:00 and 19:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays. It also proposes an average of 14 HGV movements (7 in / 7 out) each day with occasional peak demand for a maximum of 60 HGV movements (30 in / 30 out) each day and assumes 20 car movements (10 in / 10 out) each day. There are no HGV or other vehicle movement restrictions on the former coal yard.
8. A “hybrid” planning permission (DO/13/654) was granted by Dover District Council (Dover DC) in 2014 for the re-contouring and restoration of the spoil tip, a 10 megawatt (MW) solar farm, restoration of the former railway halt including visitor interpretation boards and rock store, landscape and ecological works, a footpath link and 10,000m<sup>2</sup> of industrial units (Class B2). It is understood that Dover DC has approved the necessary pre-development requirements relating to this and that the permission has been implemented. The permission provided for by DO/13/654 shares the same access from Pike Road as the former brickworks (i.e. the proposed waste management facility). The industrial units would be located on the land immediately to the west of the former brickworks storage area, the solar farm would occupy the majority of the spoil tip (once re-contoured) to the west of the industrial units and the other elements referred to above would be on the land further west.
9. Whilst planning permission DO/13/654 contains various restrictions on the constituent elements, it includes no limits on HGV numbers for the temporary earthworks associated with the re-contouring and restoration of the spoil tip, the solar farm or the permanent B2 uses and no limits on car or other vehicle numbers. The re-contouring of the spoil tip allows for the importation of about 175,000m<sup>3</sup> of soil and clay over an estimated period of about 3 years with the works taking place between 08:00 and 18:00 hours Monday to Friday and 08:00 and 13:00 hours on Saturdays (with no works on Sundays and Bank Holidays). It is understood that this could equate to 134 HGV movements (67 in / 67 out) each day or 14 HGV movements (7 in / 7 out) each hour (based on HGV loads of 10m<sup>3</sup>). The soil and clay would provide a 1m cap over the re-contoured landform. HGVs would access the site via Barville Road and Pike Road. The solar farm would be removed after 25 years and the land managed and maintained in accordance with details to be agreed. The industrial development could operate permanently on a 24 hour 7 days a week basis, although its construction would need to take place within the same hours referred to above. Although works

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have commenced, a significant amount remains to be done and completion is unlikely to be prior to 2021.

10. KCC issued pre-application advice (KCC/PRE/DO/0388/2014) to Waterman Energy, Environment and Design (acting for RH Ovenden Ltd) in respect of proposals for a waste processing and transfer facility capable of handling up to 350,000 tonnes per annum (tpa) of waste at the former brickworks on 11 December 2014. The advice indicated (amongst other things) that there would be policy support for proposals that would improve or enhance waste management operations provided these did not give rise to any significant additional impacts on the surrounding environment. The advice also suggested that consideration be given to off-setting the impact of any new waste management development by relinquishing the waste recycling permission at Tilmanstone Works. KCC also issued a screening opinion (KCC/SCR/DO/0391/2014) on 15 December 2014 in which it advised that the development of a waste facility at the former brickworks did not require Environmental Impact Assessment (EIA). This opinion was reached having regard to the EIA Regulations following consideration of the scale, nature and location of the proposed development and National Planning Guidance.
11. The application site is already being used for many of the waste management operations now being proposed. The following summarises the operations / activities already taking place at the site:
  - Construction, Demolition and Excavation (CDE) waste recycling outside the building (including the receipt, handling, screening, crushing and storage of waste materials and the storage and export of recycled materials);
  - Commercial and Industrial (C&I) waste recycling (including in a mobile MRF) inside the main part of the building (including the receipt, handling, sorting, screening and storage of waste materials and the storage and export of separated materials);
  - Topsoil recycling in the small part of the building (including the receipt, handling, screening and storage of imported topsoil and the storage and export of recycled topsoil);
  - Storage of vehicles, plant and machinery;
  - Use of offices and associated facilities; and
  - Car parking.

The applicant is currently still using the weighbridge provided for by planning permission DO/09/974 at Tilmanstone Works (to the east of Pike Road) as it has yet to install one at the application site. This temporary arrangement necessitates the majority of vehicles using the application site travelling between the two sites on Pike Road on both arrival and departure.

**The Proposal**

12. The application (which was validated in September 2017) proposes the development of a waste management facility which would accept a range of household, commercial and industrial wastes for treatment or transfer (depending on its nature) to enable it to be recycled, re-used or recovered. The application is partially retrospective (as

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explained in paragraph 11 above). The application was amended and further information submitted in March 2018 to address issues raised during the initial consultation and as a result of my own consideration of the proposals. This included revised access arrangements to provide consistency with the development provided for by the “hybrid” planning permission DO/13/654 (referred to in paragraphs 8 and 9 above). The following paragraphs reflect the application as amended in March 2018. However, Members should note the proposed further amendment to the development relating to HGV movements and the reasons for / implications of this set out in paragraph 28 below. Drawings showing the application site, other land within the applicant’s ownership, proposed site layout, building elevations and soil washing plant are included in Appendix 2 (pages C1.46 to C1.49).

13. The applicant originally stated that the facility would receive up to 375,000tpa of waste. However, the proposed limit on HGV movements referred to in paragraph 28 below is likely to reduce this to no more than about 195,000tpa. Waste would be delivered to the facility in various types of HGVs (e.g. refuse collection vehicles / RCVs, articulated lorries, skip and tipper lorries) and light goods vehicles (LGVs) (e.g. cage loaders and panel vans). Customers visiting the facility would include waste management firms and other commercial enterprises but not householders. Most of the waste would be non-hazardous solid waste, although a limited amount may be hazardous solid and liquid waste.

#### Waste Management Building

14. Much of the waste would need to be stored and treated within the former brickworks building (waste management building). This would include bulky waste (e.g. furniture, mattresses and household appliances), separately collected fractions of municipal waste (e.g. dry recyclables, food waste, residual “black bag” waste and green waste), mixed construction and demolition (C&D) waste and wood waste. Waste treatment would include sorting by hand and machine picking, sorting by mechanical treatment plant (materials recovery facility / MRF), baling, shrink wrapping and bulky waste shredding. Some of the waste would only be bulked up for treatment elsewhere (e.g. food waste). Hazardous waste (e.g. waste soils, waste electrical equipment / WEEE, asbestos containing materials, paint, garden chemicals and waste oils) would also be accepted and stored for bulking within the building, although these would only be sorted by hand or machine and bulked up for treatment elsewhere.
15. In addition to the physical separation of mixed bulky waste by type (e.g. carpet, WEEE, mattresses, insulation materials, metal, roofing felt, rubber products, vinyl flooring and wood) by hand or machine, municipal solid waste (MSW) and skip waste would be processed in the MRF using a series of mechanical treatment steps to recover recyclable materials and to produce refuse derived fuel (RDF). Materials sorted at the facility or elsewhere may be baled and, where likely to be spoilt if stored outside (e.g. paper and card) or generate leachate (e.g. cans, cartons, mixed recyclables and plastic bottles) stored within the building. Wood shredding, wood storage and waste compaction would also take place within the building. Waste materials bulked up within the building would include dry recyclables, food waste, green waste, residual “black bag” waste, fly tipped waste, commercial / trade waste collected by waste collection authorities (WCAs), street sweepings, waste from beach



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cleansing, hazardous waste from municipal collections (e.g. WEEE, batteries, paints and pesticides) and waste from commercial and industrial sources (e.g. WEEE and used packaging from construction projects), asbestos containing wastes and hazardous waste soils.

16. Equipment operated within the building would include mobile machinery (1 x high tip loading shovel, 2 x materials handlers and 1 x articulated dump truck), MRF (including air knife, baler, conveyor, eddy current separator, fines screen, magnet, picking station, shredder, shrink wrapper and trommel screen) and single shaft shredder. The applicant states that the waste management building could accommodate up to 50,000t of non-hazardous waste (pre, during and post treatment and storage), 1,000t of hazardous soils for transfer, 20t of asbestos waste and 30t of other hazardous waste (e.g. WEEE and fridges).
17. The former brickworks offices (which are self-contained within the building) would be re-used and another area of the building would be used as a workshop and for the storage of equipment and tools. It is proposed that an internal dividing wall would be installed to roof level between this and the waste processing area. No other new subdivision of the building is proposed and the actual use of individual bays would depend on the nature of the waste being handled at any given time. All vehicular access and egress points to the building would be equipped with fast acting roller shutter doors and external doors, windows and other apertures would be kept closed. The applicant states that an odour control spray system would be employed although detailed odour control measures (e.g. misting sprays or other odour mitigation techniques / technologies) would depend on the nature of the waste being handled at any given time. The applicant also points out that such matters would be controlled by an Environmental Permit. Foul water from the building would continue to be dealt with via an existing treatment plant and then a soakaway in accordance with the relevant discharge consent. This would be upgraded as necessary. Some of the roof water (which currently drains to soakaways) would be diverted to a new reservoir (for use on site) with remaining roof water and any overflow from the reservoir going to soakaways.

#### External Yard Areas

18. Wastes accepted, stored and in some cases treated outside would include concrete, brick and block, soils, plastic, metal and baled and shrink wrapped sorted materials (primarily RDF). Waste treatment activities outside would be limited to sorting (hand and machine picking), soil washing, concrete crushing, screening of soils and hard materials and removal of glass from windows.
19. The external yard area would contain a number of three sided bays (with 3m high walls) to contain waste awaiting treatment (e.g. demolition rubble and soil awaiting separation) and the products from crushing, screening, soil washing and sorting activities, as well as a range of loose stocked primary aggregates and landscaping materials. The applicant states that these materials may be stockpiled up to 8m high. The external yard area would also be used for the storage of shrink wrapped bales of RDF and other baled materials (e.g. plastics from uPVC window frames and aluminium from doors and door and window frames). The applicant states that RDF

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bales may be stored up to 5m high. The external yard area would also accommodate a 45 space staff / visitor car park, 6 bicycle stands, 6 motorcycle spaces, an area for up to 30 HGVs to park overnight, the incidental / occasional stationing of commercial equipment, plant and vehicles, a weighbridge office and 2 weighbridges. Since the site would act as a “logistics hub” (intermediate shipping point) managing the movement of RDF from one place to another (including continental Europe), the yard area would also be used for the loading / unloading, storage and dispatch / receipt of such materials.

20. Equipment operated within the external yard would include mobile machinery (e.g. 1 x wheeled loading shovel, 1 x 360° excavator, 1 x articulated dump truck, 1 x wheeled materials handler and 1 x telehandler / forklift for moving bales), a crusher, 2 screeners and a soil washing plant (all full time). The applicant states that the external yard area could accommodate up to 75,000t of construction, demolition and excavation (CDE) waste and recovered materials (e.g. aggregate and soils) as well as shrink wrapped bales of RDF and bales on non-polluting wastes (e.g. uPVC window frames).
21. Other external development would include a rainwater storage facility (reservoir) in the north western corner of the site (stored water being used in the soil washing plant, for dust suppression and an emergency water supply in the event of a fire), an upgraded surface water drainage system (including silt and oil interceptors), bunded diesel storage tanks, the installation of photovoltaic panels to the roof of the waste management building and bunding on the northern boundary of the site to provide improved noise mitigation. It is proposed that the northern bund would be increased in height to 5m, existing planting on the external boundary slope would be retained and additional landscape planting undertaken. The applicant’s “Noise Impact Assessment” (August 2017) also assumed 5m high bunding on the southern and western site boundaries (reflecting existing land levels at the time of the assessment). The applicant states that directional floodlighting would be provided on building facades to illuminate the yard and that this would be designed to minimise light spill and glare. It proposes that energy efficient lamps (including LEDs) would be used and that the lighting would be employed permanently during the hours of darkness, including as a security measure. Task lighting on plant and equipment may also be needed to ensure safe operations. The applicant proposes to implement various measures to minimise the impact of dust and litter that may arise from operations on site and from the transportation of waste to and from the site. Dust suppression measures include regular cleaning of the site access and hardstanding, a 6mph speed limit on site, minimising drop heights, repair of any potholes on site, the sheeting or containment of laden vehicles, the use of misting and water sprays as necessary, the profiling of stockpiles to reduce wind whipping and the temporary cessation of loading / unloading from stockpiles if to do so would result in material being blown beyond the boundary of the site. Litter control measures include the sheeting or containment of laden vehicles, baled materials not being stored for extended periods, the wrapping / re-wrapping of bales as necessary and litter picking should any escape. The applicant has indicated that it would be prepared to use broad-band or other “non-bleeper” reversing alarms on all its own equipment, plant and vehicles.

