

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

Application for the change of use of land from storage and parking of HGVs to a small-scale waste management facility at Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, Sittingbourne, Kent ME9 8SW - SW/19/500380 (KCC/SW/0506/2018)

A report by Head of Planning Applications Group to Planning Applications Committee on 6 November 2019.

Application by ADS Skip Hire for the change of use of land from storage and parking of HGVs to a small-scale waste management facility at Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, Sittingbourne, Kent ME9 8SW - SW/19/500380 (KCC/SW/0506/2018).

Recommendation: Permission be granted, subject to conditions.

Local Member: Mr. M. Whiting

Classification: Unrestricted

Site

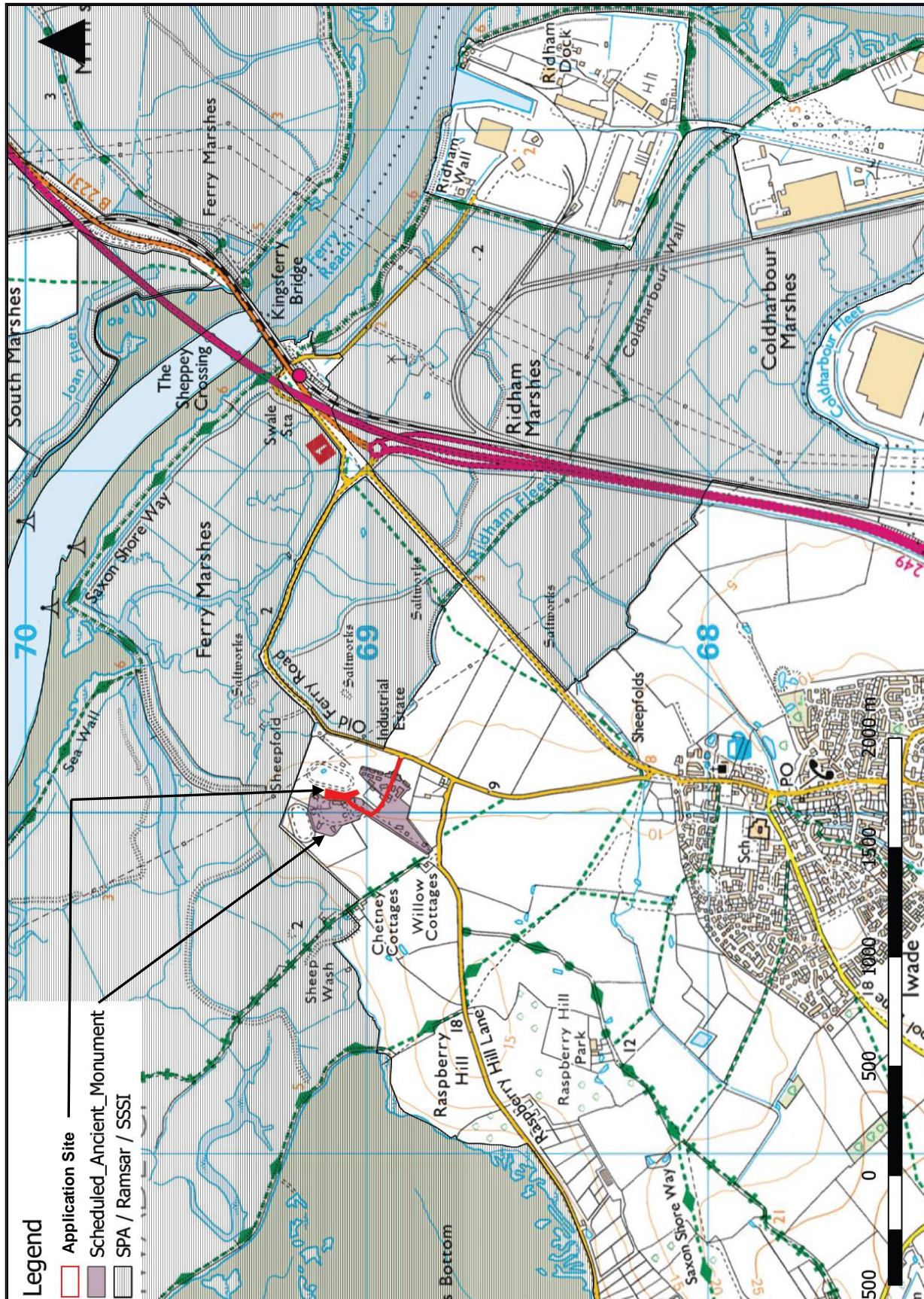
1. The application site ('the site') forms an area of land approximately 0.15 hectares immediately to the north-west of Marshbank Industrial Estate ('the estate'). Marshbank Industrial Estate is a small complex, consisting of single storey workshop buildings and open storage, which house a variety of industrial uses. The estate is located 4.5 km (2.8 miles) north of Sittingbourne and 800m (0.5 miles) north of Iwade, off Old Ferry Road. A junction off the A249 on the southside of the Sheppey Crossing is approximately 900m to the north east and is accessible directly via Old Ferry Road.
2. The application site is currently in use as open storage by the applicant (ADS Skips) to store skips and HGVs associated with the company's existing business. The site consists of made ground partly covered with a hardcore base, with no other structures or permanent development. It falls outside the permitted industrial estate boundary. The land is technically in open countryside, i.e. outside the defined boundaries of the built-up area shown on the Swale Proposals Map (Swale Local Plan (2017) Policy ST3). The site is enclosed to the north and east by screening bunds (approximately 3.5 – 4.0m high), which appear to have been originally constructed as part of historic motor racing activities adjacent to the site. To the south, the site adjoins land used as a scaffolding yard and beyond this there are two sites used by other skip hire businesses. To the west, the site fronts onto an unmade roadway that provides access to the industrial estate and the main access onto Old Ferry Road. Further west there appear to be other industrial uses taking place, including buildings that formed part of the former military base. It is not clear whether all the surrounding activities, outside the defined estate boundary, benefit from planning permission.

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3. Marshbank Industrial Estate was formed from buildings erected as part of a former military camp that was operational during and after the second world war in support of a heavy anti-aircraft gun battery. The remnants of gun emplacements and supporting infrastructure form a Scheduled Monument designated under the Ancient Monuments and Archaeological Areas Act. The Monument contains the industrial estate, part of a speedway complex and surrounding land, which were in place when the site was designated. The application site falls immediately outside this designation to the east; however, access to the land passes through the estate and therefore the Monument area.
4. The surrounding landscape is relatively flat open countryside, including farmland and marshland. Overhead powerlines pass across the landscape north-west to south-east. Ridham dock is positioned on the far side of the A249 approximately 1.6km (1 mile) to the east. There are a small number of residential properties to the south and west of the estate, located off Old Ferry Road and Raspberry Hill Lane. The closest of which is 215m to the south of the site on the far side of the industrial estate. Further properties face the application site approximately 300m to the west. Land to the south of the industrial estate is used to store fairground equipment. See attached location plan.
5. The Swale Estuary is 700m to the north with Ferry Marshes between. The Medway Estuary is 750m west with Chetney Marshes stretching out to the north-west. These areas form part of the Medway Estuary and Marshes Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI). The boundaries of which surrounds the site on three sides (100m north, 150m west and 140m east at the closest points). The Swale SPA, Ramsar and SSSI are located 500m further to the east. These areas are also designated as Areas of High Landscape Value under Policy DM24 of the Swale Local Plan (2017) (part of the Chetney and Greenborough Marshes Character Area). The application site and adjacent industrial estate fall within the Lower Halstow Clay Farmlands Character Area, which is not a designated landscape. Old Ferry Road is designated by Policy DM26 of the Swale Local Plan (2017) as a 'rural lane'. Land surrounding the industrial estate and application site to the north, east and west falls within Flood Zones 2 and 3 at risk of flooding from the sea. The application site falls within a larger area stretching to the south identified as Grade 3 agricultural land.
6. The key site-specific planning constraints are referenced above, other development planning policies that relate to the development are set out in the 'Policy' section below.

