

SECTION C
MINERALS AND WASTE DISPOSAL

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

Item C1

**Redevelopment of an existing waste management facility
(part retrospective) at Site D, Oare Creek, Faversham,
ME13 7TX – SW/18/502827 (KCC/SW/0090/2018)**

A report by Head of Planning Applications Group to Planning Applications Committee on 10 July 2019.

Application by East Kent Recycling for Redevelopment of an existing waste management facility and inclusion of additional land into a waste management use (part retrospective) at Site D, Oare Creek, Faversham, Kent, ME13 7TX – SW/18/502827 (KCC/SW/0090/2018).

Recommendation: Permission be granted, subject to conditions.

Local Member: Mr. A. Hook

Classification: Unrestricted

Site

1. The application site comprises an existing waste management facility within a small complex of industrial buildings and uses at the north-west edge of the former Oare (Faversham) Gravel Works. This complex consists of five distinct planning units (Sites A – D and the Cylinder House site). The site is approximately 1.5km (1 mile) north of Faversham town centre, 350m (0.2miles) east of Oare village and adjacent to Oare Creek, near the Swale Estuary. The industrial complex adjoins Oare Creek and falls within a generally flat area of open countryside / marshland, that includes farmland, boatyards, nature reserves, and former quarry sites (largely restored with several lagoons / lakes). The landscape is dotted with occasional clusters of built development that reflect the historic use of this relatively remote location. There are several listed buildings within the landscape, including former Marsh Gunpowder Works (230m), Oare Windmill and Mill House (400m), St Peter's Church and Pheasant Barn (350m), with further listed buildings within Oare village. Industrial estates off John Hall Close (250m south) and the Western Link Road (beyond), form the outskirts of Faversham. These estates comprise of a mixture of commercial and industrial uses within buildings and sheds, including large distribution centres (like Gist (suppling Marks & Spencer's) and Shepherd Neame). A site location plan is included below.
2. Access to the industrial complex is via a narrow private road leading from the public highway (The Street) to the south west. This access road is not within the applicant's ownership; however, the site is afforded a legal right of passage. Once on the public highway, most vehicles head directly onto the Western Link Road (B2045) connecting with London Road (A2) to the south.
3. Public Right of Way ZF1, the locally designated Saxon Shore Way and the emerging England Coastal Path are currently routed along the above-mentioned access road. Due to the required restoration not being fully implemented on this part of the gravel works, the definitive route of footpath ZF1 is below the waterline within an adjacent

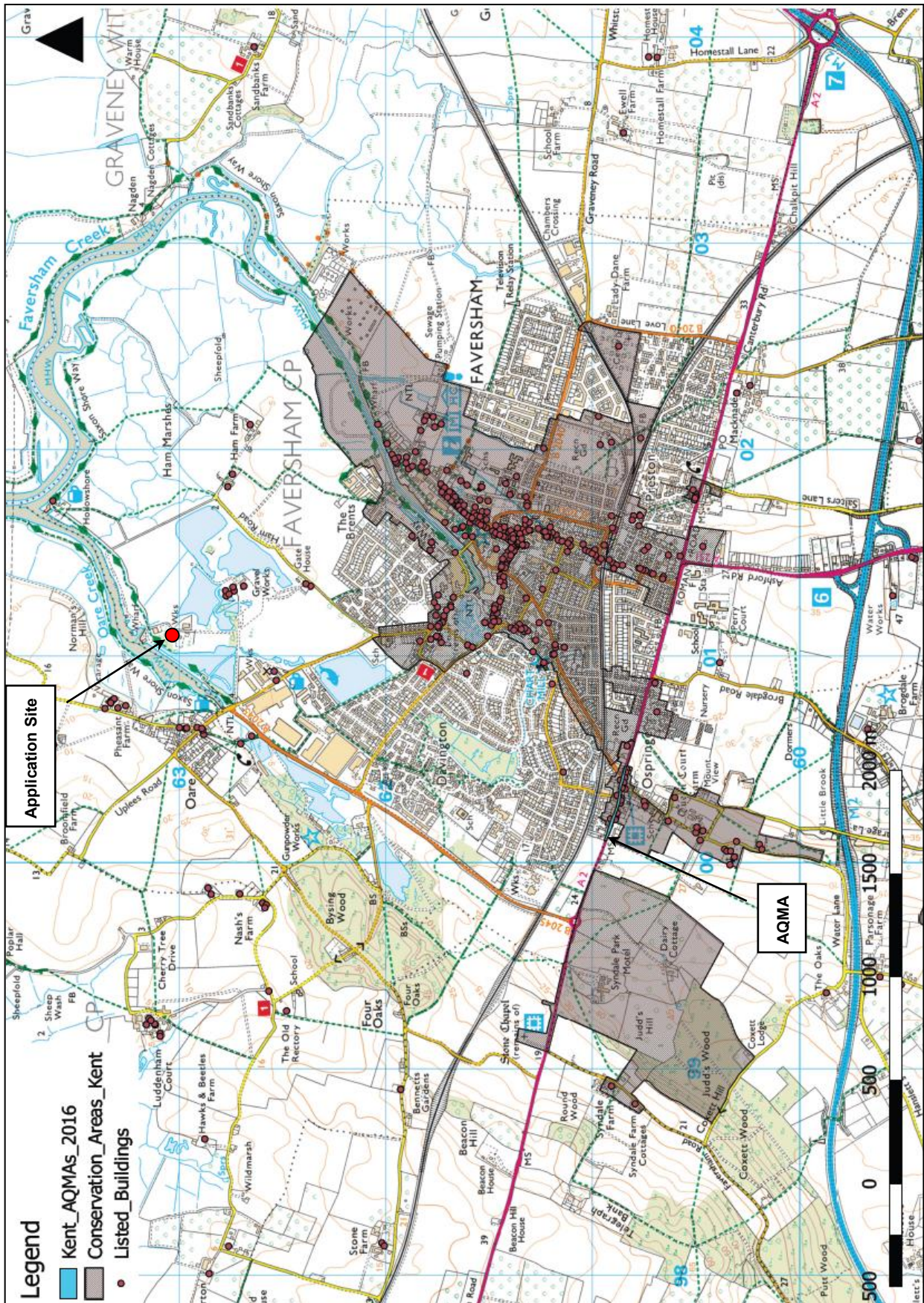
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lagoon. The landowner of the lagoon and most of the access road (Brett Aggregates) has recently applied to have the footpath formally diverted onto the private roadway (this application is with KCC Public Rights of Way).

4. The partially restored Oare Gravel Works to the south and east of the site has planning permission to be redeveloped as a mixed-use housing development (including 330 new homes). This development was granted permission by Swale Borough Council under reference SW/14/0257. The developer (the Anderson Group) has recently commenced the first phase of the permitted scheme. At its closest point the permitted housing would be approximately 300m from the application site boundary. The masterplan for the mixed-use development includes provision for enhanced landscape planting to help screen nearby industrial uses (including the application site) from housing and other recreational uses. A copy of the permitted masterplan is included within Appendix 1. The former gravel works site includes several lakes within land immediately east of the application boundary. The gravel works also includes land restored with inert waste.
5. Oare Creek is designated as part of The Swale Special Protection Area (SPA), Ramsar Site, The Swale Estuary Marine Conservation Zone (MCZ) and as a Site of Special Scientific Interest (SSSI). The area forms part of Kent's largest marsh grazing area, which is important due to the number of wild birds that use the locality year-round. The Creek (at the closest point) is approximately 50m west of the operational area and 3m west of the existing access road. Policy DM24 of the Swale Borough Local Plan (2017) (SLP) identifies land to the north, east and west of the application site (including Oare Creek and Ham Marshes) as part of the North Kent Marshes Area of High Landscape Value. This all contributes to an area that is popular for recreational activities, including walking and bird watching.
6. The site and surrounding area are positioned on low-lying land (approximately 3m above ordnance datum (AOD)), which is within a Flood Zone 3a and has a high probability of flooding from the sea. Policy DM23 of the SLP indicates that the locality falls within a Coastal Change Management Area, which requires development that considers future changes to the coastline. Policies ST4 and MU5 of the SLP identify the former gravel works surrounding the application site as an allocated site suitable for redevelopment as a mixed-use housing development. Kent Minerals and Waste Local Plan (MWLP) Policy CSW16 safeguards the existing waste operation as part of the County's overall permitted waste processing capacity.
7. The application site is not located within any Air Quality Management Areas (AQMA) or Conservation Areas; however, the highway access involves vehicles passing through AQMAs and Conservation Areas on the A2 (London Road), including in Ospringe and Teynham.
8. The above-mentioned Development Plan policies are the most relevant site-specific designations, further information on other relevant Development Plan policies are included in the Planning Policy section below.

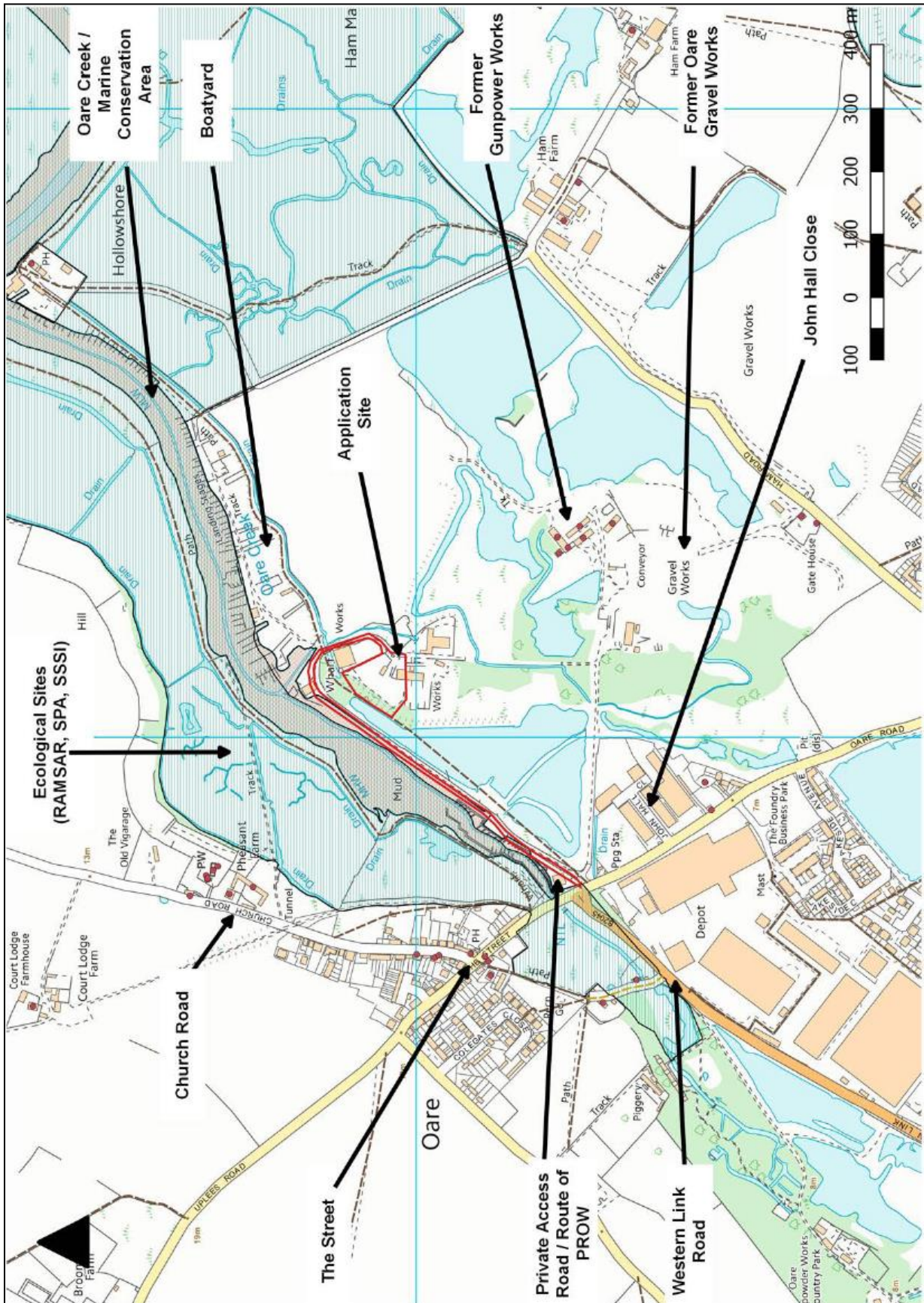
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General Location Plan



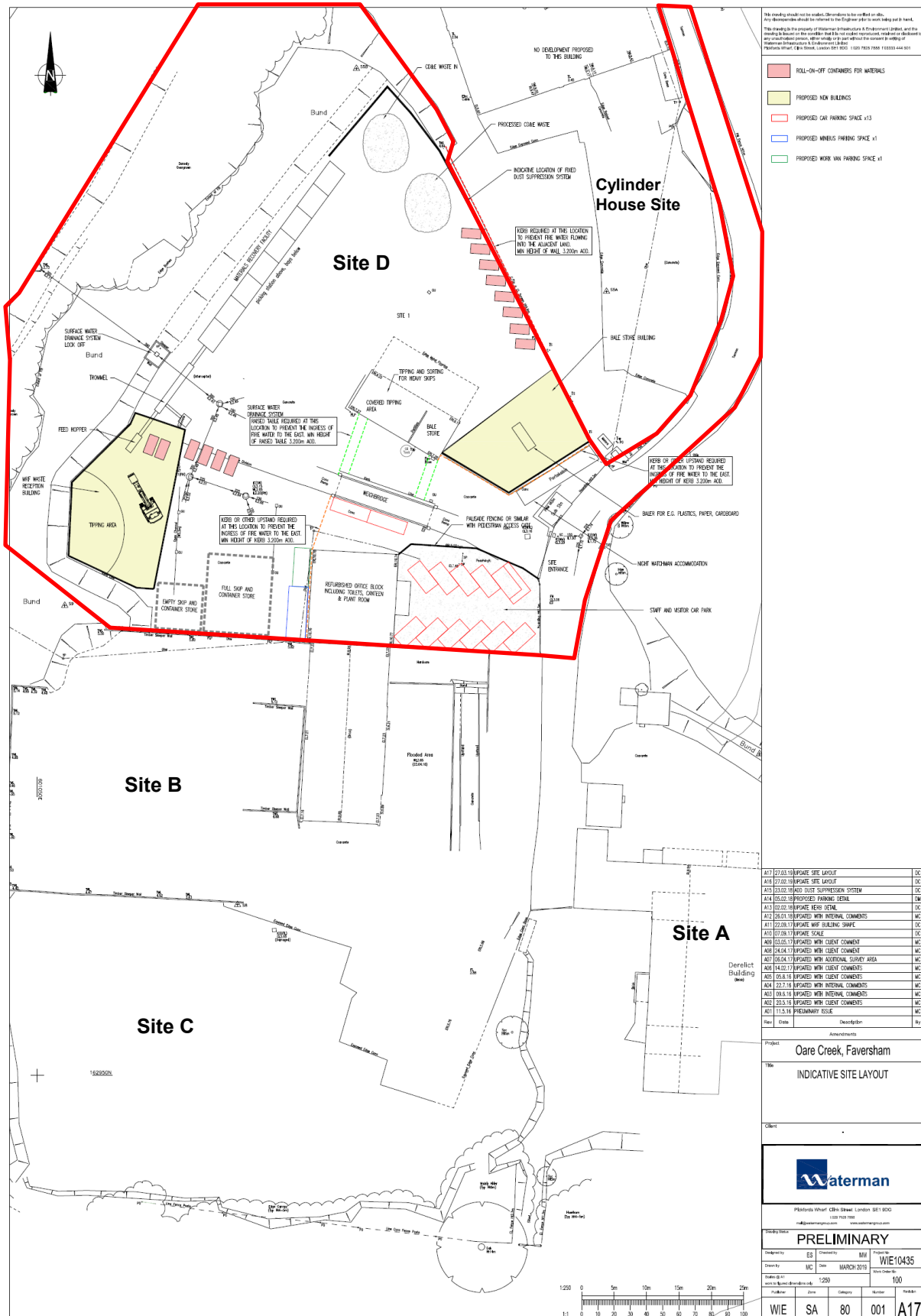
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Location Plan



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Proposed Layout Plan



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9. The application site (Site D) benefits from an extant planning permission for a waste transfer station granted by the Planning Applications Committee in March 1993 (under reference SW/92/768). The site comprises of a waste reception shed, concrete yard with integrated drainage, office, welfare and storage accommodation, a weighbridge and a disused two-storey building (approximately 8m tall).
10. Permission SW/92/768 allows for (amongst other matters):
 - The importation, (manual) sorting, bulking-up and transfer of inert (Category A), semi-inert (Category B) and difficult wastes (Category C)¹.
 - A sorting shed (6.5m x 15.5m x 6m high).
 - Provision of a sealed concrete pad covering the waste processing / handlings areas, including integrated drainage and pollution prevention controls.
 - Limited stone-crushing and screening activities (never commenced).
 - Operating hours 0700 to 1800 hours Mondays to Fridays and 0700 to 1300 hours on Saturdays only, with no activities on Sundays and Bank Holidays (except with the Waste Planning Authority's prior approval).
 - A maximum of 80 commercial vehicle movements a day (split into 40 Heavy Goods Vehicle (HGV) movements and 40 Light Goods Vehicle (LGV) movements). The application defined LGVs as any vehicle under 3 tons and HGVs as any vehicles greater than 3 tons.
11. The application site benefits from an Environmental Permit (Reference EPR/AB3108XA), which is monitored and controlled by the Environment Agency.
12. Sorting and transfer operations take place within the small sorting shed and otherwise in the open. Waste is principally received in skips and sorted by hand and mobile plant. The integrated drainage for the site discharges through an interceptor and other pollution prevention controls (as required by the site's Environmental Permit) into the adjacent lagoon.
13. The waste use was implemented by the original operators in the 1990s; however, the site fell dormant for several years before the current owners (East Kent Recycling Ltd (EKR)) bought Site D and recommenced waste management activities in 2013.
14. The site forms part of a small industrial complex that surrounds the existing operations on three sides. The complex consists of several industrial units, including various old buildings and sheds spread across Sites A, B, C, D and the Cylinder House site. Several of the main buildings are currently derelict / in disrepair. Most of the buildings were erected at some point between 1940 and 1960 and from historic aerial photographs appear to have been in use up until the 1990s. Previous uses of the buildings and open storage space include glass recycling, animal feed manufacture, general industrial activities and open storage.

¹ Category C (difficult waste) – waste types including: empty containers; floor sweepings (non-toxic substances); machinery; electrical fittings, fixtures and appliances; rubber and latex; soap or other stearates; cosmetic products; non-toxic metal compounds; non-toxic organic compounds; synthetic adhesive wastes in solidified form; tar, pitch and bitumen wastes in solidified form; ion exchange resin wastes; grinding sludge and dust; dyestuff wastes (non-toxic materials only); solidified paint wastes (i.e. in dried and denatured form).

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Other relevant planning history relating to the application site and surrounding area

15. SW/92/768/R11 – On 18 February 2004 the County Council approved an amendment of condition (11) of permission SW/92/768 to allow controlled waste storage in bays to a height of 4m.
16. SW/92/768/R2, 3, 8 – On 13 May 2014 the County Council approved details updating the site layout pursuant to conditions 2 (no variations without approval), 3 (manoeuvring space) and 8 (no buildings, plant or ancillary structures without approval) of planning permission SW/92/768.
17. KCC/PRE/SW/0218/2016 – In September 2016 pre-application advice was sought from KCC Officers on the possible redevelopment of the application site and adjoining land. Following this the applicant undertook its own pre-application engagement on the project with the local community to help inform the application. This included with the Swale Borough Council's Environmental Health, members of the local community, Oare Parish Council and Faversham Town Council.
18. KCC/SW/0247/2017 – In October 2017 East Kent Recycling applied for the redevelopment of an existing waste management facility and inclusion of additional land into a waste management use (part retrospective) – this application was withdrawn on 4 May 2018. The application was withdrawn by the applicant following objections received from both residents and several consultees. On withdrawing the application, the applicant confirmed that it planned to revise the proposed development and supporting documentation in response to comments received with a view to resubmit the application. The current application represents this re-submission.
19. The current application represents the resubmission of the withdrawn application (KCC/SW/0247/2017). The key changes between the current proposals and the earlier application include:
 - A reduction in the proposed number of HGV movements (from 160 per day (80 in, 80 out) to 80 per day (40 in, 40 out));
 - Removal of proposals to redevelop land in Sites A, B & C to extend the waste processing operations.
20. SW/03/1017 – In October 2003 Swale Borough Council granted planning permission for general industrial use of the Cylinder House site (the planning unit immediately to the north of Site D). Amongst other matters, this permission allows use of the premise between 0600 to 2000 hours weekdays and 0700 to 1200 hours on Saturdays, with no controls on the throughput or number of HGV/LGV movements associated with the site. Recently, the Cylinder House site has been used by a parcel courier business as a local distribution depot; this use has since ceased.
21. SW/14/0257 – In September 2017, Swale Borough Council granted planning permission for the redevelopment of Oare Gravel Works for 330 new dwellings, the realignment of the Oare Road and Ham Road junction, plus change of use from storage and vacant uses of the former Gunpowder Works Listed buildings to provide offices, workshop-studios, storage, and community uses (with retention of the 2 existing dwellings), the formation of associated parking areas, earth bund engineering works, a country park, landscaping and the demolition of plant and buildings connected with the former gravel works. This development is located to the south and

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east of the current application site and consists of most of the former Gravel Works, previously owned and operated by Brett Aggregates. As indicated above, the Anderson Group recently acquired the Gravel Works site and the associated permission and have begun redeveloping this large area of land in phases. A copy of the approved masterplan for the mixed-use development is included for reference in Appendix 1 to this report. The closest of the permitted residential properties (when built) would be approximately 315m to the south.

Recent complaints / breaches in planning control relating to the application site

22. The existing waste operations have been the subject of repeated complaints over recent months / years; principally originating from residential properties located to the west on Church Road within the village of Oare. These properties overlook the site and are situated across the creek in elevated positions. The complaints received include: concerns about noise generated by vehicle movements along the private access road; noise from the operation of mobile plant and equipment; the noise of skips and containers being moved, loaded and unloaded; noise from staff working on site; the impact of early start times; dust generated from the operations; light spill / pollution from floodlighting; storage of plant and skips, the deposit of waste and operation of mobile screening plant outside the permitted waste processing area on land to the south (Sites A, B and C); concerns that, beyond the night watchman, staff are living on site; highway safety concerns about pedestrians using the footpath / access road in close proximity to HGVs; and breaches in the overall number HGV movements allowed each day.
23. The applicant has sought to address specific concerns as far as possible within the context of its business. East Kent Recycling share the industrial estate and access road with users of adjacent industrial units and nearby boatyards; none of which are subject to the same level of control as the waste business. In responding to the complaints received one potential solution discussed was the possibility of enclosing more of the waste operations to help reduce emissions, noise and visual disturbance.
24. Until recently the EKR leased sites A, B and C, land to the south of the permitted waste transfer station, for storage of plant and equipment, empty skips and containers. In 2017 the use of this area was investigated by the Environment Agency (EA) (and KCC Officers). This investigation focused on the storage of waste and the operation of screening plant within Site A, which is outside the confines of the permitted waste use. The EA subsequently issued a removal notice under Section 59 of the Environmental Protection Act requiring the applicant to remove the waste material and restore the land. The EA also identified that made ground to the south of the waste site (in Site C) contained waste material which required suitable remediation. As part of the agreement with the EA, the applicant undertook to screen this material to remove any contaminants. Both operations have since been completed, and the affected areas restored.
25. The lease arrangement for sites A, B and C lapsed in December 2018. The landowner (Brett Aggregates) decided not to renew the arrangement with EKR. The above sites originally formed part of the application / red line boundary as received and have since been withdrawn from the proposal. Following the break in the lease there have been temporary provisions for the steady withdrawal by EKR from the sites. This withdrawal process has taken some time with several extensions to the timeframes agreed between the two parties. During drier weather conditions the

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movement of HGV's and mobile plant on the unsealed surface within Site C has generated increased dust levels prompting recent complaints. I understand that the Brett Aggregates have now taken back control of the land and EKR's activities are confined to Site D.

26. The current application was originally received in May 2018 and has been subject to several amendments and associated consultations before being reported to the planning committee. Members will recall that the application was subject to a Members Site visit on 20th February 2019.

Proposal

27. The application, made on behalf of East Kent Recycling, proposes the redevelopment of the existing waste management facility. The application (as amended) includes:

- The erection of a new waste reception building (26m x 15m x 12m high).
- An automated Material Recovery Facility (consisting of loading hopper, conveyors, trommel screen, manual picking cabin and associated storage bays – operating on mains electricity) (59m x 5m x 6.5m high).
- A new bale storage building and baler for compressing and binding recyclables (21m x 12m x 8m high).
- Retention of crushing and screening capability, through use of a small-scale crusher bucket attachment to existing excavator (mobile plant).
- Storage of containers.
- Storage of skips (up to 4m high).
- Installation of a weighbridge.
- Refurbishment of existing derelict building as office and welfare facilities, including new cladding (13m x 14m x 8m high).
- Installation of night watchman accommodation and welfare building (7.5m x 2.5m x 5m high).
- Provision of parking.
- Changes to the make-up of the permitted 80 commercial vehicle movements to allow these to consist of all HGV movements (see below).
- A throughput of waste not exceeding 45,000 tonnes per year, with no more than 1,000 tonnes held on site at any one time.
- Acceptance of inert and non-hazardous waste types, alongside certain asbestos, wood and green waste (no food or 'black bag' waste is proposed).
- Normal hours of use for waste processing to remain 0700 to 1800 hours Monday to Friday, 0700 to 1300 hours on Saturday with nil on Sundays.
- In connection with local authority Waste Collection Authority (WCA) or Waste Disposal Authority (WDA) contracts, the site to be available to receive waste on occasional public holidays between 0700 to 1800 hours and Saturday afternoons until 1700 hours to meet exceptional service demands.
- Extended hours of use for HGV movements (only) from 1800 to 2000 hours Monday to Friday and 1300 to 1800 hours on Saturdays. The application confirms no unloading, loading, sorting, processing or bailing would take place during the extended hours of use for haulage. The application also details that there would be 1 HGV movement per hour between 1800 – 2000 hours Mon – Fri
- Improvements to the access road to provide new pedestrian refuges at regular intervals.

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28. The retrospective elements of the application relate to the relocation of the night watchman accommodation and the change to the make-up of commercial vehicle movements associated with the development.
29. The proposed changes to the commercial vehicle movements would allow for 80 HGV movements in place of the permitted 40 HGV and 40 LGV movements. The total number of vehicle movements would remain unchanged.
30. The extant planning permission does not include restriction on the tonnage of waste that can be received / stored across the site (beyond the number of vehicle movements and a limit of stockpile heights). The Environmental Permit (EP) for the site allows waste processing up to a maximum of 200,000 tonnes of waste per annum. The current application proposes new controls that would restrict the facility to receipt of up to 45,000 tonnes of waste per year, with no more than 1,000 tonnes held on site at any one time to prevent a build-up of material.
31. The application proposes the acceptance of similar waste types, including inert, semi-inert and non-hazardous waste, wood and green waste, alongside certain types of asbestos (received within pre-sealed containers). The waste received would originate from household, commercial, industrial and institutional streams. The application states that no food waste or “black bag” waste streams would be accepted by the site, beyond that occasionally received in contaminant qualities amongst other waste streams. The waste types received are controlled by an Environmental Permit and this would continue to be the case.
32. The acceptance of asbestos waste would be restricted to material that is separated at source and arrives either double-bagged (in a similar way as it is accepted at some Civic Amenity Sites), or in lockable containers for onward transfer. Whilst on site asbestos containing bags or containers would not be opened and no processing activities would take place. The material would be bulked up within the sealed bags / containers for onward transportation to authorised management / disposal sites.
33. In exceptional circumstances and only for the receipt of Waste Collection Authority (WCA) or Waste Disposal Authority (WDA) waste streams, the application proposes 07:00 to 18:00 hours on Public Bank Holidays (except Christmas Day); and prior to and following a Public Bank Holiday to be open on Saturday afternoons up to 17:00 hours (to meet any exceptional service demands required by the local authority). At present the site does not hold WCA or WDA contracts, however the applicant would like to be able to bid for appropriate contracts in future.
34. The site currently employs a team of nineteen staff. The proposed development would create two new positions for operatives, bringing the compliment to twenty-one. Nine of the applicant’s existing HGV drivers would also start and finish the working day at the site, with the associated HGVs stored overnight.
35. In response to concerns raised about the shared use of the access road as a public right of way, the application proposes improvements to the private access to provide new pedestrian refuges at regular intervals along the route. A copy of the proposed drawings are included within Appendix 1 of this report.
36. The planning application is supported by technical reports, including:

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- Planning Supporting Statement – including Flood Risk Assessment;
- Pedestrian Audit – recommending:
 - Provision of pedestrian refuges at 40m intervals along the private access road.
 - Reduction in width of access road in localised areas to gain wider pedestrian refuge areas.
- Transport Statement – stating:
 - There are no significant highway or traffic impacts that suggest the proposed development should not be granted planning permissions.
- Preliminary Environmental Risk Assessment – stating:
 - The overall risk rating for the ground conditions on site as Medium. Following a development-specific intrusive ground investigation, remediation strategy and validation report (if required), the risk rating would be reduced to Low.
- Visual Appraisal – stating:
 - The site has a reasonably high level of visual containment. More noticeable visual impacts would be from the south and west, including from the access road, PROW and residential properties on Church Road, Oare. Views would be limited to the upper parts of existing and proposed buildings and taller plant and machinery, over the site bunds (approximately 2m) and filtered by mature boundary vegetation. Due to the topography the taller elements on site would not break the skyline in views and would be perceived in the context of the existing built development and surrounding landscape. Considers the use of recessive colours such as moorland green would assist to minimise effects on visual amenity.
 - The appraisal includes an assessment of several viewpoints (as amplified by additional visual assessment referenced below) and a plan showing the Baseline Zones of Theoretical Visibility.
- Noise Impact Assessment – Following a baseline noise survey and noise modelling covering operations and HGV movements, the assessment states:
 - The development would not be of a magnitude as to materially prejudice the local noise climate and cause significant material harm or inconvenience to people's amenity or impact on the Swale SPA / Ramsar / SSSI.
 - Proposes a range of operational and management measures to avoid, mitigate and minimise the development's impact, including retaining boundary treatment, enclosing more of the waste operations within buildings, MRF plant to include built in noise screening / shielding, new storage bays with solid sides and rear wall, optimising site layout, speed restrictions, maintaining the access road, use of broadband reversing alarms, switching off plant when not in use, sheathing lorry chains, maintenance of equipment, ongoing procurement of modern more efficient plant and equipment.
- Preliminary Ecological Appraisal – recommending:
 - Further assessment of the implications on the Designated Sites under the Habitat Regulations;
 - A Wintering Bird Survey;
 - No further requirement for survey work in relation to other protected species.
- Winter Bird Survey Report – stating / recommending:
 - Existing waste recycling, other uses and adjacent boatyards already act as potential human disturbance and pollution sources. The high density of moored recreational boats, occasional boat movements and associated human activity at the head of Oare Creek already result in significant intrusion reducing habitat quality. The use of the PROW by the general public, dog-walkers and ramblers is considered likely to contribute more to

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- existing background human disturbance along Oare Creek than the proposed development.
- The mitigation measures, including those recommended in the noise report, the protection and retention of existing vegetation, dust mitigation measures, use of modern plant and equipment - equipped with dust mitigation equipment.
- Habitats Regulations Screening Report. – stating:
 - That, subject to several avoidance and mitigation measures, the construction and operation of the application site would be unlikely to cause significant effects that would undermine the Conservation Objectives of the designated European sites, or adversely impact the qualifying features of these sites, alone or in-combination with other forthcoming projects.

Additional / revised information received from the applicant during the processing of the application

37. In response to representations received from statutory consultees and the local community during the consideration of the current application, the applicant amended the proposals and provided further supporting information including (amongst other matters):
- An updated Air Quality Report –
 - Models of the potential impacts resulting from the proposed change in vehicle type to all HGVs.
 - States that the proposed development is predicted to result in a ‘negligible’ impact at all receptor locations, even when considering the impact to local air quality from committed developments.
 - Models the potential impact from Nitrogen and Acid deposition at the European designated sites. The assessment states that the impact of the change in vehicle movements is insignificant at all habitats within the Swale.
 - Recommends dust mitigation measures to control impacts, including site management practices, enclosing operations within buildings and provision of a fixed dust suppression system along the northern boundary.
 - Additional supporting information – including clarification of noise and air quality considerations.
 - Further information on proposed pedestrian refuges and highways matters, including confirmation that the landowner (Brett Aggregates) is content with the proposed improvements to its access road.
 - An assessment of the potential for odour impacts.
 - Information amplifying the landscape / visual appraisal – including a further assessment of additional viewpoints to the north-east as recommended by the County Council’s Landscape Consultant.
 - Confirmation that East Kent Recycling has signed up to the Eco Stars Freight Management Scheme. A scheme promoted through Swale Borough Council’s Air Quality Management Plan that helps freight operators improve efficiency and reduce the emissions from HGV / commercial fleets.
 - Confirmation EKR’s HGV fleet consists of 10 Euro VI compliant vehicles, 8 Euro IV and 1 Euro III and that the applicant aims to operate all Euro VI standard vehicles from the site within 24 months of planning permission being granted
 - Confirmation that fire risk on waste sites is covered by the environmental permitting process administered by the Environment Agency, including submission of a Fire Prevention Plan.