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#### Hours of operation

22. The applicant proposes the following hours of use:

<ul style="list-style-type: none"><li>Core operating hours for the receipt and dispatch of all waste</li></ul>	<ul style="list-style-type: none"><li>06:00 to 19:00 hours Monday to Friday and 06:00 to 13:00 hours on Saturdays</li></ul>
<ul style="list-style-type: none"><li>Waste processing (both outside and inside the building) and for the logistics hub use</li></ul>	<ul style="list-style-type: none"><li>07:00 to 18:00 hours Monday to Friday and 07:00 to 13:00 on Saturdays<sup>1</sup></li></ul>
<ul style="list-style-type: none"><li>MRF only (entirely within the building)</li></ul>	<ul style="list-style-type: none"><li>04:00 to 23:00 hours Monday to Friday</li></ul>
<ul style="list-style-type: none"><li>The receipt of Waste Collection Authority (WCA) and Waste Disposal Authority (WDA) waste (including that which it has contracted to 3<sup>rd</sup> parties)</li></ul>	<ul style="list-style-type: none"><li>06:00 to 19:00 hours Monday to Friday and 06:00 to 13:00 hours on Saturdays</li><li>06:00 to 19:00 hours on Bank Holidays (Monday to Friday excluding Christmas Day and Boxing Day)</li><li>occasional Saturday afternoons up to 17:00 hours (to meet any exceptional service demands made by the WCA or WDA)</li><li>between 06:00 and 19:00 hours on Boxing Day (where exceptionally agreed by KCC)</li></ul>
<ul style="list-style-type: none"><li>the receipt of CDE waste from highways or similar projects</li></ul>	<ul style="list-style-type: none"><li>19:00 to 06:00 hours Monday to Saturday and 13:00 hours on Saturday to 06:00 on Monday</li></ul>

23. On the basis of the above, the applicant states that the MRF would operate 2 shifts (i.e. between 04:00 and 13:00 hours and between 14:00 and 23:00 hours) with a 1 hour change over between 13:00 and 14:00 hours.

#### Vehicle movements

24. The applicant originally estimated that the development would generate the following vehicle movements each day (of which about 92% would be HGVs and 8% LGVs of less than 3.5t):

- 250 movements (125 in / 125 out) – based on 320,000tpa of commercial and industrial (C&I) waste;
- 22 movements (11 in / 11 out) – based on 27,500tpa of bulky waste;
- 58 movements (29 in / 29 out) – based on 27,500tpa of waste diverted from other local authority tipping points (i.e. contingency transfer station capacity to service local authority contracts in East Kent).

However, as explained in paragraph 28 not all of these movements would now be

<sup>1</sup> These were originally to be between 06:00 and 19:00 hours Monday to Friday and 06:00 and 13:00 on Saturdays.



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possible.

25. The applicant proposes that all customers and its own vehicles will use Barville Road and avoid routes through local villages.

Employment

26. The applicant states that approximately 50 people are currently employed at the site (i.e. 10 in administration and management, 30 HGV drivers and 8 site staff such as pickers, machine operators and foreman) and that the proposed development would create another 22 jobs (i.e. 2 in administration and management, 10 site staff in picking and managing the operation of the MRF and a further 10 if the MRF can be operated on a 2 shift system).

Supporting information

27. The application is supported by various plans and drawings (e.g. site layout and building elevations), a Transport Assessment, a Noise Impact Assessment, a Dust and Litter Assessment, an Air Quality Assessment, details of proposed odour management equipment, Preliminary Environmental Risk Assessment, Flood Risk Assessment, details of proposed lighting levels, Landscape and Visual Appraisal and details of proposed plant and equipment.

Proposed further amendment to the application

28. As detailed in paragraph 39, KCC Highways and Transportation has advised that there are significant lengths of Barville Road which are of insufficient width for two HGVs to pass each other and that damage is already being caused to verges and carriageway edges. It has also advised that the proposed increase in HGV movements would significantly exacerbate and extend the damage and that highway improvement works are required to mitigate this and accommodate the additional HGV movements. The proposed extent of the highway improvement works and the inability to reach consensus about financing and implementing them is explained in paragraph 39. As a result of this, the applicant has requested that the application be determined on the basis that HGV movements would be restricted by condition to 150 HGV movements (75 in / 75 out) per day with no requirement for highway improvement works. It has advised that it will adjust the range and / or extent of the proposed operations as necessary to ensure that this limit is not exceeded.

**Planning Policy Context**

29. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (July 2018), the National Planning Policy for Waste (October 2014), the National Planning Practice Guidance and “Our Waste, Our Resources: A Strategy for England” (Defra, 2018). These are all material planning considerations.
30. **Kent Minerals and Waste Local Plan 2013-30 (July 2016)** – Policies CSM8 (Secondary and recycled aggregates), CSW1 (Sustainable development), CSW2

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(Waste hierarchy), CSW4 (Strategy for waste management capacity), CSW6 (Location of built waste management facilities), CSW7 (Waste management for non-hazardous waste), CSW16 (Safeguarding of existing waste management facilities), DM1 (Sustainable design), DM3 (Ecological impact assessment), DM5 (Heritage assets), DM10 (Water environment), DM11 (Health and amenity), DM12 (Cumulative impact), DM13 (Transportation of minerals and waste), DM14 (Public rights of way), DM15 (Safeguarding of transportation infrastructure), DM16 (Information required in support of an application) and DM17 (Planning obligations).

31. **Kent Waste Local Plan (1998) Saved Policies** – W7 (Locations suitable in principle for inert waste to be prepared for re-use) and W9 (Locations suitable in principle for waste separation and transfer).
32. **Dover District Local Development Framework Core Strategy (February 2010)** – Policies DM1 (Settlement boundaries), DM2 (Protection of employment land and buildings), DM11 (Location of development and managing travel demand), DM12 (Road hierarchy), DM13 (Parking provision), DM15 (Protection of the countryside) and DM16 (Landscape character).
33. **Dover District Land Allocations Local Plan (January 2015)** – Identifies Tilmanstone Spoil Tip (North) as an initial priority site for employment use (for 1,350m<sup>2</sup> of B2 floorspace).
34. **Dover District Local Plan (2002) Saved Policies** – Policies ER6 (Light pollution) and LE10 (Development of Tilmanstone Spoil Tip (North)).
35. **Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 Pre-Submission Draft (November 2018)** – Draft (modified) Policies CSW4 (Strategy for waste management capacity), CSW6 (Location of built waste management facilities) and CSW7 (Waste management for non-hazardous waste). Draft Policy CSW4 is proposed to be modified to include targets for recycling, composting and other recovery and a predicted requirement for landfill if the targets are met. Draft Policies CSW6 and CSW7 are proposed to be modified to remove reference to a Waste Sites Plan (which would no longer be prepared) but retain criteria against which planning applications would be assessed.

**Consultations**

36. **Dover District Council** – No objection subject to conditions. Its comments can be summarised as follows:
  - (a) Noise: No objection in terms of noise impact subject to waste processing activities outside being restricted to between 07:00 and 18:00 hours, waste processing activities inside the building taking place with all external doors, windows and apertures closed and all of the noise control measures assumed by the applicant in Section 5.1 of the “Noise Impact Assessment” (August 2017) being implemented. It suggests that these be controlled by condition.
  - (b) Air quality: No objections in terms of air quality associated with traffic movements (as there is no significant sensitive receptor that is likely to be

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- impacted from increased vehicle emissions and it is very unlikely that the EU limit for Nitrogen Dioxide would be breached) and dust (provided appropriate dust measures are in place to mitigate fugitive dust levels).
- (c) Landscaping: It suggests that the applicant re-profile the inside of the bunds (nearest to the building) while retaining the outside of the bunds as existing to enable the retention of the established slope vegetation.
  - (d) Ecology: It states that whilst the ecology report makes reference to bats within the building, it does not refer to the bund. It considers that a scoping survey should be submitted with particular focus on the bund and reptiles.
  - (e) Highways: It expects KCC Highways and Transportation to consider the implications of traffic activity and any effects on the local highway network with a view to considering appropriate conditions (including where appropriate a routing agreement). It suggests that the local parish councils will identify specific concerns in relation to highways matters which may inform such conditions.
  - (f) Cumulative effect of applications: It notes that application DOV/17/00952 is currently under consideration at Tilmanstone Works (opposite the application site) for the “Change of use to a log storage facility, erection of 2no. portable buildings for offices and welfare facilities and formation of parking” and that KCC may wish to consider whether the cumulative effect needs to be taken into account should it grant planning permission.

**37. Eythorne Parish Council – Objects for the following reasons:**

- (a) Highways and traffic impacts:
  - Pedestrian, cyclist and horse rider safety;
  - Problems with HGV parking on Pike Road;
  - HGVs unable to pass at certain places on Barville Road due to its width;
  - Cumulative impact with other HGV generating development;
  - HGV and other traffic passing through local villages (e.g. Eythorne, Elvington, Barfreston, Shepherdswell and Tilmanstone);
  - Mud, sludge and dust on local roads; and
  - Considers the proposal to be contrary to Policy DM13 of the Kent MWLP.
- (b) Noise:
  - Impact on local residents (despite amendment to proposed operating times).
- (c) Air pollution:
  - Impact on local residents.
- (d) Pollution of aquifer:
  - Stated to be a particular local concern.

It also states that it is disappointed that not all of the issues raised initially have received a satisfactory response from the applicant and that the position of the Parish councillors who visited the site has been misrepresented by the applicant and that they were not all satisfied with the operations they saw.

If planning permission is granted, it asks that this be subject to a routeing agreement,



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that the applicant should fund a 3-tonne weight limit on roads to the west and south of the site and that the condition of Barville Road should be monitored and any damage repaired.

**38. Tilmanstone Parish Council – Objects for the following reasons:**

(a) Highways and traffic impacts:

- Inadequate infrastructure and increased traffic movements;
- The site has restricted access which is shared by other businesses;
- HGV parking on Pike Road reduces its width to a single lane;
- Pike Road and its junction with Barville Road are already busy / dangerous;
- Pike Road to the north of the site access is narrow and subject to the national speed limit (60mph);
- Barville Road is inadequate (too narrow, damaged surface, uneven camber, high hedgerows, poor visibility, sharp / blind bends, no lighting and surface water) and already busy;
- Danger to pedestrians, cyclists, horse riders and other road users; and
- Conflict with farm machinery.

(b) Impacts on public rights of way:

- Risk to users of bridleways and footpaths due to increased lorry activity (including Footpath EE337 at the site entrance, Bridleway EE335B to the north of the site and various well used footpaths and bridleways in the vicinity of the site and joining / crossing Barville Road).

(c) No need for the facility (at Pike Road):

- There are enough existing recycling facilities with proper infrastructure (e.g. in Thanet and Sandwich) and other more suitable brownfield sites available between Dover and Thanet with better access / locations for such facilities if they are required.

(d) Impact of lorry movements on surrounding villages and their residents:

- Particularly from lorry movements on Tilmanstone, Shepherdswell, Eythorne, Elvington and Woolage;
- Lorries and commercial vehicles have already had a significant / damaging impact on local villages / residents for many years;
- Potential damage to buildings / properties from traffic and vibration;
- Although HGV routeing has been better controlled recently the situation would be likely to get worse; and
- The proposed HGV routeing will not wholly prevent vehicles travelling through villages (it also questions what controls and penalties would be in place).