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General Location Plan

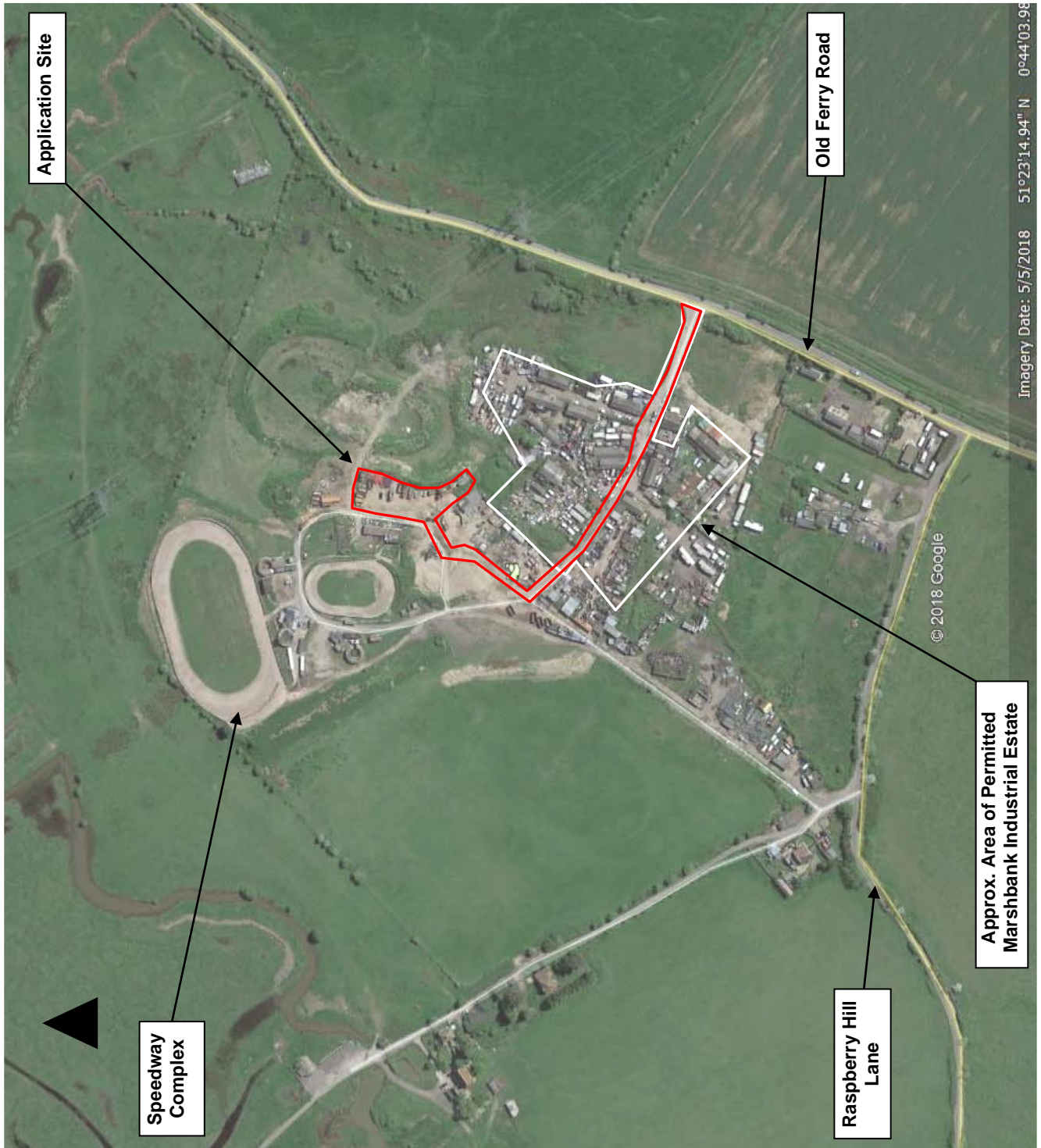


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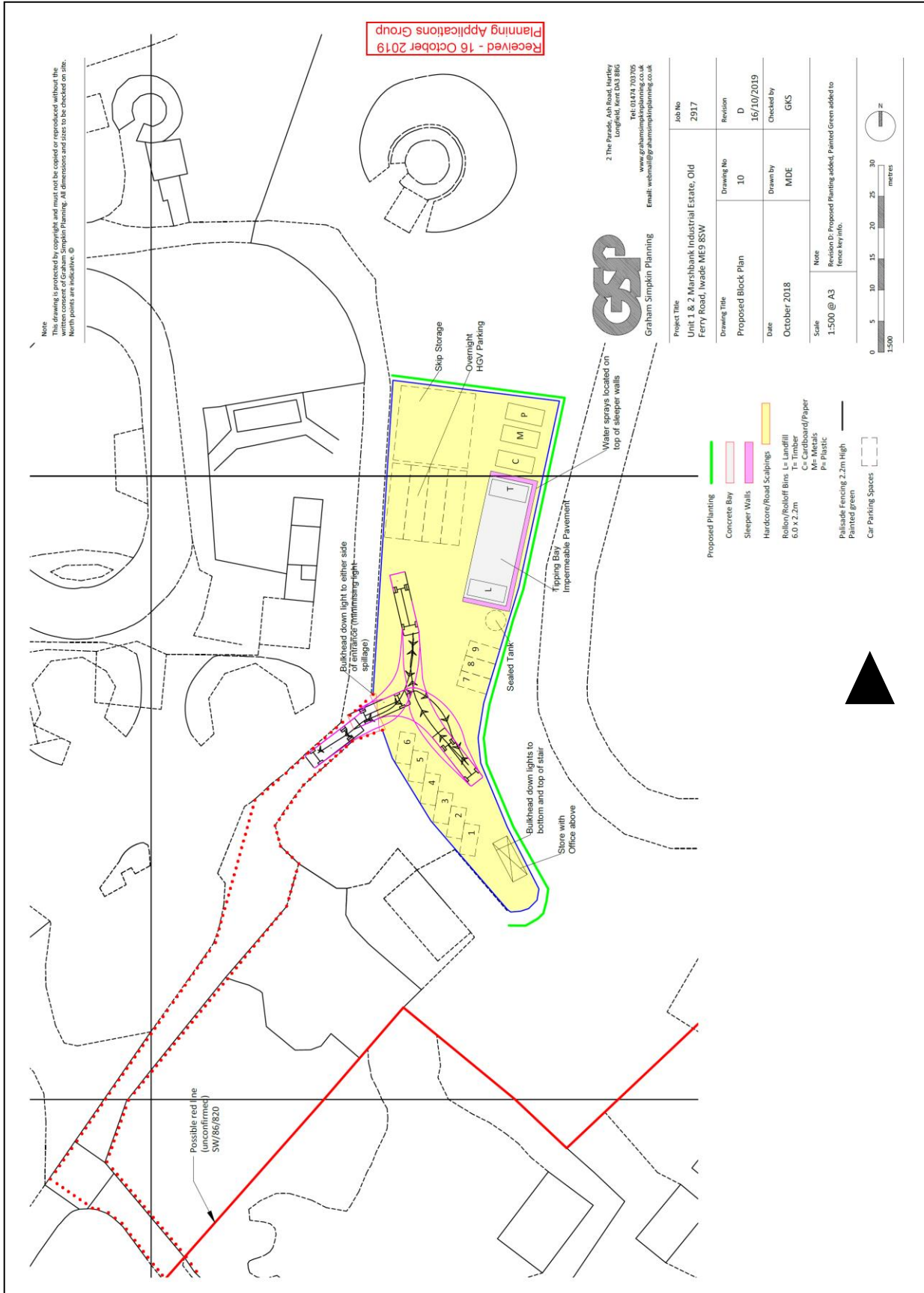
Aerial Photograph

(Colour copy available on electronic version; image will be displayed at the committee meeting)



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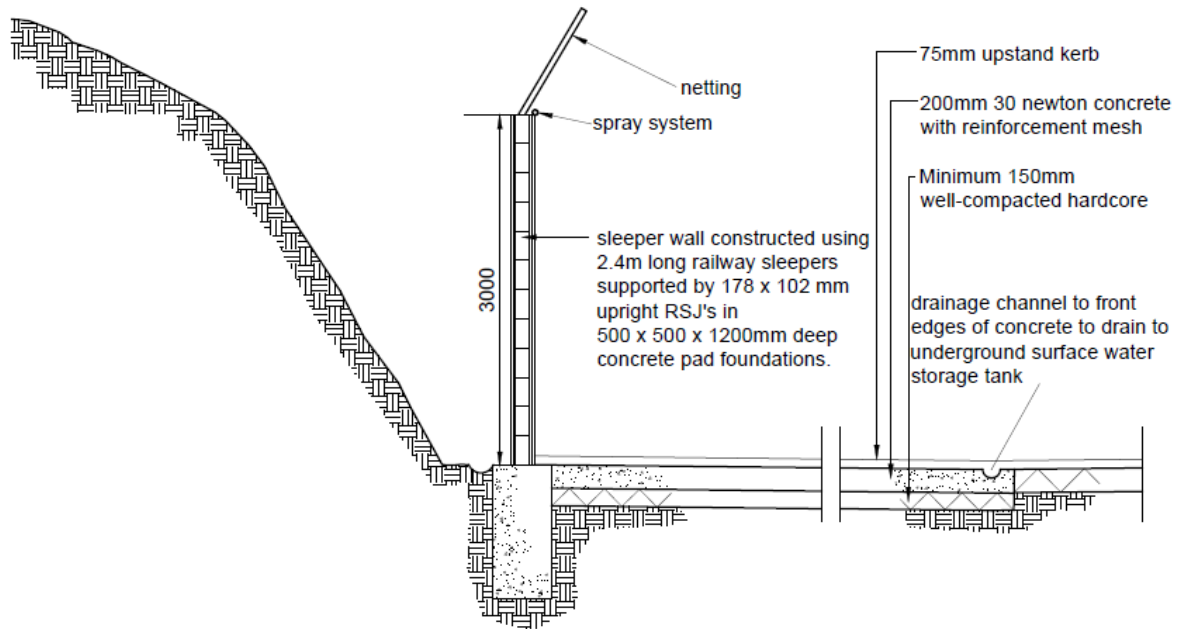
Site Plan



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Waste Reception Bay Section Drawing

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Section A-A



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Project Title Unit 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade ME9 8SW		Job No 2917	Drawing Title Section A-A	Drawing No 05	Revision B
Date OCTOBER 2018	Drawn by MDE	Checked by GKS	Scale 1:50 @ A4	Note Reproduced from the Ordnance Survey Map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright License No. AL818151	

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Background

7. As stated earlier, Marshbank Industrial Estate was formed from a military camp around the 1970s. The industrial estate was granted retrospective planning permission for a light industrial use in October 1986, under Swale Borough Council permission reference SW/86/820. This permission covers 1.2 hectares and approximately 20 buildings. The planning permission is subject to few planning conditions, which relate to landscaping, the access arrangements and the extent of open storage only.
8. The site identified within the application as Units 1 and 2 Marshbank Industrial Estate fall outside the confines of the permitted industrial estate. As such, the application site would be considered to fall within open countryside. There is no evidence that the land benefits from planning permission for the existing skip hire business or any other industrial use. There appear to be several commercial, industrial and potentially waste uses continuing close to the estate that also do not benefit from the necessary permissions. Notwithstanding, historic aerial photographs of the site would suggest that there have been informal uses on most of the application site for over 10 years; the key date for establishing a lawful development consent proposal. Previous informal uses appear to include activities associated with the motor racing / speedway complex, skip hire and open storage.
9. The most relevant background planning history relating to the industrial estate and surrounding land is included below.
10. Land to the north-west has been used for speedway / motor racing activities since the 1970s. This use has expanded and developed over the years to include a main "adult" track, a "junior" track and previously a separate "banger" racing track (since closed). The motor racing uses have been subject to enforcement action by Swale Borough Council in the past. However, in 2001 the Planning Inspectorate upheld an appeal against enforcement action indicating that the main track had a lawful use for speedway training, practising and associated activities.
11. In 2015, Swale Borough Council granted planning permission for the mixed use of land at the speedway track for holding of a maximum of 14 public/league speedway events between 1st April and 31st October (including up to two Sundays per month), use for speedway practice once per week and use of central grassed area for youth football training (reference SW/13/0435).
12. In May 2007, Swale Borough Council granted planning permission for an extension to an existing scaffolding yard at The Old Gun Site, Marshbank Farm, Old Ferry Road, Iwade (south of the application site) (reference SW/07/0118).
13. In September 2009, the planning inspectorate dismissed an appeal against refusal by Swale Borough Council to grant planning permission for change of use of part of the former gun site for external storage of portable/demountable fencing and barriers at land adjoining Marshbank Industrial Estate, Raspberry Hill Lane, Iwade (reference SW/09/0021 - appeal reference APP/V2255/A/09/2101647). This site was located south of the current application site and the industrial estate and is within the Scheduled Monument area. The inspector dismissed the appeal on the grounds that the proposal would result in significant harm to the character and appearance of the area and would cause harm to the setting of the Scheduled Monument.