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- Additional clarification of the background noise assessment.
 - Amendments to the hours of use to remove the 0500 hours start time originally proposed (as reflected above).
 - A landscape scheme setting out enhanced tree planting to strengthen existing landscaping along the western boundary.
 - A Pavement (Roadway) Condition Review – an assessment of the capacity of the access road to withstand increased loading and wear. The review concludes:
 - The EA monitors flood defences (including the causeway along which the road passes), the latest inspection confirms the embankment is in fair condition.
 - The underlying ground / embankment and granular foundations on which the bound pavement (road) sits are of sound construction.
 - The pavement (road) is generally sound with visible defects confined to the upper surface layers.
 - The impacts of increased HGV usage would be marginal; increasing maintenance of bound pavement layer and resulting in a slight reduction (approx. 7%) in its remaining lifespan.
38. As indicated above the applicant also revised the application (red line) boundary (removing vacant industrial units - Sites A, B and C from the proposals) due to changes in the lease agreement(s) for this land. The revised proposals focus the development on the existing waste site and land owned by the applicant (Site D).
39. The additional information received has been subject to further consultations with key statutory consultees and representatives of the local community (where appropriate). The consultee responses included below represent the most recent views received in each case.

Planning Policy

40. The most relevant Government Guidance and Development Plan Policies are summarised below and are essential to the consideration of this application:
41. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (2019) (NPPF) and the associated National Planning Practice Guidance (NPPG), the National Planning Policy for Waste (2014) (NPPW), the National Policy Statement for Hazardous Waste (2013) and HM Government: Our Waste, Our Resources: A Strategy for Waste (2018). Government policy and guidance are material planning considerations.
42. **Kent Minerals and Waste Local Plan 2013-30 (2016) (MWLP)** – Policies CSM8 (Secondary and recycled aggregates), CSW 1 (Sustainable Development), CSW 2 (Waste Hierarchy), CSW 4 (Strategy for Waste Management Capacity), CSW 6 (Location of Built Waste Management Facilities), CSW 7 (Waste Management for Non-hazardous Waste) CSW 16 (Safeguarding of Existing Waste Management Facilities), DM 1 (Sustainable Design), DM 2 (Environmental and Landscape Sites of International, National and Local Importance), DM 3 (Ecological Impact Assessment), DM 5 (Heritage Assets), DM 10 (Water Environment), DM 11 (Health and Amenity), DM 12 (Cumulative Impact), DM 13 (Transportation of Minerals and Waste), DM 14 (Public Rights of Way), DM 15 (Safeguarding of Transport Infrastructure) and DM 16 (Information Required In Support of an Application).

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43. **Kent Waste Local Plan (1998) Saved Policies (KWLPSP)** – 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).
44. **Emerging – Partial Review of the Kent Minerals and Waste Local Plan 2013-30 (November 2018 - Pre-Submission Draft) (EPRMWLP)** - the Partial Review proposes changes to (amongst other matters) Policies CSW4 (Strategy for Waste Management Capacity), CSW6 (Location of Built Waste Management Facilities), CSW7 (Waste Management for Non-hazardous Waste), CSW8 (Other Recovery Facilities for Non-hazardous Waste) and DM8 (Safeguarding Minerals Management, Transportation Production & Waste Management Facilities). One of the reasons for the Partial Review was to update the assumptions about waste management capacity underlying Policies CSW7 and CSW8.
45. **Bearing Fruits 2031: The Swale Borough Local Plan (2017) (SLP)** Policies: ST 1 (Delivering sustainable development in Swale), ST 3 (The Swale settlement strategy), ST 4 (Meeting the Local Plan development targets), ST 7 (The Faversham area and Kent Downs strategy), CP 1 (Building a strong, competitive economy), Policy CP 2 (Promoting sustainable transport), CP 4 (Requiring good design), CP5 (Health and wellbeing), CP 7 (Conserving and enhancing the natural environment - providing for green infrastructure), CP 8 (Conserving and enhancing the historic environment), DM 14 (General development criteria), MU 5 (The Oare gravel workings, Oare Road, Faversham), DM 3 (The rural economy), DM 6 (Managing transport demand and impact), DM 7 (Vehicle parking), DM 19 (Sustainable design and construction), DM 21 (Water, flooding and drainage), DM 22 (The coast), DM 23 (Coastal change management), DM 24 (Conserving and enhancing valued landscapes), DM 28 (Biodiversity and geological conservation), DM 29 (Woodlands, trees and hedges) and DM 33 (Development affecting a conservation area).
46. **Other Material Considerations:** Department for the Environment Food & Rural Affairs: Clean Air Strategy (2019); Department for Environment, Food and Rural Affairs: Noise Policy Statement for England (2010) (NPSE); Evidence Base for above EPRMWLP - Kent Waste Needs Assessment 2018: Non-Hazardous Waste Recycling / Composting Capacity Requirement; Freight Action Plan for Kent; Kent Environment Strategy (2016) and Emerging Kent & Medway Energy and Low Emissions Strategy; The Swale Landscape Character and Biodiversity Appraisal (2010) (LCBA); The Swale Urban Extension Landscape Capacity Study (2010); Swale Borough Council Air Quality Planning Technical Guidance (2016); Swale Borough Council (Interim) Air Quality Management Plan (2017); Emerging Swale Strategic Air Quality Action Plan 2018 – 2022 - Report 1: Source Apportionment and Options Assessment; Driver & Vehicle Standards Agency: Load Securing: Vehicle Operator Guidance (November 2018); European Best Practices Guidelines on Cargo Securing for Road Transport (2014); Health and Safety Executive: Safe Use of Skip Loader (2012/13); The Health and Safety at Work etc Act 1974; and World Health Organization (WHO) Environmental Noise Guidelines for the European Region (2018).

Consultations

47. **Swale Borough Council: Objects** to the application on the following reasons:
- a) The proposed increase in vehicle sizes would result in an unacceptable adverse

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impact on pollution levels (particularly noting the air quality issues in nearby Ospringe) and in the immediate area of the site, contrary to paragraphs 32 and 75 of the National Planning Policy Framework (NPPF), and Policies CP5 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- b) Moreover, these HGV movements would have an unacceptable adverse impact on walkers using the public right of way, creating potential safety issues, contrary to paragraphs 32 and 75 of the National Planning Policy Framework (NPPF), and Policies DM6 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- c) The increase in site activity and the proposed enlargement of the site, would have an adverse impact upon the residential amenity of local residents, by way of disturbance, which has not been properly addressed by the proposal, contrary to Paragraph 7 of the National Planning Policy Framework (NPPF), and Policies CP5 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- d) The increased intensification of activities on the site would have a negative impact on the biodiversity and ecology found on the site and the adjacent SSSI/SPA/Ramsar site, detrimental to protected species which Local Authorities have a Statutory Duty to protect. As such, the proposal is contrary to Paragraph 118 of the National Planning Policy Framework (NPPF); and Policies DM14 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Following receipt of additional supporting information, the Borough Council responded confirming it maintains its objection to the proposal

48. **Swale Borough Council's Environmental Health Officer (EHO): Objects** to the application on the following grounds:

Considers the methodology used in the air quality assessment received is not as comprehensive or persuasive as it could be, however notes that it is not technically incorrect. The comments highlight the importance of HGVs that meet the latest Euro VI emissions standards and the applicant's proposals to update its fleet to meet the requirement over time. Considers it unlikely that East Kent Recycling would replace its entire fleet to meet the standard or be able to ensure all visiting vehicles are compliant calling the conclusions of the report into question. Considers there would still be a significant number of older more polluting HGVs passing through the AQMAs.

Notes the proposals to broaden the hours of operation to include earlier start and late finish times to partially avoid peak congestion times. Notwithstanding, considers this would still result in significant numbers of HGVs during normal hours. Considers that the vehicles operating at earlier times would be more noticeable to residents, particularly from the noise perspective, widening the potential nuisance caused to them at more unsociable hours.

Confirms no issue with the methods, results or conclusions reached within the noise assessment, which concludes that there would be no unacceptable / significant impacts from the operations on the closest existing noise sensitive properties. Acknowledging that mitigation measures proposed, which are a mixture of structural masking and good housekeeping practices, are laudable, however is uncertain about their effectiveness.

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Raises concerns that the report does not consider the noise impact on new housing development satisfactorily. Considers that there is potential for serious adverse impacts from the noise of the proposals on the new development at its closest point.

Considers that the proposal would not reduce current air quality and noise levels as the two assessments indicate and therefore recommends the application be rejected.

In response to the further information, the EHO confirmed that the amended details do not change his views on the impact that this proposal would have on the local environment, which he believes would be greater than has been submitted in support of the application.

49. **Faversham Town Council: Objects** to the application on the following grounds:

- Highways impact on existing levels of congestion and air quality, particularly on the A2 within Ospringe.
- Suitability of site access road to safely accommodate HGVs and pedestrians using the public footpath.
- The size of the buildings and their impact in the landscape.
- Light pollution (both existing and proposed).
- Noise and amenity impacts, including significant concerns about additional hours of use proposed, proposed working on public holidays and the need to take account of 300 new houses permitted at Oare Gravel Works.
- Natural environment and ecological impacts, including on the adjacent designated sites.
- Surface water pollution (including Oare Creek) due to an increased risk from polluted run-off.

50. **Oare Parish Council: Objects** to the application on the following grounds:

- Highways and air quality impacts. Disagrees that the site has good access to main transport routes; notes that HGVs must pass through Ospringe or Teynham (both with AQMAs that suffer high levels of pollution and poor air quality). Concerns about HGVs approaching and leaving the site through Faversham Town Centre.
- Air quality impacts due to operations on site and an increase in permitted HGV numbers.
- Dust impacts – notes windblown dust already deposits on neighbouring properties and this would be exacerbated.
- Noise and amenity impact(s) from increased activity would be significant, including from extended hours and impact from HGV movements. Considers that even without the recycling plant running the proposed extended lorry movement times would be noise generating and intrusive to residents. Concerns that increased use during weekends and public holidays would impact on walkers, boatowners, and residents during times when people expect to be able to rest and enjoy the surroundings. Notes that at present road cleaning starts at 0630, with staff arriving between 0630 and 0700 and plant and lighting on before the approved 0700 start time. Also notes that vehicles often arrive back after closing time.

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- Conflict with Development Plan – considers the application is contrary to Kent Minerals and Waste Local Plan Policy CSW 6 (Location of Built Waste Management Facilities).
- Suitability of private access road to accommodate large HGVs, including ability for vehicles to pass on the narrow road, pedestrian safety on the public footpath and impacts on the condition of the road / path.
- Impact on the Public Right of Way. Considers that after 30 years plus there is little chance that the landowner will reinstate the adopted route of the footpath across the adjacent lagoon and that a permissive route has been established, as demonstrated by the planned route of the England Coastal Path.
- Proposed pedestrian refuges are lorry passing places by another name to help accommodate larger vehicles; considers that the applicant's resistance to the inclusion of bollards highlights the possible twin use.
- The refuges are all on the creek side of the road, making them hazardous and potentially unusable at high tides.
- Flooding and flood defences – notes the access passes along the sea wall and that increased HGV use could cause erosion and damage to the structure. Draws attention to flooding that took place in 2013 and the increased risk polluted run-off following flood event(s).
- Sheeting and netting of full skips stored on site would not prevent the ingress of rainwater or the escape of dust, which would increase the likelihood of pollution of the local environment, including ground and surface water.
- Light Pollution - considers that a revised lighting strategy is needed to minimise light pollution.
- Considers that KCC as lead Flood Authority should require a SUDS strategy.
- Notes the recycling plant would run off the mains power supply but raises concern that a back-up generator for the recycling plant would add to possible noise generating sources.
- Considers East Kent Recycling's Aylesham site to be a more appropriate location for the use due to its proximity to the primary road network.
- Reference to future KCC contracts (hence the need for occasional bank holiday opening) would suggest domestic waste with a greater potential for odour not covered by the application.
- Concerns that other small skip firms would continue to use the site.
- Concern that shared space between pedestrians and vehicles requires a change in driver mind-set which could prove difficult where lorries travel from a national speed limit zone on the Western Link Road to the access road
- Concerns that the Transport Statement and Pedestrian Audit contain incorrect or inaccurate information. Considers that the vehicle numbers recorded during the two-hour pedestrian audit would imply that the site already exceeds the proposed number of HGV movements.
- Potential existing breaches in permitted number of daily vehicle movements associated with the current operations.
- Concerns that there was no pre-application engagement on the revised application beyond that completed in collection with the earlier application.

51. **Ospringe Parish Council: Objects** to the application on the following grounds:

- Highway concerns about the increase in traffic movements on the A2.
- Air quality concerns about increases in HGV traffic exacerbating problems within the Ospringe Street AQMA.

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- Amenity impacts resulting from the proposed hours of operation (5am – 8pm), considers this to be excessive.
52. **CPRE Protect Kent:** no response received.
53. **Environment Agency:** **No objection, subject to conditions** relating to a remediation strategy to deal with the risks associated with any contamination on site, including a site investigation, submission of subsequent verification report on any work (as necessary), measures to be taken if unidentified contamination is found during construction, submission of a foul and surface water drainage systems and submission of foundation designs in the context of the site investigations.

The EA note that a Preliminary Risk Assessment into ground conditions has been submitted in support of this application and this can form the basis of further investigations if permission were to be granted.

The EA confirm that the nature and setting of this site are such that works may pose a risk to controlled waters. It is therefore important that all operations at the site are undertaken with this in mind and pollution prevention measures adopted for all clearance and demolition activities, especially maintenance and storage of chemicals or fuels. In addition, it recommends that an accidental spillage plan is prepared, and spill kits kept at site to deal with accidents appropriately.

The EA acknowledge that the design of infiltration SUDS may be difficult or inappropriate in this location. It therefore requests that a condition is included in any permission granted requiring the submission of further details in the context of the site investigations and the existing arrangements. Without the above conditions the EA would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development would not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

The EA advise it is satisfied with the details contained within the planning statement relating to flood risk. It also advises that the causeway along which the access road travels forms part of the local flood defences. This asset is inspected every 24 months by the EA's Swale and Stour asset inspector. Following the most recent inspection in April 2019 the currently condition was assessed as grade 3 (Fair) – a pass. The EA advise that the maintenance of the asset will ensure that this standard is preserved.

The EA confirms an application for a variation to the existing Environmental Permit is being processed by its National Permitting Service (NPS). Confirming that any new waste activities may not begin until the existing permit has been varied or a new permit is in place. The EA advise that the applicant would need to, as part of the environmental permit application, demonstrate that no risk to land or water would be generated because of the proposed extension, waste types or activities.

It advises that any material produced by site activities remains waste until they are sent to permitted sites for disposal or recovery, or a suitable exempt site, or are fully recovered under appropriate mechanisms i.e. the EA aggregates protocol. Suitable sampling protocols for incoming and outgoing loads would be required under appropriate Environmental Management Plans and agreements to sector guidance under the permitting requirements.

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54. **South East Water** – no response received.
55. **Natural England: No objection, subject to conditions** securing the mitigation measures proposed within the Appropriate Assessment, including noise, dust, surface and ground water mitigation measures alongside securing proposed improvements to the route of the proposed England Coastal Path / PROW along the access road (to include proposed improvements to road markings and new pedestrian bays).

Natural England (NE) considers that without appropriate mitigation the application would:

- Have an adverse effect on the integrity of The Swale Special Protection Area and Ramsar site and the Swale Estuary Marine Conservation Zone (MCZ)².
- Damage or destroy the interest features for which The Swale Site of Special Scientific Interest has been notified.
- Impact users of the proposed England Coast Path.

In this instance mitigation is required to address impacts to the Swale SPA and Ramsar site, NE therefore advised that an Appropriate Assessment (AA) under the Conservation of Habitats and Species Regulations 2017 was required to establish whether the proposal would have an adverse effect on the integrity of the designated sites.

Further to this recommendation (and the advice of Kent's Biodiversity Officer) Officers undertook an Appropriate Assessment on behalf of the Waste Planning Authority (a copy of which is included in Appendix 2). The AA concludes that there would be no adverse effect on the integrity of the designated sites provided that the mitigation measures include in the report are implemented.

On receiving the AA, NE confirm that it welcomes the comprehensive nature of the Habitats Regulations Assessment, and the fact that a precautionary approach has been taken. NE formally confirms that it concurs with the assessment, i.e. that the mitigation measures, secured by planning condition, are sufficient to avoid an adverse effect on the integrity of The Swale SPA/Ramsar.

NE also advises as follows.

Noise

NE confirms it does not currently advocate the use of noise thresholds for assessing impacts on important bird populations. This is because the responses to noise vary between sites and species. More important is the change in noise that would result from a proposal. Whilst it does not advocate the use of the 85dBLA_{max} threshold referred to in the application documents, it notes the noise levels presented in section 5.7 of the Noise Impact Assessment (April 2018).

NE also note the numbers of birds using the creek adjacent to the application site, presented Table 3 of the Habitats Regulations screening report, which indicates that the creek adjacent the site is used by a significant number of Redshank. Therefore, it is important to minimise noise levels during operation as far as possible, in order to avoid an adverse effect on the integrity of the SPA/Ramsar. Hence, NE advise the

² Marine Conservation Zone (MCZ) – designated under [Marine and Coastal Access Act 2009](#) to protect a range of nationally important marine wildlife, habitats, geology and geomorphology.

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operational and management noise mitigation measures as listed on page 20 of the Habitats Regulations Screening Report should be secured by way of appropriate planning conditions, should permission be granted. Considering the usage by SPA birds of the closest part of the creek and provided best practice construction methods for minimising noise are employed, NE does not anticipate an adverse effect on The Swale SPA/ Ramsar site.

Hydrological pollution (surface runoff)

The proposals may result in polluted surface run-off into the designated sites during construction and operation. To avoid an adverse effect on the integrity of the SPA/Ramsar, surface and groundwater pollution mitigation measures should be secured by planning condition, as detailed in Table 7 of 'Summary assessments of potential Likely Significant Effects on European sites' (pages 43-44) of the Habitats Regulations Screening Report.

England Coast Path

NE confirm that the Secretary of State is currently considering Natural England's proposals to align the England Coast Path along the access road at this point of the route. NE note this would increase the number of pedestrians using the route and welcomes the provision of pedestrian refuges. NE confirm it is pleased to see that the applicant has considered safety and has made several suggestions to improve the arrangements along the road. To mitigate potential impacts on pedestrians the recommendations in section 4.1 of the Pedestrian Audit should be implemented.

56. **Kent Wildlife Trust:** no response received.
57. **Kent County Council Biodiversity Officer:** **No objections, subject to conditions** covering the safe clearance of vegetation and securing the mitigation measures included within the Appropriate Assessment. The response comments on the following:

Reptiles

Most of the site is hard standing however there are small areas of ruderal habitat adjacent to the site which could be suitable for reptiles. The submitted information has detailed that the site has low potential for reptiles but does not reference ruderal habitats. If planning permission is granted the Biodiversity Officer recommends a precautionary mitigation approach to be implemented prior to works commencing to minimise the potential for reptiles to be impacted. The mitigation measures should include:

- Works carried out between April and September in temperatures above 10degrees
- Vegetation cut in two phases over two days – cutting the vegetation towards the site boundary.
 - Phase 1 – cut to a minimum height of 150mm
 - Phase 2 – cut to ground level.
- Vegetation to be regularly cut prior to works commencing to prevent suitable habitat establishing.

Designated Sites

The application site is adjacent to the Swale SPA, Ramsar and SSSI. Due to the

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location of the designated sites the Habitat Regulations Assessment (HRA) Screening report was submitted with the planning application detailing that there is a need for mitigation to be implemented to avoid a Likely Significant Effect on the designations due to an increase in dust, lighting and noise. The Biodiversity Officer also recommended that an Appropriate Assessment was required.

The Biodiversity Officer has subsequently reviewed the AA and is satisfied with the conclusions, advising that no further steps within the HRA process are required.

58. **Kent County Council Public Rights of Way: No objection, subject to condition(s)** securing the submission of final details of the pedestrian refuges along the access road and the implementation of the approved scheme prior to first use the proposed development.

The response acknowledges the limitations of the pedestrian audit and that the actual use of the right of way will be greater than observed. Notwithstanding, PROW is satisfied with the principle of the pedestrian refuge bays proposed. It confirms that a shared use between vehicles and pedestrians would be acceptable and that bollards are not considered essential at all locations.

The response confirms that the landowner of the private access road and the obstructed section of public footpath ZF1 applied to formally divert the route of the footpath onto the access road in July 2018. PROW is also in receipt of a claim to record a public right of way along for the private access road from the local community. Both applications are likely to be considered together, however there is a waiting list for claims and diversions, which are dealt with in the order received; the current backlog is estimated at 3 / 4 years. The outcome of either application cannot be predicted.

PROW confirms that the applicant's proposed improvements are welcomed, however they should not detract from the fact that the public may well have the right to use the full width of the road in addition to other private users if the route is formally directed.

59. **Kent County Council's Air Quality Consultants (Amey): comments** as follows:

Whilst Amey has been content to assess the application based on the information available, the advice received highlights that the Air Quality (AQ) Assessment received does not reflect most up-to-date assessment techniques. Notwithstanding the methodology used in this instance, Amey's recommendations are included below.

Odour

On the basis that the application states that odorous sources would be limited to wood and green waste only, Amey consider the potential risk of odour nuisance at local receptors would be insignificant.

Dust

Amey notes the mitigation measures for the minimisation and control of dust emissions described in Table 3 of the AQ Assessment (including installing a fixed dust suppression spray system on the boundary). The recommendation is that these measures plus the enclosure of more operations within buildings would mean that the risk of significant dust from proposed sources would be minimal. Amey is satisfied that PM10 levels in the local area are low (<15µg/m³) and that good practise

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measures implemented by the site operator would be adequate to ensure that the risk of residual impact from dust generating activities is minimised. Amey recommends that, if permission is granted, the dust mitigation measures described in Table 3 of the Air Quality Assessment should be secured by condition.

Vehicle Emissions

Paragraph 4.8 of the AQ assessment states that 10 additional HGVs (50%) (20 Annual Average Daily Traffic (AADT)) would access and egress through the Ospringe AQMA and the other 10 (20 AADT) through the Teynham AQMA. 14 of the staff vehicles (28 AADT) would travel through the Ospringe AQMA. The remaining staff vehicles would not travel through either AQMA. The contribution from additional HGV movements, shown in Table 15 of the Air Quality Assessment, are considered minor. When compared against significance criteria set out in Institute of Air Quality Management (IAQM) Guidance the impacts are all approximately 0.2% of the Air Quality Assessment Level (40µg/m³). In line with IAQM guidance, changes of less than 0.5% should be viewed as negligible.

To help the assessment of the application, Amey carried out its own calculations using the Government's Emissions Factors Toolkit to calculate the total quantity of NO_x emitted per year from 20HGVs and 20LGVs (the permitted arrangements) versus 40 HGVs (the proposed arrangements). This calculation assesses the movements over 1km distance with an average speed of 40kph. The calculations indicate that the HGV/LGV mix would produce 17.5kgs per year, whilst the HGVs only scenario would produce 22.6kgs. This calculation demonstrates the rather than doubling emissions the proposed change from LGVs to HGVs would result in an approximate 29% change over the NO_x levels anticipated from the permitted levels of vehicle movements. Amey confirm that on its own this change would not be significant.

Ecological Impacts

In terms of the designated ecological sites, Amey confirm the predicted impact from the development on The Swale is estimated to be 0.2µg/m³. This is less than 1% (0.8%) of the accepted annual mean concentrations above which ecological receptors may be impacted (30µg/m³). In terms of nitrogen deposition, the resulting impact on The Swale as a result of emissions from additional HGV movements would be minor and insignificant.

Amey's response to the application concludes as follows:

"NPPF 2018 states that 'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas'".

While the effect of this amendment to the operating conditions of an existing operator is minimal and, considered in isolation, would result in a negligible impact, the above paragraph should be considered by the planning committee during decision making; specifically, the cumulative impact of additional traffic in areas that already exceed NO₂ limit values.

The Swale Strategic Air Quality Action Plan suggests that a reduction of 5.7µg/m³ NO₂ is required in Ospringe AQMA by 2022 to bring concentrations of NO₂ below the limit value. Any increase in traffic will make this objective harder to achieve. However,

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should the applicant be able to demonstrate that, for example, most up-to-date Euro VI vehicles would be carrying out the additional movements, this may go some way to lessening the potential impact of additional movements within the local AQMAs”.

60. **Kent County Council’s Noise Consultants (Amey): No Objection, subject to conditions** including use of broadband reversing alarms, best practicable means (BPM) to minimise noise, including all vehicles, plant and machinery to be fitted with closed engine covers, effective silencers and be effectively maintained; development to be carried out in accordance with the proposed site layout; hours of operation restricted to those applied for; noise levels not to exceed + 5 dB above the prevailing background level (1 hour) at any noise sensitive property; and submission of a temporary noise monitoring scheme.

Amey comments as follows:

The assessment identifies two representative noise sensitive receptors; Pheasant Barn, Church Road – 350 metres west (NSR A) and a sample location representing the closest residential development within the Oare Gravel Works site – 250 / 300 metres south (NSR B).

It notes the applicant has used several methodologies to assess the potential for noise impacts. These being:

- BS4142:2014 – Methods for Rating and Assessing Industrial and Commercial Sound – which focuses on the likelihood of adverse impact outside buildings;
- World Health Organisation (WHO) (1999) – ‘Guidelines on Community Noise’ – an assessment of the likely internal and external noise levels with respect to potential health effects; and
- Institute of Acoustics (IOA) / The Institute of Environmental Management and Assessment (IEMA) Guidelines – which focuses on the change in noise level and the subjective response to noise

Amey confirm that both WHO guidelines and IOA/IEMA methods indicate positive results that (a) internal noise at the representative noise receptors NSR A and NSR B would be well below guideline levels for avoidance of moderate annoyance and (b) the subjective description based on the noise change method shows that there would be ‘No Change’ to the existing noise climate. Amey advise that the conclusions can essentially be drawn because the predicted noise levels are lower than the prevailing ambient levels.

Amey express some minor concern regarding the BS4142 methodology, which is reliant on a representative background level of noise being known. The absence of any credible noise data for the proposed development site has made the analysis under BS4142 methodology difficult to formally verify. The applicant’s response was that in the context of the setting, noise from the proposed development would be at a level where it would not adversely affect the proposed residential development and that the potential impact is low. This conclusion is drawn primarily because the predicted level of noise from the waste operations is lower than the prevailing ambient levels.

In Amey’s opinion, the lack of background data is unfortunate and has made objective analysis under the BS4142 methodology difficult, however on balance, its view is that the impact of the proposals is unlikely to lead to unacceptable adverse noise effects.

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With regards to the proposed housing development, Amey recommends that whilst there is a very low potential for impact, it would be limited to the dwellings along the northern/western edge with others within the development being screened by existing and proposed buildings.

The advice confirms that the assessments considering the potential impact on the Swale SPA / Ramsar (from both operations and vehicle movements) are correct. It confirms that predictions are well below the Environment Agency's level of 85dBLA_{max} and there would be no adverse impact on breeding birds.

Following the objections received from the local community, Amey were asked to look more closely at the concerns about potential traffic noise between 0500 to 0700 and 1800 to 2000 hours. Amey's response confirms that based on 6 vehicles in a single hour the reported external noise levels of 29 and 30 dB_{LAeq,1hr} at the two noise sensitive receptors is correct. It notes that the predicted levels are well below the prevailing ambient level of 46 dB and is therefore satisfied that the movements would not lead to adverse noise effects.

Amey notes that potential sleep disturbance has been raised by some residents, it draws attention to studies carried out by the WHO and others that have shown that sleep disturbance is linked to (a) the absolute level of a discreet noise and (b) the number of occurrences. WHO guidance suggests that to avoid sleep disturbance, internal noise levels should not exceed 30dB_{LAeq} and a LA_{FMax} of 45 dB no more than 10 to 15 times per night. As the predicted noise levels outside the properties show, the criteria for potential sleep disturbance is not met and in fact falls well below the guidance levels (when noise attenuation of around 15 dB for a partially opened window is factored into the calculation). Amey accordingly confirm it is satisfied that concerns residents have on amenity and sleep disturbance can be allayed.

Amey confirms that it broadly concurs with the conclusions of the noise assessment that no adverse noise impact is likely to occur at nearby noise sensitive receptors, subject to the conditions indicated above. The comments received indicate that Amey do not consider further site-specific screening would be necessary. However, that the applicant would have a duty and responsibility to adhere to good site practice.

In this instance Amey recommend that a condition requiring submission of a temporary noise monitoring scheme (to be approved), to include regular monitoring, which can be discontinued once the Waste Planning Authority is satisfied that noise emissions are satisfactory. Amey also recommend a condition requiring noise levels attributed to the site to not exceed + 5 dB above the prevailing background level (1 hour) at any noise sensitive property.

61. **Kent County Council's Landscape Consultants (Amey): No objection, subject to **conditions**** requiring buildings to be finished in a recession colour such as Moorland Green (as proposed) and submission of a landscape planting and 5-year maintenance scheme based on the Landscape Plan received.

Amey comments as follows:

Amey note the proposed site is within an area identified within the Swale Landscape Character and Biodiversity Appraisal (the SLBA) as stone arable farmland. This is

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described as a rolling landscape rising south away from the marshland adjacent to The Swale. The landscape condition is highlighted as poor with large pylons and other manmade features causing visual detracting within the open arable landscape. The area is highlighted as moderately sensitive with a strong sense of place and many traditional buildings dating from 17th and 18th century, with a number located within 500m of the proposed development. The landscape to the west, north and east of the application site is designated as 'Areas of High Landscape Value' within the local plan and is considered highly sensitive. The SLBA therefore recommends the avoidance of developments that will be unduly prominent on high or open ground, with particular regard to sensitive views from surrounding marshland.

Amey note the site is generally flat and situated at a lower level to land on the far side of Oare Creek to the west, which rises to form a ridgeline along Church Road (part of Oare Village). The site is almost entirely enclosed by vegetated boundaries of varying heights and densities, with the wooded area to the north relatively dense and the other boundaries, particularly to the east, generally more open.

Amey's advice is that the proposed development would have a visual impact on the local environment and however slight the development should demonstrate a level of landscape impact mitigation. It notes that the development would result in the proposed MRF Waste Reception Building being 3m higher than the highest existing building structure on site and that this would be more visible, particularly to the east and west. This would contribute to the man-made elements currently affecting existing vistas. The development would impact on the existing skyline; however, this must be considered in the context of the site's setting, which already contains detracting features like pylons, existing waste management buildings and other industrial buildings to the south-west, including those bordering Faversham.

Amey recommends that the development would benefit from additional native boundary planting (including evergreen species) and appropriate landscape management measures. It considers new planting would help to define the boundary of the industrial estate and break up views of the buildings in the long-term. In the interim, it considers that management of existing landscape planting and careful consideration of the colour treatment proposed would help. Considers that treatment could include a recessive colour such as 'Moorland Green' (RAL 100 60 20) (as proposed) or the lighting of the colour tone higher up each building to help breakup the structure and mitigate the visual impact whilst the planting matures.

In response to the landscape scheme submitted in support of the application, Amey confirm that the tree species proposed are acceptable and recommends further understorey planting to help fill out the landscape scheme. The comments recommend this should include native evergreen species (like holly and privet). The advice also recommends that a five-year maintenance plan should be prepared to ensure the scheme establishes.

62. **Kent County Council Flood and Water Management: No objection** to the proposed development. The Lead Local Flood Authority regard the development as low risk. It advises consultation with the Environment Agency so that appropriate pollution controls are included to limit contamination of water in a flood event.
63. **Kent County Council Highways and Transportation: No objection**, subject to the following conditions:

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- A new limit of 80 HGV vehicle movements per day, in line with the applicant's new 'worst case' scenario, should be imposed on the site.
- Permanent adherence to a routing plan following the signed HGV route along the Western Link and the A2 corridor for all commercial traffic to and from the site.
- Provision and permanent retention of secure, covered cycle parking facilities in accordance with details to be submitted to and approved by the Local Planning Authority.

Informative covering:

- The need to obtain all necessary highway approvals and consents for any work within the limits of the public highway and 'highway land' beyond the roads and pavements.
- The applicant should join the existing ECO Stars scheme. The scheme provides public recognition for operators who are actively taking steps to improve efficiency, reduce fuel consumption and reduce their impact on local air quality (<https://www.ecostars-uk.com/>).

Kent Highways notes that the proposed development would adhere to the previously approved 80 movements per day, achieved through the scaling down of the proposed operations from those applied for within the previous withdrawn application. It also acknowledges that the Air Quality Assessment demonstrates that additional daily traffic generation would be split evenly via Ospringe and Teynham. It considers that cessation of activity at the former Oare Gravel Works (Faversham Quarry) has reduced the number of HGV's on the local highway network, creating carrying capacity for vehicles generated at other local sites. Particularly, as the approved residential development to the south (ref. SW/14/0257) will direct residential traffic via an alternative access onto Ham Road.

It considers the routing of HGVs to and from the site via the A2/London Road and B2045/Western Link to be the most suitable arrangement as this offers a direct route between the site and the strategic road network. It acknowledges the concerns over the passage of HGVs along the A2/London Road through Ospringe but notes that the proposed number of additional movements has reduced from the level previously proposed and is considered acceptable to the Kent Highways.