(e) Pollution, environmental impact and damage to the local area:

- The applicant appears to have little or no experience in dealing with hazardous and other toxic wastes (particularly on the scale proposed);
- The types of wastes proposed to be dealt with (e.g. asbestos) are

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- inappropriate in the proposed location;
  - Increased likelihood of accidents and associated pollution;
  - Odour and other air pollution impacts (including from HGVs queuing to enter the site);
  - Noise and vibration impacts (including from reversing alarms);
  - Impact of lighting;
  - Potential loss of employment at Tilmanstone Salads (a significant local employer) if its clean / sanitised working environment and water supplies are prejudiced;
  - Potential impact on water supplies more generally;
  - Potential impacts on wildlife and associated habitats; and
  - Potential impact on the former sub-surface colliery works and spoil tips (it questions whether stability has been assessed).
- (f) Inadequacies with existing site management and noise levels:
- Mud, dirt and dust on the road already (this will get worse);
  - Lorries queuing at the existing site causes restricted access; and
  - Noise and vibration from skips being dropped.
- (g) Hours of use:
- The proposed operating hours (04:00 to 23:00 hours) is unacceptable and unnecessary and would have a significant adverse impact on the area.
- (h) Other uses:
- It believes the fact that the solar farm permitted on the spoil tip has not been developed and that the applicant has been unable to prevent nuisance associated with off-road motorcycling on the spoil tip over many years are relevant to the determination of the application as it demonstrates that it cannot guarantee that there would be no adverse impacts on the local community from the proposed development.
- (i) Lack of consultation:
- It is concerned that no pre-application engagement with the local community took place prior to the application being submitted and considers that the proposal must be subject to a detailed and comprehensive investigation involving all concerned.

It also states that it is disappointed that not all of the issues raised initially have received a satisfactory response from the applicant.

**39. KCC Highways and Transportation** – No objection subject to conditions to secure the following:

- (a) No more than 150 HGV movements (75 in / 75 out) each day;
- (b) Monitoring of HGV movements to demonstrate compliance with this limit; and
- (c) HGVs entering and leaving the site doing so via Pike Road (to the south of the site entrance), Barville Road (to the east of its junction with Pike Road) and the A256.

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KCC Highways and Transportation advises that there are significant lengths of Barville Road which are of insufficient width for two HGVs to pass each other and that damage is already being caused to verges and carriageway edges. Given this, it advises that the increase in HGV movements initially proposed would significantly exacerbate and extend the damage and that highway improvement works would be required on Barville Road to mitigate this and accommodate the additional HGV movements. It indicated that the required highway improvement works were as follows:

- (i) the widening of the carriageway to 6.75 metres for a length of 250 metres west of the access to the boot fair site;
- (ii) the widening of the carriageway to 6.3 metres for a length of 140 metres between the old yard / chalk pit access and the first bend to the west;
- (iii) the widening of the carriageway to 6.3 metres for a length of 65 metres east and 670 metres west of the access to Falconsview Meadows;
- (iv) the provision of flush kerbs to support the carriageway edge in the above widened sections; and
- (v) the provision of 30 metres of flush kerb to support the carriageway edge on the first bend to the west of the old yard / chalk pit access.

KCC Highways and Transportation initially proposed that all of the above works should be required prior to the development commencing. However, it subsequently accepted that a phased approach would be reasonable as it would enable the applicant to undertake the works as HGV movements associated with the proposed waste management operations increase over time with the award of new contracts and as finances allow. However, discussions between KCC Highways and Transportation and the applicant failed to lead to agreement on the appropriate “triggers” for implementing the highway improvement works and the extent of the works required for each phase. The applicant initially proposed that the first phase (the eastern section) be required (“triggered”) at 170 HGV movements, the second phase (the central section) at 230 HGV movements and the third phase (the western section) at 300 HGV movements. KCC Highways and Transportation proposed triggers at 150, 200 and 250 HGV movements with the phasing to be determined by KCC. The applicant then proposed revised triggers at 156, 212 and 276. KCC Highways and Transportation was unwilling to alter its position. This led to the applicant requesting that the application be determined on the basis that HGV movements would be restricted by condition to 150 HGV movements (75 in / 75 out) per day with no requirement for highway improvement works. It has advised that it will adjust the range and / or extent of the proposed operations as necessary to ensure that this limit is not exceeded.

40. **Environment Agency** – No objection. It advises that the proposed development would require a variation to the current Environmental Permit and that this would cover surface drainage emissions from waste handling areas. It also advises that whilst inert materials can be managed on hardstanding, non-inert materials would need to be handled on sealed surface and drainage to prevent drainage to ground. It has further advised that clean surface water going to existing soakaways would be acceptable at the site given the depth of groundwater and as the site is not within a SPZ but that any new soakaways for clean drainage should be sampled at the soakage depth to prove



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the location is suitable for infiltration without posing any new risks to deep groundwater.

41. **Affinity Water** – No comments received.
42. **Southern Water** – Advises the applicant to consult the Environment Agency directly about the use of the proposed sewerage treatment plant which disposes of effluent to sub-soil irrigation and that the site owner would need to maintain this to ensure its long term effectiveness. It also advises that the proposed SUDS would not be adoptable by sewerage undertakers and that the applicant would need to ensure that the maintenance and effectiveness of the systems in perpetuity to avoid surface water flooding and, potentially, inundation of the foul sewerage system. It further advises that KCC should be satisfied of any arrangements relating to SUDS.
43. **KCC SUDS** – No objection but recommends the imposition of a number of drainage related conditions if planning permission is granted. These include a detailed sustainable surface water drainage scheme which demonstrates that the surface water generated by the development can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site and that silt and pollutants resulting from the use of the site and any construction can be adequately managed to ensure there is no pollution risk to receiving waters.
44. **KCC Public Rights of Way** – No objection. It advises that PROW (Footpath) EE337 runs adjacent to the site access. However, it is satisfied with the proposed arrangements for tying this in with the new footway provided for by planning permission DO/13/654 subject to additional pedestrian signage at this location to assist in enabling pedestrians to safely cross the access road.
45. **KCC Noise Consultant** – No objection subject to conditions to secure the following:
  - The proposed revised hours of operation;
  - The waste processing activities inside the building taking place with all external doors, windows and apertures closed;
  - The correct sound reduction being provided in the building construction (as set out by the applicant in Section 5.1 of the “Noise Impact Assessment” (August 2017));
  - Broadband / white noise (non-tonal) reversing alarms being employed on site by vehicles owned / operated by the operator;
  - The installation and use of fast action roller shutter doors;
  - The existing northern boundary bund being increased to 5m in height; and
  - The proposed HGV routeing being observed.

On this basis, it advises that the proposed development is capable of being carried out without any adverse noise impact.

46. **KCC Air Quality / Odour Consultant** – No objection subject to conditions to secure the proposed dust and odour mitigation measures.

It advises that dust impacts would be acceptable during the construction and

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operational phases subject to the implementation of the proposed mitigation measures. Based on the applicant's air quality assessment, it is satisfied that there is no risk to amenity from emissions with the proposed mitigation measures in place. It is also satisfied that if the proposed mitigation measures are undertaken, and an odour management plan produced and implemented, that there would be little risk to amenity from odour emissions. It notes that there would be no residential properties within 150m of the site.

47. **KCC Landscape Consultant** – No objection subject to a condition to secure a detailed landscape planting scheme for the northern boundary of the site and around the proposed rainwater storage facility in the north western corner of the site.

It advises that the overall level of proposed landscape and visual mitigation is appropriate given the nature of the existing site (on an industrial estate) and in terms of topography and mature screening. It notes that it is proposed to increase the height of the existing bund on the north-eastern boundary of the site and undertake tree and shrub planting in this area to assist in further screening views from the north. Whilst it considers it unfortunate that some of the existing planting would be affected by the proposed increase in height, and recommends that existing planting be retained wherever possible, it advises that the proposed planting and mix is generally appropriate (subject to further clarification on planting densities, plant protection measures and plant provenance).

48. **KCC Ecological Advice Service:** No objection subject to the northern bund planting being supplemented as necessary to provide beneficial biodiversity and retain connectivity throughout the area. It is satisfied with the information submitted with the application and advises that it is very unlikely that the site has the potential for protected / notable species to be impacted as a result of the proposed development. It also advises that the habitat of greatest impact is the hedgerows bounding the site which (with the exception of some loss associated with increasing the height of the northern bund to 5m) are proposed to be retained. It further advises that no additional ecological surveys are necessary.

**Representations**

49. The application was publicised by site notice and the occupiers of all properties within 250 metres of the site, as well as others beyond this distance in the vicinity of the site and off Barville Road, were notified in October 2017. A newspaper advertisement was published on 12 October 2017.
50. 137 representations have been received, including those from Shepherdswell with Coldred Parish Council (PC), Goodnestone PC and Whitfield PC (none of which were formally consulted). Of the respondents, 127 object, 9 raise concerns and 1 simply provides comments. In some cases, several responses have been received from the same postal or email address.
51. The objections and concerns (which include those of Goodnestone PC and Whitfield PC) and can be summarised as follows:

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Highways and transportation:

- HGV traffic causing disruption through local villages (i.e. Eythorne and Shepherdswell);
- Pike Road and Barville Road are not suitable;
- Roads through the local villages and other rural roads are not suitable (e.g. Wigmore Road, Shepherdswell Road, Eythorne Road and Cox Hill between the site and the A2 and Pike Road and other rural lanes between the site and Eastry and other locations to the north);
- Existing HGV routeing signs are ignored (better signage is already needed);
- Pollution (noise, dust, exhaust fumes, litter and spillages) from HGVs;
- Mud and debris on local roads;
- HGVs currently travelling between proposed site and the applicant's old site to use the weighbridge;
- HGV parking Pike Road (restricts passage and leads to fouling by drivers);
- Other environmental impacts from HGVs (including on wildlife);
- Impact on pedestrians, cyclists and horse riders;
- Health impacts;
- HGV speeds;
- Lack of pavements on local roads;
- Impact from additional staff vehicles;
- Road safety;
- Damage to properties due to HGV movements on local roads;
- HGVs taking a short cut through Eythorne and Shepherdswell to the A2 (given that HGVs using the Pike Road Industrial Estate already do this at times, such as when directed by SatNav devices);
- The desirability of better signage, the narrowing of entrances to the villages and monitoring to reduce the likelihood of the above short cuts;
- The need for repairs to and monitoring of Barville Road.

Operations on site:

- Air pollution / odour and dust from site operations;
- Noise impact;
- Proposed hours of use (04:00 to 23:00 hours);
- Pollution of the aquifer / water supplies;
- Litter and vermin / pests;
- Health impacts;
- Impact of toxic waste on the environment and local community;
- Impact on wildlife;
- Landscape impact (including height of stockpiles);
- Light pollution (including impact on wildlife including bats, buzzards and barn owls);
- The need for environmental monitoring due to the proximity of domestic dwellings.



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Other issues:

- Existing waste management sites should be expanded rather than new ones created;
  - Adverse impact on adjoining businesses (including Tilmanstone Salads, an important food preparation facility and local employer);
  - Potential hazards associated with development on former spoil tip (e.g. underground fires or explosions);
  - Impact on property values;
  - Lack of consultation;
  - Cumulative impact;
  - Such facilities should be located very close to dual carriageways and rail links;
  - Traffic surveys are out of date.
52. Shepherdswell with Coldred PC broadly welcomes the application as it believes it would simplify current site operations but requests that a condition be imposed requiring all transport entering and leaving the site to use the A256 and Barville Road. It has also suggested that measures be taken to monitor and enforce this.

**Local Member**

53. County Council Member Mr G Lymer (Dover West) was notified in October 2017 and March 2018. Mr S Manion (Dover North) was also notified as adjoining Member.