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14. The applicant (ADS Skip Hire) previously operated a skip hire and waste management business from a site at Unit 18 Morgan's Yard, Knight Road, Strood. This included household and commercial collections for customers in Medway, Maidstone and Swale. The applicant was given notice to quit the Strood site due to proposals to redevelop it as part of the Strood Riverside Redevelopment Programme. Since 2017, it has operated the skip hire side of the business from the application site. No waste is imported to site as part of this use. Due to the disruption to the business caused by the notice to quit its main site, the applicant decided to reduce the scale of its operations down to running only skip lorries from Marshbank Industrial Estate. Members will note that a skip hire business, which does not involve the import of waste, would be considered an industrial use and would be a matter for Swale Borough Council, as the local Planning Authority. The applicant has since decided to promote proposals to import and transfer waste to complement the skip hire side of the business, this would subsequently be considered a waste use that needs permission from the County Council, as the local Waste Planning Authority.

Proposal

15. The application, made on behalf of ADS Skip Hire, seeks planning permission for a change of use of land identified as Units 1 & 2 Marshbank Industrial Estate to form a small-scale waste management facility. The proposed facility would handle a maximum of 5,000 tons of waste per year from commercial, industrial and municipal waste streams associated with the applicant's existing skip hire business. The materials transported to site would be separated into dry recyclables like cardboard, metals, plastics, timber from general waste, with the residual being sent to landfill. The waste received would be inert non-hazardous material, excluding food and black bag waste (other than in small contaminant quantities). The waste material would be received and sorted on the same day into the separate waste streams. No waste would be left unsorted overnight. The application states that not all waste collected by the business would be brought to site; skips containing predominantly soils or brick rubble would be taken directly to other licenced facilities better able to process this material. No crushing or screening plant are proposed on site.
16. The application proposes that 10 skip loads would be brought to the site each day, with one bulk transporter removing material. This would generate a total of 22 HGV movements per day (11in/11out). The application states that the existing skip hire business has accommodated up to 10 HGVs based on site, each making 2 movements per day, resulting in 20+ HGV movements connected with the existing use. Access would be gained from the public highway (Old Ferry Road) via existing private estate roads. Sections of this private access are in a poor state of repair. The application states that the applicant would work with the landowner to secure improvements.
17. The proposed facility would be enclosed by 2.2m high palisade security fencing finished in dark green with a single access onto the estate roads. The waste would be sorted within a proposed waste reception bay, consisting of a sealed concrete pad with positive falls towards a drainage channel. This pad would be surrounded on 3-sides with by 75mm upstand kerbs with 3m high sleeper walls and netting on top to contain any windblown litter. The fourth side would be open and level, with a drainage channel running the entire length to collect surface water runoff from the pad. The collected

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water would discharge via silt traps to an underground sealed storage tank. This would be emptied on a regular basis by tanker and the contents disposed of at a licensed facility. The remainder of the yard is already surfaced with hardcore and brick rubble and would be further covered with recycled aggregates. No waste material would be deposited or stored directly on this permeable surface.

18. Two containers for storage of timber and residual waste destined for landfill would be positioned within the proposed waste reception bay. Further containers housing sorted recyclables would be positioned adjacent the proposed bay.
19. The application would increase current employment on site from 5 to 10 staff members. On-site parking would be provided for 9 cars and overnight parking for HGVs. There are no controls imposed on the hours of use relating to the current use. The hours of use proposed would be 0700 to 1700 hours Monday to Fridays, 0700 to 1300 hours on Saturdays with no working on Sundays and Bank Holidays.
20. A site office and staff accommodation, formed from two steel containers double stacked, would be positioned in the south-east corner of the site. The building would measure 7m x 2.7m x 5.4m high. An external staircase would allow access to the upper floor. The external lighting proposed would be restricted to low powered bulkhead lights on the stairs and at the entrance provided for pedestrian safety. These lights would be switched off outside the proposed hours of operation. No floodlighting is proposed as part of the scheme.

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

21. In response to representations received from statutory consultees and the local community during the consideration of the current application, the applicant provided further supporting information including (amongst other matters):
 - Additional supporting information relating to the access roads, nearby landscape bunds, cumulative impacts, odour and vermin.
 - Dust management provisions;
 - Drainage arrangements;
 - Lighting details;
 - Provision for landscape planting to the north / east boundaries outside the fence line.
 - Confirmation that work to repair / improve the access from the proposed facility to the public highway would be completed within 4 months of the date of planning permission.
 - An acoustic assessment – demonstrating that the predicted noise from the development would be below the existing background noise levels during the proposed operating times at the closest ecological and residential receptors (minus 13dB and minus 16dB respectively). A British Standard (BS) 4142¹ assessment completed suggests that there is unlikely to be a negative noise impact as a result of the proposals.

¹ *British Standard 4142: Method for rating industrial noise affecting mixed residential and industrial areas.*

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- An assessment of the planning status of the site – including historic aerial photographs demonstrating activity on part of the site over the past 10 years.
 - A sworn legal declaration by the landowner confirming that the main part of the proposed site has been used as an unlicensed skip hire business (by Sittingbourne Mini Skips) between 2005 and 2015.
22. 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

23. The most relevant Government Guidance and Development Plan Policies are summarised below and are essential to the consideration of this application:
24. **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) and HM Government: Our Waste, Our Resources: A Strategy for Waste (2018). Government policy and guidance are material planning considerations.
25. **Kent Minerals and Waste Local Plan 2013-30 (2016) (MWLP)** – Policies CSW1 (Sustainable Development), CSW2 (Waste Hierarchy), CSW4 (Strategy for Waste Management Capacity), CSW6 (Location of Built Waste Management Facilities), CSW 7 (Waste Management for Non-hazardous Waste), DM1 (Sustainable Design), DM 2 (Environmental and Landscape Sites of International, National and Local Importance), DM3 (Ecological Impact Assessment), DM5 (Heritage Assets), DM10 (Water Environment), DM11 (Health and Amenity), DM12 (Cumulative Impact), DM13 (Transportation of Minerals and Waste) and DM16 (Information Required In Support of an Application).
26. **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).
27. **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) and CSW7 (Waste Management for Non-hazardous Waste). One of the drivers for the Partial Review was to update the assumptions about waste management capacity underlying Policies CSW7 and CSW8.
28. **Bearing Fruits 2031: The Swale Borough Local Plan (2017) (Swale LP)** Policies: ST1 (Delivering sustainable development in Swale), ST3 (The Swale settlement strategy), ST4 (Meeting the Local Plan development targets), ST5 (The Sittingbourne area strategy), CP1 (Building a strong, competitive economy), Policy CP2 (Promoting sustainable transport), CP4 (Requiring good design), CP5 (Health and wellbeing), CP7 (Conserving and enhancing the natural environment - providing for green infrastructure), CP8 (Conserving and enhancing the historic environment), DM3 (The

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rural economy), DM6 (Managing transport demand and impact), DM7 (Vehicle parking), DM14 (General development criteria), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM24 (Conserving and enhancing valued landscapes), DM26 (Rural Lanes), DM28 (Biodiversity and geological conservation), DM31 (Agricultural Land) and DM34 (Scheduled Monuments and archaeological sites).

Consultations

29. **Swale Borough Council – objects** to the application on the following grounds.

The proposal represents unjustified industrial development in a manner harmful to visual and rural amenity and the character, appearance, and wider amenity value of the countryside. As such the scheme is considered contrary to policies ST1, ST5, CP4, DM3 and DM14 of the adopted Swale Borough Local Plan 2017 and the advice of paragraphs 8 and 170 of the National Planning Policy Framework.

30. **Iwade Parish Council – no objection**, subject to conditions.

The Parish Council supports recycling and as such would not wish to object to the application, particularly as the applicant appears to be trying to improve their area. The Parish Council comments as follows:

- The access road is not considered fit for purpose; debris from the access already washes down onto the public highway. It recommends a wheel washing facility (as a necessity);
- HGV movements should be limited to the proposed 22 (11in/11out) per day, without provision for further increases in the future.
- All HGV movements should be routed away from Iwade Village.

The Parish Council express concerns regarding the condition of the industrial estate in general, including other skip hire businesses within the estate and the possible storage of waste on these sites; concerns about potential contamination of surface water and the impact on the SPA/Ramsar/SSSI; and concerns about whether other uses on the industrial estate are suitably regulated and inspected. The Parish Council's comments appreciate that KCC must look at this application on an individual basis, however it urges that the whole industrial estate is reviewed.

31. **Environment Agency (EA) – no objection** to the change of use to a proposed waste management facility in this location.

The EA advise that the development will require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12. It also confirms that drainage arrangements associated with this development may also require an Environmental Permit, unless an exemption applies.

32. **Natural England (NE) – no objection.**

NE initially considered that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Medway Estuary and Marshes SPA and Ramsar site.

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- damage or destroy the interest features for which Medway Estuary and Marshes Site of Special Scientific Interest (SSSI) has been notified.

NE required an Appropriate Assessment (AA) of the application and the proposed mitigation measures in connection with the designated sites. Officers prepared an AA and submitted the document for NE's approval under the Conservation of Habitats and Species Regulations (please see a copy of the AA attached in Appendix 1)

NE has subsequently confirmed that it concurs with the conclusions of the AA that the proposal will not have an adverse effect on the integrity of The Medway Estuary & Marshes SPA, Ramsar, SSSI sites or The Swale SPA, Ramsar, SSSI sites, subject to the mitigation measures proposed.

33. **Historic England** – advise that based on the information available, it does not wish to offer any comment on the application. The response suggests that the authority seeks the views of a specialist conservation and archaeological advisers, as relevant.
34. **Kent County Archaeological Officer – no objection**, subject to a condition requiring submission and implementation of a watching brief.
35. **Kent County Council Highways and Transportation – no objection** on behalf of the local highway authority, subject to conditions securing provision and permanent retention of the vehicle parking spaces and the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing. Highways and Transportation also recommends an informative setting out advice if the development directly impacts on highway land.
36. **Kent County Council's Ecological Advice Service (EAS) – no objection**, subject to conditions securing the mitigation measures within the AA.

The EAS confirm that given existing uses it is satisfied that the site does not provide suitable habitat for protected/notable species, nor would it provide functionally linked habitat² in connection with the SPA / Ramsar / SSSI sites. Taking account of the advice of the County Council's Noise Consultants and Sustainable Drainage Team, the EAS recommends that the information received has provided reassurance that the development would not result in a likely significant effect on the designated sites and no further information is required prior to determination of the planning application.

37. **Kent County Council's Sustainable Drainage Team (SDT) – no objection** to the development.