However, it notes that some HGVs associated with the existing operations have been reported passing through Faversham Town Centre via Davington Hill or Bysing Wood Road, which does require attention. Considers that a condition seeking to route vehicle movements associated with this site along the Western Link road should be included on any permission.

Considers that the scale of proposal and the level of change on the public highway mean that Kent Highways cannot reasonably seek funding for highway improvements.

Notes the crash data records show no accidents within the vicinity of the access to The Street within the last 5 years, indicating that the existing junction arrangement is satisfactory to accommodate traffic, including HGVs. An observation of HGV movements at the access does not appear to indicate any overbearing design or safety issues. Considers that the degree of proposed increase in vehicle movements due to the application is unlikely to have any significant effect from a road safety

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perspective.

64. **Kent County Council Built Heritage Conservation Advice:** No objection to the application.

In commenting, the Conservation Advice Service notes that the application site is approximately 200m from the former Marsh Gunpowder Works (a cluster of Listed buildings), with several other Listed buildings and structures located within the surrounding area, including within Oare village to the west. The comments received conclude that the setting of the Listed buildings would not be adversely affected by the proposals with little impact on the Marsh Gunpowder Works (the closest of the Listed structures).

The advice notes that traffic would pass adjacent to or through several Conservation Areas (CA) heading in either direction along the A2 (including Syndale CA, Ospringle CA, Faversham Town CA and Cellar Hill & Green Street CA). This section of the A2 passes by several Listed buildings (grades II and II*) that flank the road, particularly within Ospringle CA where several immediately adjoin the public highway. In response to concern raised about HGV traffic movements from the site using the B2045 and A2, it notes that in terms of the potential physical impact on the Listed buildings from HGV movements, although this is an ongoing debate, there is little evidence to show that continual traffic movement close to older listed buildings can cause harm to the fabric of a building other than minor cosmetic damage e.g. cracking of plaster, deterioration of external decorations etc. The advice acknowledges that studies have shown that traffic vibration on a building would become intolerable to the occupants long before structural damage was caused.

65. **Kent County Council's County Archaeological Officer:** no response received.
66. **Faversham Society Planning Committee:** Objects to the application on the following grounds:
- Noise impacts on local amenities due to the increase in intensity of the use, including the extended hours of operation proposed, which would be at times when residents and visitors enjoying the area would normally expect the site to be quiet.
 - Visual and landscape impacts – considers the erection of larger more extensive built development would have an unacceptable impact on the sensitive landscape and would be visually prominent from several public vantage points.
 - Air quality impacts – considers that dust and diesel particulates from increased traffic flows and dust and other air pollution issues from the increased scale of activities on site would be spread by the prevailing wind towards residential areas. Considers an air quality monitoring system should be considered to monitor emissions.
 - Air quality impacts – the impact on local AQMAs would indicate that the site should not be considered as well located to in terms of the movement of material to and from the site.
 - Conflict between use of the private access road by increased numbers of HGVs and members of the public wishing to use the public footpath. Considers that the pedestrian refuges proposed are not adequate and the increase in HGV movements would make the route unpleasant and dangerous for pedestrians. Considers that an increase in HGV movements along the access is not

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compatible with a nationally designated public footpath such as the England Coast Path.

- Highway impacts – raises concern that the number of vehicle movements has already exceeded the permitted limits.
- Conflicts with Local Planning Policy, which is guiding new development towards the restoration and enhancement of the former gravel works. Considers that the application would set a dangerous precedent for industrial development whilst creating few new jobs and jeopardising residential amenities.

67. Faversham Footpaths Group: comments as follows:

- Notes that the definitive route of public footpath ZF1 has been permanently block by the lagoon adjacent the application site for a significant number of years and the public have used the access road as an alternate route. Considers that an application for a Definitive Map Modification Order to adopt the access road as part of the Right of Way network would be successful.
- Draws attention to Natural England's recommendation that it form part of the England Coastal Path, subject to the provision of addition passing bays/ pedestrian refuges.
- Notes the access road forms part of the locally designated Saxon Shore Way and Two Creeks Walk.
- Notes that because of the narrowness of the roadway with no pavement and the existing use by heavy vehicles walking the route can at times be unpleasant and dangerous.
- Acknowledges that the revised application no longer proposes an increase in vehicle numbers, however the changes in the hours of use proposed would mean that more vehicles using the access at times when the public are more likely to use the path.
- Notes the limitations on users of the access road due to narrow peninsula it passes across.
- Considers that pedestrian safety should be reflected in any planning decision, recommending that a paved footway 1.5 metres wide should be provided on the landward side of the access road.

68. Swale Friends of the Earth: Objects to the application on the following grounds:

- Air quality impacts from an increased number of HGV movements travelling through AQMAs, which already suffer from high congestion and air pollution levels. Notes that this already has a detrimental impact on residents and the natural environment. Considers that Swale Borough Council and Kent County Council should urgently be looking at measures to decrease lorry and other vehicle movements along the A2.
- Highway safety concerns about the proximity of HGVs to pedestrians both on the public highway and on the access road to the site, including vehicles reportedly travelling through Faversham Town centre. Considers that the Pedestrian Audit underestimates the risk to pedestrians using the access road due to the short 2-hour duration of the survey.
- Flooding and polluted run-off. Considers that HGV movements along the sea wall could impact on the risk of flooding by damaging flood defences. Notes that climate change increases the probability of flooding and the chances of polluted run-off into the SPA, RAMSAR and SSSI.
- Noise, dust and light pollution from construction and operation on wildlife,

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including the SPA, RAMSAR and SSSI, and nearby residential property. Raises concerns about the long-term monitoring and enforcement during the lifetime of any development.

69. **Mrs H. Whately, Member of Parliament for Faversham and Mid Kent:** Objects to the application on the following grounds: –

"I am writing as the Member of Parliament for Faversham and Mid Kent, to set out my views about the above application. I understand that EKR's previous application, submitted in October 2017, was withdrawn and this new application has been submitted in its place.

The East Kent Recycling plant (EKR) is located at the western edge of my constituency on the outskirts of the village of Oare. It is a family-run business providing skip hire and waste recycling services to businesses and households, employing 19 staff. I am keen to encourage local business and note that the application would support at least three additional new jobs and improve the working conditions for those staff, for instance the provision of buildings to enable materials to be managed undercover, where currently these are open to the elements.

I have however received many letters and emails from constituents raising concerns about the negative impact that the business already has on the surrounding communities and local area including noise, dust, vibrations and great numbers of daily lorry movements.

The challenge is that whilst the site has always housed commercial business, the setting within which it now finds itself is much changed. In particular, the residential community of Faversham has grown, and new housing developments are planned close by to the EKR and along the Western Link and the A2.

This begs the question of whether the site is still appropriate for industrial activity of this type. Given the development of Faversham, I would support a longer-term action on the Planning Department's part to identify appropriate locations for industrial activity, particularly where it is relatively antisocial (noise, dust, light etc.) and needs HGV access.

In the meantime, I am writing to object to the latest proposal to develop the site. I would like to emphasise the following concerns that have been shared with me:

Lorry movements – Already lorry traffic stemming from the site is affecting my constituents in Ospringe and Davington. This includes dust, vibrations, noise and light pollution. Whilst the number of lorries entering the site at the moment should be restricted to 40 trucks per day, local residents have measured the actual number to sometimes be in excess of 100 lorry movements per day. I worry about how enforceable this will be going forward. I am concerned too about the residential routes through which the lorries are travelling – including through narrow West Street in the Conservation Area – in order to reach their destinations, which are simply not sustainable for a historic market town such as Faversham. Not only does this impact on the built heritage, but reduces the air quality, already a problem in Ospringe, which is already an Air Quality Management Area (AQMA). I understand that the both size of the lorries and the hours of their operation is set to increase, in order to expand capacity at the recycling site. Residents are concerned about the impact these larger

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vehicles will have, particularly when travelling through the residential areas.

Noise from the site – Residents have raised concerns about the noise level from the existing site, for instance from the crushing of materials, and this will continue as the amount of waste coming to the site is not planned to reduce. Noise stemming from the construction phase of the application will add to this in the short term. The application states that the proposed development will retain the existing boundary treatments, which comprises fencing and earth bunds. Clearly these are insufficient to cushion nearby residents from site noise and I would urge this to be reviewed to ensure that adequate noise screening is introduced.

Pedestrian safety on the footpath – The access road to the site, used by the lorries, is along a marked and well used footpath, alongside the Saxon Shore Way, that might link to the National Coastal Path. Walkers report feeling unsafe using a path shared with heavy lorry traffic, and it's clearly not the experience intended for the National Coastal Path. This will only get worse with even larger lorries.

Short length of time to comment on the application – I am very concerned that only a small window of opportunity has been provided for local people to comment on this application. The Supporting Statement alone is 54 pages long and, when added to the other reports, this is a vast amount of often technical information for people to digest and comment upon.

For these reasons, I believe enlargement of the site and increased activity on it as proposed is unacceptable and I would be grateful if your committee would take into account the comments above when considering the application”.

A further letter has been received from Mrs Whately reinforcing the above objections. The correspondence also raises:

- Concerns about the suitability of the proposed refuge points on the access road to protect the public using the footpath from the large HGVs also using the route.
- Concerns about dust and other pollution; highlighting recent dust complaints and the potential for the proposed development to exacerbate existing problems.
- Concerns about longer hours of operation and the increase nuisance this would cause.
- Concerns about monitoring and enforcement.
- Concerns about EKR's poor record of compliance.

70. **Mr G. Henderson, Member of Parliament for Sittingbourne & Sheppey: Objects** to the application on the following grounds:

“I am writing to oppose the above application. I believe the development, if permitted would adversely affect residents in Oare and those living along the A2 in Norton, Lynsted, Teynham and Tonge parishes which are in my constituency.

I would be grateful if your committee would consider my objection on the following grounds:

- *The development would have a detrimental effect on the character of the neighbourhood in Oare and the residential amenity of residents who live opposite*

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the site, in terms of visual impact and an increase in noise disturbance, vibration, dust and lighting.

- *The development would be overbearing and out of scale for its environment and would have a detrimental effect on the character and appearance of the Saxon Shore Way, the proposed National Coastal Path and other public footpaths that serve the Site of Special Scientific Interest, which is adjacent to the site.*
- *Walkers, hikers and lorries share the narrow access road to the development site, and I am concerned at the increased risk to safety with the likely adoption of the route as part of the National Coastal Path.*

For these reasons, I believe enlargement of the site and increased activity on it as proposed is unacceptable and I would be grateful if your committee would take into account the comments above when considering the application and refuse it on the grounds given”.

Local Member

71. The local County Member for Faversham, Mr Antony Hook and the adjoining local County Member for Swale East, Mr. Andrew Bowles were notified of the application on 23 May 2018.

72. **Mr. A. Hook, Local County Member for Faversham: Objects** to the application on the following grounds:

“I wish to formally record my strong objections to the application. In my view the application is unacceptable for the following reasons:

- *It proposes an increase in the number of HGVs calling on the site each day. These will inevitable pass through the congested London Road, Ospringe Road area of Faversham including the Ospringe air quality monitoring area where air quality is already in breach of legal limits. More HGVs would only worsen this. It would be irrational and unreasonable in a public law sense of the word to permit a worsening of a matter already in breach of the law.*
- *The buildings proposed are large and will give the area an industrial character. This will be detrimental to birdlife and wildlife.*
- *Access to the site will further compromise a public right and way and the enjoyment of walkers as noted in the objections lodged by Swale Borough Council and Others.*
- *Noise and light pollution for Oare residents will be considerable.*
- *The proposes earlier opening time (0500) is not acceptable. This is earlier than most people normally wake up and will disturb Oare residents in the peaceful enjoyment of their homes.*
- *Lorry traffic in Faversham is causing physical damage to historic buildings and the traffic envisaged in this application can only worsen then.*
- *The routes the lorries must take are pedestrian school routes already blighted by narrow pavements and road safety are likely to be further worsened for pedestrians by more heavy traffic.*
- *Faversham has a notably low level of cycle usage. This is at odds with the Council’s strategic objectives and would be worsened by the extra traffic envisaged in the application”.*

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73. **Mr. M. Whiting (commenting in his capacity as Swale Borough Council Ward Member for Teynham and Lynsted): Objects** to the application on the following grounds:

"I am writing as one of the ward Members for Teynham and Lynsted to oppose the above application in the strongest terms on behalf of my residents who would be severely adversely effected by the proposed development specifically those in Oare, which lies adjacent to the site and in Norton Lynsted. Teynham and Tonge parishes within my ward in respect of the increase in traffic that is proposed by the applicant.

I think the application should be refused on the following grounds:

The development would have an unacceptable detrimental effect on both the character of the neighbourhood in Oare and the residential amenity of my residents who face the site in terms of visual impact and an excessive increase in noise disturbance vibration dust and flood lighting.

The development would be overbearing and out of scale for its environment and would have a detrimental effect on the character and appearance of the Saxon Shore Way, the proposed National Coastal Path and other public footpaths that run adjacent to the site and are used by many visitors to the Site of Special Scientific Interest, which surrounds the proposed development site on two sides.

I believe any additional traffic generated as a result of the enlargement of the site would create an unacceptable danger to hikers and walkers using the Saxon Shore Way and the proposed National Coastal Path which share the only access road to the development site and which has few if any safe refuges for pedestrians to allow them to get out of the way of lorries and other vehicles driving to and from the site.

For these reasons, I believe enlargement of the site is unacceptable and I would be grateful if your committee would take into account the comments above made on behalf of my residents when considering the application and refuse it on the grounds given".

Publicity

74. The application was publicised by the posting of a site notice, an advertisement in a local newspaper, and the individual notification of 120 nearby properties.

Representations

75. In response to the publicity, 197 letters of representation have been received; 3 letters supporting the proposals and 194 letters objecting to the application. These include views received from UPROARE (a Group representing the residents of Oare) and the Anderson Group (landowner and developer of the adjoining gravel works site).

The key points raised can be summarised as follows:

Support

- Additional waste processing capacity needed to enable the legitimate treatment of waste and recyclable materials, diverting waste from landfill or from being fly tipped.

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- Investment required in both existing and new facilities to meet European Waste Framework Directives targets for recycling rates.
- Modernisation would result in environmental benefits and more sustainable waste management.
- Good access to transport links avoiding use of town centre.
- Additional employment opportunities, plus securing existing jobs.

ObjectionsHighway safety and capacity

- Extant operations already exceed the permitted number of HGV movements (40 – 20In / 20Out) and may exceed the total number of commercial vehicle movements (80 – 40In / 40Out).
- Historic uses of the industrial estate were small scale resulting in 10 or less HGV movements per day.
- Impact from increased number and size of HGV movements (including use of trailers). HGVs are much larger now than in the past with multiple skips loaded and trailers attached hauling more skips.
- Considers that the use of trailers doubles the capacity (tonnage) of each movement and should be treated as such (i.e. 160 HGV movements instead of 80); increasing throughput and wear from each movement.
- Highway safety concerns about transportation of multiple skips on a single vehicle. Draws attention to Driver & Vehicle Standards Agency (DVSA) and the Health and Safety Executive (HSE) guidance relating to transportation of skips.
- Concerns about the capacity of the highway infrastructure and layout to accommodate further increases in HGV movements.
- Risk of vehicles shedding material along the public highway.
- Cumulative impact (with other local commercial activities) on highway network through congestion and wear, particularly on the A2.
- Vehicles speed, both on public highway and access road. Speed limit of the private road should be reduced to 10 mph.
- Increased impacts on residential property adjoining the various access routes through noise, vibration and pollution from HGV movements.
- HGVs using unsuitable roads through Davington and Faversham Town Centre, including causing amenity issues, unnecessary congestion on narrow roads and damage the highway infrastructure by mounting kerbs to make turns / pass vehicles.
- Considers a by-pass from the Western Link Road to the A2 should be provided before any new development is approved.
- Transportation of hazardous waste through populated areas.
- Safety of site access onto the public highway and the ability of the junction to accommodate increased HGV movements.
- The access road is not fit for purpose, notwithstanding the PROW; EKR should be made to use another route or move to a more appropriate location.
- Loaded EKR skip lorries have been observed in Sainsburys car park waiting for a phone call that the access road is clear.

Impact on Public Right of Way

- Whilst the access road is not the definitive route of footpath ZF1, notes it has been used for decades and is designated part of the Saxon Shore Way and is being considered as part of the England Coastal Path.

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- The route should be afforded the same planning policy protection as an adopted right of way. An application for a modification order to include the access road on the definitive rights of way map has been submitted.
- Use of the access road by existing HGV movements puts members of the public using the footpath in danger due to the proximity of the vehicles and lack of separation, any increase would exacerbate the issue and the feeling the route is unsafe. 80 HGV movements would equate to a movement every 7 / 10 minutes.
- Due to limited width of causeway walkers are often forced onto a narrow verge with a drop into the creek on the other side.
- The existing waste use already has a significant impact on people's enjoyment of the PROW and wider countryside. Feels like the public have already lost the right to use the right of way due to safety concerns about the number and proximity of the HGV movements.
- The proposed improvements to the access road / Saxon Shore Way are considered insufficient to offset the impact of the proposed development on pedestrians, particularly given the size of the vehicles involved and their proximity to members of the public. The applicant should be obliged to provide for a safe pedestrian access separate from any access roadway used by HGVs.
- Pedestrian refuges should be provided closer together (30m apart), the proposed gravel surface is unsound, no safety measures are proposed to protect walkers using the refuges, the 20mph speed limit is too high given the proximity to pedestrians.
- Concern that due to limited space between the access road and the creek, the pedestrian refuges would be unstable, and the removal of vegetation would destabilise the bank.
- Use of the access road by HGVs would mean that the Saxon Shore Way, PROW and this section of the England Coastal Path would be permanently compromised. Considers that a Right of Way should not be shared with HGV movements.

Air Quality Impacts

- Air quality assessment is inadequate and contains errors and omissions that make the conclusions unreliable, it does not take account of latest policies or emerging caselaw (including Shirley v SSCLG).
- Cumulative impact of the development on air quality, including the AQMAs, which already suffer from continuing exceedances of air quality levels under European Law (relating to NO₂ concentrations).
- Air Quality report states that the development would not have a significant detrimental effect on air quality within the AQMAs, considers that any detrimental effect in areas that already exceed levels put in place to protect human health is significant.
- Recent air quality monitoring results (2018) on Ospringe Street (A2) showed levels of 61 micrograms of NO₂ per cubic meter (Annual Mean Concentration) which is vastly in excess of the 40 micrograms of NO₂ per cubic meter considered as a safe target by the EU Directive on Air Quality.
- Traffic levels along the A2 has always increased incrementally and long ago reached a level at which this process should be resisted and accepted as a limiting factor to future development.
- EKR's fleet of vehicles are older and less efficient.
- The assessment places emphasis on the applicant's fleet of vehicles being Euro VI compliant, however, this is not enforceable, over third-party vehicles delivering to site or if the site changes ownership in future.

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- The development would lead to worsening of air quality in the relevant AQMAs and therefore it does not accord with the relevant Development Plan policies to reduce emissions and reach safe air quality levels in the AQMA's on the A2.
- Existing problems with windblown dust result in plumes of material depositing on the surrounding environment.
- Impacts on human health, including residents and the health and safety of workers.
- Impact of waste types proposed, including risks from asbestos waste and the potential for bioaerosols associated with green waste.
- Dust and air quality impacts on ecological designations and biodiversity, including dust settling on vegetation and waterbodies.

Noise Impacts

- Noise and disruption from site already impact on local amenities, particularly when wind is from the east, including disturbing sleep at or before 0700, ability to enjoy properties and gardens.
- Noises sources highlighted as a problem include vehicle movements along the access road, noise of skips and containers being moved, loaded and unloaded, operation of the telehandler and 360 excavator sorting waste, reversing alarms and staff shouting.
- Considers that the noise is loud, incessant, and can be clearly heard in gardens and inside properties. Already results in residents having to close windows to avoid noise.
- Open geography of Oare Creek allows noise to carry to residential properties.
- Noise assessment is flawed, background noise levels are incomplete, the report appears to omit operations like those proposed to south of site, crushing activities, and does not adequately consider tonal or impulse noise.
- Noise impacts on health and quality of life of existing and future residents.
- Noise would have an unacceptable impact on local wildlife including European designated sites.
- HGVs travelling through Ospringe, where properties immediately adjoin the road already exceed WHO standards on noise inside a property. The proposed HGV movements would exacerbate this impact on amenities, including sleep deprivation, health implications, noise pollution and feelings of distress.

Nature Conservation

- Existing operations have already degraded local ecological assets, including by driving bird life away.
- Plant life surrounding the site is coated with dust, impacting on plant success.
- Increase in rubbish within the Oare Creek.
- The application would have an adverse effect on the integrity of the adjacent European designated sites and in accordance with SBLP Policy DM28, planning permission should only be granted in exceptional circumstances, where there are no alternatives and there is an overriding public interest and damage can be compensated.
- Increased potential for vermin.

Landscape and Visual Amenity Impacts

- Significant landscape and visual impact on adjacent RAMSAR, SPA and SSSI sites of international and national importance, local landscape designations and the approved residential-led development at Oare Gravel Works. Notes Policy

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DM24 of the SBLP requires the landscape to be protected and enhanced, and where significant impacts remain permission will only be granted where the social and / or economic benefits demonstrably outweigh the harm.

- The design of the proposed buildings are not sympathetic to the surroundings and that the height of the proposed waste reception building (12 metres) would appear unduly prominent (4m above the tree line and several meters above the tallest building in the complex).
- Considers that the existing landscape planting is in poor health due to dust deposition and the proposed arrangements are not sympathetic to the landscape and do not include ever-green planting.

External Lighting Impacts

- Existing lighting arrangements causes light pollution, glare from the lights impact on residential amenity, including affecting bedroom windows of properties facing the site.
- Any additional lighting would have a detrimental impact on amenity of existing and future residents as it would be positioned higher on the new buildings.

Impact of Waste Types

- Hazardous waste materials proposed and the potential for them to impact on human health, including Chlorofluorocarbon (CFC) containing appliances and asbestos.
- The use of skips to import waste increases the potential for hazardous wastes or putrescible wastes to be imported by mistake, endangering the environment.
- Considers the containment measures proposed for asbestos waste do not appear to be robust enough.

Heritage Impacts

- Detrimental impact on the setting of several listed buildings, including the former Gunpowder Works, a group of Grade II Listed Buildings approximately 200m south-east of the site.
- Detrimental impacts on several historic listed buildings adjoining the A2 (London Road) from an increase in HGV movements, including as a result of vibration, impacts on the setting and damage to the road (which exacerbates the vibration).

Flood Risk / Drainage Issues

- High flood risk opens the likelihood that waste materials and other contaminants could be washed off site polluting surface water and damaging ecological interests.
- Potential for larger HGVs to damage the causeway, which forms the sea wall and part of the flood defences.
- Expresses concern that it is acceptable for a waste use to discharge surface water into the adjacent lagoon given the potential for contaminants and the sensitivity of the environment.

Impacts on tourism

- Oare Creek is popular for leisure activities, such as walking, bird watching, photography, boating, etc. and the regenerated Faversham Quarry should enhance this popularity. The enlargement of a waste facility and associated increase in HGV movements could damage the environment and the accompanying tourist trade.

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Need / Policy Considerations

- The site is not allocated by up-to-date planning policy and as such considers a business case is required to demonstrate need to extend the facility to accord with National Planning Policy and Development Plan.
- EKR appear to make no returns to KCC as part the annual monitoring report on waste capacity and are not referenced in the Early Partial Review of the Kent MWLP. Considers that a nil return / no contribution the County's waste management capacity should mean the applicant cannot rely on policy support from the Kent MWLP.
- Early Partial Review of the Kent MWLP indicates that there is no need for additional waste processing capacity in the County.

Inappropriate Location

- Previous permitted uses were low key operations that generate few HGV movements.
- Concerns that the reduced site area is not large enough to accommodate the proposed use without resulting in unacceptable impacts beyond the site boundary.
- Considers that there are more suitable alternate locations, like the applicant's site at Aylesham.
- If the application were for a new waste use, rather than an expansion of an existing facility, planning permission would be refused outright on any number of grounds, including flooding, landscape, rural location, amenity, highways, air quality, noise, ecological impacts, heritage and PROW issues. Considers the location to be an accident of history and that the current proposals would perpetuate and accentuate the deterioration of the environment contrary to Local Plan Policies.

Sustainable development

- Considers that the proposed development does not represent sustainable development. Considering the definition within the NPPF: in terms of the economic criteria – the land should not be considered the right type or the right place; in terms of environmental factors – considers that the development would be harmful; and considers the social dimension would result in harm to the amenities of both existing and future residents.

Other environmental / amenity considerations

- Notes that the Council has a duty to, so far as it is able, protect the health, safety and amenities of people living in the area. Considers that granting consent to this application and failure to halt the planning breaches would be a dereliction.
- The current system of monitoring the permitted activities are considered totally ineffective given the number of complaints out the existing operations.
- Increased potential for vermin (rats, flies, seagulls, etc.), windblown litter.
- Increased potential for fires due to the waste types and the type of plant and equipment proposed.
- If planning permission were to be granted it should be subject to the inclusion of enhanced noise barriers; fixed working hours with no early or late working; no operations on Bank Holidays or Sundays; improved pedestrian protection on the access road; and improved environmental protection.

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Other points

- The poor history of compliance with conditions imposed on the existing permission. Draws attention to the number of complaints raised about the recycling operations over the past 5 years.
- The application is part retrospective and operations have continued without any apparent intervention or enforcement.
- KCC / the Environment Agency do not have the resources to adequately monitor the site. Residents will expect that the operations adhere to the existing permission and any potential new permission. Has concerns about the inability (or unwillingness) of the authorities to enforce the terms of the existing or proposed permissions and consider this responsibility should be shared with local Parish Council's.
- If permission is granted the conditions imposed should allow for their regular review.
- The grant of permission would set a precedent that would enable further expansion or the separate redevelopment of the other industrial units.

Discussion

76. The application is being reported to the Planning Applications Committee as a result of objections received from several consultees, including Swale Borough Council, Faversham Town Council, Oare and Ospringe Parish Council's, Swale Borough Council's EHO, the local Members of Parliament for Faversham and Mid Kent and Sittingbourne and Sheppey and the local County Member for Faversham, and 194 letters of objection from the local Community. See the Consultations and Representations sections above for details of views / recommendations received.
77. In considering this proposal regard must be had to the Development Plan Policies outlined in the Planning Policy section above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that applications are determined in accordance with the development plan, unless material considerations indicate otherwise. The proposal needs to be considered in the context of the development plan policies and other material planning considerations, including national planning policy and those arising from consultation and publicity summarised above.
78. In accordance with government guidance the planning authority has engaged with the applicant and other interested parties to address issues arising during the processing of this planning application to ensure Members are appropriately informed when the Committee makes its decision. This process has included allowing the applicant additional time to address various matters that have arisen, which has delayed determination of the proposal.
79. In my opinion, the key material planning considerations in this case can be summarised by the following headings:
- Principle / Need / Land use;
 - Landscape and visual impacts (including lighting);
 - Traffic and access;
 - Air emissions, including dust;
 - Odour;
 - Noise;

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- Protection of water quality and resources and flood risk management;
- Nature conservation;
- Rights of Way; and
- Conserving the historic environment.

Principle / Need / Land Use

80. Paragraphs 7 – 14 of the NPPF sets out national policy on achieving sustainable development, including the three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways. The presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development.
81. Paragraph 1 of the NPPW states that positive planning plays a pivotal role in delivering the country's waste ambitions through:
- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;
 - ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;
 - providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of in line with the proximity principle;
 - helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment, amongst other matters.
82. Paragraph 7 states that in determining 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.
 - consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B (see sections below) and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
 - ensure waste management facilities are well-designed, so that they contribute positively to the character and quality of the area;
 - concern themselves with implementing the planning strategy and not with the control of processes which are a matter for the pollution control authorities.
83. Policy CSW1 and CSW2 of the MWLP reflect the national requirements on sustainable waste development, including driving waste management up the waste

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hierarchy. Policy CSW4 states that the strategy for waste management in Kent is to provide enough waste management capacity for at least the equivalent of the waste arising in Kent plus some residual non-hazardous waste from London. The Kent Waste Needs Assessment (Sept 2018 Update): Non-Hazardous Waste Recycling/Composting Capacity Requirement concludes that the combined consented recycling/composting capacity would be enough to meet the overall recycling/composting targets associated with the management of non-hazardous waste over the MWLP period as proposed in the revision to Policy CSW4. Therefore, net self-sufficiency in recycling/composting capacity could be achieved in Kent without provision for additional capacity. The preamble to Policy CSW4 (as amended by EPRMWLP) reflects this conclusion.

84. Notwithstanding, Policy CSW7 and the associated preamble (taking into account of both the adopted MWLP and the amendments proposed by the EPRMWLP) make it clear that in terms of additional waste management capacity there is no intention to restrict the amount of new capacity for recycling or preparation of waste for reuse or recycling provided it moves waste up the hierarchy and recovery of by-products and residues is maximised. The MWLP indicates this approach will reduce the amount of Kent waste going to landfill and so conserve existing non-hazardous landfill capacity for any waste that cannot be reused, recycled, composted or recovered. On this basis, there is policy support in principle for additional capacity for recycling and preparing waste for reuse.
85. The MWLP policies seek to drive a major change in the way that waste is managed in Kent in accordance with national policy. Helping to enable a change in perception of waste from being something that must be disposed to something that can be used as a resource.
86. The starting point in the consideration of this application must be that the principle of a waste use at Site D, Oare Creek is established by planning permission SW/92/768 (as referred to in the Background section above). The application does not represent an opportunity to revisit the Planning Committees earlier decision to allow a waste activity in this location. A waste use can legitimately continue on-site irrespective of the outcome of this current application. Accordingly, consideration of the application should focus on whether the redevelopment to modernise the operations to provide more built development, new plant / equipment, changes to the permitted operating arrangements, including hours of use and the type of vehicle movements, is acceptable and accords with relevant Development Plan Policies.
87. Representations received from the local community suggest that the development is not consistent with an up-to-date Local Plan on the grounds that it is not allocated by any specific planning policy, and the site is not referenced in the County's Annual Monitoring Report (AMR) on waste management capacity. If this were the case it would trigger the need, under paragraph 7 of the NPPW, for a business case or statement that demonstrates the quantitative or market need for new or enhanced waste management facilities. At this stage it is worth acknowledging that despite EKR not making regular returns on throughputs to feed into the AMR, the operations still benefit from an extant waste permission and therefore forms part of the established waste capacity in the county. The waste site is accordingly safeguarded by Policy DM8 of the KMWP. The above planning policies provide clear support to waste management that diverts waste from landfill by driving recycling / reuse in accordance with the waste hierarchy. The investment in modern plant and equipment would serve

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to increase recycling rates and the types of material that can be separated out over the existing manual sorting arrangements. This would help drive the management of the material up the waste hierarchy increasing re-use and recycling options and the sustainability of the development. Taking this into account, I am content that there is not a requirement to demonstrate the quantitative or market need to justify an enhanced waste management facility in this instance.

88. Concern has been raised by residents that the proposed location is inappropriate or no longer appropriate for a waste use. The representations received highlight that if this was a greenfield site and a proposal for a new facility, the proximity of the various constraints would make it more likely that an application for a waste use would be refused. I do not disagree with this assessment. There are several constraints in proximity to the development, including the ecological designations, landscape impacts and local amenity considerations that would likely count against proposals to build a new industrial / waste operation in this location. However, the application site is not a greenfield location and the application has to be assessed in the context of the permitted uses, which would continue without further planning permission.
89. It is not possible to conclude whether the proposed development is sustainable until consideration is given to all of the key material planning matters set out above and below. However, I am content that the existing permission establishes that the principle of a waste use in this location; the outcome of this application will not change this. The assessment below concentrates on whether the proposed changes to the development and the permitted use are consistent with up-to-date development plan policies. This matter is considered within the sections below. This includes likely impacts on the local environment and on amenity in the context of the criteria set out in Appendix B of the NPPW, such as the design of the waste management facilities, the capacity of existing transport infrastructure and the cumulative impact of existing and proposed waste facilities.