**Discussion**

54. The application is being report to KCC's Planning Applications Committee for determination as planning objections have been received from both consultees and those who have submitted representations.
55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the development plan policies outlined in paragraphs 30 to 34 above are of most relevance. Material planning considerations include the national planning policies referred to in paragraph 29 and the draft waste policies in paragraph 35.
56. The main issues that require consideration are as follows:
- Location;
  - Need;
  - Highways and transportation;
  - Noise and air quality;
  - Rights of way;
  - Landscape and visual impact;
  - Ecology; and
  - Water environment.

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Location

57. Although the application site lies outside any settlement boundary and is not allocated for any specific purpose in the Dover District Local Development Framework Core Strategy (Dover LDFCS), the Dover District Land Allocations Local Plan (Dover LALP) or the Kent Minerals and Waste Local Plan (Kent MWLP), it does lie within the Pike Road Industrial Estate on land previously used as a brickworks.
58. Paragraph 4 of the National Planning Policy for Waste (NPPW) states that priority should be given to the re-use of previously developed land and sites identified for employment uses when seeking to identify sites for new or enhanced waste management facilities.
59. Saved Policies W7 and W9 of the Kent Waste Local Plan (Kent WLP) respectively identify such locations as suitable in principle for inert waste to be prepared for recycling or re-use and for waste separation and transfer. Policy CSM8 of the Kent MWLP identifies industrial estates as appropriate locations for secondary and recycled aggregates production. Policy CSW6 identifies industrial estates and previously developed, contaminated or derelict land not allocated for another use as appropriate locations for built waste management facilities subject to being acceptable in other respects. This is carried forward in draft (modified) Policy CSW6 of the Early Partial Review of the Kent MWLP.
60. Notwithstanding the suggestion by Tilmanstone PC that there are other brownfield sites available between Dover and Thanet that are better located and the suggestion in the representations section that existing waste management sites should be expanded rather than new ones created, the use of the application site for waste management purposes is acceptable in principle subject to compliance with the other policies referred to elsewhere in this report.

Need

61. Paragraph 7 of the National Planning Policy for Waste (NPPW) states that when determining waste planning applications, waste planning authorities (WPAs) 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. It also states that in such cases, WPAs should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.
62. Policy CSW4 of the Kent MWLP states that the strategy for waste management capacity in Kent is provide sufficient waste management capacity to manage at least the equivalent of the waste arising in Kent plus some residual non-hazardous waste from London. The text supporting Policy CSW4 states that Kent currently achieves net self-sufficiency in waste management facilities for all waste streams. This strategy is carried forward in draft (modified) Policy CSW4 of the Early Partial Review of the Kent MWLP which now also includes targets for recycling, composting and other forms of recovery that the draft Policy states are to be regarded as a minimum. Policy CSW16 of the Kent MWLP safeguards sites with permanent planning permission for waste management from being developed for non-waste management uses. Policy

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DM8 of the Kent MWLP states that planning permission will only be granted for development that is incompatible with safeguarded waste management facilities where it is demonstrated that (amongst other things) replacement capacity, of the similar type, is available at a suitable alternative site, which is at least equivalent or better than that offered by the facility that it is replacing. It also states that replacement capacity must be at least equivalent in terms of tonnage, accessibility, location in relation to the market, suitability, availability of land for processing and stockpiling of waste and minerals and at least at an equivalent level of the waste hierarchy and capacity may be less if the development is at a higher level of the hierarchy. It further states that there must also be no existing, planned or proposed development that could constrain the operation of the replacement site at the required capacity.

63. As noted in paragraph 7 above, Dover DC is considering an application for a log storage facility and offices (DO/17/952) which would, if permitted, lead to the loss of waste management capacity at Tilmanstone Works. KCC has lodged a holding objection to that application pending the provision of replacement capacity that would satisfactorily address the requirements of Policy DM8. Given that the proposed waste management development at the former Tilmanstone Brickworks would provide capacity at least equivalent to that previously permitted to the east of Pike Road (in terms of waste quantity and the waste hierarchy), the holding objection could be withdrawn if KCC grants planning permission.
64. Although Tilmanstone PC considers that there are enough recycling facilities with better infrastructure elsewhere and that there is no need for the proposed development, there is clear policy support for ensuring that existing waste management capacity is maintained and supplemented where appropriate. It is also clear that replacement capacity must be provided if application DO/17/952 is to comply with development plan policy. Notwithstanding the various planning policy issues that are addressed elsewhere in this report, the provision of a replacement waste management facility at the former Tilmanstone Brickworks would enable the applicant to continue to serve existing customers and seek to expand its operations in ways that are consistent with Policies CSW4 and DM8. Subject to compliance with policies referred to elsewhere within this report, I see no requirement for the applicant to further demonstrate the need for the proposed development.

#### Highways and transportation

65. Paragraph 108 of the National Planning Policy Framework (NPPF) states that when assessing applications for development it should be ensured that: (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and

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on amenity against the criteria set out in Appendix B of the NPPW. In terms of traffic and access, Appendix B states that considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.

66. Policy CSW1 of the Kent MWLP establishes the principle of taking a positive approach to waste development proposals which reflects the presumption in favour of sustainable development. Policy CSW6 states that planning permission will be granted for uses identified as appropriate to the sites allocated in the Waste Sites Plan providing such proposals (amongst other things) are well located to Kent's Key Arterial Routes, avoiding proposals which would give rise to significant numbers of lorry movements through villages or on unacceptable stretches of road. Draft (modified) Policy CSW6 of the Partial Review of the Kent MWLP removes any reference to a Waste Sites Plan but retains the same criteria for decision making. Policy DM13 of the Kent MWLP states that minerals and waste development will be required to demonstrate that emissions associated with road transport movements are minimised so far as practicable and by preference being given to non-road modes of transport. It also states that where new development would require road transport, proposals will be required to demonstrate that: (1) the proposed access arrangements are safe and appropriate to the scale and nature of movements associated with the proposed development such that the impact of traffic generated is not detrimental to road safety; (2) the highway network is able to accommodate the traffic flows that would be generated, as demonstrated through a transport assessment, and the impact of traffic generated does not have an unacceptable adverse impact on the environment or local community; and (3) emission control and reduction measures, such as deployment of low emission vehicles and vehicle scheduling to avoid movements in peak hours.
67. Policies DM11, DM12 and DM13 of the Dover LDFCS seek to ensure that proposed development is acceptable in terms of the amount and type of travel likely to be generated, access arrangements and parking provision.
68. Eythorne PC, Tilmanstone PC and the vast majority of those who have made representations (including Goodnestone PC and Whitfield PC) have objected to the proposed development due to concerns about highways and transportation issues. The main concerns raised relate to the proposed number of HGV movements, HGVs passing through local villages (ignoring agreed routeing and signs), the ability of Pike Road and Barville Road to accommodate the proposed additional traffic, damage to local roads (and the need for repairs to / monitoring of Barville Road), mud, debris, litter and spillages on local roads, danger to / conflict with other road users (including pedestrians, cyclists and horse riders), noise and air pollution from HGVs and related health impacts, the speed of HGVs and inappropriate HGV parking (and fouling by drivers). Concerns have also been expressed about HGVs travelling between the proposed site and Tilmanstone Works to use the weighbridge. Although not objecting, Shepherdswell with Coldred PC has also expressed concern about HGVs travelling through local villages and requested that all transport entering and leaving the site should do so via Pike Road and Barville Road.
69. No highway objections have been received from other consultees. Dover DC is content for the highways implications to be addressed by KCC Highways and



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Transportation (H&T). KCC H&T has no objection subject to no more than 150 HGV movements (75 in / 75 out) per day, monitoring of HGV movements and HGVs entering and leaving the site via Pike Road and Barville Road. Notwithstanding this, it should be noted that KCC H&T has advised that there are significant lengths of Barville Road which are of insufficient width for two HGVs to pass each other and that damage is already being caused to verges and carriageway edges. It has also advised that the increase in HGV movements initially proposed (i.e. up to 304 movements) would significantly exacerbate and extend the damage and that highway improvement works are required to mitigate this and accommodate the additional HGV movements. KCC's Noise and Air Quality Consultants have advised that noise and air quality impacts associated with traffic movements are acceptable.

70. Sustainable transport: Although Tilmanstone Colliery was previously served by a rail link this no longer exists. The absence of rail or navigable water at the site, together with the nature of the waste management operation (which relies on waste being collected from various locations in the area and recycled materials / non-recyclable waste being similarly exported to different locations), means that road transport is the only viable option (as was the case with Tilmanstone Works to the east of Pike Road and all other HGV generating uses on the industrial estate).
71. Number of HGV movements: As noted in paragraphs 28 and 39 above, it has not been possible to reach agreement on the extent, financing and implementation of the highway works on Barville Road requested by KCC H&T to accommodate the number of HGVs initially proposed and the applicant has instead requested that the application be determined on the basis that no more than 150 HGV movements (75 in / 75 out) would take place each day. It has suggested that this limit be imposed by condition. It has also agreed to keep records of HGV movements entering and leaving the site, make these available to KCC on request and provide a summary of HGV movements per day to KCC on a monthly basis. These are also capable of being required by condition.
72. As noted in paragraphs 5 to 9 above, only Tilmanstone Works to the east of Pike Road and the former Tilmanstone Brickworks planning permissions have limits imposed by condition on the number of HGV movements. The Tilmanstone Works site is permitted to have 100 HGV movements per day (with an additional 12 days unlimited) and the former Tilmanstone Brickworks was permitted to have 360 HGV movements per week (which would equate to 65.5 HGV movements each day based on the 5.5 day week which was permitted, or 72 based on a 5 day week). The log storage application (which occupies the permitted Ovenden Works waste facility and adjoining former coal yard) proposes an average of 14 HGV movements (with the possibility of an occasional 60 HGV movements). Given that Tilmanstone Works is permitted to operate for 12 days each year with unlimited HGV movements, which might reasonably be regarded as "occasional" in the same way as HGV movements in excess of 14 per day is anticipated at the proposed log storage facility, I consider that it reasonable to allow 86 of the permitted 100 HGV movements per day previously associated with Tilmanstone Works to be retained by RH Ovenden Ltd for the proposed waste management facility at the former Tilmanstone Brickworks (in effect these would be transferred from one side of Pike Road to the other). I also consider it reasonable for the applicant to be able to use the daily average number of HGV

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movements from the former Tilmanstone Brickworks (65.5). This provides 151.5 movements (similar to the 150 now proposed as a maximum). In order that this approach is not undermined, it would be necessary to ensure that the HGV movements currently permitted at Tilmanstone Works which would be “transferred” to the proposed site cannot continue to be relied upon. This could reasonably be secured by a Section 106 Agreement (i.e. a planning obligation / legal agreement) preventing the permitted waste management operations continuing at Tilmanstone Works once planning permission is granted for the proposed development.

73. HGV routeing: The applicant proposes that all customers and its own vehicles will use Barville Road and avoid routes through local villages. This routeing arrangement, whereby vehicles would enter and leave the site via Pike Road (to the south of the site entrance), Barville Road (to the east of its junction with Pike Road) and the A256, is currently provided for by legal agreements relating to both the former Tilmanstone Brickworks and Tilmanstone Works site. It is understood that other operations on the Pike Road Industrial Estate are meant to adhere to the same arrangement although it is clear from the representations received that this has not always been 100% effective. Whilst there are likely to be a number of reasons why vehicle routeing is not always complied with, I am satisfied that it would be appropriate to require the proposed routeing as part of the Section 106 Agreement referred to in paragraph 72 above. The Section 106 Agreement could require all those using the proposed waste management facility to adhere to the routeing and include appropriate measures for dealing with any transgressions. The applicant would be in a position to directly deal with its own employees breaching the agreed routeing and capable of dealing with others using the site through appropriately worded contractual arrangements. Notwithstanding the above, it should be noted that some of the vehicles using the proposed waste management facility may need to use local roads if making waste collections from or delivering recycled materials (such as aggregates) to local villages. Providing a mechanism for bringing apparent transgressions to the attention of the applicant and KCC and explaining why some HGVs may need to use local roads is capable of being addressed as part of a traffic management plan (which could also incorporate a complaints procedure) and the recording and reporting of HGV movements referred to in paragraph 71 above (both of which are capable of being addressed by condition). It should also be noted that employees travelling to and from the site in their own vehicles would use the most convenient route available to them.
74. It has been suggested that the routeing arrangement should be reinforced by the provision of better signage, measures to further discourage HGVs travelling through local villages (such as the narrowing of village entrances), monitoring of HGV traffic in the area and penalties for those ignoring the routeing. Whilst the Section 106 Agreement is capable of at least partially addressing the issue of penalties in so far as this relates to the proposed development and KCC would have a role in monitoring HGV movements associated with this, the issue of inappropriate use of local roads is a wider one which should more properly be addressed by KCC H&T and other stakeholders rather than by a single applicant. Should KCC H&T consider it appropriate to impose weight, width or height restrictions or traffic calming measures additional to those already in place on local roads these should be addressed independently and not tied to the determination of this application.