The SDT note the development boundary includes existing paved and hard standing. The site is not crossed by any known flow paths. Surface water would appear to flow in a north-easterly direction. A sensitive site is located approximately 130m to the northeast. The land falls 4m from the development area to the sensitive site boundary.

As with any waste facility, the expectation would be that appropriate surface water management is implemented in and around the proposed waste reception area. The

² *Functionally Linked Habitat is habitat which is used by species for which a site has been designated that is not within the designated area.*

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applicant has indicated that the waste would be tipped and sorted within a bay which has a concrete base and would have a drainage channel from which water will be directed to a sealed tank.

The proposed development provides mitigation to manage any excess surface water from the area where it may collect any potential pollutants. There do not appear to be any other significant changes to the access road or parking area that change the level of risk associated with surface water management.

SDT recommend that based upon the description provided, the proposed development would not appear to represent a significant risk to surface water drainage flood risk or water quality given the inclusion of appropriate mitigation.

38. **Kent County Council's Noise Consultant (Amey) – no objection**, subject to a condition securing the preparation of a site management plan.

Amey confirms it is satisfied that, due to the location, limited scale and size of the operation, along with the limited additional number of vehicles accessing the site and the proposed preparation of detailed site management plan, noise would not be a significant cause for concern and no further noise assessment is required.

39. **Kent County Council's Air Quality Consultant (Amey) – no objection**, subject to the dust mitigation measures proposed by the application and the preparation of a site management plan being secured by condition.
40. **UK Power Networks – no objection**, the comments received provide advice to the applicant on development close to UK Power Network assets.
41. **National Grid** – no representations received.

Local Member

42. The local County Member for Swale West, Mr Mike Whiting was notified of the application on 23 January 2019.

Publicity

43. The application was publicised by the posting of a site notice, an advertisement in a local newspaper, and the individual notification of 39 nearby properties.

Representations

44. In response to the publicity, 3 letters objecting to the application have been received. The key points raised can be summarised as follows:
- Amenity impacts of existing uses within the industrial estate. This includes vehicle movements / hours of operation (0630 to 1900 hours) / mud and debris on the road / large stockpiles of (waste) material / fires and burning waste / unauthorised development and/or uses.

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- Amenity impacts from the proposed use including noise, dust, odour and an increased risk of vermin.
- Concerns about foul and surface water drainage arrangements.
- Landscape and visual impacts, appropriateness of the development in the countryside.
- Cumulative impacts on biodiversity and wildlife designations.
- Impacts on heritage assets.
- Conflicts with surrounding land uses, including existing and new housing permitted in the locality.
- Concerns that the applicant already operates a skip business from the site.
- Highway safety concerns, including the number of HGV movements, vehicles queuing to enter the site / estate, the potential to exacerbate debris on the road and associated risk to other road users (including punctures).
- Concerns about fires and burning waste resulting from existing development within the industrial estate.

Discussion

45. The application proposes the formation of a small-scale waste management facility in connection with an existing skip hire business informally located on land adjacent to the Marshbank Industrial Estate. The proposals would allow the importation of up to 5,000 tonnes of inert waste per year within skips for sorting and separation of recyclable materials, with the residual being bulked up for transfer to landfill. The application includes the construction of a waste reception bay with 3m sleeper walls, a concrete pad and an integrated (sealed) drainage system and associated surface water storage tank. The surrounding compound would be enclosed by palisade fencing and surfaced with recycled aggregates. This area would provide space for a double stacked container building (providing office accommodation and storage), further containers (for storage of recyclables), storage of empty skips, staff parking and overnight parking for HGVs. A total of 22 HGV movements per day (11in/11out) are proposed. The development would increase employment on site from 5 to 10 members of staff. The hours of use proposed are 0700 to 1700 hours Monday to Fridays, 0700 to 1300 hours on Saturdays with no working on Sundays and Bank Holidays.
46. The application is being reported to the Planning Applications Committee as a result of objections received from Swale Borough Council and 3 letters of objection from the local community. The objections relate to unjustified industrial development in a rural location contrary to the character, appearance, and wider amenity value of the countryside; impacts on residential amenity (noise, dust, odour, risk of vermin); highway safety concerns; pollution impacts on water and wildlife designations; impacts on heritage assets; and cumulative impacts with existing industrial uses. See the Consultations and Representations sections above for details of views / objections / recommendations received.
47. 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

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Plan policies and other material planning considerations, including national planning policy and those arising from consultation and publicity summarised above.

48. 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.
49. In my opinion, the key determining planning considerations in this case can be summarised by the following headings:
- Principle / Need;
 - Location;
 - Landscape and visual impacts (including lighting);
 - Highways and access;
 - Air emissions, including dust and odour;
 - Noise;
 - Water quality and resources and flood risk management.
 - Nature conservation;
 - Historic environment; and
 - Residential amenity.

Principle / Need

50. 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 177 states the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site³, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the designations. 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.
51. 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

³ *Definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 including Sites of Community Importance, Special Areas of Conservation, Special Protection Areas, any relevant Marine Sites and Ramsar sites.*

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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.

52. Paragraph 7 states that in determining applications, Waste Planning Authorities should:

- only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan.
- 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.

53. Policy CSW1 and CSW2 of the MWLP reflect the national requirements on sustainable waste development, including driving waste management up the waste 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.

54. 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. 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.

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55. Subject to further consideration of matters set out below, Policies ST1 and DM3 of the Swale LP lend support to sustainable growth and expansion of business and enterprise in the rural area, supporting a prosperous rural economy.
56. I am content that the above policies provide support for the development in principle, on the basis that the proposals would add to the county's capacity to manage waste by diverting material that would otherwise end up in landfill. The operations proposed would provide a small-scale operation to help manage local skip waste and would add to rates of recycling. The 'in principle' support is subject to the application according with other development plan policies, including further consideration of location, landscape and visual impacts; highways, emissions to the environment, nature and historic conservation within the sections below. This includes further consideration of the impact on nearby habitat sites in the context of the presumption in favour of sustainable development.

Locational Considerations

57. The application proposes the development of 0.15 hectares (ha) of land. This area of land is located outside the permitted boundary of the adjacent industrial estate on land that technically falls within the open countryside. The site is currently being used by the applicant as a depot for a skip hire business. No planning permission exists for this use or any other industrial activity on the compound area. However, land to the south forms the Marshbank Industrial Estate, which includes the access road. The existing use is one of several industrial type activities that appear to have informally grown out of the adjacent industrial estate and/or the motor racing activity to the north.
58. Paragraph 38 of the NPPF seeks local planning authorities to approach proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Paragraph 83 provides support for the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. In this instance it encourages use of previously developed land, and sites that are physically well-related to existing settlements where suitable opportunities exist. Paragraph 117 promotes effective use of land that makes as much use as possible of previously developed or 'brownfield' land, except where this would conflict with other policies in the Framework, including causing harm to designated sites of importance for biodiversity.
59. Paragraph 4 of the NPPW seeks planning authorities to consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste management facilities together and with complementary activities. It also encourages giving priority to the re-use of previously developed land, sites identified for employment uses, and redundant agricultural and forestry buildings and their curtilages. Paragraph 7 requires the suitability of waste sites to be assessed against criteria set out in Appendix B of the policy document (these criteria are considered in more detail in the sections below).
60. Policy CSW6 of the MWLP and emerging Draft (modified) Policy CSW6 of the EPRMWLP, subject to other environmental criteria (considered in more detail in the

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Sections below), provide support for the location of waste development within or adjacent to an existing mineral development or waste management uses, new major development for B8 employment or mixed uses, within existing industrial estates, other previously developed, contaminated or derelict land not allocated, and redundant agricultural and forestry buildings and their curtilages. For proposals defined as greenfield land, Policy CSW6 indicates that waste uses should only be permitted if it can be demonstrated that no suitable location that accord with the above list within the intended catchment area are available or the nature of the use requires an isolated location.

61. Policies ST1, ST3 and ST5 of the Swale LP seek development that accords with the Swale settlement strategy, which seeks to restrict development outside the built-up area boundaries, unless supported by national planning policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. Policies CP1 and DM3 seeks to support a strong, competitive economy, including the sustainable growth and expansion of business in rural areas. These policies seek to guide development towards existing employment sites, industrial areas or re-use of existing buildings or other previously developed land. Where suitable sites at the above locations are not available, provided the development plan policies are not significantly compromised, Policy CP1 guides development towards extensions to existing employment sites and sites well related to the A249, A2, Sittingbourne Northern Relief Road or A299 Thanet Way. Policy DM3 seeks the design and layout of development to be sympathetic to the rural location and appropriate to their context, result in no significant harm to the historical, architectural, biodiversity, landscape or rural character of the area; and avoid scales of traffic generation incompatible with the rural character. Policy DM31 seeks to protect agricultural holdings and prevent significant losses of high-quality agricultural land.
62. Swale Borough Council has raised an objection to the application (as originally received) as it considers the proposal represents unjustified industrial development in a manner harmful to visual and rural amenity and the character, appearance, and wider amenity value of the countryside. Following this initial objection to the principle of the development in this location, Swale Borough Council has not commented on the further information submitted by the applicant in response to the concerns raised.
63. In response the applicant provided further supporting information that seeks to demonstrate the main part of the proposed site has historically been used for industrial activity for a significant length of time. The information provided includes a sworn declaration by the landowner, confirming that part of the site has been in use as an (unlicensed) skip hire business (previously run by Sittingbourne Mini Skips) between 2005 and 2015. Since 2015, the site has been cleared of waste material and has been used for open storage and HGV parking. The applicant's use of the site commenced in 2017. The submitted information also includes historic aerial photographs of the site from 2007 onwards, which appear to support the argument that some form of historic use has continued for more than 10 years.
64. The Planning and Compensation Act 1991 introduced rolling time frames within which local planning authorities can take enforcement action against breaches in planning control. In the instance of the use of the application site it would be a 10-year period starting from the date the breach in planning control was committed. Once 10 years

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have passed with the site in continuous use the development can potentially be considered lawful in planning terms and exempt from planning enforcement action. To formalise this the applicant would need to apply for a lawful use certificate. This would be a matter for Swale Borough Council as the local planning authority. The County Council as Waste Planning Authority is not in a position to establish whether previous or existing uses are lawful in this instance.