Landscape and visual impacts (including lighting)

90. As part of the redevelopment of the extant waste management facility, the application proposes additional built development that would impact on the visual appearance of the site both locally and in the context of the wider landscape. The additional elements include provision of several new buildings and built development, including a new waste reception building (26m x 15m x 12m high), Material Recovery Facility (consisting of loading hopper, conveyors, trommel screen, manual picking cabin and associated storage bays – operating using mains electricity) (59m x 5m x 6.5m high); a new bale storage building (21m x 12m x 8m high); storage of skips (up to 4m high); a night watchman and welfare building (7.5m x 2.5m x 5m high). The proposal also includes the refurbishment of an existing derelict building as office and welfare facilities (13m x 14m x 8m high). If permission is granted it would be important to control the use of the office building and other structures on site to waste activities only. This could be achieved by way of a suitably worded condition. There are no changes to the permitted lighting scheme proposed by the current application.
91. 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 180 states that new development should be appropriate for its location taking into account the likely effects of pollution on health, living

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conditions and the natural environment. It states that development should, amongst other matters limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

92. Paragraph 7 of the NPPW states that when determining waste planning applications Waste Planning Authorities (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 and seek design-led solutions that respects landscape character; the need to protect landscapes or designated areas of national importance and any localised height restrictions. Appendix B of the NPPW requires that, amongst other matters, light pollution is considered.
93. Policy CSW6 of the 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 after mitigation. Draft (modified) Policy CSW6 of the EPRMWLP does not change the decision-making criteria but removes reference to the need for a Waste Sites Plan. 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 waste 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 waste development where it does not result in an unacceptable adverse, cumulative impact on the environment.
94. Policies ST1, ST7, CP4, CP7, DM3, DM14 and DM24 of the Swale Borough Local Plan (SLP) all seek to deliver sustainable development, through the protection, and where possible, enhancement, of the intrinsic character, beauty and tranquillity of the landscape and local character. Ensuring high quality design that responds to the landscape character, condition, sensitivity and any limitations from its overall capacity for change, in the context of the guidelines set out within the Landscape Character and Biodiversity Assessment SPD and Guidelines and Urban Extension Landscape Capacity Study. The above SLP Policies require development that is well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. Policy DM24 states that development decisions should protect, enhance and manage landscape areas in accordance with the significance of the landscape value. It states that for Areas of High Landscape Value development should seek to conserve and enhance the landscape; and for non-designated landscapes development should minimise and mitigate any adverse landscape impacts. If significant adverse impacts remain the policy requires that the benefits of the development significantly and demonstrably outweigh the harm to the landscape character and value.
95. The Swale Landscape Character and Biodiversity Appraisal (2010) (SLCBA) Supplementary Planning Document (SPD) indicates that the site would fall within the Stone Arable Farmlands character area (as highlighted above). This landscape is not designated as an Area of High Landscape Value in the SLP Proposals Map. However, the Luddenham and Conyer Marshes character area to the north west and Ham Marshes character area to the east are within Areas of High Landscape Value and are therefore more sensitive. The Stone Arable Farmlands character area is

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characterised as being in poor condition with pockets of more traditional landscape in better condition and is of moderate sensitivity. This is due to significant urban fringe influences north of Faversham and extensive works off Ham Road, however it is acknowledged that the Oare Gravel Works has forged a landscape that is diverse in its visual, ecological and historic interest. The guidelines for development include avoiding proposals that would be unduly prominent on high or open ground having regard to sensitive views from the marshes to the north and conserving the distinctive landscape character of the historic structures, pools and land formed at the Oare Gravel Workings. The guidance encourages the use of local vernacular materials which includes corrugated iron sheets on rural outbuildings, tile hanging, yellow and red stock bricks and some render and weatherboarding.

96. The Swale Urban Extension Landscape Capacity Study (2010) highlights that the existing urban edge forms a harsh boundary within the flat surrounding landscape, with large commercial and industrial buildings standing out in views from the north and much of the landscape influenced by gravel extraction. The study recommends that the landscape is highly sensitive as a buffer between the urban extent of Faversham and Ham Marshes and that minimal further built development would be appropriate. Recommendations for any development within the potential urban extension include, amongst other matters: conserving the tranquil, wetland character of the landscape, the setting of Listed Buildings, and dark night-time character. The study seeks proposals that avoid being prominent and are of a height that relates to existing development and the landscape and uses the landform to contain the development.
97. The Landscape Capacity Study and Policies ST4 and MU5 of the SLP identify the gravel works, including land within which the application site is located, as a site suitable / allocated for redevelopment. Swale Borough Council permission SW/14/0257 reflects the policy designation for a mixed-use development, allowing 330 new homes, use of the former Gunpowder Works Listed buildings for offices, workshop-studios, storage, and community uses and the formation of a country park. The housing and other built development approved by this permission is focused to the south of the gravel works site; with land to the north set out as open amenity space as part of a new country park. The country park would surround the application site and adjacent industrial complex to the south and east. EKR's existing waste operation, the other industrial / commercial uses on Oare Industrial Estate, on John Hall Road and the Western Link Road will have been taken into consideration when the mixed-use housing development was considered. This is reflected in the landscape masterplan included within the outline planning permission, which identifies the existing recycling facility and surrounding industrial buildings as a location that should be screened. The masterplan provides for an extensive landscaped belt of native species to the south, east and south-west of the industrial complex. The housing development has since been implemented so it is reasonable to expect that the associated landscape planting will be delivered in due time. This could reasonably be relied on to enhance the existing planting around the estate to the south and east, improving the screening afforded the proposed development from those directions.
98. The current application should be considered in the context of the above and the existing built development, which includes a number of disused and derelict industrial buildings. All the built development proposed would be contained within the overall curtilage of the industrial complex, with no additional land take. Any new development would be viewed in the context of several existing industrial buildings, which include roof heights up to approximately 9m at the ridgeline. There are larger industrial

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buildings in the vicinity, located on the outskirts of Faversham to the south off John Hall Road or the Western Link Road.

99. Notwithstanding, any visual assessment needs to consider that at 12m at the highest point, the waste reception building proposed would be a tall development and would be 3 / 4m taller than existing structures in the immediate vicinity. Officers have explored the need for a building of this scale with the applicant, seeking a potential reduction in its overall height. The applicant states that the size is necessary to enable plant and equipment proposed to operate safely and efficiently within the shed without risk of damaging the building or roof structure. The size of building would be consistent with other waste facilities around the county that feature large buildings for this reason. The applicant is clear about the need and I am content that the justification for the height of the building is valid. Therefore, the development needs to be considered in the context of the impact of the waste reception building at the height proposed. The other buildings and structures proposed are smaller and more in keeping with the height and scale of the existing structures within the estate.
100. The application includes a Visual Assessment, which evaluates the proposals from several public vantage points surrounding the site, including rights of way and local roads. The assessment includes a plan showing the 'Zones of Visual Impact', which models where the development would be visible in the surrounding landscape. This assessment demonstrates that views of the development from the wider landscape to the south, north and east would be limited despite the open nature of the surroundings. The development would be most visible from the west on nearby footpaths and from elevated positions on Church Road, which overlooks the area. Members will recall that we visited this location on the bus during the site visit.
101. The Visual Assessment concludes that *'The only noticeable visual effects would occur in views from the south and west, such as from the private access road, PROWs including Saxon Shore Way and residential properties on Church Road. Views of the proposed development would be limited to the upper parts of the existing buildings and the proposed MRF building and taller plant or machinery where localised vantage points allow views over the boundary bunds (2m) or filtered through the tall mature boundary vegetation. Owing to the topography of the site and its surroundings, the proposed buildings, refurbished building and the existing site buildings, including the taller proposed elements, would not break the skyline in views. The use of a recessive colour such as 'Moorland Green' (RAL 100 60 20) on the buildings would further assist in minimising effect on the visual amenity. Existing vegetation in the foreground would continue to provide a good degree of visual screening of on-site plant and operations throughout the operational life of the proposed development'*.
102. The planning authority has received numerous objections to the application on landscape and visual amenity grounds, including from the Parish Councils, Local and Parliamentary Members and residents. The objections consider that the development would be overbearing and out of keeping, would have an unacceptable impact on the sensitive landscape and would be visually prominent from several public vantage points. The comments point out that the waste reception building would appear several metres above nearby landscape planting and the height of existing development. Comments from residents draw attention to Policy DM24 of the SLP that specifically requires the protection and enhancement of the landscape and that where significant impacts remain permission should only be granted where social and economic developments outweigh the harm. The concerns raised also draw attention

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to the existing lighting which causes significant light pollution and glare that impacts on residential amenities. Objections received consider that any new lighting would only exacerbate the existing situation further impacting on the surrounding environment and landscape.

103. Regarding the external lighting, it is noted that the application proposes no changes to the existing arrangements. During the processing of the application, the applicant agreed to reconfigure the existing lighting to reduce its wider impacts on the landscape and local amenity. This included the removal of one luminaire and the adjustment of a second to direct the light into the site. The applicant has confirmed that if planning permission were to be granted and further lighting considered necessary it would employ a specialist to design any revised approach. Given concerns raised about the visual impact of the existing lighting arrangements and the legitimate need to include enhancements to these as part of the proposed development (even with low level security lighting), I recommend that if planning permission is granted it should be subject to a condition requiring the submission of a full lighting scheme, including the existing arrangements and any proposed. This would enable the applicant to demonstrate that the scheme delivered on site is fit for purpose without having an unacceptable impact on the surrounding landscape. I also recommend that Members consider a condition limiting the use of the external lighting, except for low-level security lighting, to the hours of operation.
104. In considering the visual impact of the buildings and notwithstanding the above policy considerations, it is worth noting the provisions of the General Permitted Development (England) Order (GPDO) as it relates to the existing waste / industrial uses. Under Schedule 2 Part 7 Class L of the GPDO (2015), as a waste management facility, the operator could feasibly seek to erect a 100 square metre extension to an existing building without the need for express planning permission, provided the extension was not within 10m of the site boundary and would not exceed the height of the building being extended.
105. The County Council's Landscape Consultant (Amey) has considered the application and supporting documentation from an independent professional standpoint in the context of Development Plan Policies and other material considerations. Amey's comments note the site is almost entirely enclosed by vegetated boundaries of varying heights and densities, with the wooded area to the north denser than the other boundaries, particularly to the east where the boundary of the industrial estate is generally more open. Amey recommends that the development would have a visual impact on the local environment, with the waste reception building taller than existing structures. It considers that this would impact on the existing skyline; however, the impact should be considered in the setting, which already contains detracting features like pylons, the existing waste management building and other surrounding industrial buildings, including larger industrial developments to the south bordering Faversham that have greater prominence in the landscape. Amey recommends that the visual impact is not significant enough as to potentially prevent the development in what is already an environment with industrial features. It considers additional boundary planting / enhancement should be undertaken including provision of native evergreen plants within additional tree planting. The additional soft landscaping would help to define the boundary of the industrial estate and break up views of the buildings in the long-term. Before any new planting matures, Amey considers that management of existing landscape planting and the colour treatment of the building in a recessive colour (as proposed) would help mitigate the visual impact whilst the planting matures.

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106. In response to concerns raised by consultees and the public and Amey Landscape's recommendations, the applicant has provided further details on the enhancement of existing planting to help soften the impact of the development. The proposed landscape scheme is included in Appendix 1 of this report and includes a mixture of five native tree species planted on or close to the 2m high landscape bund that currently adjoins the site boundary. This coupled with the landscape planting outlined in the masterplan for the mixed-use housing development to the south and east would help to soften the visual impact of the development and the wider estate. The use of a recessive green finish to the cladding proposed would further help to blend the development with its surroundings.
107. The design of the buildings proposed are such that they would reflect other built development within the industrial estates located close to the site. The use of profiled metal cladding in construction would draw on the local vernacular, reflecting the use of corrugated iron steel used on rural outbuildings and barns (as recommended by the SLCBA). From a distance the more prominent elements of the development would appear similar to large outbuildings found in farms around the area, including Ham Farm to the east. The refurbishment of the existing derelict building would improve and tidy up the overall appearance of a concrete structure in need of repair. The other structures proposed including the MRF, baler-building and night-watchman's facilities are a similar scale to the existing buildings and would be viewed in the context of these structures. I am generally content that the smaller elements of the built development proposed (those at or below the height of the existing buildings) are unlikely to significantly impact on landscape or visual amenities given the considerations above. I also believe the increased containment of the waste handling activities that take place on site would be beneficial in visual terms (amongst others). Considering the sensitivities of the surrounding landscape, if planning permission were to be granted, I recommend that any permission include withdrawal of the sites permitted development rights. This would enable the planning authority to retain control over any future changes on site.
108. The proposed development would have a visual impact on the surrounding landscape and would be more prominent than the existing development. Whilst the landscape character area it would be positioned in is identified as less sensitive, there are two Areas of High Landscape Value close to the location. The policy considerations detailed above make clear the importance of protecting and preserving the landscape character. For this location the Swale landscape character assessments recommend avoiding proposals that would be unduly prominent, conserving the tranquil, wetland character of the landscape (as part of the wider North Kent Marshes), and relating the heights of any new buildings considered acceptable to existing development and local character (amongst other matters).
109. In the context of the current proposals the key question is how significant the visual impact would be. It is also necessary to balance this against the clear waste sustainability gains, as set out above. These include improvements in the operations that would help to drive material up the waste hierarchy by increasing opportunities to reuse or recycle. The impact of the development must be set in the context of the existing industrial and waste use permitted at the site that would continue irrespective of the outcome of this application. In this instance, whilst the larger building proposed by the development would have some visual impacts on the landscape, I am content given the policy context and Amey's advice that the benefits of the development with

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the mitigation measures proposed are such that, on-balance, the proposals would be acceptable in terms of landscape and visual impact and accord with the development plan policies. On this basis, I do not consider that refusal on landscape or visual grounds is warranted, subject to conditions securing the external treatment of the building, the provision of suitable landscape enhancements and withdrawal of permitted development rights.

Traffic and access

110. The application seeks to use the existing access arrangements to the site. Consisting of a single lane private access road that joins the public highway close to the junction between The Street and the Western Link Road (B2045). The proposals seek a change to the type of vehicles permitted to attend the site each day. The development proposes up to 80 HGV movements per day (40 In / 40 Out), this would replace the permitted arrangements (40 HGV movements and 40 LGV movements). There would be no change to the overall number of commercial vehicle movements allowed. The applicant also states that the applicant would maintain the access road and provide enhancements to provide pedestrian refuges along the route to help mitigate potential impacts on the current public right of way arrangements. The applicant agrees to route all HGVs that are not serving the local market within Faversham Town or the surrounding area via the sign posted route for commercial vehicles, along the Western Link Road to the A2. When the HGVs reach the A2, the applicant anticipates that the additional 40 HGV movements would on average be split equally in either direction. This would mean an extra 20 HGV movements per day travelling east through Ospringe and an extra 20 HGV movements traveling west towards Teynham and Sittingbourne, in place of the permitted LGV movements.
111. Paragraphs 108 - 109 of the NPPF states development should promote sustainable transport modes, taking account of the type of development and its location; ensure safe and suitable access; and that 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. It states that development should only be prevented or refused on highways 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 NPPW states that consideration should be given to the likely impact on the local environment and on amenity against the criteria set out in Appendix B of that document. 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.
112. Policy CSW6 of the adopted 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) 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. Policies W7 and W9 of KWLPSP seek development that has acceptable access to the main road network (amongst other matters).
113. Policy DM13 of the MWLP states that development will be required to demonstrate

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that emissions associated with road transport movements are minimised so far as practicable. It also states that 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 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 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. Policy DM15 states that development will be granted planning permission where it would not give rise to unacceptable impacts on road transport or where these impacts are mitigated.

114. Policy DM6 of the SLP requires development that safeguards highway capacity and safety, ensuring that proposals involving the intensification of use of any existing access onto a strategic, primary or other route has capacity and meets relevant safety standards. The preamble to policy DM6 identifies the Western Link Road as a District Distributor Route; the A2 as Primary Distributor Route; and M2 as part of the Strategic Road Network. Policy DM7 seeks vehicle parking which takes into account the accessibility of the development and availability of public transport; the type, mix and use of the development proposed; and that development proposals do not exacerbate on-street parking to an unacceptable degree. Policy DM14 requires development that achieves safe vehicle access, convenient facilities for pedestrians and cyclists, access to public transport, together with parking.
115. Objections to the application on highway grounds have been raised by Swale Borough Council, the Parish Councils, the Faversham Society, two local Members of Parliament, locally elected Members and a significant number of the community representations. The highways concerns include the size of the HGVs, the overall number of HGV movements, the loading of multiple skips on both HGVs and trailers, safety concerns about pedestrians and other road users, the potential movement of HGVs both through Faversham and along the A2 in either direction, the suitability of the roads to accommodate HGV traffic, the distance of the site from the junction with the M2 and the private access road to the site. The concerns raised also draw attention to the retrospective nature of the application, as the applicant has been operating the site based on 80 HGV movements per day, instead of the 40 HGVs and 40 LGVs movements permitted. Comments from residents also allege that the 80 movements a day limit is regularly disregarded by the applicant. Further concerns raised regarding the impact of HGV movements on air quality and the public right of way are covered in the relevant sections below.
116. The retrospective nature of the application in terms of the vehicle movements is noted. However, this has no direct bearing on the decision-making process. It should be assumed that the permitted levels (i.e. 40 HGVs and 40 LGVs) is the accepted limit and if planning permission is refused the applicant should return to this level of activity despite more recent increases in the number of HGV movements.
117. In response to the application KCC Highways and Transportation draws attention to the applicant's agreement to reduce the number of HGV movements from 160 per day in the previous withdrawn application to 80 per day within the current proposals. The response confirms that routing of HGVs to and from the site via the Western Link Road (B2045) and London Road (A2) to be the most suitable arrangement as it offers a direct route between the site and the strategic road network. The comments note

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that the closure of the Oare Gravel Works has reduced the number of HGVs using the above route, creating carrying capacity for vehicles generated by other sites. The most recent planning permission restricted HGV movements associated with Oare Gravel Works and Ham Farm to 200 per day (100 In / 100 Out). It also acknowledges that the residential development proposed on the Gravel Works site would route residential traffic via Ham Road to the east. Kent Highways raise concerns about reports of HGVs passing through Faversham Town Centre via Davington Hill or Bysing Wood Road. It recommends that if permission were to be granted a condition covering a routing strategy would be appropriate. The response acknowledges that the network would benefit from highway improvements, however it considers that given that there would be no change in the number of commercial vehicle movements associated with the site, only the size of the vehicles involved, the level of change would not justify the Kent Highways seeking funds for highway improvements.

118. In response to concerns raised by residents, including the suitability of the highway access, the safety of the access onto the public highway (The Street) and the size of the vehicles, a Highways Engineer visited the site. The Engineer notes that the crash data records show no accidents within the vicinity of the access to The Street and the junction with the Western Link Road. After observing the traffic flow the Engineer concluded that there were no overbearing design or safety issues with the arrangements. The response concludes that change in the size of the vehicles is unlikely to have any significant effect from a road safety perspective.
119. Kent Highways and Transportation raise no objections to the application on highway grounds, subject to conditions restricting the development to a maximum of 80 HGV movements per day (40 In / 40 Out), routing of site traffic via the Western Link Road and the A2 corridor, and the provision of cycle parking. Kent Highways also recommend that the applicant joins the ECO Stars scheme, being promoted by Swale Borough Council as part of its Air Quality Management Plan. The scheme encourages operators to take active steps to improve efficiency, reduce fuel consumption and reduce impacts on local air quality. EKR have since registered with the Borough Council for this scheme. See the Air Quality Section below for further details.
120. Several objections received from local residents have raised concern about the road worthiness of individual vehicles leaving the site and the potential for HGVs to shed their loads. This includes whether the loading of several skips on a single lorry, and/or the trailers used by EKR to increase the haulage capacity of each vehicle, is legal and safe. The concerns received draw attention to guidance provided by the Health and Safety Executive (HSE) and the Driver & Vehicle Standards Agency (DVSA) on loading vehicles securely.
121. From a planning perspective it is reasonable to confirm that the applicant can practically move the volume of material proposed within the number of HGV movements applied for without causing safety concerns. The extant permission does not include a limit on the volume of material that can be received or retained on site. The permission relies on controls over HGV and LGV movements to achieve some control. The Environmental Permit for the site allows a maximum of 200,000 tonnes of waste per year. In this instance, the application proposes new controls limiting the throughput to 45,000 tonnes per year, with no more than 1,000 tonnes held on site at any one time. Given this control, I am satisfied that the number of vehicle movements proposed could reasonably haul this volume of material without encouraging the overloading of vehicles.

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122. The road worthiness of vehicles is covered by separate legislation and is beyond the scope of the planning system to control. The HSE, DVSA and ultimately the Police monitor this and have the legal power to enforce the law. In this instance, I am content that the applicant's HGV fleet was subject to a DVSA Maintenance Audit in 2016. This inspection included skip loading and stacking procedures and covered safety guidelines used by EKR to train its drivers. The procedures in place satisfied the auditor. EKR confirm that it is satisfied that provided the safety requirements issued to drivers are followed the double stacking of full skips on HGVs and trailers is acceptable. If permission were to be granted it would be reasonable to include certain conditions to help maintain highway safety, including that any loaded open backed vehicles to be sheeted or netted, measures to prevent mud and debris on the highway. However, the individual loading of specific vehicles is covered by other legislation and the planning authority should assume this would continue to operate as expected.
123. In terms of the concerns about the safety and capacity of the public highway, and particularly the A2 through Ospringe. Kent Highways advice is that the current application would not materially impact on any pre-existing issues relating to capacity or safety. In terms of safety it is necessary to assume that all drivers attending site would adhere to the highway controls in place and that these are adequate to limit and mitigate safety concerns. I note that as with many places across the county congestion is experienced around Faversham and along the A2, in particular as it moves through Ospringe where the layout of the road and the proximity of buildings to the highway is not ideal. Notwithstanding this, in making any decision it must be acknowledged that the A2 forms part of the primary road network and provides access to the strategic road network (M2). The application states that the proposed 40 additional HGV movements (in place of 40 LGV movements) would on average be split once they reach the A2 with 20 movements travelling to the east through Ospringe and the other 20 heading west toward Sittingbourne. This is not an increase in the number of vehicles just the overall size, it is therefore difficult to argue that the changes would materially impact on congestion.
124. In addition to concerns about the impact on the public highway, objections have been received from consultees and the local community about the suitability of the access road. This issue is tied up with the question of the public right of way, which is considered in more detail in the section below. For the purpose of the highway considerations, at this point I will focus on its suitability as a vehicle access, its maintenance and whether the causeway on which it is built would be damaged by an increase in HGV movements.
125. Concerns about the width and the length of the access road has been raised by the community alongside its suitability for large HGVs with trailers. The roadway forms a single lane road approximately 3.4m wide and 572m long, which travels along a narrow causeway between Oare Creek and an adjacent lagoon. There is a self-imposed speed limit of 20mph along the route, with several passing bays. The route is straight and open, and visibility is generally good; except for a tight corner where the roadway enters the industrial estate. The access serves the application site, adjacent industrial units and a boat yard that adjoins the creek. Setting aside concerns about the Right of Way that currently shares the route (this will be covered below), the operation of the vehicle access generally works, mainly due to the small number of vehicles that use it. The current application does not propose to increase the frequency or number of movements only the average size of half the vehicles. Since

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the applicant already legally operates 40 HGV movements from the site and other uses have also done so in the past it is difficult to argue that the route is not fit for HGVs. Being a private road, Kent Highways has no jurisdiction to comment and normal highway standards do not apply. EKR do however have a legal right of access to the application site. It would be the responsibility of the landowner and tenants to resolve vehicle access issues and maintain the road.

126. In response to concerns about the access the applicant has prepared a condition survey that assesses the capacity of the roadway to withstand increased wear from larger vehicles. The assessment concludes that the underlying ground / embankment and granular foundations on which the access road is built are sound. Some members of the local community disagree with this assessment. However, the embankment has been in place for a number of decades following the excavation of the adjacent lagoon and has not shown signs of significant wear, even when it was used more regularly by the former industrial units that adjoin EKR's facility. The assessment further concludes that the surface of the road is generally sound with visual defects limited to the upper layers. The report indicates that the change in the size and weight of some of the vehicles using it would marginally increase the maintenance burden and slightly reduce the remaining lifespan. The applicant has confirmed that under the legal arrangement with the owner of the access road (Brett Aggregates), EKR are responsible for the maintenance of the road being its largest user at this time.
127. In addition to the above, the Environment Agency has confirmed that the causeway on which the road is positioned forms part of the coastal flood defences. As such this asset is inspected every 24 months by an EA inspector. The most recent inspection, carried out in April 2019, concluded that the causeway was in fair condition (Grade 3), considered a pass. The EA confirm that the asset will be maintained to preserve this standard and make no specific comment about its proposed use by HGV traffic. Considering this and the conclusions of the applicant's condition assessment, I am content that the maintenance of the access road need not be an issue that prevents the proposed development from being permitted. A condition could be included on any planning permission requiring the applicant to maintain the access road in a reasonable state of repair and free of potholes.
128. Subject to further consideration of air quality and public rights of way (amongst other matters) below, I do not consider that the highway implications of the development are significant enough to warrant a refusal on highways grounds. Subject to conditions covering HGV numbers with EKR to maintain records, HGV routing, measures to prevent mud and debris, covering of loaded vehicles, maintenance of the access road, provision of cycle and car parking on site, I am satisfied that the application accords with the development plan policies as they relate to highways considerations.

Air emissions, including dust

129. 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 considering the likely effects (including cumulative effects) of pollution on health, living

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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. Paragraph 181 states planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking account of the presence of Air Quality Management Areas (AQMAs) and Clean Air Zones (CAZs), and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. New development in Air Quality Management Areas and Clean Air Zones should be consistent with the local air quality action plan. Appendix B of the NPPW states that proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled using appropriate and well-maintained and managed equipment and vehicles, should form part of the decision process.

130. The NPPG on Air Quality indicates consideration should be given to whether development would introduce a new point source of pollution, would expose people or biodiversity to pollutants (including European-designated sites) and if there would be significant effects on traffic both in the immediate vicinity and further afield, including congestion, changes in volume, vehicle speed or significantly altering the traffic composition on local roads. The NPPG encourages local planning authorities to work with applicants to consider appropriate mitigation to ensure the new development is appropriate for its location and unacceptable risks are prevented. Examples of mitigation include: the design and layout of development to increase separation distances from sources of air pollution; using green infrastructure (in particular trees) to absorb dust and other pollutants; means of ventilation; and promoting infrastructure that has a low impact on air quality.
131. The Government's recently published Clean Air Strategy (2019) acknowledges that transport is a significant source of emissions of air pollution. Highlighting that the immediate air quality challenge is to reduce emissions of nitrogen oxides in the areas where concentrations of these harmful gases currently exceed legal limits. The strategy seeks to minimize the impact of petrol and diesel vehicles in the short term by ensuring that the cleanest conventional vehicles are driven on our roads, whilst working towards the Road to Zero Strategy, which sets out plans to end the sale of new conventional petrol and diesel cars and vans by 2040.
132. Policy DM11 of the MWLP seeks development that does not generate unacceptable adverse impacts from dust, emissions, traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. Waste development should ensure that there is no unacceptable adverse impact on other land uses. Policy DM12 states that waste development should not result in an unacceptable adverse, cumulative impact on the environment or communities. Policy DM13 seeks development that demonstrates emissions associated with road transport movements are minimised as far as practicable, including emission control and reduction measures (where relevant), such as deployment of low emission vehicles and vehicle scheduling to avoid movements in peak hours. It places emphasis on this where development is proposed within an AQMA.
133. Policy ST7 of the SLP seeks, amongst other matters, development that is consistent with local air quality action plans for Ospringe and brings forward innovative proposals

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for mitigation of adverse impacts. Policy CP5 seeks development that safeguards the health and well being of the local community.

134. Policy DM3 of the SLP support sustainable growth and expansion of business and enterprise in the rural area, subject to several controls, including avoiding scale of traffic generation incompatible with the rural character. In assessing impact on the highway, policy DM6, amongst other matters, seeks to integrate air quality management and environmental quality into the location and design of, and access to, development and, in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree especially taking into account the cumulative impact of development schemes within or likely to impact on Air Quality Management Areas. Policy DM14 supports development that causes no significant harm to amenity and other sensitive uses or areas.
135. Swale Borough Council (Interim) Air Quality Management Plan (2017) sets out the proposed action plan options for developing a final "Strategic AQAP" for Swale 2018 – 2022. The key priorities are to identify measures which target reductions in emissions from vehicle fleets (HGV, LGV and cars), smooth traffic flows and reduce congestion and protect local communities. Mitigation measures promoted by the Plan include: Freight and Delivery Management (including routing strategies); promoting Swale Low Emission Zone (LEZ) or Clean Air Zones (CLZ); and promoting Eco Stars Vehicle Fleet Efficiency Scheme
136. The Draft Air Quality Action Plan 2018-22 was considered by Swale Cabinet at its meeting on 31 October 2018. The Cabinet noted the recommendations of the draft Plan and cleared the document for public consultation subject to minor modifications. The Borough Council's website indicates that:

"It is not the intention of this authority that AQMA designation should prohibit development. However, each application for development will be considered for its potential impact on air quality on a case-by-case basis. More weight will therefore be given to air quality considerations, where developments would have significant adverse impacts on air quality inside, or close to the AQMAs and where proposals for sensitive developments (i.e. residential) could be adversely affected by poor air quality inside the AQMAs".
137. The draft Air Quality Action Plan does not dispute this statement and recommends a suite of measures that propose potential improvements in existing air quality, which should enable AQMA's across the County to achieve compliance. It should be noted that of the 5 AQMA's in Swale the Ospringe AQMA is predicted to take the longest to achieve compliance.
138. The draft Plan targets, amongst other matters, volume reductions in the HGV fleet using the A2 especially through the 2 key AQMAs (East Street and Ospringe target year 2022); emission reductions from the HGV fleets; and smoother less congested traffic flows of all vehicles through the AQMAs. To be achieved through development of Clean Air Zones (CAZ) including possible HGV (Euro Emission Class) restriction zone along A2, encouraging HGV retrofit programme with Eco-Stars programme. Some of the measures proposed include ensuring all major applications consider environmental factors, consideration be given to whether conditions could be placed on all diggers and lorries (Euro 4 or above); and varying shift hours be encouraged to allow free-flowing traffic.

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139. The proposals have attracted a significant number of objections on air quality grounds. These relate to both the potential for dust to be generated on site and concerns about the impact of a change in the permitted vehicle types from LGVs to HGVs. The concerns note that increased numbers of HGV movements would have air quality implications for the environment and communities that live along the access route, including existing Air Quality Management Areas along the A2 in Ospringe and Teynham. These objections are raised by Swale Borough Council, the Borough Council's Environmental Health Officer (EHO), Faversham Town Council, Oare Parish Council, Ospringe Parish Council, the Faversham Society, Swale Friends of the Earth, local Parliamentary, County and Borough Members and the local community.
140. The air quality assessment and supporting information received with the application models the potential impacts of the development on air quality as a result of the change in vehicle type. This covers both residential development along the access route, including those within the AQMAs at Ospringe and Teynham, and the ecological receptors associated with Oare Creek. The assessment was undertaken in accordance with Institute of Air Quality Management (IAQM) Guidance. The report concludes that change in NO₂ concentrations from the changes in the type of vehicle both in the Ospringe and Teynham AQMAs would be considered negligible. The report models Nitrogen Oxides (NO_x), Nitrogen Deposition and Acid Deposition from the development as it would relate to the ecological designations. This concludes that the impact from the additional vehicles would be insignificant on nearby habitats.
141. The air quality report also considers on-site impacts. It recognises that crushing and screening activities, and storage areas may cause dust to be emitted to the atmosphere and if transported beyond the site boundary could have an adverse impact on Oare Creek and the associated designations. The report recommends several dust management practices for the operations on site. These include, amongst other matters, enclosing more of the operation within buildings and the provision of a fixed dust suppression system along the northern boundary around the area proposed for storing and processing CD&E waste.
142. Dust from the site has been one of several ongoing concerns for the local community about the existing waste operations. This includes recent complaints about dust generated by movements across the unmade surface in Site C to the south, particularly during periods of dry weather. This issue has been overcome by the changes in the proposed application boundary, which now excludes Sites A, B and C from the proposed waste activity. The surface of the operation area in Site D would be completely concreted to link in with the extant arrangements. Following previous complaints about noise and dust from the existing waste operations, one of the possible solutions is to enclose and modernise the waste handling activity taking place on site as proposed. It should be accepted that the existing operations benefit from planning permission and would continue regardless of the outcome of the current application. The current proposals would go some way to achieving enclosure of the waste use with the provision of two new waste buildings, increased automation and the sorting of materials under cover, the provision of storage bays and dust mitigation measures (including a fixed suppression system to the northern boundary). These measures would reduce the potential for dust emissions.
143. The crushing and screening of CD&E waste is included within the proposed use and would take place in the open to the north of the site. The principle of this activity is

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already established by the extant permission, albeit that the activity has never been implemented. The proposed arrangements are fairly limited in scale with crushing equipment proposed forming a crusher bucket that attaches to a 360-degree excavator, designed for small scale operations. The mitigation measures proposed by the air quality assessment include dust suppression equipment fitted to the crusher bucket and a fixed suppression system along the northern boundary. If planning permission were to be granted, it would be appropriate to require further details on the fixed dust suppression system proposed and the means of enclosure around the boundary adjacent to the crushing and screening area on which the suppression equipment would be mounted. It would also be appropriate to include a condition requiring a Construction Environment Management Plan to ensure this phase of the development does not cause unacceptable impacts on local amenity or the environment.

144. In response to the application the EA raise no objections, subject to conditions that seek to protect local water quality. The EA response confirms that the application would trigger the need to vary the existing Environmental Permit. As part of this process the applicant is required to demonstrate that no unacceptable risk to land or water would be generated because of the proposed development, waste types or activities on site. Natural England acknowledge that without appropriate mitigation the application could have an adverse impact on the Swale SPA, Ramsar site, SSSI and Marine Conservation Area. As a result of this, KCC officers completed an Appropriate Assessment of the proposals under the Habitat Regulations, a copy of which is attached in Appendix 2. The assessment concludes that the development would not have a significant impact on the above designations, or the interests associated with the use, subject to suitable mitigation measures relating to noise, water quality and dust. Natural England has formally approved this assessment and subsequently raises no objections, subject to conditions including securing the proposed dust mitigation measures, amongst other matters recommended by the Appropriate Assessment. The impacts on biodiversity and the ecological designation are considered in more detail in the section below.
145. Swale Borough Council's EHO, as a technical consultee, advises that whilst not technically incorrect the air quality assessment supporting the application is not as comprehensive or persuasive as it could have been. The EHO advises that the report is too reliant on the applicant's proposals to update its entire fleet of HGVs to meet the latest Euro VI emissions standards. EU directives set out European emission standards for passenger and HGV category vehicles known as Euro categories.
146. In response to these concerns the applicant provided details of its existing HGV fleet, which at the time consisted of 10 Euro VI HGVs, 8 Euro IV HGVs and 1 Euro III. The applicant further stated that it is looking to update all its fleet vehicles to Euro VI standard in the near future. In a recent update the applicant has confirmed it is now running 14 Euro VI HGVs with 2 further vehicles on order. The Air Quality Report does emphasise the use of Euro VI compliant HGVs in considering the potential impact of the change in vehicle type. Arguably over half the fleet is already Euro VI compliant, therefore the change of half of the permitted movements from LGVs to HGVs could be covered by these vehicles. The circumstances are more complicated than this with occasional third party delivers to factor in; however, the fact that half of EKR's fleet could be driven into London's Ultra Low Emissions Zone should not be overlooked. Swale Borough Council's draft Air Quality Action Plan identifies the possibility of introducing Clean Air Zones along the A2, which if implemented at some

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point in the future would likely employ similar controls to those used in London. EKR are already well on the way to complying with this aspiration.