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75. The ability of Pike Road and Barville Road to accommodate the proposed additional traffic: As noted elsewhere in this report, although KCC H&T has expressed concerns about the ability of Barville Road to accommodate significant additional numbers of HGV movements, it has advised that 150 HGV movements per day is acceptable and can be accommodated without the applicant being required to finance or undertake improvement works to Barville Road. On this basis, I am satisfied that both Pike Road and Barville Road are capable of accommodating the proposed development subject to a condition being imposed limiting HGV movements to no more than 150 per day.
76. Damage to local roads (and the need for repairs to / monitoring of Barville Road): Many of the HGVs using Pike Road Industrial Estate are not connected with the applicant's existing operations such that any damage to local roads cannot be entirely attributed to the applicant. It should also be noted that a number of the operations at Pike Road involve the use of large articulated lorries which may cause greater damage than the rigid HGVs currently employed by the applicant. Although KCC H&T has expressed concerns about the condition of Barville Road, it is content that up to 150 HGV movements per day associated with the proposed development be permitted without the need for the applicant to undertake improvement works. The condition of Barville Road and other local roads more generally is a matter for KCC H&T to consider and address independently and regardless of the outcome of this application.
77. Mud, debris, litter and spillages on local roads: The Tilmanstone Brickworks and Tilmanstone Works planning permissions both include conditions requiring measures be taken to ensure that vehicle leaving the sites do not deposit mud or other materials on the public highway, including the provision of wheel and chassis cleaning equipment. In this case, the applicant states that the matter would primarily be addressed by adopting an operational and circulation pattern whereby vehicles would travel over areas of impermeable pavement rather than over mud or debris. The applicant does not intend to install a fixed wheel wash and instead proposes that the impermeable surface would be swept (manually or with tractor brush and vacuum) as necessary and that vehicle bodies and tyres would be assessed prior to leaving the site and dry brushed or spot treated with a jet washer as necessary. It also states that the access road is relatively long and that in the unlikely event that mud or debris is tracked onto the highway, it would be swept / vacuum brushed. I am satisfied that the issue can be addressed by the imposition of a condition requiring measures be taken to minimise such impacts. The potential for litter or other materials to be spilled from HGVs transporting waste can be minimised by sheeting, covering or containing loads as appropriate and conditions are often imposed on such operations to reduce the risk of this occurring. I consider this to be appropriate in this case. Loads containing potentially hazardous materials (such as asbestos) are also subject to other legislative requirements which can be relied upon.
78. Danger to / conflict with other road users (including pedestrians, cyclists and horse riders): The absence of pedestrian footways on Barville Road and the fact that several public footpaths join / cross this road means that existing traffic already presents a danger to those wishing to walk along or cross its route. Despite the presence of alternative footpaths to the north and south of Barville Road (linking Pike Road with Tilmanstone and Eythorne with the A256), these do not provide a similarly direct route to the Barville Road / A256 roundabout. Cyclists and horse riders also need to use a

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relatively long section of Barville Road in order to progress southwards from the end of Bridleway EE335. Although the additional length of footway to the south of the site entrance provided for as part of planning permission DO/13/654 has been laid out and the kerb line on the junction adjusted, the footway has yet to be properly surfaced. However, it already enables pedestrians to walk from the application site on a footway along Pike Road to the Barville Road junction and along Wigmore Lane towards Eythorne to a point approximately 90m to the west of Millyard Way (i.e. the entrance to Tilmanstone Salads). From that point there is no footway for about 280m until it resumes in Eythorne. Notwithstanding this, it should be noted that HGV traffic associated with the proposed development would not use Wigmore Lane or travel through Eythorne.

79. Neither KCC H&T nor KCC PROW have objected to the proposed development subject to conditions being imposed to restrict HGV routeing, limit HGV movements and require additional signage in the vicinity of the site entrance. The proposed signage is addressed in the Rights of way section of this report. Whilst there will continue to be some conflict with other road users, I am satisfied that the proposed development would not significantly add to the existing position subject to the imposition of the proposed conditions.
80. Noise and air quality pollution from HGVs and related health impacts: The concerns about noise (and vibration) from HGV movements appear to primarily relate to the potential for HGVs to travel through local villages and affect residential properties close to the public highway. Although these concerns are largely unfounded given the proposed routeing and as no residential or other noise sensitive properties lie immediately adjacent to Pike Road or Barville Road, it should be noted that Falconsview Meadows (a single mobile home) and Barville Farm Cottages are respectively approximately 25m and 100m from Barville Road. However, these properties are already affected by noise and other impacts from HGV and other traffic using Barville Road (including those associated with Tilmanstone Works and previously Tilmanstone Brickworks). The concerns about air quality associated with HGV movements relate to the impact of HGV emissions on the health of the local community when transporting these on local roads. As noted above, KCC's Noise and Air Quality Consultants have advised that noise and air quality impacts associated with traffic movements are acceptable subject to HGVs using the proposed routeing arrangement.
81. HGV speeds: Pike Road (to south of the site entrance) and its junction with Barville Road and Wigmore Lane are subject to a 40 mile per hour (mph) speed limit. The 40mph limit extends southeast towards Eythorne where it becomes 30mph. Barville Road and the A256 are subject to the national speed limit (60mph). Pike Road to the north of the site entrance is also subject to the national speed limit (but would not be used by HGVs associated with the proposed development) and is signed as being unsuitable for HGVs just the north of the entrance to Tilmanstone Works. Enforcement of speed limits (including that for HGVs) is a matter for the police. If KCC H&T considers that lower speed limits are necessary, it would need to investigate this and seek to implement measures as necessary and where possible. KCC H&T's response indicates that this is not something that is necessary to make the proposed development acceptable nor something that should be linked to the determination of



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the application.

82. Inappropriate HGV parking (and fouling by drivers): Whilst the inappropriate parking of HGVs or other vehicles may relate to any of the operations on Pike Road Industrial Estate, I consider it more likely to relate to HGVs visiting other sites on the Pike Road Industrial Estate (some of which may require statutory breaks from driving or overnight stays). HGVs associated with the proposed development are more likely to be based at the application site where they would be parked when not in use and their drivers use the welfare facilities provided on site. This is capable of being reinforced by condition if planning permission is granted.
83. Use of Tilmanstone Works weighbridge: This will cease if planning permission is granted for the proposed development and could be prevented by condition as necessary. It could also be addressed as part of the Section 106 Agreement referred to in paragraph 72 above. It would additionally be for Dover DC to impose any conditions it considers appropriate in respect of any future use of the Tilmanstone Works site which could include it only being used for operations associated with log storage.
84. Notwithstanding the concerns that have been expressed by the local community about potential highways and transportation impacts, no objections have been received from KCC H&T, KCC's Noise and Air Quality Consultants and KCC PROW subject to conditions and Dover DC is content to leave highways issues to KCC H&T. I am satisfied that the proposed development would be acceptable in terms of highways and transportation and accord with relevant policies subject to the imposition of the conditions and provision of the Section 106 Agreement referred to above in respect of HGV routeing, no more than 150 HGV movements (75 in / 75 out) per day, records being maintained of HGV movements entering and leaving the site and made available to KCC on request, the provision of a summary of HGV movements per day to KCC on a monthly basis until such time as the Waste Planning Authority agree that this is no longer necessary, a traffic management plan, wheel, chassis and road cleaning measures, the appropriate sheeting, covering or containment of waste in HGVs and Tilmanstone Works no longer being used for the permitted waste management operations (including use of its weighbridge).

Noise and air quality

85. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) preventing new and existing development from contributing to unacceptable levels of soil, air, water or noise pollution and that development should, wherever possible, help to improve local environmental conditions such as air and water quality. Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development and that in doing so they should (amongst other things) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

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Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. In terms of noise and air quality, Appendix B states that considerations will include the proximity of sensitive receptors (human and ecological), including those associated with vehicle traffic movements to and from a site.

86. Policy CSW6 of the Kent MWLP states that planning permission will be granted for uses identified as appropriate to the sites allocated in the Waste Sites Plan providing such proposals (amongst other things) avoid sites on or in proximity to land where alternative development exists / has planning permission or is identified in an adopted Local Plan for alternative uses that may prove to be incompatible with the proposed waste management uses on the site. Draft (modified) Policy CSW6 of the Partial Review of the Kent MWLP removes any reference to a Waste Sites Plan but retains the same criteria for decision making. Policy DM1 of the Kent MWLP states that proposals for minerals and waste development will (amongst other things) be required to demonstrate that they have been designed to minimise greenhouse gas emissions and other emissions. Policy DM11 states that minerals and waste development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. It also states that this may include production of an air quality assessment of the impact of the proposed development and its associated traffic movements.
87. Eythorne PC, Tilmanstone PC and many of those who have made representations have objected to the proposed development due to concerns about noise and air quality issues, both relating to HGV movements and from operations on site. The concerns relating to HGV movements have been addressed in the Highways and transportation section above. The concerns about noise (and vibration) impacts from operations on site primarily relate to the proposed hours of use, the likelihood of skips being handled (and dropped) on site and the use of audible reversing alarms. The concerns about air quality impacts from operations on site include the potential for odour nuisance
88. No noise and air quality objections have been received from other consultees. Dover DC has no objection in terms of noise impact subject to waste processing activities outside being restricted to between 07:00 and 18:00 hours, waste processing activities inside the building taking place with all external doors, windows and apertures closed and all of the noise control measures assumed by the applicant being implemented. It has no objection in terms of air quality associated with traffic movements and no objection to operations on site provided appropriate dust measures are required. KCC Noise Consultant has advised that the proposed development is capable of being carried out without any adverse noise impact and has no objection subject to the hours of operation set out in paragraph 22 above, waste processing activities inside the building taking place with all external doors, windows and apertures closed, the building being constructed as proposed, broadband / white noise (non-tonal) reversing alarms being employed on site by vehicles owned / operated by the operator, the installation and use of fast action roller shutter doors, the existing northern boundary

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bund being increased to 5m in height and the proposed HGV routing being observed. KCC Air Quality / Odour Consultant has advised that air quality impacts would be acceptable and has no objection subject to conditions to secure the proposed dust and odour mitigation measures and dust and odour management plans. The Environment Agency has no objection and has advised that the proposed development would require a variation to the current Environmental Permit. It should be noted that the Environmental Permit provides further detailed controls on operations on site (including waste types and quantities, time limits and measures relating to mud, dust, odour, litter, vermin / pests and the water environment).