65. Notwithstanding the above, the applicant has decided to apply for full planning permission rather than a lawful use certificate, as the waste use proposed would be different from the previous activities described at the site. Whilst the Waste Planning Authority cannot legally establish a lawful use, it is reasonable, in determining the current application, to consider whether it could be established under the right circumstances. This would be material to the decision in front of Members and has a direct bearing on how the existing use is defined and in turn the Development Plan Policies that apply to the current application, as set out above.
66. Taking into account the information received in support of the application and that available to the Waste Planning Authority from other sources, it is clear that land surrounding the application site has been used for a wide range of activities in the past, including as part of the former military base, motor racing activities and industrial uses. This variety of uses have continued for more than 80 years. It would therefore be difficult to suggest that the development site is open countryside or greenfield in its traditional sense. In my opinion, whilst the information supplied does not provide enough detail to define the scale or intensity of the historic use(s) of the application site, the aerial photographs available, backed up by the landowner's declaration, would support the view that some sort of industrial activity has continued for more than 10 years. I am therefore satisfied in the context of the current application that sufficient information is available to reasonably conclude that the site could be viewed as previously developed land, as opposed to a greenfield site.
67. This conclusion changes the Development Plan Policies that potentially apply in this instance. As indicated above, the NPPF, NPPW and Policy CSW6 of the MWLP provides support in principle for waste development within existing industrial estates, on other previously developed, and contaminated or derelict land not allocated, amongst other locations. Policies CP1 and DM3 of the Swale LP also seek to guide economic development in rural areas towards existing settlements, employment sites, industrial areas or re-use of existing buildings or other previously developed land. Provided development plan policies are not significantly compromised, Policy CP1 guides development towards extensions to existing employment sites and sites well related to the A249, A2, Sittingbourne Northern Relief Road or A299 Thanet Way.
68. The site is technically classified as grade 3 agricultural land by the planning constraints; however, the land has been out of agricultural use for more than 80 years. Given the level of disturbance that appears to have taken place, the site would have limited value for agricultural purposes and is further confined by the permitted industrial estate and speedway track that surround the location. I am therefore content that little weight should be afforded to the historic agricultural classification.
69. Concerns have been raised by one local resident that the location of the application site would conflict with the Iwade Village Expansion allocated within the Swale LP Policy ST4 (Meeting the Local Plan development targets). At its closest point the

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allocated site is over 680m away, well to the south-east of the Marshbank Industrial Estate on the outskirts of Iwade. The proposed development is not of a scale that would impact a development at that distance, particularly given the established industrial uses in between.

70. Taking the above into account, along with the existing nearby industrial uses and other surrounding activities, subject to further detailed consideration of landscape and visual impacts; highways, emissions to the environment, nature and historic conservation within the sections below, I am content to recommend that under the circumstances the principle of the use of the land in this location would not be unacceptable and would benefit from policy support in principle.

Landscape and visual impacts (including lighting)

71. As indicated above, the site currently consists of an open area of land surfaced with hardcore and used for parking and open storage. The application proposes to formalise the use of the land to allow the formation of a small-scale waste management facility. The proposed activity would take place in the open. The built development would consist of a waste reception bay with 3m high sleeper walls, a concrete base and integrated drainage, storage containers, a two storey container building providing office and storage space, surfacing of the site with recycled aggregates, storage of skips, overnight HGV parking, enclosed with 2.2m high palisade security fencing. The application states that the container building and the fencing would be finished in dark green. This is proposed to limit the visual impact of the built development in the context of the wider landscape.
72. 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 considering the likely effects of pollution on health, living 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.
73. Paragraph 7 of the NPPW states that when determining applications Waste Planning Authorities should consider the likely impacts on the local environment and local amenity against various locational criteria and other matters. Key locational considerations include landscape and visual impacts and seek design-led solutions that respect 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.
74. 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

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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.

75. Policies ST1, ST5, CP4, CP7, DM3, DM14 and DM24 of the Swale LP 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 Swale LP Policies require development that is well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. Policy DM26 of the Swale LP seeks to protect the character of rural lanes, including Old Ferry Road, which serves the Marshbank Industrial Estate and the application site.
76. Policy DM24 states that development decisions should protect, enhance and manage landscape areas in accordance with the significance of the landscape value. For non-designated landscapes the policy requires development to minimise and mitigate any adverse landscape impacts. The Swale Landscape Character and Biodiversity Appraisal (SLCBA) and The Swale Urban Extension Landscape Capacity Study (2010) Supplementary Planning Documents identify that the application site and adjacent industrial estate fall within the Lower Halstow Clay Farmlands Character Area. This landscape is not designated and is in moderate condition, with localised areas in poorer condition, including Marshbank. SLCBA states that the area borrows a considerable degree of its sense of place from the neighbouring marshlands and coast with long open views across the arable landscape. The marshland provides a unique setting to an otherwise small-scale rural landscape. Land to the north, east and west falls within the Chetney and Greenborough Marshes Character Area designated as an Area of High Landscape Value. The SLCBA seeks development that reduces the influence of smaller scale urban or industrial elements by introducing appropriate planting, such as dense thorn scrub, and avoids proposals that would be unduly prominent on high or open ground that have particular regard to sensitive views from the marshes to the north. This includes minimising the impacts of external lighting on the dark night-time character.
77. Whilst the application site is not in a particularly sensitive landscape, its proximity to the more sensitive marshland and coastal designations require careful consideration of the potential impacts. The application site is immediately adjacent to the industrial activity associated with the estate and other development including the speedway track to the north. As a result of previous informal activities in the locality, potentially connected with the former and current motor racing activity, there are several mounds of material to the north and east (approximately 3.5 – 4m high) that generally screen the site. Due to the small scale of the proposals the mounds coupled with the existing built development associated with the estate and the former military base would serve to screen the development from the wider landscape. The tallest element proposed would be the container office building, which would be approximately 7m by 2.7m by 5.4m high. The remainder of the development would be less than 3m in height, this

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includes the proposed overall height of any materials or skips stored on site. It would be possible to secure this by way of a suitably worded condition.

78. There is some question over the planning status of the mounds referenced above. This along with several other potential breaches in planning control are issues that the Borough Council and potentially the County Council will need to consider separately. Notwithstanding this, the scale of the development proposed is such that even without the bunds the site would not have a significant impact on the landscape given the surrounding land uses. Following comments received from consultees and residents the applicant submitted further supporting information, including confirmation that the office building and fences would be finished in a dark green and an agreement to provide boundary planting. The proposed landscape planting would consist of a 2m deep belt of thorn scrub to the northern and eastern boundaries (see above site layout plan). This provision would accord with the recommendations set out in the SLCBA. I agree with Iwade Parish Council's comments that the applicant is attempting to improve the appearance of the area. The regularisation of the use would offer the potential to help improve the overall appearance of the site by bringing activity under planning control.
79. In considering the potential impact of the proposed development on the Old Ferry Road as a designated rural route in the landscape under Policy DM26 of the Swale LP, it should be noted that the route has accommodated military and subsequent industrial estate traffic for a significant number of years. Given the relatively small number of HGV movements proposed (i.e. 22 HGV movements per day (11 In / 11 Out) and taking account of the existing movements associated with the skip hire use, the proposed small-scale activities are unlikely to change the character of this rural route. The road is of reasonable size and for much of the short distance out to the primary road network allows for two-way traffic.
80. The landscape guidance for the area highlights the importance of preserving the dark night-time character of the surrounding landscape. The application proposes minimal external lighting, on the stairs to the office and at the main gate, to comply with health and safety requirements. This lighting would only be operated during the proposed hours of use (i.e. 0700 to 1700 hours Mon-Fri and 0700 to 1300 hours Sat). Waste sorting would not take place outside of daylight hours with no flood lighting proposed. I am content that the above arrangements can be secured by planning condition if permission were to be granted. This could further restrict any changes to the setup without the prior written approval of the Waste Planning Authority. I am content that the lighting proposed would have no significant impacts on the surrounding landscape, local community nor ecological designations and would accord with the relevant development plan policies.
81. I am satisfied that the proposed development is of a scale, design and appearance that would not be inappropriate in this location given the existing uses that surround the site. The nature of the development is such that it would not be unduly prominent and would not have an unacceptable impact on the wider landscape, including the surrounding marshland. Subject to conditions securing the proposed landscape planting, colour treatment of the building and fencing, storage of skips and materials not to exceed 3m in height and no additional external lighting without approval, I am content to recommend that the development as proposed would be acceptable in the

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context of the development plan policies relating to landscape and visual impact, including those summarised above.

Highways and access

82. The application proposes to use the existing unmade estate roads to access the public highway via an established access. From there the proposed route would head along Old Ferry Road to the junction with the A249, south of the Sheppey Crossing. This would allow access to the applicant's customer base within the Sittingbourne, Medway and the Isle of Sheppey areas. The development would generate 22 HGV movements per day (11 In / 11 Out). This is anticipated to be 10 skip lorries importing material and skips and 1 bulk transporter exporting recyclables and/or residual waste. The application states that the existing use of the site as part of the applicant's skip hire business generates approximately 20 HGV movements per day.
83. Paragraphs 108 - 109 of the NPPF state 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 84 recognises that sites to meet local business and community needs in rural areas may have to be found. In these circumstances, it seeks development that is sensitive to its surroundings; that does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
84. 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.
85. 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.
86. Policy DM13 of the MWLP states that development will be required to demonstrate 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 is safe, appropriate in scale and is not detrimental to road safety; (2) the highway network can accommodate the traffic flows and that these do not have an unacceptable adverse impact on the environment or local community; and (3) emission control and reduction measures. 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.