147. In addition to the above, following the recommendation of Kent Highways EKR has signed up to the Eco-Stars Scheme also being promoted by Swale Borough Council through its Air Quality Management Plan. As indicated above the scheme, administered by Swale Borough Council in partnership with Eco-Stars, is a Fleet Recognition Scheme that aims to help operators improve efficiency, reduce fuel consumption & emissions and make cost savings. This scheme was originally created by four local councils in South Yorkshire to tackle local air quality issues caused by transport, focusing on HGVs, buses, coaches and vans. It has since broadened across the country with more than 500 members with 14,000+ vehicles. The applicant has also recently joined the Fleet Operator Recognition Scheme (FORS), which seeks to raise the level of quality within fleet operations, by setting standards that demonstrate an operation is being run safely, efficiently and in an environmentally sound manner. The applicant also operates fleet tracking software that enables the monitoring of driver performance, including encouraging driving in a fuel-efficient way.
148. The County Council's Air Quality Consultants (Amey) raise no objections to the application, subject to conditions. In doing so it acknowledges that the Air Quality (AQ) Assessment received does not reflect most up-to-date assessment techniques. Notwithstanding the methodology used, Amey:
- Is satisfied that the proposed mitigation measures and the enclosure of more of the operations within buildings would mean the risk of significant / unacceptable levels of dust levels would be minimal. The above mitigation and good practice measures would be adequate to ensure the risk of residual dust impacts is minimised.
 - Notes that the air quality assessment assesses the change in vehicles, allowing for 20 additional HGV movements (10 In / 10 Out) per day passing through Ospringe AQMA and the other 20 additional HGV movements (10 In / 10 Out) per day moving through Teynham AQMA. It agrees that the contribution from additional HGV movements alone would be considered minor and that the significance criteria set out in the Institute of Air Quality Management (IAQM) Guidance on Planning for Air Quality should be viewed as negligible.
 - It confirms that the impact from additional HGV movements on nearby ecological designations would be minor and insignificant.
149. At the request of KCC officers Amey carried out separate calculations to try to quantify the total difference in quantity of NO_x emitted per year from the permitted mix of LGVs and HGVs and HGVs only. Using the Governments Emissions Factors Toolkit (EFT), Amey's calculations demonstrate the proposed change from LGVs to HGVs would result in an approximate 29% increase over the NO_x emissions anticipated from the permitted levels of vehicle movements. Amey concludes that, on its own, emissions from the proposed HGVs would not be significant. However, it draws attention to paragraph 181 of the NPPF (referenced above), which seeks development that sustains and contributes towards compliance with national objectives for pollutants and takes account of Air Quality Management Areas, alongside the cumulative impacts from other local development. Amey highlight the importance of considering the cumulative impact of additional traffic in areas that already exceed NO₂ limit values (AQMAs). It draws attention to the Swale Strategic Air Quality Action Plan that suggests that a reduction of 5.7µg/m³ NO₂ is required in Ospringe AQMA by 2022 to bring concentrations below the limit value. Any increase in traffic would make this

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objective harder to achieve.

150. The above considerations should be balanced against Swale Borough Council's comments regarding the Draft Air Quality Action Plan 2018-22 that it is not the intention that AQMA designations should prohibit development and that applications should be considered on a case-by-case basis. In this instance it has been demonstrated that whilst the development would increase HGV movements in the respective AQMAs the changes are relatively minor in terms of numbers and are unlikely to have significant effects. The change in the type of vehicles permitted from 40 LGV to 40 HGV would not increase congestion as the proposal would not add additional commercial vehicle movements to the network, only impacting on the size of the vehicle and in turn the level of associated emissions. The application site is not close to the AQMA and it is only the vehicle movements that would have an effect. The applicants fleet includes 14 Euro VI HGVs with 2 further vehicles on order. The increase in the number of Euro VI compliant vehicles over the consideration of the application lends weight to the applicant's aspirations to upgrade the remaining vehicles in the near future. Amey's recommendations acknowledge that the use of the most up-to-date Euro VI vehicles would serve to offset the change in vehicle type. The applicant has signed up to the Borough Council's Eco-Stars scheme and is actively pursuing other measures to improve the sustainability of its fleet movements. One such measure is the use of purpose-built trailers that increase the number of skips each vehicle can move.
151. In balancing the above considerations, I am mindful of the level of concern raised about air quality issues and local and national drives to improve air quality for all. However, in this instance I do not believe that the level of change proposed, being a swap from 40 LGV movements to 40 HGV movements, is significant enough to sustain an objection to the application on air quality grounds. The proposals include a number of measures that seek to reduce and minimise any impact and this balanced with the recent reduction in 200 HGV movements along the route as a result of the closure of Oare Gravel Works is sufficient to conclude that the cumulative impacts of the changes on the road network would not be significant. Subject to mitigation measures being secured by condition, neither the County Council's Air Quality Consultant, Natural England nor the EA have raised specific concerns about emissions from the development impacting on the surrounding environment. The EA confirm that the site would continue to be subject to controls under an Environmental Permit, which includes dust controls, amongst other matters. The NPPF makes it clear that the focus of planning decisions should be on whether 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). Planning decisions should assume that these regimes will operate effectively.
152. Subject to the further consideration of ecological matters, amongst others, in the sections below, and to conditions securing the dust mitigation measures proposed, submission of a Construction Environment Management Plan, details of the enclosure and fixed dust suppression system proposed in connection with crushing and screening operations and the height of any stockpiles to not exceed 4m, I am satisfied that the proposed development would be in general accordance with the development plan policies and other material considerations relating to dust and air quality set out above.

Odour

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153. Paragraph 7 of the NPPW states that consideration should be given to the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. Appendix B states that the proximity of sensitive receptors and the extent to which adverse odours can be controlled using appropriate and well-maintained and managed equipment.
154. Policy DM11 of the MWLP states waste development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from odour, amongst other matters. Proposals for waste development will also be required to ensure that there is no unacceptable adverse impact on the use of other land for other purposes. Policy DM14 of the SLP requires development that causes no significant harm to amenity and other sensitive uses or areas.
155. The application does not propose the acceptance of significant volumes of putrescible or biodegradable wastes. The proposed waste streams refer to municipal and biodegradable wastes, however this is caveated by confirmation that material received from these streams would be limited to green and wood waste only. No black bag or food waste would be accepted. The only putrescible elements that the application acknowledges would be received are small contaminant quantities as part of the odd mixed skip load. Putrescible waste is not often disposed on with skip waste, however it cannot be ruled out. Any putrescible waste received would be identified and set aside to be removed from site to a suitable management facility as soon as practicable and within 48 hours of arrival.
156. The applicant states that managing green waste would only be commercially viable where there is an opportunity to add value by processing mixed skips. Transferring large volumes of green waste would generally be a cost to the company as the application does not propose to treat (i.e. compost) this material. The applicant draws attention to the Environmental Permit that would exert further controls over the development including limits on the quantity and duration certain materials would be allowed on site as part of the site Fire Prevention Plan. To provide further reassurance over the quantities of green waste that would be received, the applicant has proposed a 40 tonnes per week limit and confirms that green waste would only be stored in one of the bays below the MRF and one 40 cubic yard skip (30m³) positioned on the northern boundary. It also provides further details on measures to be taken if malodour from green waste is detected beyond the site boundary, which include further containment and removing the material as soon as practicable and within 48 hours.
157. Concerns have been raised by the local community about the potential for putrescible and biodegradable waste to cause odour and bio-aerosols. In responding to the application, no objections were received on odour grounds from the EA, the County Council's Air Quality Consultants (Amey) or Swale Borough Council's EHO. The EA draw attention to the requirement to vary the Environmental Permit, which would cover odour matters. Amey's recommendations confirm that on the basis that the application states that odorous sources would be limited to wood and green waste only plus contaminant qualities of other waste, it considers the potential risk of odour nuisance at local receptors would be insignificant.
158. Taking the above into account, I am content that any risk of odour could reasonably be control by way of the Environmental Permit and conditions limiting the waste types to

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those applied for, further controls over the quantity of green waste and securing the mitigation measures proposed. Subject to the above, I am satisfied that the proposed development would accord with the relevant development plan policies as they relate to odour.

Noise

159. Paragraph 170 of the NPPF seeks development that prevents new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 180 of the NPPF states that new development should be appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. It states that development should: mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; and identify and protect tranquil areas which have remained relatively undisturbed by noise.
160. Appendix B of the NPPW requires consideration of the proximity of sensitive receptors. It states the operation of large waste management facilities can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed, particularly if night-time working is involved.
161. Policy DM11 of the MWLP states waste development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, amongst other matters. Policy DM14 of the SLP requires development that causes no significant harm to amenity and other sensitive uses or areas.
162. The Noise Policy Statement for England (2010) and the National Planning Practice Guidance on noise encourage assessment of noise based on whether or not a significant adverse effect is likely to occur; whether or not an adverse effect is likely to occur; and whether or not a good standard of amenity can be achieved. For noise levels that exceed the lowest observed adverse effect level (the level of noise exposure above which adverse effects on health and quality of life can be detected) it recommends development is mitigated and reduced to a minimum. In instances where the significant adverse effects level is exceeded development should be avoided, and only when the unacceptable adverse effect level is exceeded should development be prevented. This is defined as noise resulting in extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory. The NPPF seeks applications to take account of source, general character and absolute level of noise together with the time of day / night.
163. Objections about potential noise impacts have been raised by Swale Borough Council, Swale's EHO, Faversham, Oare and Ospringe Parish Council's, Parliamentary, County and local Members and a significant number of the neighbour responses received. The concerns include impacts on rural tranquillity, residential amenity, health and quality of life, users of the public right of way and local wildlife. Particular

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emphasis is put on the impact of the extended hours of use proposed, increased HGV movements, impacts from an increase in the scale and intensity of activity, including from new plant and equipment, movement of skips and containers, loading and unloading, crushing and screening, reversing alarms and general operational noise. The representations received draw attention to the topography of the creek which allows noise to carry over greater distances, with local residential properties located in an elevated position compared to the site. Some objections also raised concerns about the validity of the noise assessment and particularly the background noise survey that it is based on. The objections received also draw attention to the potential impact on the new residential properties permitted within the Oare Gravel Works development 300m to the south.

164. The application includes a noise assessment that seeks to demonstrate that the proposed development would not have unacceptable impacts on the local noise environment. The assessment includes a background noise survey record across a 5-day period that establishes existing levels. Residents have raised concerns about the validity of this survey as it relates to properties on Church Road. Due to unforeseen circumstances part of the survey data at this location was compromised due to the microphone falling over. The County Council's Noise Consultant's (Amey) have specifically considered these concerns in the context of the raw data and concluded that the remaining information recorded is adequate to establish the existing noise levels. The noise assessment included the creation of two 3-dimensional models constructed using an acoustic software package to predict operational noise at the nearest Noise Sensitive Receptors (NSRs). These take account of the local topography in mapping the noise impacts. The two different models assess the impact of operations on-site and those relating to HGV movements on the access road. The assessment uses three assessment criteria to ensure that the conclusions can be considered balanced and reasonable. These criteria are the assessment and rating methodology described in BS 4142:2014; the World Health Organisation (WHO), 1999, '*Guidelines on Community Noise*'; and the Institute of Acoustics / Institute of Environmental Management and Assessment ambient noise level change impact scale. The assessment concludes that the development would not be of a magnitude as to materially prejudice the local noise climate and cause material harm or inconvenience to people's amenity or impact on the Swale Ramsar / SPA / SSSI. The proposals include a range of operational and management measures to avoid, mitigate and minimise noise impacts, these include retaining and enhancing boundary treatment containment and layout to help direct noise, MRF plant to include built in noise screening / shielding, use of broadband reversing alarms, modification and maintenance of plant and equipment, several good housekeeping measures and regular reviews of noise controls, amongst other matters.
165. Further to the noise survey, the overall size of the application site has contracted from approximately 1.7 hectares (ha) to 0.7 ha (Site D only). This has increased the separation of the application site from the new housing permitted to the south by approximately 85m. Other amendments made during the processing of the application include the applicant agreeing to reduce the hours of operation proposed, including vehicle movements from a proposed 0500 hours start time back to 0700 hours, as permitted under the extant permission. The core hours of use proposed are 0700 to 1800 hours Monday to Friday, 0700 to 1300 hours on Saturdays, with vehicle movements proposed for additional periods between 1800 – 2000 hours Monday to Friday and 1300 – 1800 hours on Saturdays. The application confirms no unloading, loading or processing activities would take place on site during the extended hours of

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use for vehicle movements. It also confirms that the number of movements during the evenings would be 1 HGV movement per hour between 1800 – 2000 hours Mon – Fri. The application also proposes special provisions should the company secure work relating to Waste Collection or Disposal Authority contracts. To service these the application seeks permission for operations between 0700 and 1800 hours on Bank Holidays (except Christmas Day); Saturdays afternoons until 1700 hours prior to and following a Bank Holiday (to meet any exceptional service demands); and subject to written agreement by KCC to open 07:00 to 18:00 on Boxing Day.

166. Swale Borough Council's EHO objects to the application on noise grounds, raising concerns that the application does not satisfactorily consider the impact of the development on the new housing permitted in Oare Gravel Works. The EHO considers there is the potential for serious adverse impacts from the noise of the proposals on the new housing development at its closest point. The EHO's comments confirm no issues with the methods, results or conclusions reached within the noise assessment. The response acknowledges that the mitigation measures proposed, a mixture of structural masking and good housekeeping are laudable, however it raises uncertainty about their potential effectiveness.
167. The County Council's Noise Consultants (Amey) has considered the noise assessment and the development proposed in the context of the amendments to the application and noise comments received from third parties. Amey confirm that both WHO guidelines and IOA/IEMA methods indicate positive results that internal noise at the representative noise receptors would be well below guideline levels for avoidance of moderate annoyance. These assessments indicate that there would be 'No Change' to the existing noise climate. Amey advise that the conclusions can be drawn because the predicted noise levels are lower than the prevailing ambient levels. Amey's comments express some minor concern regarding the BS4142 methodology, due to concerns about background noise data, however on balance, it considers that the impact of the proposals on the closest noise sensitive receptors is unlikely to lead to significant adverse noise effects. With regards to the proposed housing development, Amey recommends that whilst there is a very low potential for impact, it would be limited to the dwellings along the northern/western edge with other properties within the development being screened by existing and proposed buildings. Amey agrees that the assessments considering the potential impact on the Swale SPA / Ramsar (from both operations and vehicle movements) are correct. It confirms that predictions are well below the Environment Agency's level of 85dBLA_{max} and there would be no adverse impact on breeding birds.
168. Amey confirms that it agrees with the conclusions of the noise assessment that no adverse noise impact is likely to occur at nearby NSRs, subject to the conditions indicated below. The recommended conditions include: use of broadband reversing alarms; best practicable means (BPM) to minimise noise; development to be carried out in accordance with the proposed site layout; hours of operation restricted to those applied for; all vehicles, plant and machinery to be fitted with closed engine covers, effective silencers and be effectively maintained, noise from site not to exceed the background noise (LA90) by more than + 5 dB and submission of a temporary noise monitoring scheme.
169. The Environment Agency and Natural England raise no objections to the application on noise grounds. Natural England seek that a condition be imposed on any planning permission securing the noise mitigation measures proposed, in accordance with the

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recommendations within the Appropriate Assessment.

170. The application proposes additional plant and equipment and an increase in HGV movements. The introduction of a new MRF (including various noise sources), baler, loading shovel, additional HGV movements and the implementation of crushing and screening would add to the intensity of activity on site. This however should be considered in the context of the permitted waste use which is not subject to any meaningful noise controls (under the planning regime). The existing operations continue to generate regular noise complaints, principally relating to impacts on amenity and enjoyment of the local environment. The audible noise primarily relates to impulse or peak noise events generated by specific events or items of equipment (like reversing alarms, impact noise from the movement of skips, mobile plant operated in an elevated position, amongst other matters). It should be recognised that noise from the site is going to be audible, however this does not necessarily mean that it does / would have a significant adverse impact. The NPPG guidance makes clear the difference between lowest observed adverse effect level and significant and unacceptable adverse effect levels.
171. The noise survey results indicate that the changes proposed would not materially alter the existing situation and the introduction of the new buildings and the increased enclosure of operations could bring amenity benefits by screening activity on site. Nevertheless, the current application represents an opportunity for the planning authority to recover some controls over the noise generated by this site. The application proposes to deliver additional containment that would be positioned between the noise sources and properties on Church Road. It also includes additional mitigation measures that would further help to address local concerns. Amey have recommended that any planning permission be subject to temporary noise monitoring to establish that the noise levels calculated are being achieved, to be discontinued once the Planning Authority is content with the arrangements. Additional conditions relating to the proposed noise mitigation measures, hours of use, the MRF to be run off mains power, no new plant or equipment to be operated on site without prior permission, use of broadband reversing alarms, employment of Best Practicable Means, noise from site not to exceed the background noise (LA90) by more than + 5 dB and submission of a temporary noise monitoring scheme could reasonably be included on any permission.
172. Specific concern has been raised about the potential for crushing and screening to generate significant noise. This would be one of the louder operations included in the application, however it must be noted that the existing permission already allows for crushing to take place, it has just never been carried out. The proposed arrangements with the crushing bucket fitment to an existing 360-degree excavator are relatively small in scale and scope given the size of the machine. This activity has been included in the noise assessment referenced above and is unlikely to generate unacceptable noise levels.
173. Given the comments received from Amey noise and Swale Borough Council's EHO, I am content that the noise assessment completed adequately assesses the impact of the application on surrounding receptors. I note the concern raised about the potential for an impact on the new housing development and that Amey have concluded that the risk is low. It is worth noting the EKR's operation and the adjacent industrial uses pre-date the housing development. Accordingly, the planning application for the housing development specifically assessed the noise associated with the extant land

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uses, including EKR's waste operations. The survey results submitted with the housing application suggest that the predicted maximum noise events emanating from the recycling facility would be below background noise levels at a location representative of the housing development. The assessment concludes that the noise from the recycling facility would not be a concern at the location of nearest proposed houses. Given the conclusion that the development would not significantly alter the existing noise environment it is difficult to argue that any noise impacts would be unacceptable in the context of the new housing.

174. The assessment completed demonstrates that the impact would not be considered significant or unacceptable in pure noise terms. The decision comes down to whether proposed changes would unduly impact on local amenity and the sense of tranquillity within the local landscape. Weighing the above considerations in the context of the concerns raised, I am of the opinion the application represents an opportunity to improve the existing circumstances through the provision of additional containment, mitigation measures and the opportunity to impose additional controls over any new planning permission. Subject to the conditions discussed above, and further considerations of nature conservation issues below, I do consider an objection to the application on noise grounds is warranted and consider that the proposals would accord with the relevant development plan policies and other material planning considerations referenced above.
175. Subject to conditions securing: the hours of use (as set out above), hours of construction – limited to 0800 – 1800 Mon – Fri and 0900 – 1300 hours Sat, MRF to be run off mains electricity; no new plant or equipment to be operated on site, use of broadband reversing alarms, employment of Best Practicable Means (BPM) to minimise noise, including all vehicles, plant and machinery to be fitted with closed engine covers, effective silencers and be effectively maintained, plant, equipment and vehicles shall only work from ground level, submission of a temporary noise monitoring scheme, noise limits to a maximum of 5dB above background levels at noise sensitive properties, I am satisfied that the proposed development would be in general accordance with the development plan policies and other material considerations relating to noise set out above.

Protection of water quality and resources and flood risk management

176. Paragraph 55 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away, and where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 163 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. It goes on to state that development should only be allowed in areas at risk of flooding where it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

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177. The NPPG on 'Flood risk and coastal change' states that waste management (except landfill and hazardous waste facilities) is considered a less vulnerable use and as such is an acceptable use in Flood Zone 3a.
178. 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 considering the likely effects (including cumulative effects) of pollution on the natural environment. Paragraph 183 states that the focus 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.
179. 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 set out in Appendix B, include the proximity of vulnerable surface and groundwater or aquifers, and the suitability of locations subject to flooding, with issues relating to the management of potential risks posed to water quality from waste contamination requiring particular care. Paragraph 7 also re-iterates that waste planning authorities should concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
180. 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 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.
181. Policy ST7 of the SLP requires development that addresses the risks of flooding and coastal change, particularly around the coast and at Faversham and Oare Creeks, in accordance with Policies DM21 and DM23. Policy DM21 seeks to avoid inappropriate development in areas at risk of flooding and where development would increase flood

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risk elsewhere, include integrated drainage measures, submit a suitable flood warning and emergency plan, protect water quality, including safeguarding ground water source protection zones from pollution, to the satisfaction of the Environment Agency. Policy DM 22 states that development at or near the coast shall protect, enhance or manage as appropriate biodiversity, landscape, seascape and coastal processes; subject to no overriding conflict with the Shoreline Management Plans. Policy DM 23 requires development within the Coastal Change Management Area (CCMA) that would be safe throughout its planned lifetime and will not increase risk to life or property elsewhere without the need for new or improved coastal defences.

182. The permitted waste operations benefit from a sealed concrete surface where waste processing takes place with an integrated drainage system. This includes an interceptor, cut off valve in the event of a spillage or fire and other pollution prevention measures required by the existing Environmental Permit. The site discharges to the adjacent lagoon (controlled waters) and ultimately Oare Creek via an existing discharge consent. The proposals would involve minor extensions to the impermeable surface to allow for the MRF and Waste Reception Building; this would be connected to the existing drainage arrangements. As part of an application to vary the Environmental Permit and set out within the revised layout plans included above, additional kerb stones to retain water within the sealed surface area are included with the proposals. These provisions are proposed in the event that a large amount of water is used on-site during a fire.

183. The application documents include a flood risk assessment that identifies the site as lying in Flood Zone 3a and with a high risk of tidal flooding (greater than 1 in 200-year chance). The assessment takes account of EA guidance on climate change, concluding that the site could be affected to a maximum flood level of 5.65m AOD by the year 2115. The assessment acknowledges that waste activities (excluding landfill) are considered a less vulnerable use in flood risk terms and as such is acceptable in flood zone 3a, subject to the development not increasing flood risk elsewhere and suitable flood proofing measures. The assessment establishes that except for any temporary stockpiles the development does not propose any new construction that would displace flood water or occupy flood storage volume as the buildings and structures are all open sided. The stockpiles are not anticipated to be large nor have a material impact on flood risk elsewhere. The application proposes flood resilience measures – like subscribing to the EA's Flood Warning Service; identifying events in advance; using waterproof / water durable finishes in construction and refurbishment works; raising electricity sockets above floor level; providing safe refuge for staff on the upper levels of the administration building and night watchman's facilities which are above the highest predicted flood risk level; positioning office and other sensitive uses at first floor level; storing fuel, oils and greases in bunded tanks or at height. The assessment identifies that the risks arising from flooding include chemical and physical contamination of incident waters. It recognises that the chemical content of the waste held on site would be inert or non-hazardous in nature (and likely therefore to be benign); and the physical content would be largely confined to materials that float, for example: barrels, bottles, cans, card, packaging, paper, plastic, tyres and wood.

184. The Environment Agency comments confirm that the nature and setting of the site are such that works may pose a risk to controlled waters. It stresses the importance that all operations are undertaken with this in mind, and pollution prevention measures are adopted for all clearance and demolition activities, especially maintenance and

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storage of chemicals or fuels. The EA recommend a number of conditions, summarised below that seek to protect ground and surface water resources. Without these conditions the EA would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development would not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution. The EA raise no concerns regarding flood risk. It also advises an application for a variation to the existing Environmental Permit is being processed by its National Permitting Service (NPS). Within which, the applicant would need to demonstrate that no risk to land or water would be generated because of the proposed extension, waste types or activities.

185. Natural England recommend that to avoid an adverse effect on the integrity of the SPA/Ramsar, surface and groundwater pollution mitigation measures proposed in the application should be secured by planning condition. These measures include, drainage to remain the same as for the current operation at the site, including a 3-stage oil water separator and silt traps; adherence to the findings of a Flood Risk Assessment and to a Flood Incident Plan, prepared under the Environmental Permit process; fuel stored in a bunded tank compliant with The Control of Pollution (Oil Storage) (England) Regulations 2001; and bunded tanks to be kept within a solid walled compound, strong enough to withstand the impact of floating objects and higher than the deepest predicted flood event.
186. Taking account of the views received from the statutory consultees and subject to the conditions recommended being imposed on any planning permission, I am satisfied that the proposed development would not pose an unacceptable risk to water quality, and would be acceptable in terms of flood risk and resilience and that the development accords with the development plan policies and guidance.

Nature conservation

187. 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) whilst 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; (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and (d) opportunities to incorporate biodiversity improvements in and around developments should be encouraged. Paragraph 176 states (amongst other things) that listed or proposed Ramsar Sites should be given the same protection as habitats sites. Paragraph 177 states that the presumption in favour of sustainable development does not apply where a project is likely to have a

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significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the project will not adversely affect the integrity of the habitats site.

188. Paragraph 7 of the NPPW states (amongst other things) that Waste Planning Authorities should consider the likely impact of a development 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 a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.
189. The NPPG on 'Air Quality' states that consideration should be given to the affect on biodiversity as a result of change in air quality, including whether it is likely to result in deposition or concentration of pollutants that significantly affect a European-designated wildlife site, and is not directly connected with or necessary to the management of the site, or does it otherwise affect biodiversity.
190. Policies DM1, DM2 and DM3 of the MWLP seeks to protect and enhance biodiversity interests or mitigate and if necessary, compensate for any predicted loss, including ensuring no unacceptable adverse impact on the integrity, character, appearance and function, biodiversity interests, habitats or geological interests of sites of international, national and local importance. Policy DM10 seeks to ensure no deterioration, and where possible improvements to, the ecological status of all waterbodies.
191. Policies ST1, CP7, DM3, DM14 and DM28 of SLP seek to conserve, protect and enhance biodiversity, including the integrity of sensitive areas and natural assets like a SAC, SPA, Ramsar and SSSI. The weight afforded to the protection of designated sites should be equal to the significance of the status.

Habitat Regulations Assessment

192. Natural England's initial response to the application drew attention to a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive (in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C-323/17)). This ruling concluded that mitigation measures can no longer be considered at the screening stage of a Habitat Regulations Assessment (HRA) when deciding whether an appropriate assessment of a plan/project is required. In this case, Natural England advised that the applicant has proposed various mitigation measures to address potential impacts on The Swale SPA and Ramsar site, as set out in the Habitats Regulations Screening Assessment received with the application. It therefore advised that the mitigation proposed should be tested through an Appropriate Assessment under the The Conservation of Habitats and Species Regulations 2017 to ascertain whether there would be a Likely Significant Effect on the integrity of the designated sites if permission were to be granted.
193. In line with the recommendation put forward by Natural England and KCCs Ecological Advice Service, KCC officers undertook an appropriate assessment of the proposals. Please find a copy of the appropriate assessment approved by Natural England included in Appendix 2.

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194. The assessment concludes:

'Taking into account the recommendations of Natural England, the Environment Agency and the Kent Ecological Advice Service, the Waste Planning Authority concludes that this project alone or in-combination with the Development Plan or other proposed industrial, commercial and residential uses would not affect the integrity of the Swale Special Protection Area and Ramsar site, provided the works are carried out as set out in the application and the mitigation measures outlined [within the report] relating to dust, noise and water quality, amongst other matters, are secured by condition if planning permission were to be granted'.

195. The measures to protect the designated sites include: dust mitigation; operational and management noise mitigation measures; surface and groundwater pollution mitigation; conditions recommended by the Environment Agency to protect water quality; the development to be carried out in accordance with the submitted documentation and plans, which includes flood mitigation measures; controls on the nature of the waste material to those applied for (excluding large quantities of putrescible waste); the overall throughput to be restricted to a maximum of 45,000 tpa; HGV movements to be restricted to 80 per day (40 In / 40 Out); and the external lighting not be used outside of the proposed hours of use with no changes to the lighting unless otherwise approved.
196. The assessment has since been considered and signed off by both KCC's Ecological Advice Service and under the provisions of the Habitat Regulations by Natural England. The responses accept the conclusion of the Appropriate Assessment and advise that no further steps within the HRA process are required in this instance. Both consultees subsequently confirmed no objections to the application on nature conservation grounds, subject to the mitigation measures set out above being secured by way of condition on any planning permission.
197. KCCs Ecological Advice Service has also recommended precautionary measures should the development require clearance of the small areas of ruderal habitat adjacent to the site. The comments identify that these areas are too small to justify a requirement for a reptile survey but recommend a precautionary approach to any clearance as it could be suitable for reptiles. The recommended measures can reasonably be covered by way of a suitably worded condition on any permission.
198. As stated above, the application proposes the provision of additional landscape planting to the site boundaries that should ensure the proposals result in some biodiversity gain.
199. Taking account of the conclusions of the Appropriate Assessment (as verified by Natural England), in accordance with paragraph 177 of the NPPF it is now possible to conclude that the presumption in favour of sustainable development that is at the heart of the framework applies. Without a positive Appropriate Assessment, the above presumption in favour of sustainable development would not exist.
200. Considering the conclusions of the Appropriate Assessment, the views of Natural England and KCCs Ecological Advice Service, I am content that, subject to the mitigation measures proposed, the development is unlikely to have a significant impact on the designated sites or nature conservation interests and is in accordance with the

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relevant development plan policies on nature conservation matters.

Rights of Way

201. Paragraph 91 of the NPPF states that decisions should aim to achieve healthy, inclusive and safe places. Paragraph 98 seeks to ensure that planning decisions protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
202. Policy DM14 of the MWLP states that permission will only be granted to development that adversely affect a Public Right of Way, if: (1) satisfactory provisions for its diversion are made which are both convenient and safe for users; (2) provision is created for an acceptable alternative route; (3) opportunities are taken where possible to secure appropriate, improved access.
203. Policy DM6 of the SLP seeks that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise conflict with traffic and that connect to local services and facilities; existing public rights of way are retained, or exceptionally diverted, and new routes created.
204. The definitive route of footpath ZF1 passes to the west of the application site in a north-south direction roughly parallel with the site access road, between the road and the site boundary. The definitive route shares the first 30m of the site access road and then is supposed to split off to the east, re-crossing the road as it turns in land. Thereafter, the footpath heads north-east parallel with Oare Creek. As indicated above, the route of the footpath has been obstructed by a lagoon. This obstruction has been in place for a significant amount of time as a result of the required restoration of the gravel works not being fully implemented. The right of way previously followed a narrow causeway across the lagoon, however this was removed and not subsequently restored during historic working of the mineral in this area. This situation has existed for several decades, with footpath users legally following the most convenient route within the same landownership - the private access road. During the time this arrangement has been in place, the access road has been designated as part of two local walks, the Saxon Shore Way and the Two Creeks Walk. The access road has also been designated as part of the route of the emerging England Coastal Path currently being promoted by Natural England. The landowner of the lagoon and most of the access road (Brett Aggregates) has recently applied to have the footpath formally diverted onto the private roadway. This application, alongside a claim from the local community to have the access road recorded as a right of way, is with KCC Public Rights of Way for formal consideration. At present there is a significant backlog of claims and diversions and the submissions are unlikely to be heard for some time.
205. As discussed in the highway section above, the private access is a long narrow road that runs parallel with Oare Creek on a causeway of land between the creek and the adjacent lagoon. There is little verge either side of the roadway which is generally 3.4m wide and has three vehicle passing places along its length. The road widens at points at the start and towards the end of its route. There is a 20mph speed limit along the road, which serves the application site, adjacent industrial units and a boat yard.
206. One of the key reasons that the previous application (KCC/SW/02474/2017) at this

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site was withdrawn were concerns about the potential impact of the development proposed on this access road / right of way. The applicant decided to explore the objections raised about several aspects of the proposals before re-submitting a revised application (the current proposals). The current proposals reduce the number of vehicle movements proposed from 160 HGV movements to 80 HGV movements per day. The proposals now also include enhancements to the access road to provide new pedestrian refuges at 40m intervals along the access road. Each refuge would be approximately 7m long and 1.8m wide. The applicant has confirmed that under the provisions of its legal access agreement with the road's owner (Brett Aggregates), EKR are responsible for the maintenance and upkeep of the access road and that if planning permission were granted this would extend to the proposed pedestrian refuges.