89. The proposed development has the potential to give rise to significant noise and air quality impacts if these are not designed out, mitigated or controlled in some way. The production of secondary aggregates (including concrete crushing) can be a particularly noisy activity, although all of the waste management operations and related materials handling activities and HGVs delivering to or collecting waste or other materials from the site have the potential to give rise to disturbance.
90. The potential noise impacts associated with these external operations on noise sensitive properties (primarily New Purchase Farm Cottages) would primarily be minimised by distance and the northern boundary bund being increased to 5m in height. The former Tilmanstone Brickworks building would also provide noise attenuation more generally. As noted in paragraph 21 above, the applicant's noise impact assessment also assumed 5m high bunding on the southern and western site boundaries. Whilst a 5m bund is effectively still provided for on the southern boundary (as a result of the adjoining topography), recontouring works associated with planning permission DO/13/654 have reduced the bund on the western boundary to below 5m. Whilst the overall topography of the spoil tip (existing and permitted) and the distance to residential properties to the west are sufficient to ensure that sensitive receptors are not adversely affected, it is likely that there would be additional noise impact on the employment development provided for by planning permission DO/13/654 (despite the fact that the rear walls of 7 of the permitted 16 industrial units would face the application site and effectively form a noise barrier for the rest of that development). Given that the noise assessment assumed a 5m bund on the western boundary, I consider it appropriate to require that this noise attenuation (or some suitable alternative such as acoustic fencing or a combination of bund and fencing) be provided if planning permission is granted. This is capable of being secured by condition. The operations proposed to be undertaken within the building (including the various elements of the MRF such as a shredder) also have the potential to give rise to noise impact, although the building itself would serve to minimise noise impact outside the site subject to doors and apertures being closed during operations. As noted in paragraph 19 above, the applicant proposes that inert waste and recycled aggregates / soils be stockpiled outside up to 8m high. It is understood that this would necessitate plant and equipment being used as much as 4m above ground / yard level. This would undermine the assumptions made in the applicant's noise impact assessment and reduce the effectiveness of the proposed noise mitigation. The use of 8m stockpiles would also increase the likelihood of materials over-spilling the 3m high bays that are proposed. For these reasons, I consider it appropriate to limit stockpile heights by condition to no more than 6m and require plant and equipment to be operated from ground / yard level.

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91. As noted above, the proposed hours of operation have attracted specific objection. The applicant initially proposed that external operations such as waste processing take place between 06:00 and 19:00 hours Monday to Friday and 06:00 and 13:00 hours on Saturdays. However, this was amended to between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays. It still proposes that the MRF additionally be permitted to operate inside the building between 04:00 and 23:00 hours Monday to Friday, that the core operating hours for the receipt and dispatch of waste be between 06:00 and 19:00 hours Monday to Friday and 06:00 and 13:00 hours on Saturdays and that additional hours be permitted for specific operations (including the receipt and dispatch of local authority waste on some Bank and Public Holidays and Saturday afternoons, in cases subject to further agreement, and for the receipt of waste from highways works overnight and at weekends). The hours of operation sought are set out in paragraph 22 above.
92. Although some of the proposed hours of operation are different than those often employed they are intended to provide the flexibility necessary for the applicant to seek and secure future local authority or highway related contracts without the need to obtain a further planning permission(s) should opportunities arise. It is understood that obtaining some of these contracts without the necessary planning permission already in place is impossible and that there is often insufficient time to obtain any necessary additional hours of use once invitations to tender for contracts are released. On this basis, and subject to being acceptable, the applicant wishes to obtain the necessary permission at this stage. It should be noted that neither Dover DC nor any of the technical consultees has any objection to the proposed hours of operation referred to above subject to conditions designed to keep noise impacts to an acceptable level and the development being undertaken as proposed.
93. In addition to the noise from plant and machinery used in the waste management operations, noise from reversing alarms and skip handling may also give rise to nuisance. The applicant proposes that broadband or other “non-bleeper” reversing alarms be used on all its own equipment, plant and vehicles. Whilst this is welcomed as it would significantly reduce the noise impact associated with reversing, vehicles visiting the site would not be restricted in the same way. Given the nature of the applicant’s business, it is likely that it would own or control the majority of vehicles using the site. It may also be able to require others using the site to employ similar reversing alarms. Although the occasional use of a tonal reversing alarm may be acceptable during the normal working day, I do not consider it appropriate at other times. On that basis, I consider that in addition to requiring that the applicant’s equipment, plant and vehicles use broadband reversing alarms at all times, it would be appropriate to impose this requirement for all equipment, plant and vehicles using the site outside the proposed core operating hours. Whilst full skips would be dealt with within the building and the majority of skip handling would take place during the normal working day, it is possible that empty skips may be handled at any time during core operating hours for the receipt and dispatch of waste (including between 06:00 and 07:00 hours Monday to Saturday) as an integral part of the applicant’s business. Given the responses of Dover DC and KCC’s Noise Consultant and the proposed noise attenuation referred to elsewhere in this report I consider the likely impacts to be acceptable.

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94. As with noise, many waste management operations have the potential to give rise to adverse air quality impacts. The production of secondary aggregates and soil screening in particular can create significant amounts of dust if measures are not taken to minimise impacts. The applicant proposes to implement dust mitigation measures to minimise dust impact associated with the proposed development. These include regular cleaning of the site access and hardstanding, a 6mph speed limit on site, minimising drop heights, repair of any potholes on site, the sheeting or containment of laden vehicles, the use of misting and water sprays as necessary, the profiling of stockpiles to reduce wind whipping and the temporary cessation of loading / unloading from stockpiles if to do so would result in material being blown beyond the boundary of the site. These are considered to be appropriate by KCC's Air Quality Consultant and can be secured by condition.
95. Some of the proposed waste types (e.g. black bag waste, food waste and green waste) are likely to give rise to odour and could result in odour nuisance if not properly managed. These wastes would be handled entirely within the building. The applicant proposes that the building be fitted with fast acting roller shutter doors such that waste and associated operations would be contained to minimise impacts experienced outside and that an odour control spray system be employed if such wastes are to be handled at the site. Whilst I am satisfied that the Environmental Permit is the appropriate mechanism for detailed matters relating to odour control (and content to leave such detailed controls to that regime), the need for the provision of appropriate odour control measures should be required by condition if planning permission is granted. It should be noted that there is no guarantee that black bag waste, food waste, green waste or other wastes with the potential to give rise to odour would be handled at the site as this would be dependent on the applicant securing contracts for these waste streams. In the event that such wastes are not to be handled at the site there would be no need to install the proposed odour management systems. However, the proposed containment measures would still be required to minimise noise and dust impact.
96. If not properly managed, black bag waste and food waste have the potential to attract vermin and many waste streams may result in litter both on and around the site. I am satisfied that it is appropriate to leave detailed vermin and litter controls to be addressed by the Environmental Permit.
97. Notwithstanding the concerns that have been expressed by the local community about potential noise and air quality impacts, Dover DC, KCC's Noise and Air Quality Consultants and the Environment Agency have all advised that these impacts would be acceptable subject to conditions. I am satisfied that the proposed development would be acceptable in terms of noise and air quality and accord with relevant policies subject to the imposition of the conditions referred to above, including those in respect of hours of operation, noise and dust mitigation, stockpile heights, reversing alarms and odour controls (including potentially odorous waste being handled within the building), and those relating to highways and transportation referred to in the above section.



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Rights of way

98. Paragraph 98 of the NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users (e.g. by adding links to existing networks). Paragraph 004 of the Planning Practice Guidance (PPG) relating to open space, sports and recreation facilities, public rights of way and local green space includes limited advice relating to public rights of way and national trails. Amongst other things this states that public rights of way form an important component of sustainable transport links and should be protected or enhanced.
99. Policy DM14 of the Kent MWLP states that planning permission will only be granted for minerals and waste development that adversely affect a public right of way, if: (1) satisfactory prior provisions for its diversion are made which are both convenient and safe for users of the Public Rights of Way; (2) provision is created for an acceptable alternative route both during operations and following restoration of the site; and (3) opportunities are taken wherever possible to secure appropriate, improved access into the countryside.
100. Tilmanstone PC has specifically objected due to concerns about the risk to users of bridleways and footpaths due to increased lorry activity (including Footpath EE337 at the site entrance, Bridleway EE335B to the north of the site and various other footpaths and bridleways in the vicinity of the site and joining / crossing Barville Road). Eythorne PC and many of those who have made representations have objected due to concerns about potential impacts on pedestrians, cyclists and horse riders (who may be using footpaths and / or bridleways as well as local roads). Respondents have also referred to the lack of pavements on some local roads (such as Barville Road).
101. No rights of way objections have been received from other consultees. KCC Public Rights of Way (PROW) has no objection and has advised that it is satisfied with the proposed arrangements for tying Footpath EE337 with the new footway provided for by hybrid planning permission DO/13/654 referred to in paragraph 8 above subject to the provision of additional signage at this location to assist in enabling pedestrians to safely cross the access road. I note that the provision of the new section of footway to the south of the site entrance provided for by planning permission DO/13/654 provides a continuous pedestrian link from the application site to the bus stops on Wigmore Lane (near the end of Pike Road).
102. With the exception of the proposed new signage, the above PROW issues have been addressed in the Highways and transportation section of this report (paragraphs 78 and 79). The applicant has agreed to implement additional signage near the site entrance and I am satisfied that this can be secured by condition if planning permission is granted.
103. Subject to the imposition of a condition to secure the new signage near the site entrance, I am satisfied that the proposed development would be acceptable in terms of public rights of way and accord with relevant policies.

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Landscape and visual impact

104. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. Paragraph 7 of the NPPW states that when determining waste planning applications WPAs should consider the likely impact on the local environment and on amenity against various locational criteria and other matters. Key locational considerations include landscape and visual impacts.
105. Policy CSW6 of the Kent MWLP states that planning permission will be granted for uses identified as appropriate to the sites allocated in the Waste Sites Plan providing (amongst other things) the landscape is able to accommodate associated structures (such as chimney stacks) after mitigation. Draft (modified) Policy CSW6 of the Partial Review of the Kent MWLP removes any reference to a Waste Sites Plan but retains the same criteria for decision making. Policy DM1 states that minerals and waste proposals should demonstrate that they have been designed to avoid causing any unacceptable adverse impact on the environment and communities by appropriate measures to protect and enhance the character and quality of the site's location. Policy DM11 states that minerals development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from illumination and visual intrusion. Policy DM12 states that permission will be granted for minerals development where it does not result in an unacceptable adverse, cumulative impact on the environment.
106. Policy DM15 of the Dover LDFCS seeks to avoid adverse impacts on the character or appearance of the countryside and encourages measures to reduce, as far as practicable, any harmful effects on countryside character. Policy DM16 seeks to protect the character of the landscape having regard to landscape character assessment and measures to avoid or reduce harm and / or incorporate design measures to mitigate impacts to an acceptable level. Saved Policy ER6 of the Dover District Local Plan (DLP) promotes sensitive design for external lighting.
107. Tilmanstone PC has objected due to concerns about the impact of lighting on the local area. Objections have also been raised by those who have made representations about impacts associated with lighting as well as landscape impact more generally (including from the height of stockpiles on site).
108. No landscape objections have been received from other consultees. Dover DC has no objection in terms of landscape impact but has suggested that existing vegetation on the outside of the northern perimeter bund be retained when its height is increased to 5m. KCC Landscape Consultant has no objection subject to the provision of a detailed landscape planting scheme for the northern boundary of the site and around the proposed rainwater storage facility in the north west corner of the site. It has also advised that it is satisfied with the overall level of landscape and visual mitigation but would like to see as much of the existing planting on the outside of the proposed 5m bund retained as possible.