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87. Policies CP2 and DM6 of the Swale LP require 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. Policy DM7 seeks vehicle parking which considers 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.
88. Objections received from residents raise concerns about the potential cumulative impact of the development with the existing industrial estate on the highway network. This includes concerns about the vehicle numbers, vehicles queuing to enter the estate and the condition of the estate roads, which allegedly result in debris being tracked onto the public highway impacting on highway safety. Iwade Parish Council raise no objections to the application; however, it asks that consideration be given to: improvements to the access road to prevent debris reaching the public highway and provision of wheel cleaning facilities; HGV movements limited to the proposed 22 (11in/11out) per day (without provision for further increases in the future); and all HGV movements should be routed away from Iwade Village. Kent Highways and Transportation raise no objections to the application on highway grounds, subject to conditions securing vehicle parking and the manoeuvring space on site.
89. As set out above, the application does not propose a significant change in the number of HGV movements associated with the existing use(s). Whilst the existing use may not benefit from express planning permission, the use as part of a skip hire business has continued for a significant amount of time, along with associated HGV movements. Swale Borough Council are responsible for this use of the site and have not disputed the applicant's evidence that the site has been in use more than 10 year or sought to enforce against the activity during this period. Irrespective of whether the site benefits from any lawful use, the proposed operations are small in scale with relatively few HGV movements. This level of activity is not necessarily out of keeping with a more rural location given the surrounding road network. If spread across the proposed hours of use the number of movements would equate to an average 2 / 3 movements per hour. Vehicles accessing the estate would use a short stretch of Old Ferry Road before reaching the junction with the A249. The proposed number of HGV movements (i.e. 22 HGV movements per day) could be secured by condition, as could the proposed routing strategy, which would only see HGVs associated with the proposed use travelling south from the estate if collecting from Iwade or Lower Halstow. With reference to the Parish Council's request to limit any future increases in HGV movement, this would be controlled through the planning system. Should the applicant decide to seek changes to the HGV numbers proposed it would need to apply for planning permission and seek to demonstrate the acceptability of the changes in the usual way. It is only at this point that the planning authority would be in a position to assess whether any proposed changes are acceptable or otherwise.
90. Following a visit to site, officers note that the industrial estate roads would benefit from maintenance and improvement. Such improvements should limit the potential for mud and debris to be tracked onto the highway. Whilst these roads are outside the applicant's direct control and the proposals would not significantly alter the number of

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HGV movements already taking place in connection with the site, the applicant has agreed to work with the landowner to improve the roadways with recycled aggregates. The application notes that this work would benefit all the businesses using the estate roads despite limited changes to the existing number of movements. I am content that the improvements proposed by the applicant are reasonable under the circumstances and could be secured by condition, alongside measures to limit mud and debris being deposited on the public highway. Members should note that any controls imposed would only relate to the proposed use, the applicant cannot be reasonably expected to resolve issues relating to the wider uses on the industrial estate.

91. Given the scale of the proposed development and the existing uses taking place at site, I am content that the proposed use would not have a significant impact on the highway network and represents an opportunity to secure improvements over the existing arrangements. I note that Kent Highways has not raised an objection or any specific concerns over the proposed development, which would have good access to the primary road network. Subject to the further consideration of air emissions below and conditions securing HGV numbers, improvements to the access, measures to limit mud on the highway and the proposed routing strategy, I am satisfied that the proposed development would accord with the relevant Development Plan and Government policies relating to highways and access.

Air emissions, including dust and odour

92. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) preventing 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 that new development should be appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site / wider area. 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.
93. Policies DM11, DM12 and DM13 of the MWLP seeks development that does not generate unacceptable adverse impacts from dust, emissions, odour, traffic or exposure to health risks and associated damage to the amenity and wellbeing of local communities and the environment. Policy CP5 of the Swale LP seeks development that safeguards the health and wellbeing of the local community. Policy DM3 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.

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94. In this instance there are no AQMAs at or close to the site, nor the primary access route. Notwithstanding it is appropriate to consider the air quality implications of the development on local amenity and the local wildlife designations. As stated above, the application does not propose a significant number of HGV movements nor a material change to the number that already exists on the highway network in association with the applicant's skip hire business. There are therefore no material grounds to raise concerns about emissions from HGV movements.
95. The importation of waste has the potential to generate dust. The material received would be imported in skips, which would be restricted to mixed loads. Any skips containing mainly construction and demolition waste would be redirected to an alternate licenced waste facility that is better placed to manage this waste stream. The diversion of construction waste to other more suitable sites reduces potential for dust. The application proposes several dust mitigation measures that would seek to manage operations to minimise emission, these include the following:
- Construction of a waste reception bay, including 3m high sleeper walls, a concrete hardstanding with integrated drainage and the surfacing of the remainder of the site with recycled aggregates.
 - Installation and routine use of fixed dust suppression spray system to be installed on the sleeper walls surrounding the tipping area.
 - Minimising movement of materials.
 - Minimising drop heights.
 - Use of a water bowser to damp down other surfaces when necessary.
 - Storing of waste in containers or the waste reception bay.
 - Limits on total HGV movements each day.
 - Skips containing predominantly soils and brick rubble to be diverted for processing off-site.
 - Suspending works if weather is likely to make mitigation ineffective.
 - No material stored on site to exceed the height of the sleeper walls (3m).
 - Provision of chassis / wheel cleaning facilities.
 - All loaded vehicles to be covered.
 - Improvements to the access road.
96. In terms of the potential for odour, the application proposes to accept inert waste only. This should limit the potential for there to be any impacts on the surroundings from odour generated on site. The only putrescible elements received would be small contaminant quantities as part of the odd mixed skip load, which if identified would be set aside to be removed from site to a suitable management facility as soon as practicable with the remaining residual waste destined for landfill. If planning permission were to be granted, a condition controlling the waste types to those applied for would limit the potential for any unacceptable impacts.
97. The Environment Agency raise no objections to the application, confirming that the proposed waste use and associated drainage arrangements would be subject to a separate Environmental Permit if planning permission were to be granted. This Permit would control emissions to the environment to meet environmental standards set by the Government. Natural England and the County Council's Ecological Advice Service also commented on the development raising no objections, subject to conditions securing the mitigation measures proposed and as set out in the attached Appropriate Assessment prepared under the Habitat Regulations (see the Nature Conservation section below for details).

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98. The County Council's Air Quality Consultants (Amey) has considered the application and raises no objections. Due to the location, limited scale and size of the operations proposed, along with the limited additional number of vehicles accessing the site, dust, pollution and odour emissions would not be significant and it is considered that no further detailed assessments are necessary. Amey are content that the dust mitigation measures proposed (referenced above), would ensure there would not be a significant impact from the proposals on the nearby European designated sites or other local receptors. The application states that a detailed site management plan would form part of the application for an Environmental Permit for the site if permission were granted. Amey recommend that a site management plan incorporating the mitigation measures proposed could reasonably be secured by condition. I am content that the approval of a management plan and its retention on site would serve to secure and draw attention to the mitigation measures required.
99. Taking account of the recommendations received from the statutory consultees, subject to the mitigation measures proposed in the application (and set out above) and those included within the attached Appropriate Assessment, I am content that the proposals would accord with the relevant Development Plan and Government Policies relating to emissions to air, including dust and odour.

Noise

100. Paragraph 170 of the NPPF seeks to prevent development from contributing to, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 180 of the NPPF states that development should be appropriate for its location, considering 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 impacts resulting from noise; and protect tranquil areas that have remained relatively undisturbed.
101. 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.
102. 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 Swale LP requires development that causes no significant harm to amenity and other sensitive uses or areas.
103. Objections received from residents raise concerns that the proposed development would impact on local amenities, including as a result of noise. There are a small number of residential properties located to the south and west of the industrial estate. The closest is located off Old Ferry Road 215m to the south. There are further properties approximately 300m to the west, located off a private road leading to Raspberry Hill Lane.

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104. Following the representations received the applicant undertook an acoustic assessment in accordance with British Standard 4142. This assessment considered the potential impacts from the proposed development on residential properties and at the closest edge of the nearby Medway Estuary and Marshes SPA, Ramsar and SSSI. The assessment established that background noise levels at the location ranged from 36dB_A to 49dB_A (excluding noise from the speedway track). The noise calculations for the proposed waste management facility establish that the predicted noise would be well below the lowest recorded background levels at both the designated sites and the closest noise sensitive properties.
105. In responding to the application the County Council's Noise Consultants (Amey) draw attention to the conclusions of the noise assessment that the noise from the industrial estate (without the proposed use) is audible in the SPA/Ramsar/SSSIs, however that due to the nature of the proposed use the results show that the noise from the waste management activity would be inaudible in the context of the background levels. The calculated impacts of the development at the closest boundary of the designated sites would be 13dB below the lowest measured background noise level (21dB_A). The BS4142 assessment of the proposed development at the nearest residential properties demonstrate that the noise from the development would be 16dB below the lowest measured background noise level. In terms of BS4142, this rating demonstrates that there is unlikely to be a negative impact due to the waste management activity. Amey concludes that it is satisfied that, due to the location, limited scale and size of the operation, along with the limited additional number of vehicles accessing the site, noise would not be a significant cause for concern.
106. Subject to further consideration below relating to nature conservation, given the information received with the application and the views of the County Council's Noise Consultants, I am satisfied that the proposed development due to its nature and scale would not have a negative impact on the local noise environment, particularly when considered in the context of the existing use of the site which is not significantly different in its nature. I therefore recommend that the application accords with the relevant Development Plan and Government Policies relating to noise.

Protection of water quality and resources and flood risk management

107. The application site is located outside, although nearby, land identified as being at increased risk of flooding. As set out above, the site is also close to land designated as part of the Medway Estuary and Marshes SPA, Ramsar and SSSI. Natural England advise that the above interest features rely on water quality and stable water levels; as such development proposals must demonstrate how negative impacts on water quality and water levels are avoided and / or minimised. Natural England note that the application identifies the potential for contaminated runoff from the waste reception bay and that it proposes an impermeable surface, drainage scheme and a sealed underground storage tank to mitigate the potential for any impact. As indicated above, following Natural England's recommendations an Appropriate Assessment has been prepared (see copy attached in Appendix 1). This considers the potential for significant impacts on the integrity of the designated ecological sites, including water quality.
108. Paragraphs 157, 158 and 163 of the NPPF seek to steer development away from areas at increased risk of flooding and ensure it does not increase flood risk

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elsewhere. Paragraph 165 requires major development to incorporate sustainable drainage systems. Paragraph 7 of the NPPW states planning authorities should consider the likely impacts on the environment and amenity, including 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 indicates that waste planning authorities should concern themselves with implementing the planning strategy 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.

109. 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 include 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 the physical state, water quality or ecological status of any waterbody; have an unacceptable impact on groundwater Source Protection Zones; or exacerbate flood risk in areas prone to flooding or elsewhere.
110. Policy ST1 of the Swale LP seeks development that conserves the natural environment. Policy ST5 seeks development that is appropriate to the level of risk from climate change, flooding and coastal change. Policy DM21 seeks to avoid inappropriate development in areas at risk of flooding and where development would increase flood risk elsewhere and include integrated drainage measures.
111. Whilst the application site is located close to land identified as being at increased risk of flooding, it falls within Flood Zone 1 (the lowest risk). The development proposed would not significantly change the existing land use with most of the site retained as a permeable surface. An area of the site would be covered by an impermeable concrete pad, which as confirmed above would include integrated drainage and sealed surface water storage. Taking account of the proposed arrangements I am content that the development would not increase the chances of flooding off site, nor would it be at increased risk of flooding due to its location outside the flood risk zones.
112. In terms of preserving water quality the application includes several mitigation measures. These include the above-mentioned waste reception bay and integrated drainage. The proposed bay is designed to contain and manage surface water to prevent its discharge to the environment. The measures include an impermeable concrete base with positive fall towards a drainage channel installed along the open side of the bay and 75mm kerb stones to the other boundaries. The drain would discharge all surface water runoff from the pad via a silt trap to a sealed underground storage tank. The tank would be emptied on a regular basis with the contents disposed of at a suitable licenced facility.