207. A significant number of the community representations received raise objections and concerns about the impact of the increased use of the access road / right of way by large HGVs. Several consultees also raise similar objections, including Swale Borough Council, Faversham Town Council, Oare Parish Council, the Faversham Society, the Faversham Footpaths Group, Parliamentary Members, the County Member and a local Ward Member.
208. The objections include: pedestrian safety on the footpath; the perception that the route is dangerous; loss of amenity; loss of access to the countryside; future adoption of the route as a right of way and as part of the England Coastal Path; the need to protect the route as a right of way; the extended hours of use proposed; the narrowness of the road; the increased size of the vehicles proposed; speeding vehicles on the access road; the refuges points are not adequate; concerns about maintenance of the path; concerns that the pedestrian audit received is inaccurate and severely under plays the use of the route; and further mitigation is need (i.e. a separate footpath).
209. In response to the proposed development, KCC Public Rights of Way initially raised concerns that led to negotiations over the proposed enhancements to the route now included in the current application. In response to the latest details PROW confirm that it is satisfied with the principle of the pedestrian refuge bays and welcomes the safety improvements. If the development is granted planning permission PROW recommends that full details of the scheme in line with the principles received be submitted for the prior approval of the Waste Planning Authority. PROW's comments acknowledge the applications to divert the right of way and that if successful this would potentially allow the public to use the full width of the road in addition to private users.
210. Natural England confirm that the Secretary of State is currently considering the alignment of the England Coastal Path along this part of the coastline, which includes the access road. The comments confirm that if adopted, use of the route would increase. In response to the proposals it confirms that it is pleased that the applicant has considered pedestrian safety and welcomes the safety improvements.
211. From a planning perspective this is a difficult situation. The loss of the definitive right of way and the subsequent need to use the private access road are not circumstances of the applicant's making. However, given the access road has been used as the right of way for potentially over 30 years, KCC officers have assessed the application as if the roadway was part the definitive public right of way. There is little chance that the definitive route will be restored, and this may not be desirable as it would involve significant engineering work to deliver. The Development Plan Policies require

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planning decisions to protect and where possible enhance public rights of way.

212. As previously indicated above, in this instance it is important to note that the current permitted waste operation would continue to impact on walkers using the route irrespective of the outcome of the current application. The baseline here is that the applicant has planning permission and a legal right to use the access for up to 80 commercial vehicle movements (40 HGVs and 40 LGVs). The surrounding industrial complex, including the permitted use in the Cylinder House site can use the route for commercial purposes, as can the boat yard at the end of the road. All of which could reasonably generate vehicle movements on the access road and would continue to share the existing arrangements with users of the public right of way. The fact that the industrial complex is largely not in use now does not mean this will always be the case. The applicant's proposals seek to change the type / size of commercial vehicle movements allowed, but significantly not the overall number. Notwithstanding this, the application proposes improvements to the road / right of way that otherwise would not necessarily be achieved. The size of the vehicles using the route is not ideal given the width of the road and the limited space to provide a wider route or a separate footpath. However, the access is mostly straight with good forward vision which has allowed it to operate to date without major problems. If the permission were to be refused HGVs of all sizes would continue to use the route and continue to generate safety concerns. However, if the permission were to be granted this would enable a significant improvement to the existing circumstances without increasing the number of vehicles. In my opinion, given the relatively small scale of change proposed to the permitted vehicle movements the improvements should be welcomed.
213. Considering all of the above, including the recommendations of the technical consultees, KCC Public Rights of Way and Natural England, which raise no objections I consider that the proposed development would not significantly impact on the right of way network and that any impacts would not justify refusing the current application. The enhancements to the route in terms of new pedestrian refuges would improve the safety and usability of the road for walkers. Subject to a condition seeking final design details of the footpath improvements, I am satisfied that the application would be in accordance with the relevant development plan policies and Government guidance relating to public rights of way.

Conserving the historic environment

214. Paragraph 20 of the NPPF seeks development that makes provision to conservation and enhancement of the natural, built and historic environment. Paragraph 127 states that decisions should ensure development that is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Paragraph 190 requires planning authorities to identify and assess the significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. Planning decisions should avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving a listed building and/or its setting.
215. Policy DM5 of the MWLP requires development that would have no unacceptable adverse impact on Kent's historic environment and, wherever possible, opportunities

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sought to maintain or enhance historic assets affected by proposals. Policies ST7, CP8, DM3, DM14, DM32 and DM33 of the SLP seek to protect and enhance the diversity, character, appearance and setting of the area's designated and non-designated historic assets, including listed buildings and conservation areas.

216. Objections received from members of the local community raise concerns that the development would have a detrimental impact on the setting of several listed buildings positioned within the wider landscape. In particular, the comments draw attention to the group of Grade II listed buildings that form part of the former Gunpowder Works, within the former Oare Gravel Works site (approximately 230m) to the south east. The comments also highlight amongst others, the Grade I listed Church of St Peter, Church Road, Oare (350m west). Residents of Ospringe and Teynham to the east and west along the A2 corridor have raised concerns the HGVs travelling to and from the site would pass through local Conservation Areas and that several listed buildings immediately adjoin the highway. The concerns raised allege that buildings are being damaged, and the setting of the conservation areas impacted, by increased numbers of HGVs using the A2, and that this application would exacerbate the problems.
217. No response has been received from the County Council's Archaeological Officer concerning the application. Considering the archaeological officer has not responded, the site has already been subject to development and the ground disturbed, and the level of groundwork likely to be necessary in this instance, I am content that there is no specific need for archaeological work. The County Council's Conservation Advice Service responded concerning the potential impact on local built heritage. The advice concludes that due to the separation between the site and the listed buildings, including existing structures and soft landscaping, the setting of the structures / buildings would not be adversely affected by the proposals. The Conservation Officer also considered the potential impact of HGV movements on the Conservation Areas and listed buildings along the access route following the objections received from the local community. The advice indicates that, beyond minor cosmetic damage (like cracks in plaster or deterioration of external decorations), there is little evidence to show that continual traffic movement close to older listed buildings can cause harm to the fabric of a building. The Conservation Officer is content that the proposed changes to the type of vehicle movements associated with the application site would not have an unacceptable impact on local conservation areas nor any listed buildings located along the public highway.
218. The above advice must be set in the context of the number of additional HGV movements proposed by the development. This equates to a change from 40 LGV movements to 40 HGV movements. The Transport section above illustrates that this is likely to equate to 20 HGV movements in either direction along the A2. In the context of a primary A-road this would not be a significant variation in the traffic expected to use the route in any one day.
219. Given the lack of a comment from the Archaeological Officer and the limited groundwork required on land that has already been subject to redevelopment I consider there is no need for any specific archaeological work. Taking account of the recommendation put forward by the County Council's Conservation Advice Service, I am content that the proposed development would not have an unacceptable impact on local heritage assets and would accord with the development plan policies set out above in terms of the historic environment.

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Residential Amenity

220. Those objecting to the application have raised concerns regarding residential amenity arising from a variety of impacts associated with the proposed development. These relate to noise, air quality, visual impact, safe enjoyment of the public right of way and surrounding countryside and impacts on character of the area. These have been addressed in the discussion section above and I am satisfied that there are no overriding considerations that would justify refusal on residential amenity grounds.

Other considerations

Vermin, birds and litter

221. Appendix B of the NPPW states that some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds and can also cause concern about litter. It states that the primary aim is to guard against new or increased hazards caused by development whilst taking account of the proximity of sensitive receptors. Policy DM11 of the MWLP states that waste development will be permitted if (amongst other matters) it can be demonstrated that they are unlikely to generate unacceptable adverse impacts on the qualities of life and wellbeing to communities and the environment, including neighbouring land uses. Policy DM14 of the SLP requires development that causes no significant harm to amenity and other sensitive uses or areas.
222. As indicated in the odour section above, the application does not propose to accept large quantities of putrescible or black bag waste. Suitable controls on waste types could be covered by of a condition. This type of material cannot be ruled out completely as occasionally it is found in mixed skip loads, generally in smaller contaminant quantities. This would not be dissimilar to the current operations. The application allows for operational practices to set contaminated materials aside and remove them from site as soon as possible. A condition ensuring that this material is removed within 48 hours of being received can be included on any planning permission. The controls on waste types and the effective operation of the site (including good housekeeping) should ensure that issues of vermin and birds would not become a problem. Vermin and birds are not a problem for the existing waste operations, which handles similar types of waste to that proposed.
223. The potential for litter problems resulting from the development would be addressed by the increased level of containment proposed. The provision of two new buildings and dedicated storage bays would minimise the chance of windblown litter and dust becoming a problem. The main waste reception building includes provision of a curtain net that would be drawn across the open side when the building is not in use to further reduce the risk.
224. The above issues would be covered in more detail through the provisions of a revised Environmental Permit. This process would provide additional control. I am therefore content that suitable measures would be in place to ensure vermin, birds and litter would not become a problem if planning permission were to be granted.

Hazardous Waste

225. Similar to the policy section relating to protection of water quality above, Paragraph

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- 180 of the NPPF seeks planning decisions that take into account the likely effects of pollution on the natural environment. Paragraph 183 focuses planning decisions on the acceptability of the land use proposed, 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 applications WPA should consider the likely impact on the local environment and on amenity against various locational criteria including those set out in Appendix B. The hazardous waste proposed is included in the assessment above.
226. The National Policy Statement for Hazardous Waste (NPSHW) states that modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. The detailed consideration of a waste management process and the implications, if any, for human health is the responsibility of the pollution control authorities. However, planning operates in the public interest to ensure that the location of proposed development is acceptable.
227. Policy DM11 of the MWLP states that proposals for waste development will be permitted if it can be demonstrated that they are unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions, bioaerosols, illumination, visual intrusion, traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment.
228. The application includes provisions for the transfer of asbestos waste. The proposals would allow asbestos received from sites that are carrying out lower risk works (non-licenced sites with asbestos) – i.e. asbestos cement products that are carefully handled/removed without being broken up. The waste is separated at source so would not be received in mixed loads and would arrive double-bagged / wrapped or contained within lockable containers to be bulked up for onward transportation. The application states that whilst on site the asbestos would always remain in the containers / packaging received in; no containers or wrapped waste would be opened, and no processing of asbestos would take place. The site would not accept waste from notified non-licenced or licensable asbestos sites, which relates to higher risk work.
229. Objections received from residents raise concerns about the risk posed to human health and the environment due to the proposed receipt of hazardous waste material. The comments consider that the containment measures proposed do not appear robust enough. Concern has also been raised about the potential for skips to contain hazardous or putrescible wastes within mixed loads.
230. The concern raised about mixed skip loads is one faced by all skip operators and is already a risk in respect of EKR's existing permitted waste processing activities. The site's Environmental Permit will include clear requirements in relation to fugitive materials not permitted under the agreed waste streams, including hazardous or putrescible waste. This will include turning away skips that include large quantities of material not licenced to be on site. Generally, permits require small figurative amounts of unauthorised waste to be segregated, marked, and removed to a suitably licensed disposal facility as soon as practicable.
231. With reference to the receipt of asbestos, if planning permission is granted the EA has

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confirmed that the applicant would be required to vary the site's Environmental Permit, which would include controls, safeguards and conditions suitable to the risk associated with the waste types involved. If handled correctly the receipt of sealed packages of asbestos waste should not present an unacceptable risk to the environment or human health. This type of waste is often accepted at household waste recycling centres in a similar way. Given the existing waste management activities I do not believe the receipt of this type of waste materially changes the land use implications

Risk of Fire

232. The risk of fire from the proposed development, including in relation to the plant / equipment proposed and storage of waste / recycled materials has been raised by the local community and Members as a specific concern.
233. Fire risk is a matter for the pollution prevention control authorities and in accordance with both the NPPF and NPPW the focus of the planning system has to be on the acceptability of the land use proposed, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. The EA has confirmed that the site is subject to an existing Environmental Permit and if permission is granted this would need to be varied to take account of the changes in activity. This includes the production of a Fire Prevention Plan (FPP).
234. An application to vary the permit has been submitted to the EA for consideration. The applicant states that this includes an FPP which seeks to minimise the likelihood of a fire happening and limit the potential size and impact if it were to occur. The FPP includes fire prevention measures arising from common causes, such as plant and equipment. It also includes fire prevention measures addressing the type of waste, and method of waste storage. The FPP identifies the risk arising and establishes rules to manage these. Fire prevention and containment measures are embedded in the design of the site. The measures are included in the layout; the waste management buildings; the infrastructure and the selection of equipment. The applicant has confirmed that bales of recyclable material (card, carpet, paper, plastics and refuse derived fuel (RDF)) would be stored for up to four weeks on site. It states that by contrast the maximum storage time in the FPP guidance is six months. The risk of self-heating (due to decomposition) is generally considered to increase after the six-month period.
235. Whilst not a specific issue for the planning system, I am content that the measures required under the Environmental Permit would ensure the risk of fire is minimise and mitigated as far as reasonably possible.

Tourism

236. Several objections received from the local community raise concerns about the impact of the development on tourism and local businesses. This is a legitimate land use consideration, being one of the planning systems key functions to establish whether a proposed use is acceptable in the context of its surroundings and other existing land uses. The objections draw attention to the popularity of Oare Creek for leisure activities, such as walking, bird watching, photography, boating, etc. The concerns also identify the potential impact on the new country park permitted within the adjacent gravel works site. The concerns received draw attention to the possibility that the

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enlargement of a waste facility and HGV movements could damage the environment and the accompanying tourist trade. The objections received consider that the local economy would benefit more from developing its already significant potential as a tourist, leisure and hospitality destination than from a single site that depletes the environment by creating problems with water pollution, air quality, traffic congestion, anti-social noise and light.

237. Paragraph 5 and 7 of the NPPW require, amongst other matters, planning decisions to take account of physical and environmental constraints on development, including existing and proposed neighbouring land uses, whilst having regard to the factors in Appendix B. They also seek development that is well-designed, so that they contribute positively to the character and quality of the area in which they are located; and that takes into account the cumulative impact on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.
238. Considering the conclusions set out within the above sections, including those relating to landscape and visual impact, traffic and access, air quality, noise, nature conservation, rights of way, it is difficult to conclude that the development would have an unacceptable impact on tourism or other land uses. A waste management facility, as with other development is going to have an impact, the above considerations seek to establish whether these impacts are unacceptable in the context of the development plan in place and government planning policy. All of this should be set in the context of the existing planning permission for a waste management facility at this location, which could continue regardless of the decision on the current proposals. As indicated above, I consider that the improvements associated with improved containment and enclosure, investment in modern plant and equipment, coupled with increased control through conditions attached to the planning permission and the proposed mitigation measures should serve to limit any conflict and could improve the current circumstances in some instances. I am therefore unable to support an objection on land use conflicts, including in respect of local tourism.

Delegated powers to determine details pursuant

239. Should the Committee resolve to grant planning permission there would be several conditions requiring the submission of further details as recommended by technical consultees and officers (please see the conditions recommended above and below). These matters require further information to be submitted to ensure that the proposals are delivered and managed in a suitable way, however the matters do not speak to the principle of the development, which Members are seeking to determine at this time. In this instance, I seek augmented delegated authority from the Planning Applications Committee to determine the acceptability of details submitted pursuant to any planning permission (in consultation with the statutory and technical consultees) without the need to re-report the submission to Members should objections be received. Clearly if there are technical issues with the submitted details, officers would seek to negotiate a suitable solution or refuse to approve the details if they are found to be unacceptable or a solution cannot be agreed. This approach would allow the delivery of any development the Committee grants permission for at the earliest opportunity without delay in accordance with national guidance, which expects the local planning authority to respond to requests to discharge conditions without delay, and in any event within 21 days.

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Conclusion

240. The application (which is in part retrospective) proposes the redevelopment of an existing waste management facility to provide two new waste handling buildings, an automated Materials Recovery Facility, refurbishment of an existing building as office and welfare facilities, night-watchman's accommodation, other ancillary development / changes to operational arrangements, extended hours of use and changes to the composition of the permitted 80 commercial vehicle movements to allow all HGVs.
241. The principle of a waste use at Site D, Oare Creek is established by an extant planning permission (SW/92/768). The proposed location is one which is acceptable in principle, being within an existing waste use and on land previously used for industrial purposes. The application does not represent an opportunity to revisit this earlier decision. The considerations set out above are focused on the changes to the existing development and whether these would have any unacceptable impacts on the surrounding environment and land uses. There is development plan policy support for a waste facility in this location.
242. Considerable objection and concern has been raised by the local community about the potential impacts of the application (including from Swale Borough Council, Swale's Environmental Health Officer, Faversham Town Council, Oare Parish Council, Ospringe Parish Council, several local interest groups, local Parliamentary Members, the local County Member and a local Ward Member). The matters raised are addressed in the sections above. The outcome of this consideration establishes that the application would have some adverse impacts on the local environment and community, particularly in terms of landscape and visual impact, some disturbance of local amenities from noise, additional HGV movements using the private access / PROW and the local highway network. Apart from Swale Borough Council's EHO, the impact of the development has not attracted objections from the technical consultees who raise no objections subject to the conditions set out below in my recommendation. The technical consultees include the Environment Agency, Natural England, the County Council's Biodiversity Officer, Air Quality Consultants, Noise Consultants, Landscape Consultants, KCC Flood and Water Management, KCC Highways and Transportation and KCC's Built Heritage Conservation Advice Service. Taking account of the considerations above, I am satisfied that the impacts of the development could reasonably be minimised and mitigated by the imposition of additional modern planning controls on the existing site and the proposed mitigation measures.
243. The above should be balanced against the benefits of investment and modernisation of the existing waste management operations, which would improve control over emissions through increased enclosure and modernisation, improve separation of waste, increase recycling rates and minimise residual waste being sent to be landfilled.
244. Whilst I note the level and detailed nature of the objections raised, on balance, I am of the opinion that the benefits associated with the development would outweigh any harm / disruption and that any harm that would arise from the proposed development would reasonably be mitigated by the imposition of the proposed conditions, alongside the Environmental Permitting process. I am therefore satisfied that the development would be in accordance with the development plan and that there are no material

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considerations that indicate that the application should be refused. I therefore recommend accordingly.

Recommendation

245. I RECOMMEND that MEMBERS ENDORSE the attached Appropriate Assessment make under The Conservation of Habitats and Species Regulations (2017) and that PERMISSION BE GRANTED, SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

- The development to be carried out in accordance with the submitted documentation and plans, including flood mitigation measures.
- Development to be carried out in accordance with the proposed site layout.

Operational controls

- Overall throughput to be restricted to a maximum of 45,000 tpa, with no more than 1,000 tonnes held on site at any one time.
- Precautions to prevent unauthorised tipping.
- Entrance gates to be closed outside of permitted operational hours
- A copy of the permission to be made available on site.
- Withdrawal or permitted development rights.

Highways

- The maximum number of HGV movements to be restricted to 80 per day (40 In / 40 Out).
- Records shall be maintained by the site operator of all HGV movements.
- Monitoring reports of HGV movements associated with all operations at the site shall be submitted to the Waste Planning Authority each month.
- HGVs to be routed along the Western Link Road and the A2 corridor, unless delivering / collecting within the Faversham area.
- Measures shall be taken to ensure that vehicles connected with the use hereby permitted shall not deposit mud or other materials on the public highway.
- All loaded HGVs entering or leaving the site shall be enclosed, covered or sheeted.
- The site access road shall be maintained and kept free of potholes, mud and other debris.
- Provision of secure covered cycle parking facilities.
- Provision of proposed car parking.

PROW / Access

- Final details of the proposed pedestrian refuges and other improvements along the access road shall be submitted for approval and shall be completed as approved.

Hours of Use

- Core operation hours 0700 – 1800 Mon – Fri / 0700 – 1300 Sat / nil on Sundays and Bank holidays.
- Additional hours (vehicle movements only) 1800 – 2000 Mon – Fri / 1300 – 1800 Sat.
- Receipt of Waste Collection / Disposal Authority Waste (including that contracted

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to third parties) 0700 – 1800 Bank holidays / 1300 - 1700 hours on Saturday afternoons prior to and following Bank holidays / 0700 – 1800 hours on Boxing Day (with prior written agreement).

Noise

- Noise mitigation measures recommended within the application.
- MRF to be run off mains electricity.
- No additional plant or equipment to be operated on site without prior permission / approval.
- Use of broadband reversing alarms for site-based HGVs, plant and equipment.
- Employment of Best Practicable Means (BPM) to minimise noise, including all vehicles, plant and machinery to be fitted with closed engine covers, effective silencers and be effectively maintained;
- Plant, equipment and vehicles shall only work from ground level and shall not operate on stockpiles or stored materials.
- Submission of a temporary noise monitoring scheme, to include regular monitoring, to be discontinued once the Waste Planning Authority is satisfied that noise emissions accord with the levels calculated in the Noise Assessment, including provision of additional mitigation measures where required.
- Noise limits to a maximum of 5dB above background levels at noise sensitive properties.

Air quality

- Dust mitigation measures as set out in the application.
- Details of means of enclosure and fixed dust suppression system proposed to the north-east corner of the site to be submitted for approval.
- Except for CD&E waste, unsegregated (mixed) waste shall only be received within the waste reception building(s).
- The height of stored materials, bales and skips shall not exceed 4m

Waste types

- Waste types to be restricted to those applied for. Municipal Waste to be restricted to wood and green waste only. Except for material received in contaminant quantities as part of a mixed skip load, no food waste, 'black bag' waste or other putrescible waste streams to be accepted.
- Any contaminant quantities of putrescible waste received to be removed to an authorised facility within 48 hours.
- The quantity of green waste received to exceed 40 tonnes per week.
- Delivery of the green waste mitigation measures proposed in the application.

Water Protect and Pollution Controls

- Surface and groundwater pollution mitigation measures included in the application.
- Submission of a remediation strategy to deal with the risks associated with contamination of the site.
- Measures to be taken if unidentified contamination is found to be present.
- No infiltration of surface water drainage into the ground without written consent;
- All foul drainage shall be connected to mains drainage or sealed cesspool;
- Details of piling or any other foundation designs using penetrative methods to be approved;

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- Concrete pad and integrated surface water drainage system shall be extended to include the entire yard area.
- Flood mitigation measures proposed to be delivered and maintained.

Landscape

- Submission of landscape management and enhancement scheme in accordance with the principles set out within landscape drawing received, including planting and maintenance arrangements.
- Protection and retention of existing and proposed vegetation
- Buildings to be clad as proposed in moorland green.

Ecology

- Precautionary mitigation approach to vegetation clearance.

Land use

- Use of buildings restricted to waste use.

External lighting

- Details of a full lighting scheme for the site to be submitted for approval.
- Except for low-level security lighting, external lighting not to be used outside of the proposed hours of use.

Construction Phase

- Submission of a Construction Environmental Management Plan.
- No piling shall take place during construction.
- Construction operations to take place between 0800 – 1800 hours Mon-Fri and 0900 – 1300 hours Sat.

246. I FURTHER RECOMMEND that should PLANNING PERMISSION BE GRANTED officers be granted delegated powers by the Planning Applications Committee to determine submissions made pursuant to the conditions imposed on any permission, including where there are relevant technical objections.

Case Officer: Mr James Bickle

Tel. no: 03000 413334

Background Documents: see section heading

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Appendix 1 – Landscape Plan



Appendix to Item C1

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Appendix 1 – Masterplan for adjacent mixed-use housing development (SW/14/0257)



Illustrative Site Layout
Proposed Redevelopment, Oare Gravel Works, Faversham

Client	Brett Aggregates Limited	Project	Proposed Residential Development, Oare Creek, Faversham	Drawing	Illustrative Site Layout
Scale	1:1000 @ A3	Date	February 2014	Drawn by	SLB
Rev B	6/1/08-2017	Rev A	08-01-2015	Drawn by	705-108

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Appendix to Item C1 Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

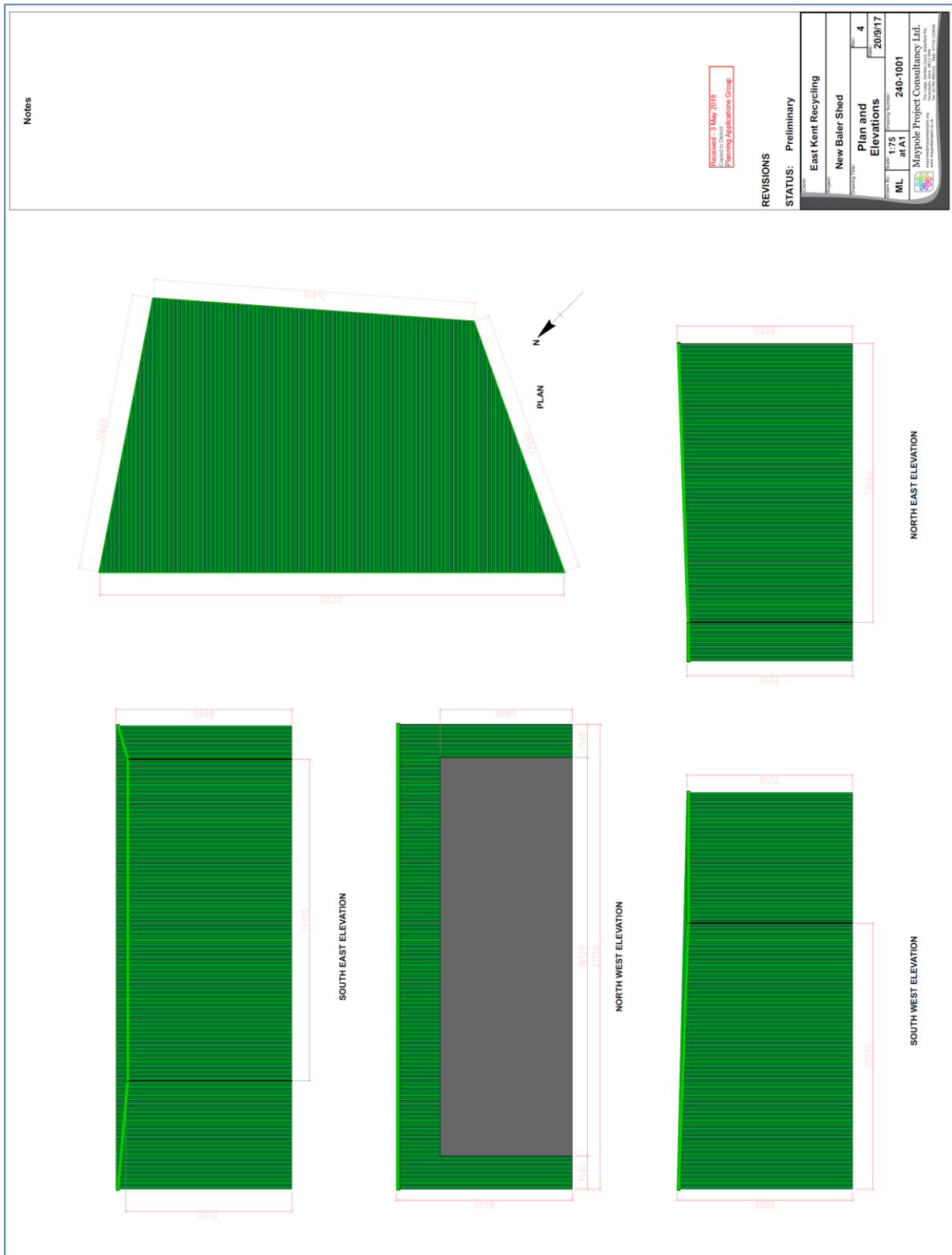
Appendix 1 – Reception Shed Elevations



Appendix to Item C1

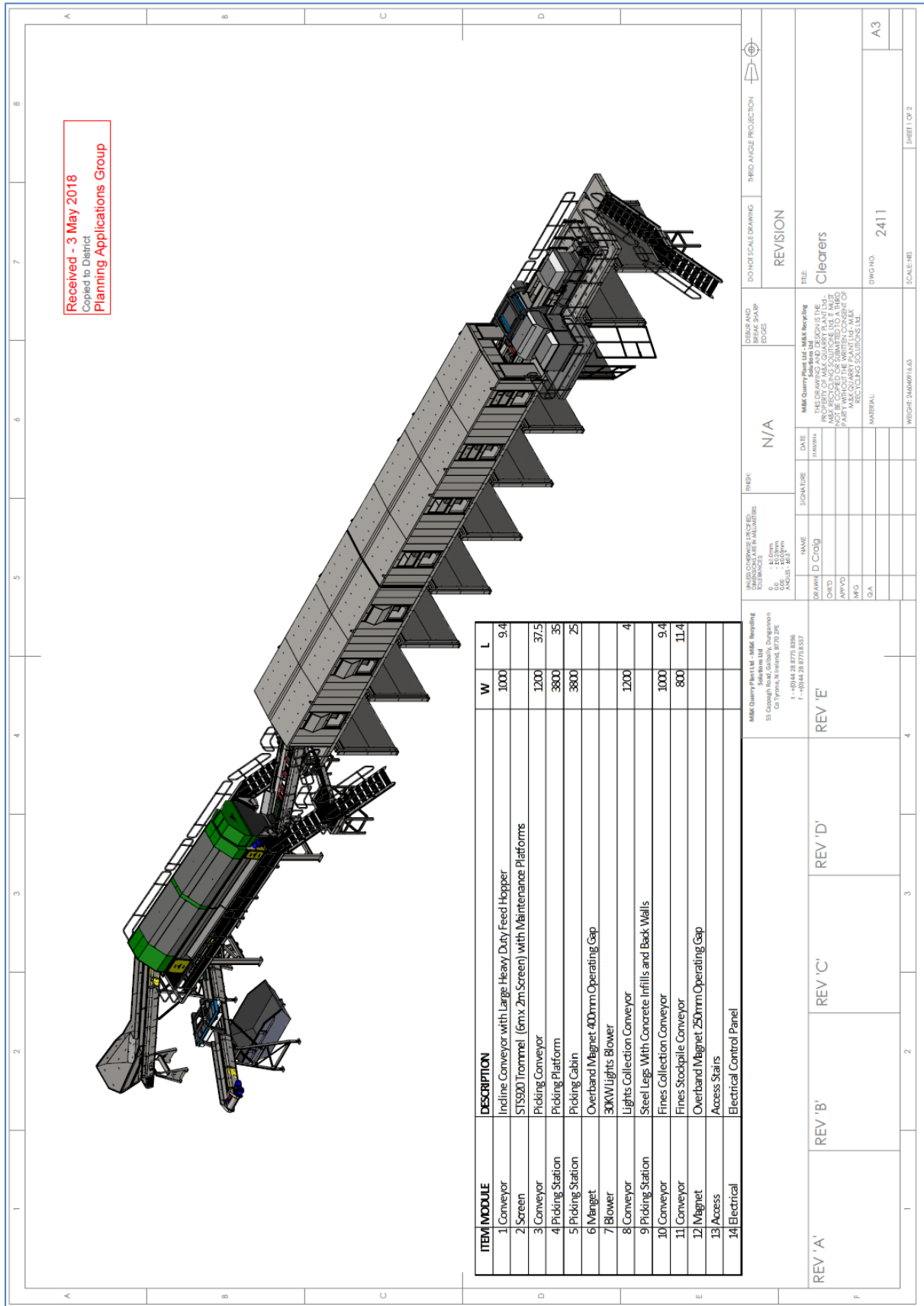
Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