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109. The applicant proposes to increase the height of the bund on the north eastern boundary of the site to 5m and replace and supplement existing landscape planting on the northern perimeter and around the surface water lagoon. The applicant has already implemented some works associated with increasing the height of the bund to 5m. This has involved the erection of a wooden “sleeper” wall along the inside of the bund facing the northern elevation of the building in order to retain sufficient space for vehicles entering and leaving the building. Although some additional work is required to complete the bund, the works that have been undertaken have only had a limited impact on existing vegetation and the majority of the landscape planting (including that on the external base and lower part of the bund) remains largely intact. Once the bund has been completed, it is capable of being planted / replanted as necessary and I am satisfied that an appropriate scheme (similar to that proposed) is capable of being secured by condition. The condition could also secure the landscaping of any bund created along the western boundary of the site to address the noise impact referred to in paragraph 90 and the ongoing management of any new landscaping and that already existing (including the hedgerow on the eastern boundary of the site along Pike Road).
110. External lighting has the potential to illuminate land beyond the site boundary and / or be visible at a distance if poorly designed and installed. As well being visually intrusive this can adversely affect wildlife. The applicant proposes that directional floodlighting be provided on building facades to illuminate the yard and that this would be designed to minimise light spill and glare. It states that energy efficient lamps (including LEDs) would be used and that the lighting would be employed permanently during the hours of darkness, including as a security measure. It also proposes the use of task lighting on plant and equipment as required to ensure safe operations. The proposed lighting is already in place. It is understood that this is the same as that previously employed at the former brickworks although some of the luminaires have been replaced (in cases due to vandalism). The applicant states that the use of the lighting as a security measure is necessary due to problems with theft and damage from theft. The application includes the results of a lighting (LUX) survey which demonstrates that the proposed (existing) lighting is focussed downwards (close to the northern, western and southern building facades) and does result in light spill outside the site boundary. I am satisfied that the proposals are acceptable in terms of lighting impact and that this can be reinforced as necessary by a condition requiring that lighting be designed, installed and used in such a way as to minimise light spill and avoid light pollution.
111. External stockpiles of waste and recycled materials may also give rise to adverse landscape and visual impact if stockpiled too high, as may plant and equipment used in external operations if positioned high on stockpiled materials. As noted in paragraph 90 above, employing plant and equipment significantly above ground level is also likely to undermine the proposed noise mitigation associated with the 5m perimeter bunds. The proposed reduction in inert waste and recycled aggregate / soil stockpiles to no more than 6m and requiring plant, equipment and vehicles to work and / or be positioned at ground / yard level would also have benefits in terms of landscape and visual impact. The proposed storage of RDF bales up to 5m high is considered to be acceptable and should be limited by condition if permission is granted.

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112. I am satisfied that the proposed installation of photovoltaic panels on the roof of the building would have no significant landscape or visual impact and that incorporating renewable energy technology would also accord with one of the aims of Policy DM1 of the Kent MWLP.
113. Subject to the imposition of conditions to secure the landscaping scheme referred to in paragraph 109, control the use of external lighting, limit the height of waste and recycled aggregate / soil stockpiles to 6m and the storage of RDF bales to 5m and require plant, equipment and vehicles to work and / or be positioned at ground / yard level (rather than on stockpiles), I am satisfied that the proposed development would be acceptable in terms of landscape and visual impact and accord with relevant policies.

Ecology

114. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) protecting and enhancing sites of biodiversity value (in a manner commensurate with their statutory status) and minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that when determining planning applications, local planning authorities should apply (amongst others) the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and (d) opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. In terms of nature conservation, Appendix B states that considerations will include any adverse effect on ecological networks and protected species.
115. Policy DM1 of the Kent MWLP states that minerals and waste proposals should demonstrate that they have been designed to protect and enhance the character and quality of the site's setting and its biodiversity interests or mitigate and, if necessary, compensating for any predicted loss. Policy DM3 states that proposals will be required to demonstrate that they result in no unacceptable adverse impacts on Kent's important biodiversity assets.
116. Policy DM15 of the Dover LDFCS seeks to prevent the loss of ecological habitats.
117. Tilmanstone PC and some of those who have made representations have objected due to concerns about potential impacts on wildlife and associated habitats.
118. No ecological objections have been received from other consultees. Dover DC has no objection in terms of ecology but has questioned why the ecology report does not refer to the potential for bats on the bund and suggested that a scoping survey should be submitted with particular focus on the bund and reptiles. KCC Ecological Advice Service has no objection subject to the northern bund planting being supplemented as

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necessary to provide beneficial biodiversity and retain connectivity throughout the area. It is satisfied with the information submitted with the application and has advised that it is very unlikely that the site has the potential for protected / notable species to be impacted as a result of the proposed development. It has also advised that the habitat of greatest impact is the hedgerows bounding the site which (with the exception of some minor loss associated with increasing the height of the northern bund to 5m) are proposed to be retained. It has further advised that no additional ecological surveys are necessary.

119. Given the response from KCC Ecological Advice Service and as the remaining works on the 5m northern bund would have no significant impact on existing vegetation on the external base and lower part of the bund, I am satisfied that the proposed development would be acceptable in terms of ecological interests and would accord with relevant policies subject to securing the landscaping scheme referred to in the Landscape and visual impact section above.

Water environment

120. Paragraph 163 of the NPPF states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) preventing new and existing development from contributing to unacceptable levels of soil or water pollution and that development should wherever possible help to improve local environmental conditions such as water quality. Paragraph 178 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination (including risks arising from former activities such as mining). Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on the natural environment. Paragraph 183 states that the focus of planning decisions should be on whether the proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes) and that planning decisions should assume that these regimes will operate effectively. Paragraph 7 of the NPPW states that when determining waste planning applications WPAs should consider the likely impact on the local environment and on amenity against various locational criteria and other matters relating to protection of water quality and resources and flood risk management. Key locational considerations include the proximity of vulnerable surface and groundwater or aquifers.
121. Policy CSW6 of the Kent MWLP states that planning permission will be granted for uses identified as appropriate to the sites allocated in the Waste Sites Plan providing (amongst other things) the proposals do not give rise to significant adverse impacts on groundwater resources and avoid Groundwater Source Protection Zone 1 or Flood Risk Zone 3b. Draft (modified) Policy CSW6 of the Partial Review of the Kent MWLP removes any reference to a Waste Sites Plan but retains the same criteria for decision making. Policy DM1 states that minerals and waste proposals should demonstrate



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that they have been designed to incorporate measures for water recycling where possible and utilise sustainable drainage systems wherever practicable. Policy DM10 states that permission will be granted for minerals and waste development where it does not: result in the deterioration of physical state, water quality or ecological status of any waterbody; have an unacceptable impact on groundwater Source Protection Zones; and exacerbate flood risk in areas prone to flooding and elsewhere, both now and in the future.

122. Eythorne PC, Tilmanstone PC and some of those who have made representations have objected due to concerns about potential pollution of the aquifer and public water supplies.
123. No objections have been received from other consultees about the water environment. The Environment Agency has no objection and has advised that the required variation to the current Environmental Permit would cover surface drainage emissions from waste handling areas. It has also advised that whilst inert materials can be managed on hardstanding, non-inert materials would need to be handled on sealed surface and drainage to prevent drainage to ground. It has further advised that clean surface water going to existing soakaways would be acceptable at the site given the depth of groundwater and as the site is not within a SPZ but that any new soakaways for clean drainage should be sampled at the soakage depth to prove the location is suitable for infiltration without posing any new risks to deep groundwater. Southern Water has provided advice about the proposed sewerage treatment plant, stated that the proposed SUDS would not be adoptable by sewerage undertakers such that the applicant would be responsible for the maintenance and effectiveness of the systems in perpetuity to avoid surface water flooding and, potentially, inundation of the foul sewerage system and advised that KCC should be satisfied of any arrangements relating to SUDS. KCC SUDS has no objection but has recommended the imposition of drainage related conditions if planning permission is granted. These include a detailed sustainable surface water drainage scheme which demonstrates that the surface water generated by the development can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site and that silt and pollutants resulting from the use of the site and any construction can be adequately managed to ensure there is no pollution risk to receiving waters.
124. Although waste management development has the potential to pollute the water environment (including public water supplies), it should be noted that the application site does not lie within a Groundwater Source Protection Zone (SPZ) and that operations would be strictly controlled by an Environmental Permit as well as any controls that may be included as part of any planning permission. The Environment Agency has also clearly indicated that the proposed development can take place without giving rise to adverse impact on the water environment subject to waste being handled with appropriate surfacing and drainage arrangements. This can be addressed by condition and will be a requirement of the Environmental Permit. The detailed sustainable surface water drainage scheme requested by KCC SUDS is also capable of being secured by condition and would ensure that surface water drainage is managed appropriately (as advised by Southern Water).

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125. Subject to the imposition of conditions to require that the different wastes be handled in appropriate areas of the site (including that non-inert waste only be handled on a sealed surface with appropriate drainage) and secure the detailed sustainable surface water drainage scheme requested by KCC SUDS, I am satisfied that the proposed development would be acceptable in terms of the water environment and accord with relevant policies.

Other issues

126. Heritage / Archaeology: No consultee responses or representations have been made in respect of heritage and archaeology. Given that the proposed development would re-use the former but relatively modern Tilmanstone Brickworks building and associated yard area and as no heritage assets would be adversely affected, I am satisfied that there are no significant heritage or archaeological implications in this case.
127. Land stability / former use: Tilmanstone PC has expressed concerns about the potential impact on the former sub-surface colliery works and spoil tips and questioned whether land stability has been assessed. It has also been suggested by a number of those who have made representations that development on the former spoil tip may be hazardous due to the potential for underground fires or explosions. Notwithstanding this, it should be noted that the application site itself does not lie on made ground and that the former Tilmanstone Brickworks and yard area was constructed on the bedrock (chalk).
128. Cumulative impact: Concerns about cumulative impact have been raised by the local community and Dover DC has suggested that KCC satisfy itself on the cumulative impact of what is proposed at both the former Tilmanstone Brickworks and Tilmanstone Works sites. The main potential cumulative impacts in this case relate to highways and transportation (primarily those associated with HGV movements on Pike Road and Barville Road) which have been considered by KCC H&T in providing its response. The impacts associated with these and related issues are addressed as necessary in the highways and transportation section above and I am satisfied that any cumulative impact in terms of highways and transportation is acceptable subject to the permitted waste management operations permanently ceasing at Tilmanstone Works and being replaced by an alternative non-waste management use such as log storage which would give rise to significantly fewer HGV movements than is currently permitted on that site. In addition to addressing the potential impact of HGVs, this would also serve to ensure that any adverse environmental impacts associated with waste operations on site do not occur on both sites simultaneously. Since the applicant (RH Ovenden Ltd) owns both the former Tilmanstone Brickworks and Tilmanstone Works sites (as well as the adjoining coal yard), I am satisfied that the proposed Section 106 Agreement is an appropriate mechanism for securing these matters. Draft heads of terms of the Section 106 Agreement are included at Appendix 1 (page C1.45).
129. Impact on local employment: Tilmanstone PC has expressed concerns about the potential loss of employment at Tilmanstone Salads if its clean / sanitised working environment and water supplies are prejudiced. Concerns about potential impact on

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adjoining businesses (including Tilmanstone Salads) have also been raised by a number of those who have made representations. Members should note that Tilmanstone Salads was one of the properties notified about the proposed development in October 2017 and that it has not responded. The issues that might potentially give rise to adverse impacts on such operations (and hence related employment issues) have been addressed elsewhere in this report and found to be acceptable. The proposed development would safeguard 50 jobs at RH Ovenden Ltd (i.e. those already working at the former Tilmanstone Brickworks) and has the potential to create further jobs (subject to the applicant's ability to expand operations within the proposed HGV movement limit and associated business growth).

130. Applicant's response to issues raised: Eythorne PC and Tilmanstone PC have both stated that they are disappointed that the applicant has not provided satisfactory responses to all of the issues they initially raised. Eythorne PC has additionally stated that the position of the parish councillors who visited the site has been misrepresented by the applicant (in that they were not all satisfied with the operations they saw). Whilst this is disappointing, I am satisfied that sufficient information has been submitted to enable the application to be determined.
131. Adequacy of consultation: Tilmanstone PC has stated that it is concerned that no pre-application engagement took place with the local community prior to the application being submitted. KCC's Planning Applications Group always encourages prospective applicants to undertake some form of community engagement (including with relevant parish councils). However, this is not mandatory and is at the discretion of those promoting development. The consultation and notification on the planning application itself went beyond that required by legislation and was in accordance with KCC Statement of Community Involvement (SCI).