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113. The application states that the site would handle only inert waste. This would exclude receipt of any food or black bag waste. The application also states that no hazardous wastes would be received. Waste accepted would be sorted within the reception bay and transferred into several separate containers, including general (landfill) waste and wood storage containers positioned on the sealed hardstanding and further containers proposed for the storage of inert recyclables stored within the wider compound.
114. The application proposes overnight parking of HGVs and the storage of skips within the compound. The surface of the site beyond the storage bay would incorporate the existing hardcore base topped with recycled aggregate. This surface would be permeable. Given the existing use of the site there would be no significant change to the proposed function or drainage arrangement for this part of the site. The application states that vehicles operated from the site are modern and regularly maintained off-site by the manufacturer's main dealer. It indicates that this reduces the risk of contamination from the storage of these vehicles. Any fuel kept on site would be appropriately banded / contained in accordance with Government regulations.
115. The Environment Agency raises no objection to the application and highlights that the proposed waste use and associated drainage would be subject to the Environmental Permitting regime. This would control any emissions to the environment and would include surface water drainage and flood risk amongst the relevant considerations. Natural England has considered the application and the Appropriate Assessment prepared and agrees with the conclusions that, subject to the mitigation measures identified, the development would not have an unacceptable impact on water quality.
116. The mitigation measures proposed in relation to water quality would include implementation and maintenance of the waste reception bay and associated drainage scheme, controls on waste types accepted to those applied for (excluding putrescible or black-bag waste) and all stored materials to be located either within the waste reception bay or the containers, as proposed.
117. I am content that the materials that would be accepted do not pose a significant risk to ground and surface water resources, and measures to minimise contamination of the water resources can be imposed on any permission. Considering the recommendations received from the Environment Agency, Natural England and the County Council's Sustainable Drainage Team, I am satisfied that the proposed development would safeguard against impacts on surface water quality and flood risk if the planning condition(s) recommended above and below were included on any planning permission. I therefore recommend that the development would comply with the relevant Development Plan and Government Policies relating to the water environment and flood risk.

Nature conservation

118. 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 accordance with their statutory status), whilst minimising impacts on, and providing net gains for, biodiversity. Paragraph 175 states that planning applications should be determined in accordance with the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for, then planning permission should be

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refused; (b) development which is likely to have an adverse effect on designated features of an SSSI should not normally be permitted; and (d) opportunities to incorporate biodiversity improvements 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 significant effect on a habitats site, unless an Appropriate Assessment has concluded that the project will not adversely affect the integrity of the habitats site.

119. In terms of nature conservation, Appendix B of the NPPW states that considerations should 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.
120. 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.
121. Policies ST1, ST5, CP7, DM3, DM14 and DM28 of the Swale LP 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.
122. Natural England's initial response to the application drew attention to the mitigation measures proposed to retain surface water drainage from the waste reception bay to prevent polluted run-off entering local surface and ground water resources. Without this mitigation Natural England consider that the application would have the potential to have an adverse effect on the integrity of the Medway Estuary SPA. An Appropriate Assessment of the project is therefore necessary under the The Conservation of Habitats and Species Regulations 2017. Following this recommendation, KCC officers undertook an Appropriate Assessment of the proposals. Please find a copy of the Appropriate Assessment approved by Natural England included in Appendix 1. In determining this application, I also ask Members of the Committee to endorse the conclusions of the Appropriate Assessment (AA).
123. The measures recommended by the AA to protect the designated sites include: the development to be carried out in accordance with the submitted documentation and plans; a throughput of 5,000 tonnes per annum (tpa); 22 HGV movements per day (11 In / 11 Out); controls on types of waste received to those applied for; hours of operation (7:00 – 17:00 Monday to Friday and 7:00 – 13:00 Saturdays); delivery and maintenance of drainage scheme; dust mitigation measures proposed; all waste received within the reception bay; no waste stored on the ground outside this bay; stockpiles not to exceed 3m; submission of a site management plan; any fuel, oil or chemicals stored in accordance with national regulations; no new external lighting or flood lighting to be installed without prior approval; and the site infrastructure, including hard surfaced areas, drainage scheme and storage tank delivered and maintained for

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the life of the development.

124. The Appropriate Assessment concludes:

“The application proposed is for a small-scale waste operation (5,000 tonnes per year / 22 HGV movements per day). This would not significantly alter the level of activity already taking place on site nor the in-combination impacts with the surrounding industrial activity and other land uses.

Following the advice received from consultees set out above, including Natural England, Kent County Council as the competent authority concludes that this project alone or in-combination would not have an adverse effect on the integrity of the Medway Estuary & Marshes SPA and Ramsar site nor the Swale SPA and Ramsar site, provided the works are carried out as set out in the application and the mitigation measures outlined above (amongst other matters) are secured by condition should planning permission be granted”.

125. Natural England as the technical authority on the AA process, has subsequently confirmed that it concurs with the conclusions of the AA that the proposals would not have an adverse effect on the integrity of The Medway Estuary & Marshes or The Swale SPA and Ramsar sites, subject to implementation of the proposed mitigation measures. The County Council’s Ecological Advice Service (EAS) confirms the site is a mixture of hard standing/hard core, bare earth, sparse vegetation and rubble. The EAS understand that the site is currently being used as a vehicle depot and skip storage site and as such are satisfied that the site does not provide suitable habitat for protected / notable species.
126. Consideration of the application set out within the sections above establishes that the development would be unlikely to have unacceptable or significant impacts on the surrounding ecological designations as a result of external lighting, emissions to air, noise, HGV movements or impacts on water quality.
127. Further to completion of the Appropriate Assessment the applicant has agreed to include landscape planting to the site boundaries in the form of a belt of thorn scrub. This provision would accord with the Borough Council’s Landscape recommendations for the area. The proposals would also provide a biodiversity net gain increasing the available habitat on what is currently a sparse previously developed site. This arrangement could be secured by way of a suitably worded condition should permission be granted.
128. In accordance with paragraph 177 of the NPPF, further to the conclusions of the Appropriate Assessment (as verified by Natural England) that the project would not adversely affect the integrity of the habitats sites the presumption in favour of sustainable development set out in the framework can be applied in this instance.
129. Taking account of the recommendations within the attached Appropriate Assessment, the views of Natural England and KCC’s 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 habitat sites or nature conservation interests and is in accordance with the relevant Development Plan and Government policies relating to nature conservation and biodiversity matters.

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Conserving the historic environment

130. Paragraph 20 of the NPPF seeks development that makes provision for 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 – 193 require planning authorities to identify and assess the significance of any heritage asset that may be affected 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 new development. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, including scheduled monuments, should be wholly exceptional.
131. Policy DM5 of the MWLP requires development that would have no unacceptable adverse impact on Kent's historic environment and, wherever possible, opportunities sought to maintain or enhance historic assets affected by proposals. Policies ST1, ST5, CP8, DM3, DM14 and DM34 of the Swale LP seek to protect and enhance the diversity, character, appearance and setting of the area's designated and non-designated historic assets, including listed buildings, conservation areas, Scheduled Monuments and archaeological sites. Policy DM34 states that development will not be permitted which would adversely affect a Scheduled Monument, and/or its setting.
132. There are no listed buildings or conservation areas close to the site or along the main access route. However, as indicated above, the application site does lie immediately adjacent and partly within (the vehicle access) the Iwade Heavy Anti-Aircraft (HAA) Battery Scheduled Monument. The former gun battery and associated camp was designated a Schedule Monument by the Secretary of State in February 2002, as an example of a 20th century military site, seen as historic survival and representing a defining episode in the history of warfare and of the century in general. The designation was made in full knowledge of the industrial estate and speedway track which existed when the decision was made. The Monument entry excludes the more modern features within the designated site, including those associated with the speedway tracks; all modern surfaces, fences, gates and structures; materials to update surviving buildings; all modern materials, vehicles and equipment stored within and around the emplacements, camp buildings and operational structures. However, it states that the ground beneath all these features, and/or the structures to which they are attached, are included.
133. Therefore, it is necessary to consider whether the proposed development would cause harm to the Scheduled Monument and/or its setting. Scheduling refers to the legal system for protecting nationally important monuments and archaeological remains in England. Its aim is to preserve the best examples of these for the benefit of current and future generations. Historic England retain responsibility for the Scheduled

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Monuments protection, which is protected under the Ancient Monuments and Archaeological Areas Act 1979 (as amended). Scheduled Monument Consent from Historic England is required for any works resulting in the demolition or destruction of or any damage to a scheduled monument; any works for the purpose of repairing or making alterations; and any flooding or tipping operations on the land.

134. Historic England (HE) were consulted on the application and responded advising that based on the information available, it does not wish to offer any comment. HE suggests that the authority seeks the views of a specialist conservation and archaeological advisers, as relevant. HE's response did not indicate that Scheduled Monument Consent was necessary in this instance.
135. The County Archaeologist raises no objections to the application, subject to an archaeological watching brief of the groundworks. The County Archaeologist response notes that the development proposes the construction of a waste management facility on an area presently used for storage and parking immediately adjacent to the Iwade Heavy Anti-Aircraft (HAA) Battery Scheduled Monument. He notes that the development falls outside the area of the Scheduled Monument and any impacts on the designated heritage asset are likely to be confined to its setting. The advice confirms that this is an aspect that Historic England should lead on and notes that it has not raised an objection to the proposal in its present form. Taking account of the present condition of the setting within the industrial estate, the advice confirms that the proposals are unlikely to cause additional harm to the setting of the Scheduled Monument. The advice notes that it is possible that associated archaeological remains may extend outside the designated monument area. Whilst the application site consists of made ground it is considered that there is still scope for remains, which would justify inclusion of a condition requiring an archaeological watching brief.
136. Based on the above, it is considered that the development would impact on the setting of the Schedule Monument; however, this must be considered in the context of the surrounding development, much of which existed when the monument was designated. Being near the industrial estate and speedway tracks, the proposed development would be well screened from distant views of the Monument, including public accessible areas. The application site is already heavily disturbed and as established above continues to be in use as part of a skip hire business. As noted above, the designation for the Scheduled Monument takes account of the industrial uses located within and close by the protected area. The permanently visible elements of the proposed development would consist of the office building, waste reception bay, storage containers, fencing and landscape planting. This type of development is arguably not out of keeping with that anticipated within or near an industrial estate. It is also worth noting that the proposed investment in the site, including landscape planting, would likely bring about an improvement over the existing arrangements. The repairs to the estate road that passes through the designation would again arguably improve the current circumstances. I note from the recent planning history for the surrounding area that Swale Borough Council has both granted permission for and refused development in this location. The development for external storage of portable/demountable fencing and barriers that was refused on appeal due to significant harm to the character and appearance of the area and harm to the setting of the Scheduled Monument in 2009, was located within the Scheduled Monument site. At the time English Heritage (now Historic England) expressed concern about the risk of physical damage to the monument and about harm to its

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setting.