Appendix 1 – Baler Shed Elevations



Appendix to Item C1 Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

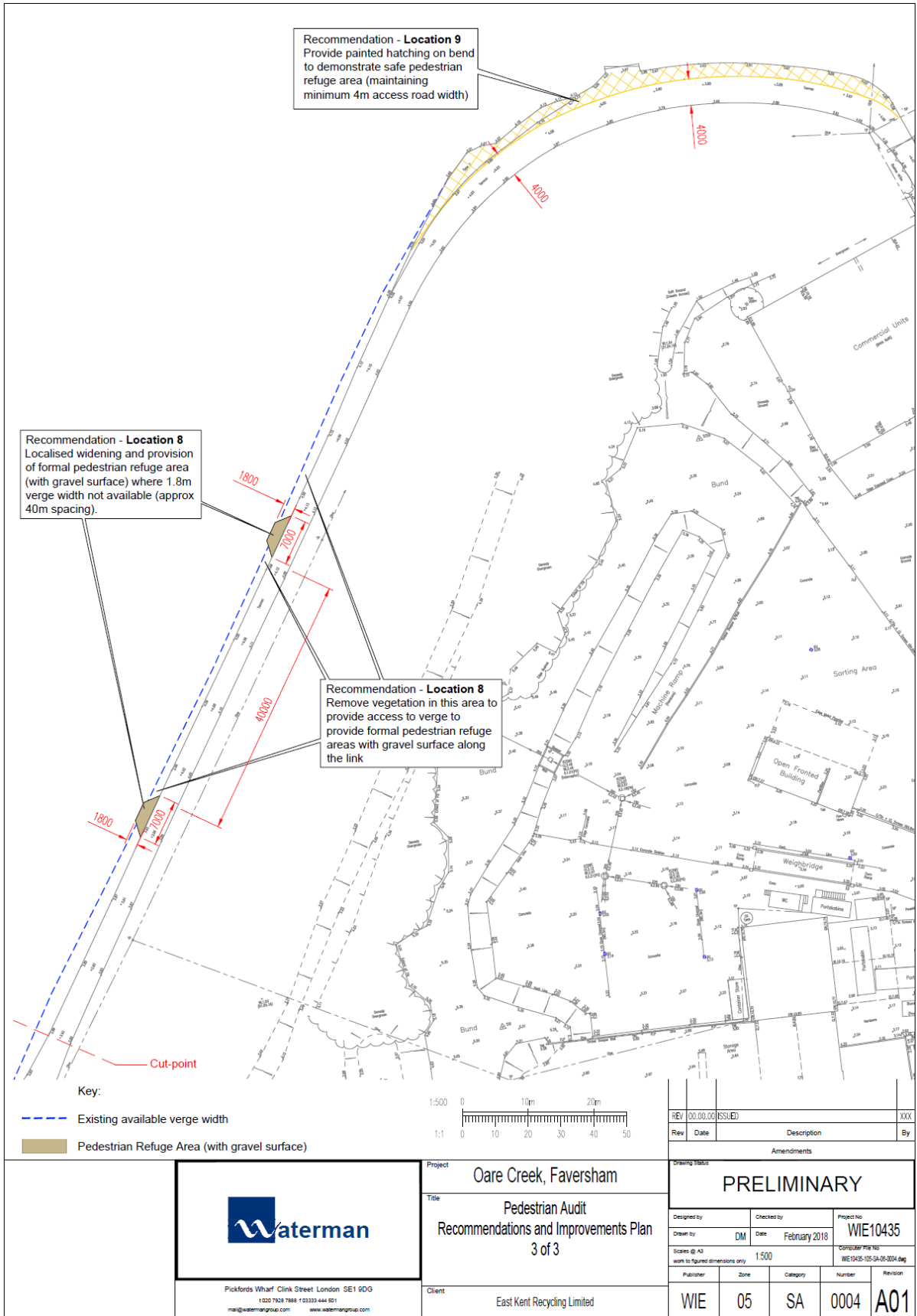
Appendix 1 – MRF Elevations



Appendix to Item C1

Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

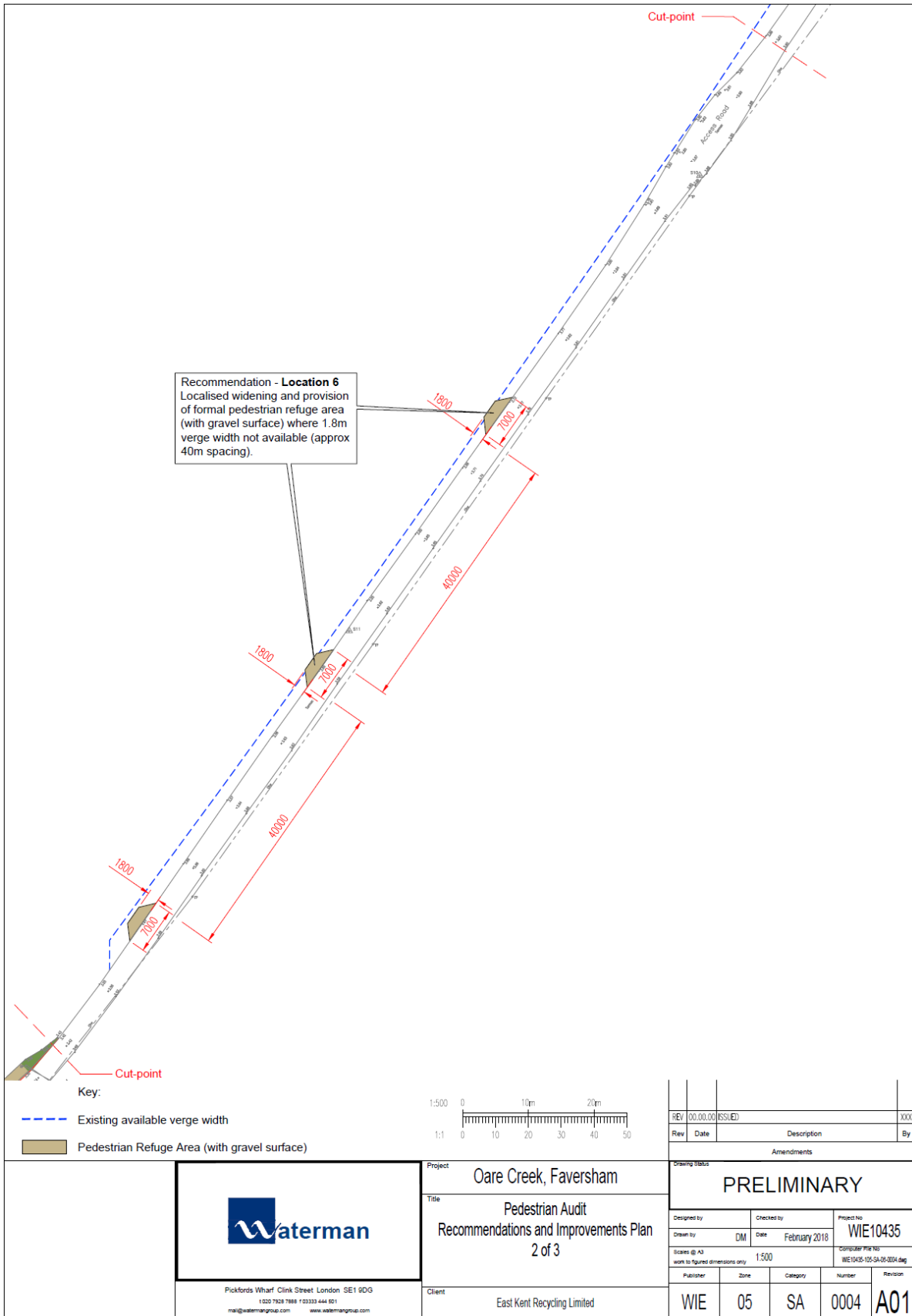
Appendix 1 – Proposed Pedestrian Refuges



Appendix to Item C1

Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

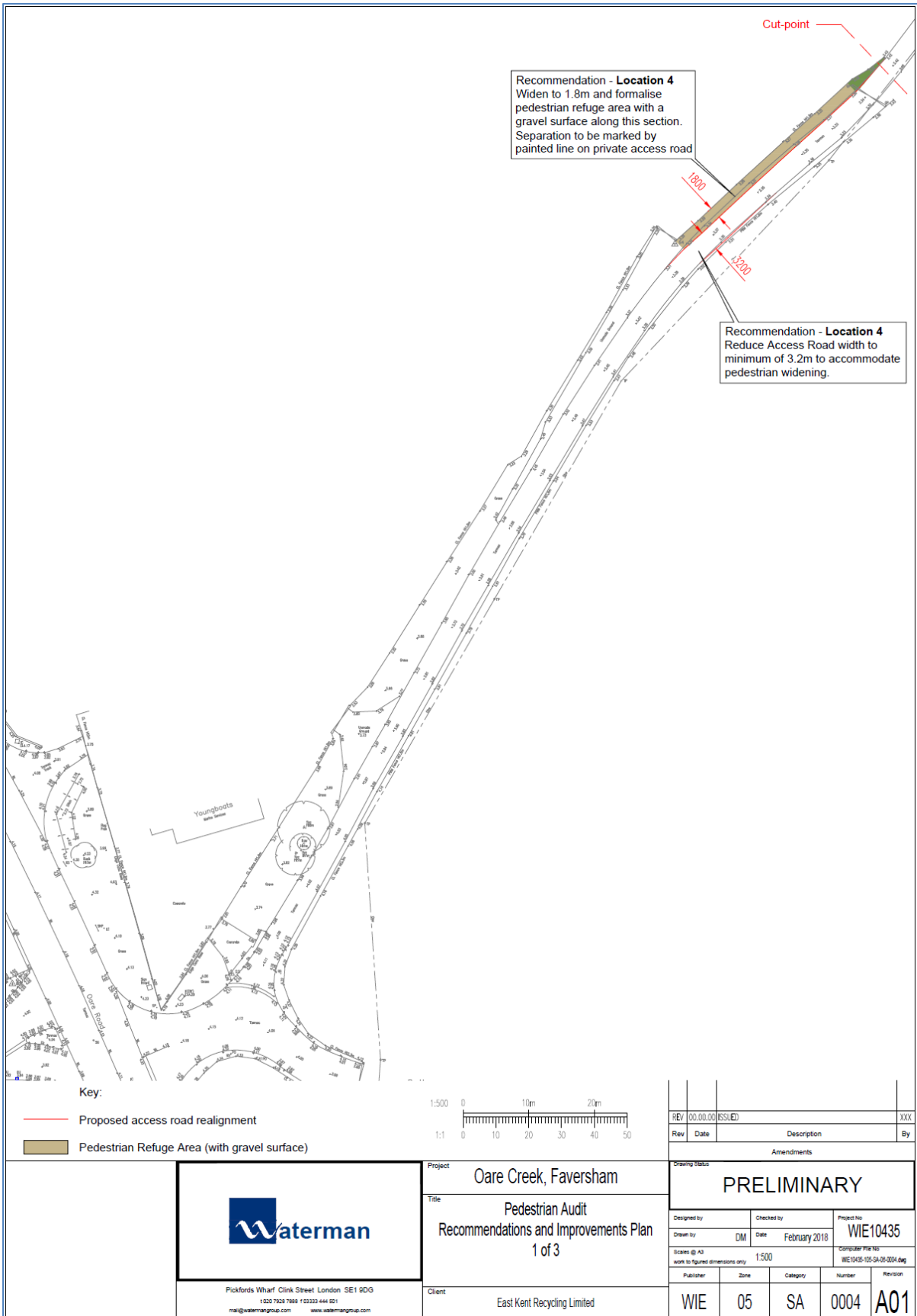
Appendix 1 – Pedestrian Refuge



Appendix to Item C1

Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

Appendix 1 – Pedestrian Refuge



Redevelopment of waste management facility at Site D, Oare Creek, Faversham - SW/18/502827 (KCC/SW/0090/2018)

Appendix 2 - Appropriate Assessment



PLANNING APPLICATIONS GROUP

**RECORD OF APPROPRIATE ASSESSMENT
(UNDER REGULATION 63 OF THE CONSERVATION OF HABITATS AND SPECIES
REGULATIONS 2017)**

1. INTRODUCTION

Application reference:	SW/18/502827 (KCC/SW/0090/2018)
Application address:	Land at, and adjacent to, Site D, Oare Creek, Faversham, Kent, ME13 7TX
Application Description:	Redevelopment of an existing waste management facility and inclusion of additional land into a waste management use (part retrospective)
Applicant:	East Kent Recycling Limited
HRA Date:	20 December 2018

European site or sites potentially impacted by planning application, plan or project:	Nearby Swale Special Protection Area (SPA) and Swale Ramsar (the Swale Site of Special Scientific Interest (SSSI) occupies a similar area)
Is the planning application directly connected to the management of the site?	No
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes –the planning permission to redevelop Oare Gravel Works to south-east; allowing 375 dwellings and 873 square metres of office, workshop-studios and 714 square metres of community space. Works; and emerging Swale Borough Council Local Plan.

Regulation 63 of the Conservation of Habitats and Species Regulations (2017) (the Habitat Regulations) requires an assessment where a plan or project may give rise to significant effects upon any Natura 2000 sites (also known as ‘European sites’).

Natura 2000 is a network of areas designated to conserve natural habitats and species that are rare, endangered, vulnerable or endemic within the European Community (EC). This includes Special Areas of Conservation (SAC), designated under the Habitats Directive for their habitats and/or species of European importance; and Special Protection Areas (SPA), classified under the Birds Directive for rare, vulnerable and regularly occurring migratory bird species and internationally important wetlands.

The following document is a record of an Appropriate Assessment under the Habitat Regulations considering the implications for the European Sites in view of the development being proposed in the context of the designated conservation objectives.

The assessment has been undertaken by Kent County Council and is based on the information provided by Waterman Infrastructure & Environment Ltd on behalf of East Kent Recycling as part of the above planning application (SW/18/502827 (KCC/SW/0090/2018)).

In accordance with the Habitat Regulations, Kent County Council, as a ‘competent authority’ under the Regulations, must be satisfied that the project will not cause an adverse effect to the integrity of any European designated site before it can grant permission for the works.

1.1 NEED FOR APPROPRIATE ASSESSMENT

The project involves the redevelopment and extension of an existing waste management facility, including new built development, modernisation of plant and machinery, the expansion of the site to provide a skip and container storage area, changes to the make-up of the permitted vehicle movements and an extension to the permitted hours of use associated with the facility.

Oare Creek and surrounding area is covered by several national and international designations including The Swale Site of Special Scientific Interest (nationally designated) and internationally designated sites; Swale Special Area of Conservation and Ramsar site. Ramsar sites are not designated under European Law, however, are protected under international agreement (Ramsar Convention) which provides for the conservation and good use of wetlands and are protected in the UK in the same way as European designated sites through the National Planning Policy Framework (paragraph 176).

The application site lies within an established industrial compound almost adjacent to The Swale SPA / Ramsar / SSSI. The designated areas are approximately 10m from the access road and 65m from main site at the closest point. Consequently, whilst not within the designated sites the proposed development needs to be considered in the context of the Habitat Regulations. The changes proposed on site could alter the impact of the existing development such that the potential for an in-combination impact on the European Sites should be considered in the context of the mitigation measures that form part of the application.

Following advice received from Natural England, it is understood that a recent ruling by the Court of Justice of the European Union (the CJEU) (People Over Wind and Sweetman vs Coillte Teoranta (ref: C-323/17)) has potentially altered the interpretation of the Habitats Directive. The case relates to the treatment of mitigation measures at the HRA screening stage when deciding whether an appropriate assessment of a plan/project is required. The court’s ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage. In the light of this, Natural England advice is that any “embedded” mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained.

From the County Council’s perspective, it is important that what is meant by “embedded” mitigation relating to protected sites is defined and how these measures differ from mitigation that would normally be expected irrespective of the proximity to / potential impact on a European Site. This aspect of the legislation and the legal interpretation is unclear and will hopefully be clarified in future rulings / guidance. In this instance, given the advice and the confusion over the recent CJEU ruling it is considered appropriate to adopt a precautionary approach and undertake an appropriate assessment as it is not possible to rule out an impact on the European Sites at the screening stage if the proposed development is considered without mitigation.

1.2 DOCUMENTS REVIEWED TO INFORM THIS ASSESSMENT

This assessment report should be read in conjunction with the background information held within the following documentation and correspondence received in support of the application or in response to the subsequent consultations:

- Planning application, planning supporting statement – May 2018 (Ref. WIE10435-100-R-1-3-3) and associated drawings;
- Preliminary Environmental Risk Assessment – April 2018;
- Preliminary Ecological Appraisal – March 2018;
- Winter Bird Survey – April 2018;
- Habitat Regulations Screening Report – April 2018;
- Noise Impact Assessment – April 2018;
- Air Quality Assessment – April 2018;
- the letter from Waterman Infrastructure & Environment dated 17 October 2018;
- the email from Waterman Infrastructure & Environment dated 25 October 2018 enclosing drawing 0002 Rev A05 titled 'Planning Application Boundary' dated 24/10/18;
- Natural England's letters dated 27 June 2018 and 21 November 2018;
- the Environment Agency's letter dated 19 June 2018;
- the County Council's Noise Consultant's letter dated 26 June 2018;
- the County Council's Air Quality Consultant's letter dated 22 November 2018, and
- the County Council's Noise Consultant's emails dated 12 December 2018 and 13 December 2018.

IMPORTANT NOTE: Undertaking the HRA process, it is the Waste Planning Authority's responsibility to carry out the Appropriate Assessment, as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete the assessment.

2. PROJECT INFORMATION

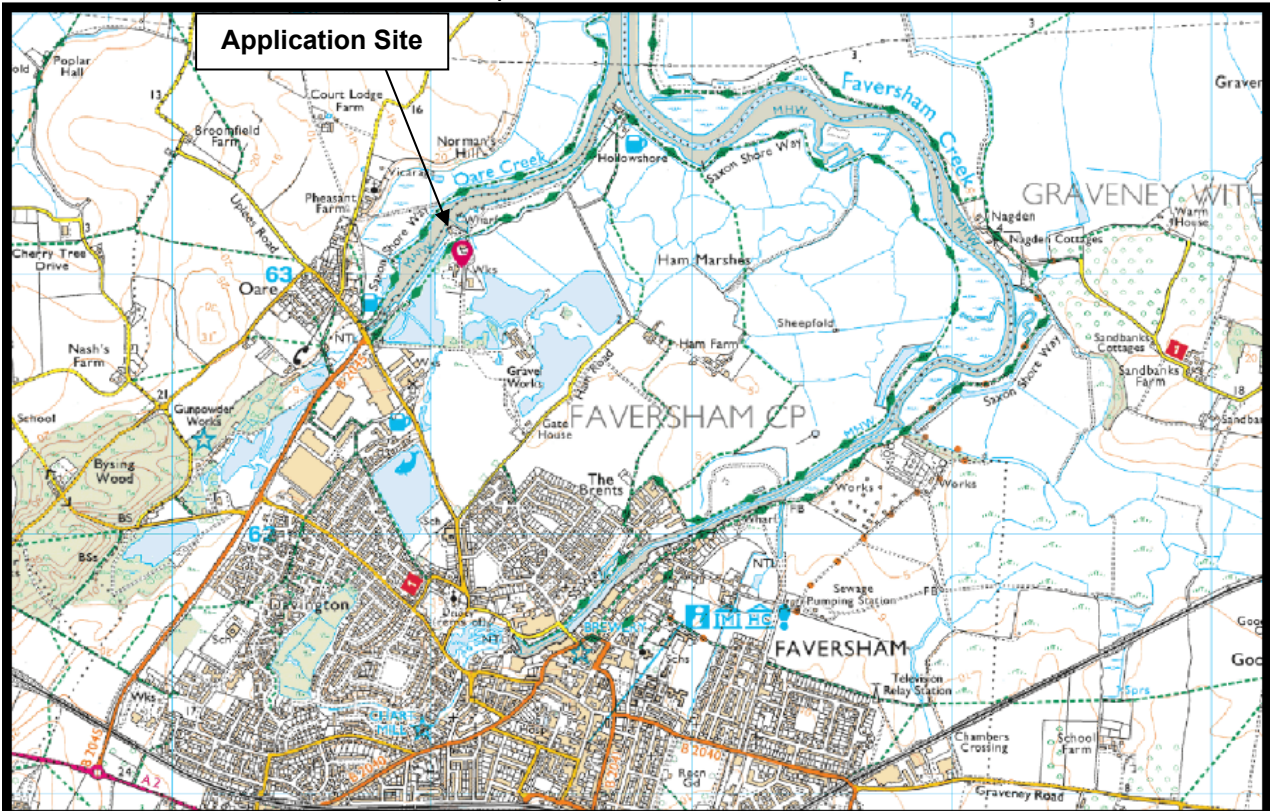
The project consists of the redevelopment and extension of a permitted waste management facility. The existing facilities allow for the importation, tipping and sorting of inert, semi-inert and difficult waste, waste storage, crushing and screening operations (unimplemented), and the onward transportation of sorted waste streams for recycling or reuse. The extant permission allows the site to operate between 0700-1800 hours Monday to Friday and 0700-1300 hours on Saturdays. Vehicle movements are restricted to 80 per day (40 in / 40 out), consisting of 40 HGV movements and 40 LGV movements. Sorting and transfer operations on site take place (in part) within an existing sorting shed and otherwise in the open. The permitted site benefits from a concrete pad with integrated drainage that discharges to an adjacent lagoon through an interceptor and other pollution prevention controls (as specified by the Environment Agency under the sites Environmental Permit).

The proposed development includes erection of a new waste reception building, a Material Recovery Facility (consisting of loading hopper, conveyors, trommel screen, manual picking cabin and associated bays), a new bale storage building and baler for recyclables, retention of crushing and screening capability, containers, weighbridge, refurbishment of existing derelict building as office and welfare facilities, night watchman's accommodation, parking and the expansion of the site area available to store both full and empty skips and containers. The proposed development also includes changes to the make-up of the permitted commercial vehicle movements, but not the overall number. The proposal would allow for 80 HGV movements in place of the permitted 40 HGV and 40 LGV movements. The approved throughput of waste material would change from unrestricted under the extant planning permission (limited to a maximum 200,000 tonnes per annum (tpa) under the Environmental Permit) to a proposed 45,000 tpa under the proposed development. The application also proposes an extension to the permitted hours of use to allow

vehicle movements from 0500 to 2000 hours Monday to Friday and 0500 to 1800 on Saturdays and changes to operations on Public Holidays.

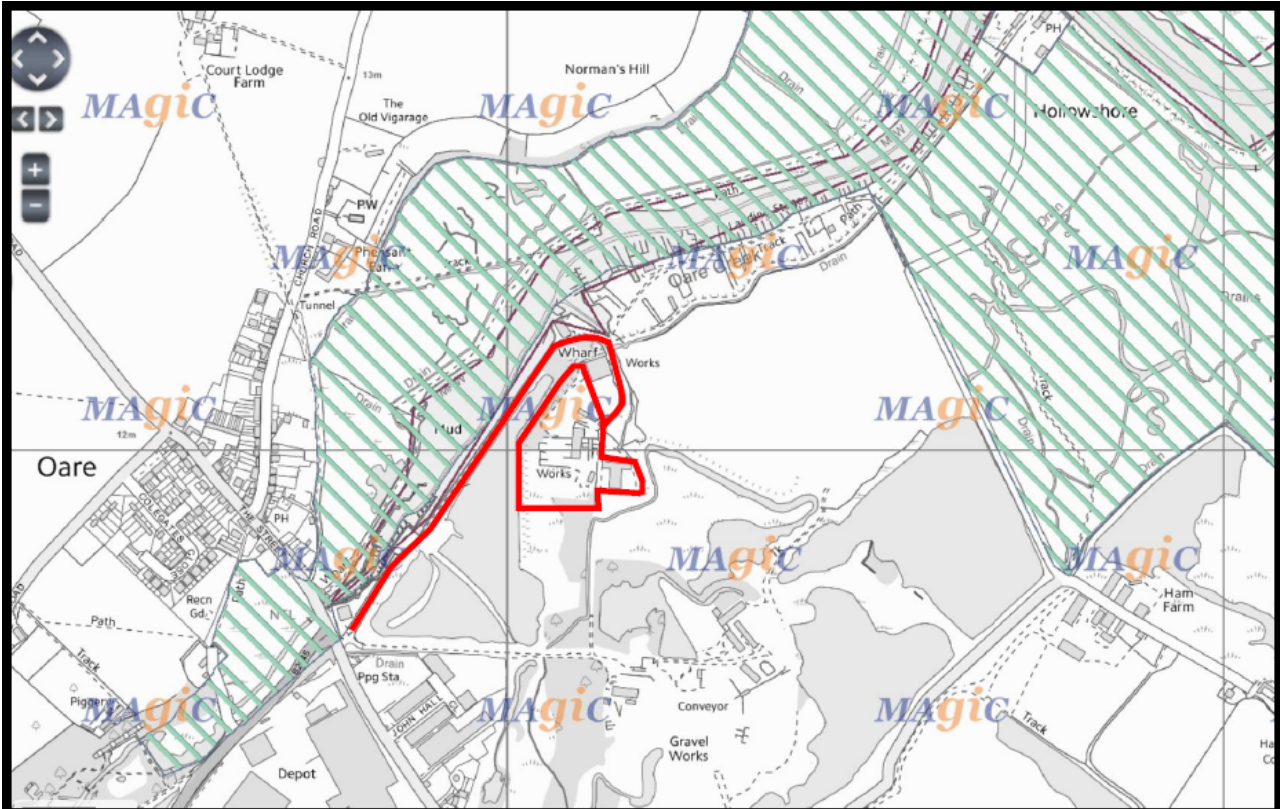
2.1 SITE ADDRESS

The site of the project is identified as land at, and adjacent to, Site D, Oare Creek, Faversham, Kent, ME13 7TX, as shown on the map below.



2.2 SITE DETAILS

The map below shows the project boundary in relation to the boundaries of the designated sites, which overlap one another. The application boundary falls outside the designations, however the access road and proposed pedestrian refuges along this road adjoin the European sites.



3. EUROPEAN SITES POTENTIALLY AFFECTED

The following table lists the designated sites potentially affected by the proposed development and the reason for the designation.

Name of Site / Legal Status	Proximity to Site (at closest point(s))	Qualifying Features
The Swale Ramsar	65m from main site; 10m from access road.	<p>The site covers an area of 6,514.71ha and is classified under Criteria: 2, 5, and 6.</p> <p>Criterion 2: The site supports nationally scarce plants and at least seven British Red data book invertebrates.</p> <p>Criterion 5: Assemblages of international importance: Species with peak counts in winter: 77501 waterfowl (5-year peak mean 1998/99-2002/2003).</p> <p>Criterion 6: species/populations occurring at levels of international importance. Qualifying Species/populations (as identified at designation): Species with peak counts in spring/autumn: Common redshank, <i>Tringa totanus tetanus</i>, 1712 individuals, representing an average of 1.4% of the GB population (5-year peak mean 1998/9-2002/3) Species with peak counts in winter:</p>

		<p>Dark-bellied brent goose <i>Branta bernicla bernicla</i> 1633 individuals, representing an average of 1.6% of the GB population (5-year peak mean 1998/9-2002/3); Grey plover <i>Pluvialis squatarola</i>, E Atlantic/W Africa -wintering 2098 individuals, representing an average of 3.9% of the GB population (5-year peak mean 1998/9-2002/3) Species/populations identified after designation for possible future consideration under criterion 6. Species with peak counts in spring/autumn: Ringed plover <i>Charadrius hiaticula</i>, Europe/Northwest Africa 917 individuals, representing an average of 1.2% of the population (5-year peak means 1998/9-2002/3) Species with peak counts in winter: Eurasian wigeon <i>Anas Penelope</i>, NW Europe 15296 individuals, representing an average of 1% of the population (5 year peak mean 1998/9-2002/3); Northern pintail <i>Anas acuta</i>, NW Europe 763 individuals, representing an average of 1.2% of the population (5 year peak mean 1998/9-2002/3); Northern shoveler <i>Anas clypeata</i>, NW & C Europe 483 individuals, representing an average of 1.2% of the population (5 year peak mean 1998/9-2002/3); Black-tailed godwit <i>Limosa limosa islandica</i>, Iceland/W Europe 1504 individuals, representing an average of 4.2% of the population (5 year peak mean 1998/9-2002/3).</p>
<p>The Swale Special Protection Area (SPA)</p>	<p>65m from main site; 10m from access road.</p>	<p>6514.71ha This site qualifies under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive: During the breeding season; Avocet <i>Recurvirostra avosetta</i>, 103 pairs representing at least 17.5% of the breeding population in Great Britain (RBBP 1996) Marsh Harrier <i>Circus aeruginosus</i>, 24 pairs representing at least 15.0% of the breeding population in Great Britain (Count, as at 1995) Mediterranean Gull <i>Larus melanocephalus</i>, 12 pairs representing at least 120.0% of the breeding population in Great Britain (RBBP 1996) Over winter; Avocet <i>Recurvirostra avosetta</i>, 89 individuals representing at least 7.0% of the wintering population in Great Britain (5-year peak mean 1991/2 - 1995/6) Bar-tailed Godwit <i>Limosa lapponica</i>, 542 individuals representing at least 1.0% of the wintering population in Great Britain (Count as at 91/92-95/96) Golden Plover <i>Pluvialis apricaria</i>, 2,862 individuals representing at least 1.1% of the wintering population in Great Britain (5 year peak mean 1991/2 - 1995/6) Hen Harrier <i>Circus cyaneus</i>, 23 individuals representing at least 3.1% of the wintering population in Great Britain (Count as at 1996/8) This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species: On passage; Ringed Plover <i>Charadrius hiaticula</i>, 683 individuals representing at least 1.4% of the Europe/Northern Africa - wintering population (5-year peak mean 1991/2 - 1995/6) Over winter; Black-tailed Godwit <i>Limosa limosa islandica</i>, 1,755 individuals representing at least 2.5% of the wintering Iceland - breeding population (5-year peak mean 1991/2 - 1995/6) Grey Plover <i>Pluvialis squatarola</i>, 2,021 individuals representing at least 1.3% of the wintering Eastern Atlantic - wintering population (5-year peak mean 1991/2 - 1995/6) Knot <i>Calidris canutus</i>, 5,582 individuals representing at least 1.6% of the wintering Northeastern Canada/Greenland/Iceland/Northwestern Europe</p>

		<p>population (Count as at 91/92-95/96) Pintail <i>Anas acuta</i>, 966 individuals representing at least 1.6% of the wintering North-western Europe population (5-year peak mean 1991/2 - 1995/6) Redshank <i>Tringa totanus</i>, 1,640 individuals representing at least 1.1% of the wintering Eastern Atlantic - wintering population (5-year peak mean 1991/2 - 1995/6) Shoveler <i>Anas clypeata</i>, 471 individuals representing at least 1.2% of the wintering Northwestern/Central Europe population (5-year peak mean 1991/2 - 1995/6) Assemblage qualification: A wetland of international importance. The area qualifies under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 waterfowl. Over winter, the area regularly supports 65,390 individual waterfowl (5 year peak mean 1991/2 - 1995/6) including: White-fronted Goose <i>Anser albifrons albifrons</i>, Golden Plover <i>Pluvialis apricaria</i>, Bar-tailed Godwit <i>Limosa lapponica</i>, Pintail <i>Anas acuta</i>, Shoveler <i>Anas clypeata</i>, Grey Plover <i>Pluvialis squatarola</i>, Knot <i>Calidris canutus</i>, Black-tailed Godwit <i>Limosa limosa islandica</i>, Redshank <i>Tringa totanus</i>, Avocet <i>Recurvirostra avosetta</i>, Cormorant <i>Phalacrocorax carbo</i>, Curlew <i>Numenius arquata</i>, Dark-bellied Brent Goose <i>Branta bernicla bernicla</i>, Shelduck <i>Tadorna tadorna</i>, Wigeon <i>Anas penelope</i>, Gadwall <i>Anas strepera</i>, Teal <i>Anas crecca</i>, Oystercatcher <i>Haematopus ostralegus</i>, Lapwing <i>Vanellus vanellus</i>, Dunlin <i>Calidris alpina alpina</i>, Little Grebe <i>Tachybaptus ruficollis</i>.</p>
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4. LIKELY SIGNIFICANT EFFECT

The Habitats Regulations assessment process involves a test of whether a plan or project has the potential to cause a Likely Significant Effect on European designated sites.

In considering the significance of an impact the following factors were considered in relation to the identified effect:

- Extent– will the effect be localised or occur across the whole site?
- Complexity – is the impact pathway direct or are there potentially multiple routes?
- Probability – how likely is it that the effect will occur?
- Duration – how long is the effect likely to last?
- Frequency – is the effect likely to occur on a regular basis?
- Reversibility – will the effect be temporary or permanent?

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

Natural England advised Kent County Council on 21 November 2018 that the project, without mitigation measures, had the potential for a Likely Significant Effect on the interest features for which the Swale Special Protection Area and Ramsar site have been classified.

Natural England advised Kent County Council to undertake an appropriate assessment to assess the implications of the project on the conservation objectives of the European Sites and whether the mitigation measures proposed would prevent a significant impact on their integrity.

The potential for Likely Significant Effect resulting from the development work proposed by East Kent Recycling Limited could result from any of the following:

- Impacts on air quality within the European Sites resulting from the change in the makeup and size of the HGVs transporting waste to and from the site, particularly whilst travelling

along the adjacent access road. Risks include atmospheric pollution, Nitrogen and acid deposition.

- Dust resulting from construction and operation activities (including vehicle movements) that could result in the deposit of material on the surrounding habitat; the potential to smother habitat vegetation within the European Sites and deposition in water bodies impacting on water quality.
- Windblown litter from construction and operational activities impacting on the quality of the local habitats, including within the European Sites.
- Noise and visual disturbance from construction and operation of the development and increased intensity of use proposed, including vehicles movements and the duration of activities outside normal working hours, impacts from increased background noise levels and distinct maximum (peak) noise events. Potentially resulting in disturbance and/or displacement of bird species from areas close to the site.
- Mobilisation of any contamination in the ground resulting from former uses; once disturbed this could be transported into surrounding ground and surface water bodies and in due course into the European Sites. Risks of impacts on water quality and diffuse pollution.
- Polluted surface run-off from operational area discharging to ground or into adjacent surface water bodies that drain into the European Sites. Risk of impacts on water quality and associated habitats.
- Potential for a flood event to mobilise any waste, contaminated materials held, or chemicals deposited, on the surface of the site. Risk of impacts on water quality and associated habitats.
- Potential to attract an increased number / type of vermin because of potential changes in material received. Existence of vermin could change the nature of the habitat close to the site.
- Impact of additional lighting / illumination on site on surrounding environment, including European Sites.
- Land take / direct loss or damage to supporting habitat outside, but immediately adjacent to the European Sites.

5. APPROPRIATE ASSESSMENT

The table below includes a summary of the impacts, following Natural England's advice, outlining where the proposal could result in an adverse effect on integrity of the site, the proposed mitigation proposed to avoid an adverse effect on integrity and how this mitigation would be secured.