**Conclusion**

132. The application (which is in part retrospective) proposes the development of a waste management facility at the former Tilmanstone Brickworks on the Pike Road Industrial Estate in Eythorne. The proposed development would replace the applicant's permitted waste management facility at Tilmanstone Works (to the east of Pike Road and also within the industrial estate).
133. The proposed location is one which is acceptable in principle, being on an industrial estate and on previously used land.
134. The applicant's existing permitted waste management facility at Tilmanstone Works is the subject of an application submitted to Dover DC for an alternative (non-waste management) use (log storage) and is already being used for that use with waste management operations having transferred to the former Tilmanstone Brickworks site. If planning permission is to be granted by Dover DC for log storage at Tilmanstone Works, the Kent MWLP requires that suitable alternative waste management capacity at least equivalent to that previously provided in terms of capacity and the waste hierarchy must be provided. The proposed development at the former Tilmanstone Brickworks would provide that alternative capacity and be well located geographically to meet the applicant's existing markets.

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135. Considerable objection and concern has been raised by the local community (including local parish councils) about the potential impact of HGVs associated with the proposed development on the highway and those using it. Whilst these concerns are understandable in so far as they relate to Barville Road (which links the A256 with the Pike Road Industrial Estate), it should be noted that a large number of objections relate to the potential for HGVs to travel through local villages (such as Eythorne and Shepherdswell) rather than on the route which the applicant has agreed to use to access the A256. Whilst HGVs associated with development on the Pike Road Industrial Estate have occasionally travelled through local villages (either by accident or design) I do not consider this a reason to reject the applicant's willingness to adhere to the proposed routeing and recommend that the application be refused. Importantly, the issue is also capable of being satisfactorily addressed as part of a Section 106 Agreement. The need or otherwise for additional traffic control / regulation in respect of this (something that has been requested by the local community) is a matter for KCC H&T and its partners to address independently from this application.
136. Whilst the development initially proposed may have led to a significant increase in HGV traffic on Barville Road, this impact has been considerably reduced as a result of the applicant's willingness to accept a limit on HGV movements of 150 per day (75 in / 75 out) which equates to a similar number of movements as currently provided for at its existing permitted waste management facility at Tilmanstone Works and the former Tilmanstone Brickworks once the anticipated number of daily HGV movements associated with the proposed log storage development (14 movements) is deducted. The local concerns about Barville Road are reinforced by the fact that KCC H&T had sought road improvement works if the initial number of HGV movements per day was to be accommodated. However, given the proposed 150 HGV movement limit now proposed KCC H&T has removed this requirement and raised no objection to the application subject to conditions. In my view, the need or otherwise for highway improvement works on Barville Road is again something that should be reviewed and addressed as necessary by KCC H&T and its partners independently from and regardless of the outcome of this application. In considering this issue, it is important to note that the applicant is only one a number of operators on the Pike Road Industrial Estate that generate HGV and other vehicle movements.
137. Whilst objections have been raised by the local community (including local parish councils) about potential noise and air quality impacts, Dover DC and KCC's Noise and Air Quality Consultants have raised no objection to the proposed development in terms of noise or air quality impacts from HGV movements or operations on site subject to conditions.
138. Whilst the local community (including Tilmanstone PC) have raised objections and concerns about potential impact on users of rights of way (primarily associated with HGV movements), KCC PROW has raised no objection subject to a requirement for new signage near the site entrance to assist in enabling pedestrians to safely cross the access road.
139. Although objections have been raised by the local community (including by Tilmanstone PC) about potential landscape and visual impact (primarily relating to

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lighting and stockpiles on site), Dover DC and KCC's Landscape Consultant have no objection subject to a condition to secure appropriate landscape planting on the northern perimeter bund. The potential impact of stockpiles and associated operations on site are also capable of being satisfactorily addressed by condition.

140. Whilst objections have been raised by the local community (including by Tilmanstone PC) about potential impacts on wildlife and associated habitats, KCC Ecological Advice Service has no objection subject to the northern perimeter bund being supplemented as necessary to provide beneficial biodiversity and retain connectivity throughout the area. It has also advised that the additional ecological surveys suggested by Dover DC are unnecessary.
141. Although objections have been raised by the local community (including by Eythorne PC and Tilmanstone PC) about potential pollution of the aquifer and public water supplies, no objections have been received from the Environment Agency, Southern Water or KCC SUDS subject to conditions.
142. As noted in paragraphs 127 to 131 above, a number of other concerns have been raised by the local community (including local parish councils). For the reasons set out in those paragraphs I am satisfied that the proposed development is acceptable when considered against those concerns.
143. Notwithstanding the considerable number of objections and concerns that have been raised, I am satisfied that the proposed development gives rise to no significant harm, is in accordance with the development plan and that there are no material considerations that indicate that the application should be refused. I am also satisfied that any harm that would arise from the proposed development would reasonably be mitigated by the imposition of the proposed conditions. I therefore recommend accordingly.

**Recommendation**

144. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the prior satisfactory conclusion of a legal agreement to secure the Heads of Terms given in Appendix 1 and conditions covering amongst other matters:
  - A maximum of 150 HGV movements (75 in / 75 out) per day;
  - A record of HGV movements per day being maintained and made available to KCC on request;
  - The provision of a summary of HGV movements per day to KCC on a monthly basis (until such time as KCC as the Waste Planning Authority agree that this is no longer necessary);
  - A traffic management plan (which complements the traffic routing arrangement in the Section 106 Agreement and includes a complaints procedure);
  - Wheel and chassis / road cleaning measures;
  - Appropriate sheeting, covering or containment of waste in HGVs;
  - Hours of operation (as proposed in paragraph 22 of this report);
  - Noise mitigation (including acoustic screening);

## Item C1

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- Inert waste and recycled aggregate / soil stockpiles being limited to no more than 6m high;
- The storage of RDF bales being limited to no more than 5m high;
- Plant and equipment only working and / or being positioned at ground / yard level (rather than on stockpiles);
- The use of non-tonal reversing alarms at all times on the applicant's equipment, plant and vehicles and on all equipment, plant and vehicles using the site outside the proposed core operating hours;
- Dust and odour mitigation (including the measures proposed by the applicant);
- New signage near the site entrance to assist in enabling pedestrians to safely cross the access road;
- A detailed landscaping scheme for the northern perimeter bund, surface water lagoon area and any bund created along the western boundary of the site to address the noise impact referred to in paragraph 90 of this report, and the ongoing maintenance and management of these areas and the existing hedgerow on the eastern boundary of the site along Pike Road;
- External lighting (to be designed, installed and used in such a way as to minimise light spill and avoid light pollution);
- Detailed surface water drainage scheme; and
- Restrictions on where the different wastes and recycled materials can be handled or stored on site (i.e. inside / outside and whether on sealed surfaces).

Case Officer: Jim Wooldridge
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Tel. no. 03000 413484
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Background Documents: see section heading.
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**Appendix 1 to Item C1**

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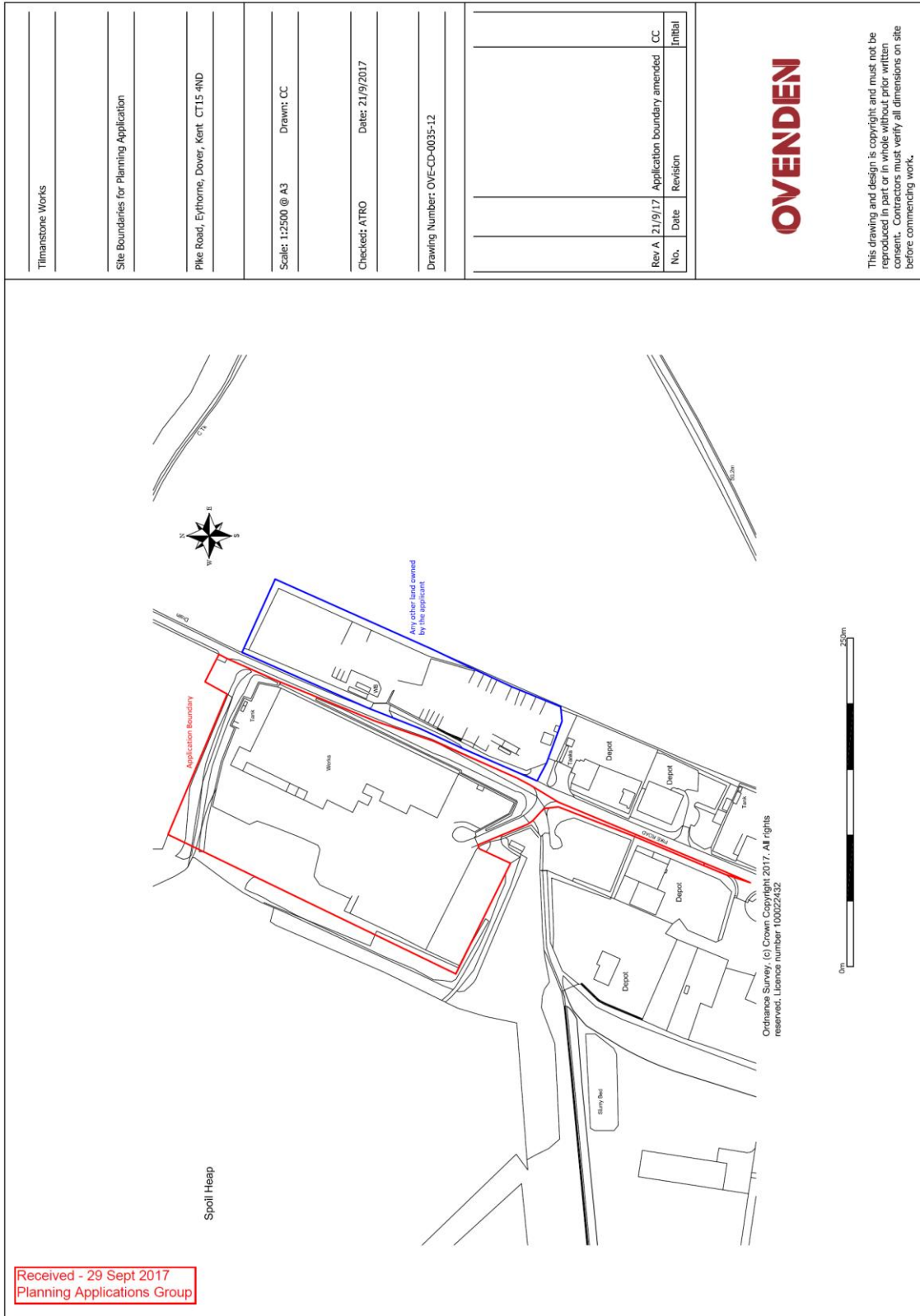
**Heads of Terms for Section 106 Agreement**

**The Applicant's Covenants:**

1. To pay KCC upon execution of the Agreement all of KCC's reasonable and proper legal, planning and administrative costs associated with the preparation, completion and registering of the Agreement.
2. To cease and not resume using the Tilmanstone Works Waste Management Facility to the east of Pike Road for the waste management operations provided for by planning permissions DO/96/383 (dated 3 April 1997), DO/00/68 (dated 26 September 2000), DO/00/1252 (dated 17 August 2001) and DO/09/974 (dated 3 February 2010) and not to use the weighbridge at Tilmanstone Works or any weighbridge at the former coal yard in connection with the development associated with the proposed Tilmanstone Waste Management Facility (DO/17/1244).
3. To use best endeavours at all times to ensure that all HGVs (any vehicle loaded or unloaded weighing 3.5 tonnes or more) associated with the proposed Tilmanstone Waste Management Facility (DO/17/1244) enter and leave the site via Pike Road (to the south of the site entrance), Barville Road (to the east of its junction with Pike Road) and the A256. This shall include supplying all those using the proposed Tilmanstone Waste Management Facility (DO/17/1244) with details of this traffic routeing and where possible including contractual obligations with them requiring that the route be used. If written notice is given by KCC that the traffic routeing is not being complied with, to use best endeavours to bring this to the attention of the transgressor and take appropriate action against staff or others using the site to ensure that no further transgressions take place.

# Appendix 2 to Item C1

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# Appendix 2 to Item C1

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