Site	Potential effects on qualifying features	Potential impact pathways	Sensitivities of receptors	Source	Avoidance or mitigation measures	Adverse effect on integrity
The Swale SPA/Ramsar	Species disturbance (birds)	Noise	<p>Birds are sensitive to increased levels of noise and visual disturbance. This may be of sufficient magnitude or duration to disturb their feeding and breeding behaviour, potentially leading to adverse effects on populations.</p> <p>Table 3 of the Habitats Regulations screening report shows that the section of Oare Creek adjacent to the application site supports a significant number of redshanks.</p>	Construction HGV movement and operation of the development (including plant and machinery, hours of use)	<p>Construction measures</p> <ul style="list-style-type: none"> • During Construction, hours would remain in keeping with operational hours of the waste management facility (i.e. confined to the hours of 07:00 – 18:00 Mon – Fri, 07:00 – 13:00 Sat, nil on Sundays, Bank and Public Holidays). • There are no very loud activities proposed, such as piling. • Accounting for the attenuation of noise over distance, noise at the point of construction would need to exceed 124 dB(A) for it to breach the 85dB LAmax criteria at the Swale Ramsar / SPA and SSSI boundary. The noise assessment received with the application confirms that the plant and equipment used in construction would be within the calculated level for impulse noise, confirming that the potential for adverse effects on breeding bird species during the construction phase works is negligible. • The applicant would retain the services of an ecologist / ornithologist in order that relevant advice is obtained prior to the start of construction works. <p>Operational measures</p> <ul style="list-style-type: none"> • Retaining the existing boundary treatment; • Enclosing elements of the waste reception and sorting activity, for example: <ul style="list-style-type: none"> • Waste destined for processing in the MRF would be received into a new waste reception building where it would be dealt with undercover; • The processing machinery comprising the MRF would be concealed by steel plates and covers; • The picking line would be enclosed by cabins; • The bays below the picking line would be solid to the rear (the north western elevation) and sides (the north eastern and south western elevations); • Optimisation of the site layout to exploit source directivity, the reduction of noise with distance and natural screening cover where it exists; • committing to: <ul style="list-style-type: none"> • Speed limit restrictions on the access road to 20 mph or less; • maintaining the access road to an even surface to reduce the propensity for individual noise events; • Using broadband reversing alarms; • Switching off plant and equipment when not in use; • Disallowing the use of loudspeakers at the Site; and • Sheathing skip lorry chains. 	None.

					<p>Management measures</p> <ul style="list-style-type: none"> • Enquiring into the feasibility of further noise reduction to existing plant. • The adoption of a procurement policy to ensure the purchase of less noisy plant and machinery. • Maintenance of plant and equipment in accordance with manufacturer's recommendations. • Employee training and awareness on best practice; and • Programmed review of noise controls to ensure their continuing effectiveness. <ul style="list-style-type: none"> • Natural England (NE) does not currently advocate the use of noise thresholds for assessing impacts on important bird populations. This is because the responses to noise vary between sites and species. More important is the change in noise that will result from a proposal. • NE advise the operational and management noise mitigation measures as listed on page 20 of the Habitats Regulations Screening Report (detailed above) should be secured by way of appropriate planning conditions if permission is granted. • NE further recommend that provided best practice construction methods for minimising noise are employed, it does not anticipate an adverse effect on The Swale SPA/ Ramsar site during this phase. 	
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<p>The Swale SPA/Ramsar</p>	<p>Species disturbance</p>	<p>Illumination</p>	<p>Invertebrates: artificial light can significantly disrupt natural patterns of light and dark, disturbing invertebrate feeding, breeding and movement, which may reduce and fragment populations.</p> <p>Birds: there are several aspects of changes to bird behaviour to consider. Lack of sleep can be detrimental to birds' survival and could disrupt the long-term circadian rhythm that dictates the onset of the breeding season. Many species of bird migrate at night and there are well- documented cases of the mass mortality of nocturnal migrating birds as they strike tall lit buildings. Other UK bird species that are particularly sensitive to artificial lighting are long-eared owls, black- tailed godwit and stone curlew.</p> <p>Mammals: Many British mammals are nocturnal and have adapted their lifestyle so that they are active in the dark in order to avoid predators. Artificial illumination of the areas in which these mammals are active, and foraging is likely to be disturbing to their normal activities and their foraging areas could be lost in this way.</p> <p>Lighting can be particularly harmful if it illuminates important foraging habitats such as river corridors, woodland edges and hedgerows used by bats.</p>	<p>Construction lighting External lighting Security lighting</p>	<ul style="list-style-type: none"> • Lighting would be directional into the site only and existing lighting will be used during construction and operation. • No increase in lighting from current levels 	<p>None</p>
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Appropriate Assessment – Oare Creek, Faversham, Kent

The Swale SPA/Ramsar	Habitat damage / smothering	Dust deposition	Plants are vulnerable to dust deposition due to smothering, causing localised dieback.	Construction	<ul style="list-style-type: none"> Minimising activities likely to generate dust. Dampening down dry surfaces. Profiling stockpiles to prevent wind blow. Suspending works if climatic conditions are likely to render the above mitigation measures ineffective. 	None.
				Storage areas for wastes.	<ul style="list-style-type: none"> Enclosing operations within buildings. Materials with the propensity to liberate dust moved as little as possible. Dampen down surfaces. Minimising drop heights. Routine use of fixed boundary mitigation sprays. Profiling stockpiles to prevent wind blow. Suspending works if climatic conditions likely to render mitigation measures ineffective. 	None.
				Haulage within the site.	<ul style="list-style-type: none"> Regular cleaning of impermeable surfaces, such as the concreted yard within the site. Dampening down dry surfaces. Controlled speeds on site. 	None.
				Haulage to and from the site.	<ul style="list-style-type: none"> Controlled speeds on site. Overall limit on maximum vehicle numbers. Loads will be sheeted or otherwise enclosed. Visual inspection of vehicles and wheels to ensure they leave site in clean condition. Long access road minimises potential for mud to be tracked off the site to the public highway and become re-suspended as dust. Road sweeper on site to be used at least twice per week (used more frequently in the event of inclement weather) primarily to sweep access road to reduce risk of re-suspended dust. 	None.
				Crusher bucket.	<ul style="list-style-type: none"> Crusher bucket to be fitted with dust suppression equipment. Routine use of fixed boundary mitigation sprays. 	None.
					<ul style="list-style-type: none"> As recommended by Natural England, to avoid an adverse effect on the integrity of the SPA/Ramsar from dust, the (above) mitigation measures as set out in Table 2, page 18 of the Habitats Regulations Screening Report (dated April 2018) should be secured by way of appropriate planning conditions if permission were to be granted. 	

Appropriate Assessment – Oare Creek, Faversham, Kent

The Swale SPA/Ramsar	Habitat damage	Nitrogen deposition	<p>Many habitats are sensitive to changes in air quality, particularly nitrogen deposition usually associated with traffic. This may lead to long-term changes in habitat composition and condition.</p> <p>Habitats with the potential to be affected include:</p> <p>Vascular plant assemblage Fen, marsh and swamp Neutral grassland Littoral sediment</p>	Traffic emissions from HGV and car movements to and from the site and within the site.	<ul style="list-style-type: none"> • Limits on the maximum number of commercial vehicle movements. • Use of lower emission vehicles (10 Euro VI, 8 Euro IV & 1 EURO III fleet vehicles). • Committed to updating company fleet vehicles such that all would meet the Euro VI standard. • Efficient use of vehicle movements to move material by bulking up material and through use of trailers. • Committing to speed restrictions on the access road (20mph). • Maintaining access road. • Switching plant and equipment off when not in use. • Use of mains electricity to run the MRF, oppose to a diesel generator. • Maintenance of plant and equipment in accordance with manufacturer's recommendations. 	None.
The Swale SPA/Ramsar	Habitat damage	Acid deposition	If large quantities of acid are deposited in one place then it may have detrimental consequences for humans, wildlife, vegetation, soils, crops, freshwater and buildings.	HGV movements.	<ul style="list-style-type: none"> • Limits on the maximum number of vehicle movements. • Use of lower emission vehicles (10 Euro VI, 8 Euro IV & 1 EURO III fleet vehicles). • Committed to updating company fleet vehicles such that all will meet the Euro VI standard. • Efficient use of vehicle movements to move material by bulking up material and through use of trailers. • Committing to speed restrictions on the access road (20mph). • Maintaining access road. • Switching plant and equipment off when not in use. • Use of mains electricity to run the MRF, oppose to a diesel generator. • Maintenance of plant and equipment in accordance with manufacturer's recommendations. 	None.

The Swale SPA/Ramsar	Habitat damage	Water quality – surface and groundwater run-off pollution; and quantity – increased water abstraction lowering the water table which may be compounded due to the effects of climate change.	Wetland habitats are sensitive to the effects of changes in surface water and groundwater quality from pollution, and to changes in water quantity which may affect the water table and water levels essential for supporting wetland habitats and vegetation.	Flooding. Pollution: Liquid (water soluble materials and hydrocarbons) Solids (litter and sediment)	<ul style="list-style-type: none"> • Adherence to the findings of a Flood Risk Assessment. • Adherence to a Flood Incident Plan, prepared under the Environmental Permit process. • Fuel stored in a bunded tank compliant with The Control of Pollution (Oil Storage) (England) Regulations 2001. • Bunded tank to be kept within a solid walled compound, strong enough to withstand the impact of floating objects and higher than the deepest predicted flood event. • Lubricants to be stored above the height of the deepest predicted flood event or within a solid walled compound strong enough to withstand the impact of floating objects, and higher than the deepest predicted flood event. • Solids contained in skips. During a flooding event skips would be contained by the site's boundary fencing / bund. • Drainage would remain the same as for the current operation at the site. • Site drainage includes a 3-stage oil water separator and silt traps. The existing waste operations are already subject to an Environmental Permit, which controls emissions from site, including drainage. The EA has confirmed that it is satisfied that the measures in place would continue to provide the necessary protection under the provisions of a revised permit. • To avoid an adverse effect on the integrity of the SPA/Ramsar, the above surface and groundwater pollution mitigation measures should be secured by planning condition if permission is granted. These reflect the details set out in Table 7 (Row 6) titled Summary Assessment of Potential Likely Significant Effects on European sites (pages 43-44) of the Habitats Regulations Screening Report. 	None.
The Swale SPA/Ramsar	Habitat damage	Windblown litter (Construction and Operational)	Plants are vulnerable Deposition of debris due to smothering, causing localised dieback. Litter can also impact on birds feeding behaviour.	Litter / debris from waste operations.	<ul style="list-style-type: none"> • Good housekeeping, Enclosing the waste reception area, loading hopper and functional parts of the MRF, installation of floor to roof netted curtain at the front of proposed reception building to secure waste when the site is closed, the use of storage bays and baling equipment for sorted materials. • Measures to manage against the release of litter during construction include: <ul style="list-style-type: none"> <input type="checkbox"/> elimination - purchasing materials that come ready to assemble (lacking wrapping / packaging); <input type="checkbox"/> prevention - removing packaging and wrappings carefully (for example avoiding breaking and cutting into many parts); <input type="checkbox"/> containment - placing packaging and wrappings in skips in a timely manner (not allowing them to be blown about the site), reviewing as necessary as to whether such skips need to be lidded or netted (for example if it is a windy day); and <input type="checkbox"/> adopting corrective actions – for example, litter picking, as required throughout the day. 	None

Appropriate Assessment – Oare Creek, Faversham, Kent

The Swale SPA/Ramsar	Species disturbance	Increase in vermin	Potential for increased numbers of vermin attracted to site, including rats, flies and sea gulls. impact could disturb the balance of the surrounding habitats.	Vermin attracted to a change in materials received on site, that includes a potential increase in biodegradable waste.	<ul style="list-style-type: none"> Proposed waste types would not significantly alter from those already received. The aim of the operation is to sort and retrieve inert material that can be re-used / recycled. Food waste does not form part of the targeted waste streams so issues with odour and vermin would be limited by the type and nature of the material received. A condition could be imposed on any planning permission restricting the waste streams that could be received to those applied for; this would be covered in more detail under a variation to the sites existing Environmental Permit. 	None
The Swale SPA/Ramsar	Habitat damage	Mobilising of contaminants left within the ground by previous land uses	Existing ground pollution can be disturbed / mobilised by construction activities, that could result in pollution on site or contaminated run-off finding its way into ground and surface water.	Former land use(s), Construction phase - ground disturbance, foundation construction	<ul style="list-style-type: none"> The EA has recommended several conditions to help safeguard against pollution of ground and surface water. These include: submission of a remediation strategy and where relevant verification report; submission of foundation design; use of foul drainage network. Subject the conditions being included the EA are satisfied that the proposals would not represent a significant risk to the environment. The EA confirm that further controls would be imposed on the new operations under a variation to the extant Environmental Permit, if planning permission were to be granted. 	None

	In-combination (Development Plans)	In-combination (Development Plans)	In-combination (Development Plans)	In-combination (Development Plans):	In-combination (Development Plan):	
The Swale SPA/Ramsar	Disturbance Habitat damage Habitat loss	Noise Dust Air Pollution Water Quality Flooding Land take Recreational pressure	Loss of biodiversity.	Swale Borough Local Plan (2017) New business. Housing development. Policy MU5	<ul style="list-style-type: none"> Bearing Fruits 2031: The Swale Borough Local Plan (2017): is supported by several reports including: A Habitat Regulations Assessment by URS 2015: which proposes a series of planning conditions proposed for any future planning applications which would avoid an adverse effect on either The Swale SPA/Ramsar site or the Medway Estuary & Marshes SPA/Ramsar site. Designates land surrounding the application site for mixed-uses, comprising 1,500 sq m of commercial floorspace, together with some 330 homes and proposals for the conservation, enhancement, and long-term management of the site's ecological and heritage assets at Oare gravel workings. The proposed designation would have been subject to a Habitat Regulations Assessment as part of the Local Plan and is subject to a number of conditions which restrict development according to the sensitivity of the location. The measures imposed on the policy include (amongst other matters) a requirement to avoid, minimise and mitigate adverse impacts upon biodiversity and achieve a net gain through a Habitats Regulations Assessment which will demonstrate that development is not likely to have a significant effect on the SPA; reducing recreational disturbance on the SPA; the agreement and implementation of a management plan and to provide for (at least) current levels of use by key species, including its use by SPA birds, and managing the site to maintain and enhance the biodiversity. 	None.
				County Council's Minerals and Waste Local Plan (2016)	<ul style="list-style-type: none"> Kent Minerals and Waste Local Plan 2013-2030 (2016) is accompanied by an HRA which concludes that subject to safeguarding policies the plan would not have significant effects on European designated sites. The safeguarding policies are as follows: DM2 (which provides the protection to European sites), DM12 (which stipulates the requirement for cumulative assessment of effects), DM13 (which stipulates the requirements for transport/air quality analysis of impacts) and DM15 (which identifies distances from a European site within which a HRA will be required). 	

<p>The Swale SPA/Ramsar</p>	<p>In-combination (Projects): Habitat damage Noise and visual disturbance Habitat loss Urban edge effects</p>	<p>In-combination (Projects): •Construction Noise / •Dust; •Air Pollution; Water Quality; Loss of Flood storage capacity; •Recreational pressure; Visual intrusion;</p>	<p>In-combination (Projects): Loss of biodiversity</p>	<p>In-combination (Projects): Planning permission was granted by Swale Borough Council (under reference SW/14/0257) to redevelop Oare Gravel Works, Ham Road to south and east of the application site. This permission allows for 375 dwellings and 873 square metres of office, workshop-studios, 714 square metres of community space alongside open county facilities.</p>	<p>In-combination (Projects):</p> <ul style="list-style-type: none"> • Planning permission SW/14/0257 includes a HRA Screening Assessment that concludes: “The proposed development is sound, both in respect of avoiding a ‘Likely Significant Effect’ under the Habitats Regulations Assessment Screening test and in that the development will make a substantial positive contribution to the enhancement of biodiversity” • For the Construction Phase: The assessment confirms that events generating instantaneous noise levels which exceed the 85dB threshold of such noise known to disturb birds might occur only during the construction phase. However, such noise is likely to be generated only as a result of certain activities, such as demolition or piling. The impact would be intermittent during the construction period only and exceedance of the noise threshold which may adversely affect birds is likely to occur infrequently. It goes on to conclude that even in the absence of mitigation it is thought that construction noise is unlikely to adversely affect the conservation status of the winter bird assemblage and will not be significant. This may have something to do with the distances between the site and the designated site. • Mitigation measures proposed during construction include: <ul style="list-style-type: none"> • a Construction and Environmental Method Statement; • construction work limited to Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours; • No impact pile driving restricted to Monday to Friday 0900-1700hours • The potential impacts from the operational phase of the development are more focused on the impact of increased recreation and human activity on the designated sites. • Several avoidance and mitigation measures were recommended, these included (amongst other matters): <ul style="list-style-type: none"> • a 10-year wintering and breeding bird monitoring strategy; • detailed mitigation strategy for all relevant species; • a strategic landscaping scheme; • an updated Access and Habitat Management Plan; • restricting and discouraging access to the SPA/Ramsar; • provision natural greenspace with over 20ha of land managed as a nature-led country park, designed to meet criteria produced by Natural England for the creation of a SANG. 	<p>None.</p>
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5.1 NATURAL ENGLAND'S RESPONSE

Natural England's response to the planning application is attached within Appendix 1 of this assessment. To mitigate the potential adverse effects (identified above) and make the development acceptable in terms of the Habitat Regulations, Natural England recommend the following mitigation measures, as set out in the submitted Habitats Regulations Screening Report (dated April 2018) received accompanying the application:

- Dust control measures as set out in Table 2, page 18
- Operational and management noise mitigation measures as listed on page 20
- Surface and groundwater pollution mitigation measures as detailed in Table 7, pages 43-44.

As previously indicated, these measures could be secured by way of condition if planning permission were to be granted.

5.2 NOISE AND DISTURBANCE

The noise report accompanying the application identifies the principle noise sources proposed by the development, including the on-site plant and equipment and the HGV movements proposed to transport waste materials to and from the site. This report models the noise sources in the context of the background levels, including in relation to the European Sites. The results include the anticipated average and maximum noise levels, which are then assessed in the Habitat Screening Assessment Report in the context of the findings of the accompanying Winter Bird Survey carried out on the adjacent section of the European Sites.

The assessments conclude that the proposed noise levels would not significantly change the current noise emissions above the ambient background along the access road or from operations on site. The reports also conclude that the maximum noise levels calculated would not exceed the thresholds recommended by the Environment Agency / Natural England.

The Habitat Assessment identifies that the increase in HGV movements along the boundary of the European Sites has potential to result in visual disturbance. The report concludes that given accepted guidance and observations on site, the level of vehicle movements during the increased hours proposed were unlikely to be significant, with birds not responding to HGV movements and much more likely to respond to the presence of pedestrians and dogs using the access road / footpath.

The County Council's Noise Consultant confirms it is content that the noise report received demonstrates that the potential impact (from both operational noise and from vehicles using the access road) is well within 85 dB L_{Amax} threshold set by the Environment Agency at the closest boundary of the European Sites.

The application includes several mitigation measures, set out on page 20 of the Habitats Assessment that Natural England and the County Council are content would be adequate to ensure that an adverse effect on the integrity of the SPA/Ramsar from noise and disturbance would not result from the proposed development. If planning permission were to be granted, the above-mentioned measures could be imposed on any decision by way of a suitably worded condition(s).

5.3 AIR QUALITY (INCLUDING DUST)

The application documents consider the potential impacts of nitrogen oxide (NO_x) and particulate matter (PM₁₀) on the European Sites from increased HGV movements and dust generated from the upgraded waste site being proposed. The report concludes that the Predicted Environmental Concentrations (PEC) for NO_x and nitrogen deposition would be below the Environment Agency criteria for significant impacts. The acid deposition modelling completed indicates that the

additional HGV movements would not exceed the Critical Load within the European sites. The application includes several avoidance and mitigation measures on page 18 of the Habitats Assessment that Natural England confirm would ensure that the development would avoid adverse effects on the integrity of the European sites. These avoidance and mitigation measures could be secured by way of a suitably worded condition should permission be granted.

5.4 WATER QUALITY

The area proposed for the receipt and handling of waste materials, aside from the proposed storage of material in skips / containers to the south, already benefits from an extant planning permission and an Environmental Permit (EAWML 19424). These existing controls include a requirement for a sealed drainage system with appropriate falls with the inclusion of an interceptor and silt traps to filter run-off before surface water is discharge to the lagoon west of the site.

The Environment Agency state that the previous use of the site presents a medium risk of residual contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location as the site is located above a Principal aquifer overlain by a Secondary aquifer, with the surface water lagoon to the west that drains into Oare Creek. The EA's response indicates that it is confident that it would be possible to suitably manage the risk posed to controlled waters by the development through the inclusion of suitably worded conditions and through the Environmental Permitting regime.

The Preliminary Environmental Risk Assessment received with the application indicates that due to the nature of the buildings being proposed the potential to mobilise contaminated soils and dust which could feasibly migrate offsite to nearby sensitive receptors are low. The Assessment notes that a surface water drainage system is operational in Areas D and B that directs all run-off from the waste management activities through a silt trap and oil interceptor before discharging under permit to a pond beyond the western boundary. This provides a suitable degree of protection to the Oare Creek/ The Swale from any leaks or spills from tanks and vehicles. It notes that there is no engineered drainage system in place in Area C. Careful management of Site activities in this area would be required to ensure that there is no processing of commercial and industrial wastes in these areas and that fuel storage or vehicle parking is minimised/ avoided. It concludes that subject to the incorporation of mitigation measures following a Development-specific ground investigation the risk would be reduced to low.

Considering the advice received from the EA and Natural England, the proposed development would safeguard against impacts on the integrity of the European Sites from run-off and ground pollution if planning condition(s) were included on any planning permission requiring the submission of a remediation strategy, to be carried out by a competent person in line with paragraph 121 of the National Planning Policy Framework. The recommended conditions include submission of a remediation strategy to deal with the risks associated with contamination of the site; where necessary a subsequent verification report demonstrating the completion of the approved remediation strategy; no infiltration of surface water drainage into the ground other than with written consent; all foul drainage shall be connected to the mains drain; and details of piling or any other foundation designs to be approved. The EA's reply also confirms that if planning permission were granted the changes on site would trigger the need for an updated Waste Management licence further controlling emissions to the environment. On this basis, the County Council is satisfied that conditions could be imposed if planning permission were to be granted that would safeguard the integrity of the designated sites in terms of any potential impact on water quality.

5.5 ILLUMINATION

The application proposes to use of existing external lighting arrangements, previously granted permission. On this basis there is nothing to assess within the application in respect of

illumination. A condition could be imposed on any planning permission requiring any changes to the lighting to be agreed in advance to minimise light spill in the context of the surrounding environment. The application confirms that the external lighting would not be used outside of the proposed hours of use. This could be secured by way a condition if permission were to be granted.

5.6 LAND TAKE

The application would not result in any additional land take or direct physical disturbance within the European sites. The land affected has previously been disturbed and been subject to earlier industrial / commercial use, the majority of which consists of hardstanding and buildings. The site is not suitable breeding bird habitat such that it could be considered as part of the supporting habitat for the designated sites.

5.7 VERMIN

The application does not seek to receive mixed black bag or food waste that could potential generate significant odour concerns. The primary purpose of the development is to sort inert and semi-inert waste into recyclable waste streams. The nature of these materials is such that this should not attract vermin seeking regular food sources. The application acknowledges that some recyclable materials like food packaging has the potential for residual which could attract vermin. The application confirms that the throughput of waste and operating under cover would serve to reduce opportunities for vermin. Should an unexpected instance occur appropriate actions would be taken to address the problem, including employment of a specialist subcontractor. The nature of the waste received on site could be controlled by way of a relevant condition (similar to the existing arrangements), this would be further controlled through the Environmental Permit.

6. ASSESSMENT OF IN-COMBINATION EFFECTS

The in-combination assessment considers the impact of the project in combination with other projects. The following plans and projects are relevant to this in-combination assessment:

6.1 IN-COMINATION WITH THE DEVELOPMENT PLAN

The adopted local plan 'Bearing Fruits 2031; Swale Borough Local Plan (2017) was screened under the Habitat Regulations as part of the local plan process to determine whether there were any Likely Significant Effects (LSE) on any internationally important wildlife sites resulting from any allocated sites or policies. Following which the draft Plan and policies were modified to ensure that adequate measures to protect the European sites in the borough were put in place. In responding to the final draft Natural England confirmed that the emerging Swale Plan was acceptable in terms of the natural environment, including the Habitat Regulations.

The adopted Kent Minerals and Waste Local Plan 2013-2030 (2016) is accompanied by an HRA which considers the impacts of the plan policies on the international sites and assesses whether the policies will have a significant impact. The HRA screens the Plan as being unlikely to result in significant effects on European sites due to the following safeguarding policies: DM2 (which provides the protection to European sites), DM12 (which stipulates the requirement for cumulative assessment of effects), DM13 (which stipulates the requirements for transport/air quality analysis of impacts) and DM15 (which identifies distances from a European site within which HRA will definitely be required).

The emerging Partial Review of the Kent Minerals and Waste Local Plan 2013-30 (December 2017) is current subject to pre-submission consultations pending submission to the Secretary of State for formal examination. The emerging plan does not change the allocated sites and policies within the adopted Plan referred to above in so far as they relate to the development proposed.

Taking this into account with the findings of the assessment above, I am satisfied that the proposed development in-combination with the allocated sites and policies within the extant (and emerging) Development Plan would not result in a Likely Significant Effect (LSE) on the European Sites.

6.2 IN-COMBINATION PROPOSED PROJECTS

Outline planning permission was granted by Swale Borough Council (reference SW/14/0257) to redevelop Oare Gravel Works to south and east of the application site. This permission allows for 375 dwellings and 873 square metres of office, workshop-studios, 714 square metres of community space alongside open county facilities. Natural England and KCC Ecological Advice Service were consulted on the application and raised no objections to the development, including in terms of the impact on European Sites, subject to the inclusion of several conditions and an associated s106 agreement. Further to which mitigation strategies for several protect species, an Access and Habitat Management Plan and a Wintering & Breeding Bird Monitoring Strategy, amongst other matters, have been submitted for approval. The s106 agreement also provides for, amongst other matters, the formation of a new County Park as an alternative recreation site to the Swale SPA. The agreement also provides for a SPA Mitigation Contribution pursuant to the Conservation of Habitats and Species Regulations 2010 to help fund a Strategic Access Management and/or Measures to mitigate any impact that may adversely affect a European Site where birds have been shown to be sensitive to disturbance from recreational activities. The planning permission includes several controls to minimise the impact during construction. These controls include a Construction and Environmental Method Statement; construction work limited to Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours; and impact pile driving restricted to Monday to Friday 0900-1700hours.

The proposals put forward by East Kent Recycling would not add to the recreational pressures that the mixed-use housing development could place on the European Sites. If permission were to be granted there is a possibility that construction of both projects could take place together. The initial two phases of the housing development are on the farthest side of the former gravel works site, which would help to limit any cumulative impact during construction. The mixed housing scheme was subject to HRA completed by Swale Borough Council. This process assesses the information submitted by the applicant including impacts associated with construction, which would be the noisiest / most disruptive element of the housing scheme. Notwithstanding this, the assessment concludes that even in the absence of mitigation measures the construction of the housing development is unlikely to adversely affect the conservation status of the European sites. The planning permission includes a number of controls, such as submission of Construction and Environmental Method Statement, controls of construction hours and the more disruptive pile driving proposed.

Due to the nature of the development proposed by East Kent Recycling, the applicant confirms that the construction operations would not include pile driving as part of the development work. It proposes the implementation of best practice construction processes. Natural England's response dated 27 June 2018 confirms that provided best practice construction methods for minimising noise are employed it does not anticipate an adverse effect on the Swale SPA/ Ramsar site during the construction phase.

Given the distance between the waste application and the built development permitted within the mixed housing development and that the permission for the redevelopment of Oare Gravel Works concludes it would not have a Likely Significant Effect on the integrity of the European Sites, it is unlikely that the in-combination effects would change the conclusions set out above and below (including within the table in Section 5).

7. AVOIDANCE AND MITIGATION MEASURES TO BE SECURED THROUGH CONDITION

Should planning permission be subsequently granted by the County Council, Officer's would ensure that the following conditions are reflected in any recommendation to permit the development, with the key details to be submitted and agreed in writing (as necessary) by the County Council, in consultation with Natural England:

- the dust mitigation measures as set out in Table 2 (page 18) of the Habitats Regulations Screening Report (dated April 2018) as amplified by Appendix H of the letter from Waterman Infrastructure & Environment dated 17 October 2018;
- the operational and management noise mitigation measures as listed on page 20 of the Habitats Regulations Screening Report;
- surface and groundwater pollution mitigation measures as detailed in Table 7, Row 6 - Summary assessment of potential Likely Significant Effects on European sites (pages 43-44) of the Habitats Regulations Screening Report;
- conditions recommended by the Environment Agency to protect water quality, including the submission of a remediation strategy to deal with the risks associated with contamination of the site; a subsequent verification report demonstrating the completion of the approved remediation strategy; no infiltration of surface water drainage into the ground is permitted other than with the written consent; all foul drainage shall be connected to mains drainage; and details of piling or any other foundation designs to be approved;
- the development to be carried out in accordance with the submitted documentation and plans, which includes flood mitigation measures;
- Controls on the nature of the waste material that could be accepted on site to those applied for, which exclude large quantities of putrescible waste;
- the overall throughput to be restricted to a maximum of 45,000 tpa;
- the maximum number of HGV movements to be restricted to 80 per day (40 In / 40 Out);
- the external lighting not be used outside of the proposed hours of use and no changes to be made to the existing arrangements unless otherwise approved.

8. CONCLUSION

Taking in account the recommendations of Natural England, the Environment Agency and the Kent Ecological Advice Service, the Waste Planning Authority concludes that this project alone or in combination with the Development Plan or other proposed industrial, commercial and residential uses would not affect the integrity of the Swale Special Protection Area and Ramsar site, provided the works are carried out as set out in the application and the mitigation measures outlined above relating to dust, noise and water quality, amongst other matters, are secured by condition if planning permission were to be granted.

Appendix 1 – Letter from Natural England dated 21 November 2018

Date: 21 November 2018
Our ref: 263235
Your ref: KCC/SW/0090/2018



James Bickle
Planning Applications Group
First Floor, Invicta House
County Hall
Maidstone ME14 1XX

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Mr Bickle

Planning consultation: Redevelopment of an existing waste management facility and inclusion of additional land into a waste management use (part retrospective)

Location: Land at, and adjacent to, Site D, Oare Creek, Faversham, Kent, ME13 7TX

Thank you for your consultation on the above dated 30 October 2018 which was received by Natural England on the same date. Apologies for missing your deadline of 20 November, but I hope you will still find these comments helpful.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of The Swale Special Protection Area and Ramsar site and the Swale Estuary Marine Conservation Zone (MCZ)
- damage or destroy the interest features for which The Swale Site of Special Scientific Interest has been notified
- impact users of the proposed England Coast Path.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures should be secured, as set out in the submitted Habitats Regulations Screening Report (dated April 2018):

- Dust control measures as set out in Table 2, page 18
- Operational and management noise mitigation measures as listed on page 20
- Surface and groundwater pollution mitigation measures as detailed in Table 7, pages 43-44.

In order to mitigate impacts on pedestrians, and subject to the safety concerns regarding the design of the pedestrian refuges noted by the KCC PROW team, the four recommendations in section 4.1 of the Pedestrian Audit should be implemented.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Appendix 1 – Letter from Natural England dated 21 November 2018

Natural England's advice on other natural environment issues is set out below.

Further advice on mitigation

As noted in Natural England's previous letter, dated 27 June 2018, mitigation measures to avoid impacts on designated nature conservation sites are required. Therefore, the measures set out in the applicant's Habitats Regulations Screening Report (April 2018), regarding dust, noise and water quality, should be secured by condition.

As noted in our previous letter, the People over Wind ruling means that mitigation can no longer be taken into account at the likely significant effect stage. In this case, it is Natural England's view that the proposal is likely to have a significant effect on The Swale SPA and Ramsar site, and that the mitigation proposed should be tested through an Appropriate Assessment. However, based on the information provided by the applicant, Natural England advises that the mitigation measures are sufficient to avoid an adverse effect on the integrity of The Swale SPA and Ramsar site.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

England Coast Path

In our previous letter (27 June 2018), Natural England requested further information on the pedestrian safety measures associated with the England Coast Path, and particularly in relation to comments made by the Kent County Council PROW team.

The applicant's agent's letter (17 October 2018) is helpful as it confirms that the pedestrian refuges will not encroach into the Swale Estuary Marine Conservation Zone.

The previous information submitted had not made it clear that any or all of the recommendations made in the Pedestrian Audit were going to be taken forward in the application. The recommendations are presented as high, medium and low priority, and therefore, it was not clear that they were anything more than suggestions. The agent's letter is, therefore, helpful in confirming that the applicant is content for all of the measures (including those the agent's letter says are optional) to be secured by means of a planning condition (page 6). Natural England's view is that all four recommendations in the Pedestrian Audit are necessary.

However, as noted in our previous letter, the design of the pedestrian refuges should address the safety concerns of the Kent County Council PROW team. In response to the comments made on page 5 of the Agent's letter regarding Natural England's Report on the Whitstable to Iwade stretch of the England Coast Path, we would like to clarify that this Report does not make detailed recommendations for the design of passing places or refuge bays. Therefore, the fact that the Coast Path Report does not mention bollards in this location does not mean that the detailed design work would not find them necessary. Furthermore, the fact that a new bollard is proposed for the Coast Path at Conyer Creek (referred to at Appendix C of the Agent's letter) is irrelevant as this bollard is not to keep vehicles separate from pedestrians but is proposed to help direct pedestrians to stay on the coast path. Therefore, Natural England would like to reiterate the fact that we support the comments made by the KCC PROW team and consider that the design of the pedestrian refuges proposed should take account of their safety concerns.

If you have any queries relating to the advice in this letter, please contact me on 0208 225 7693.

Appendix 1 – Letter from Natural England dated 21 November 2018

We would be pleased to provide advice on the discharge of planning conditions or obligations attached to any planning permission to address the issues above.

Should the proposal change please consult us again.

Yours sincerely

Alison Giacomelli
Sussex and Kent Area Team