137. Having regard to the policy conditions set out within the NPPF and the Development Plan, Historic England and the County Archaeologist are raising no technical objections, subject to an archaeological watching brief. Bearing this in mind and that the existing uses that have continued on site for more than 10 years, given the small scale of the development proposed, I do not consider that it would result in material harm to the setting of the heritage asset. On this basis, I am content that there are not the grounds to raise an objection to the application on heritage matters.

Residential Amenity

138. Residents objecting to the application have raised concerns regarding residential amenity arising from impacts associated with the proposed development. These include noise, air quality, odour, and visual impacts. These have been addressed in the discussion section above and below and I am satisfied that there are no overriding considerations that would justify refusal of the development on residential amenity grounds.

Other considerations

Vermin, birds and litter

139. 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 (amongst other matters) seeks to protect neighbouring land uses. Policy DM14 of the Swale LP requires development that causes no significant harm to amenity and other sensitive uses or areas.
140. As stated earlier, the application proposes that the waste received would be limited to inert non-hazardous material only. This could reasonably be controlled by way of a suitably worded condition. All waste would be stored within the waste reception bay or within containers. Any contaminant quantities of putrescible or food waste received within the skip waste could reasonably be set aside to be removed at the earliest opportunity to a licenced site. Given the nature of the material that would be received, there is unlikely to be a significant risk of increased vermin or birds as the waste would not contain the potential food sources that could attract problems.
141. The potential for windblown litter would be minimised by good housekeeping and the design of the development, including the reception bay and storage of recyclables and residual waste within the containers proposed. The design of the proposed bay includes dust suppression measures and netting on top of the sleeper walls that would further limit the potential for problems to arise.
142. The Environment Agency has confirmed that the proposed waste use would be subject to the Environmental Permitting regime, which would include further controls on any potential emissions. Given this, I am content that the proposed development would accord with the relevant Development Plan Policies outlined above.

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Fires

143. Linked to the above concerns, representations received from residents have raised objection to the alleged use of fires in and around the industrial estate to burn material and potentially waste. These concerns appear to be directed at the estate as a whole, including the applicant's existing skip hire business. The representations received consider that the development would have the potential to exacerbate an existing problem.
144. In response the applicant has stated that under its current operations no waste is imported, nor are any materials burnt on site. There was no evidence of fires on the application site during the officer's visit.
145. Subject to a limited number of exceptions, the burning of waste material is controlled by the Environmental Permitting regime and breaches in control are open to prosecution. The concerns received have been passed onto the Environment Agency. It recommends that specific incidents are reported to the EA's Incident Hotline direct so that they can be investigated by local enforcement officers. As indicated above, if the proposed waste use is permitted it would require an Environmental Permit. This would restrict emissions to the environment, including use of fires on site. Whilst I appreciate the concerns about other activities within the industrial estate, the question of pollution from fires is not a material consideration in the context of the current application.

Other operations within / around the industrial estate

146. Whilst raising no objections to the application, the Parish Council has expressed concerns regarding the condition of and general uses taking place in and around the Marshbank Industrial Estate. The comments highlight other skip hire businesses within the estate and the possible storage of waste on these sites; concerns about potential contamination of surface water and the impact on the SPA/Ramsar/SSSI. The Parish Council are concerned about whether other uses on the industrial estate are suitably regulated and inspected. The Parish Council's comments appreciate that KCC must look at this application on an individual basis, however it urges that the whole industrial estate is reviewed.
147. The current applicant is not able to address the above concerns as part of its proposals. It being neither the landowner nor operator of the sites in question. As indicated previously, arguably, the potential investment in the site being proposed would serve to improve its appearance and operation; something the Parish Council's comments acknowledge. The introduction of a legitimate waste operation within the industrial estate could also serve to encourage other operations to seek compliance.
148. The question of monitoring and enforcing the permitted uses at and around the Marshbank Industrial Estate is a complicated one, that would require co-operation between the Borough Council, the Environment Agency and the County Council (where waste uses are taking place). KCC Officers are content to meet with the other relevant parties to take this work forward. However, this should not hold up the determination of the above application, which needs to be considered on its own merits.

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Conclusion

149. The application proposes the redevelopment of an existing (unauthorised) skip hire business to regularise the use and provide a small-scale waste management facility. The proposals would involve the development of an open waste reception bay and drainage, the provision of a containerised office building, security fencing, hardstanding and storage space for containers, skips and overnight parking of HGVs. The facility would accommodate a throughput of 5,000tpa of inert non-hazardous waste that would be separated into dry recyclables and residual waste material. The overall scale of the development proposed is significantly smaller than most of the waste operations the County Council normally considers.
150. The application has attracted objections from Swale Borough Council and 3 residents. The principle concerns relate to the site's location outside the permitted built confines within the countryside, its potential impacts on the character of the area, local biodiversity and wildlife designations, local heritage assets, highway safety and residential amenity. There are no objections to the application from any of the other technical consultees, subject to the conditions indicated above and below. These consultees include the Environment Agency, Natural England, Historic England, the County Council's technical consultants on highways, archaeology, ecology, sustainable drainage, noise and air quality. As part of the consideration given to the nearby ecological designations, the application has been subject to an Appropriate Assessment under the Habitat Regulations. The assessment, approved by Natural England, concludes that the development would not have an adverse effect on the integrity of SPA and Ramsar sites, subject to implementation of the proposed mitigation measures, included within the recommendation below.
151. The conclusions drawn in the above discussion, confirm that there is an established need and policy support for the development as part of the county's capacity to drive the handling of local waste arisings up the waste hierarchy. I am content that the supporting information received establishes some form of industrial use of the land has continued for more than 10 years, and as such must be considered in the context of the site's location. Subject to the conditions set out below, I am content that the proposals would accord with the relevant Government and Development Plan Policies set out above and therefore recommend accordingly.

Recommendation

152. I RECOMMEND that MEMBERS ENDORSE the attached Appropriate Assessment made 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:

- Permission to be implemented within 3 years.
- The development to be carried out in accordance with the submitted documentation and plans.

Operational controls

- No waste shall be imported until the site infrastructure, including waste reception bay, concrete pad, drainage channels, silt traps, underground storage tank,

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sleeper walls and dust suppression system, is provided. Thereafter the above shall be maintained in a good state of repair.

- Submission of a site management plan referenced in supporting statement. This plan shall consolidate the mitigation measures, including, amongst other matters, the measures as set out in document titled 'Supplementary Information: Dust Management' dated 26 April 2019 (Reference: 2917).
- Overall throughput to be restricted to a maximum of 5,000 tpa.
- No skips, containers or waste / recyclable materials stored shall exceed 3m in height.
- A copy of the permission to be made available on site.
- Withdrawal of permitted development rights.

Highways

- A maximum of 22 HGV movements per day (11 In / 11 Out).
- Records shall be maintained by the site operator of all HGV movements.
- HGVs to be routed north along the Old Ferry Road toward the A249 corridor, unless delivering / collecting locally within Iwade or Lower Halstow.
- 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 upgraded and repaired within 4 months of the grant of permission.
- Provision and permanent retention of the vehicle parking and the vehicle loading/unloading and turning facilities.

Hours of Use

- Operating hours 0700 – 1700 Mon – Fri / 0700 – 1300 Sat / nil on Sundays and Bank holidays.
- Entrance gates to be closed outside of permitted operational hours.

Noise

- 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.

Waste types

- Waste types to be restricted to those applied for.
- Any contaminant quantities of putrescible waste received to be removed to an authorised facility within 48 hours.
- All incoming waste to be deposited within the waste reception bay with no waste destined for landfill to be stored beyond the concrete pad.
- All other sorted waste shall be stored within the bay or the storage containers proposed. No waste shall be deposited or stored directly on the ground outside the reception bay.

Small-scale waste management facility at Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, Sittingbourne, ME9 8SW - SW/19/500380 (KCC/SW/0506/2018)

Water Protection and Pollution Controls

- Site infrastructure, including hard surfaced areas, drainage channels, silt traps and storage tank to be maintained in a good state of repair, inspected regularly and any damage repaired immediately.
- The underground surface water storage tanked permitted to be emptied when necessary with the contents transported to a licenced facility for disposal. This shall continue for the lifetime of the development.
- Measures to be taken if unidentified contamination is found to be present during construction.
- All foul drainage shall be connected to mains drainage or a sealed cesspool.
- All fuel, oil or chemicals shall be stored in accordance with Government Guidance / Regulations.

External lighting

- Except for low-level lighting proposed in the application, no external lighting or flood lighting shall be installed on site without prior written approval.

Archaeology

- Submission of an archaeological watching brief and its subsequent implementation.

Landscape

- Proposed planting to be delivered within first planting season following completion of the development and maintained with any plants diseased or dying replaced with suitable planting stock.
- The office building and fencing to be finished in a dark green colour.

Case Officer: Mr James Bickle

Tel. no: 03000 413334

Background Documents: see section heading

Appendix 1 - Item C1

Small-scale waste management facility at Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, - SW/19/500380



PLANNING APPLICATIONS GROUP

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

Application reference:	SW/19/500380 (KCC/SW/0506/2018)
Application address:	Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, Sittingbourne, Kent, ME9 8SW
Application Description:	Application for planning permission for the change of use of land from storage and parking of HGVs to a small-scale waste management facility
Applicant:	ADS Skip Hire
HRA Date:	September 2019

European site or sites potentially impacted by planning application, plan or project:	<p>Nearby (approx. 130m north) Medway Estuary & Marshes Special Protection Area (SPA) and Medway Estuary & Marshes Ramsar (the Medway Estuary & Marshes Site of Special Scientific Interest (SSSI) occupies a similar area)</p> <p>Nearby (approx. 500m east) The Swale SPA and The Swale Ramsar (The Swale SSSI occupies a similar area)</p>
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 – other development in and around the Marshbank Industrial Estate; the permitted speedway track and emerging Swale Borough Council Local Plan.

INTRODUCTION

1. ADS Skip Hirer (the Applicant) has submitted a planning application to Kent County Council as the Waste Planning Authority (WPA) for change of use of land from storage and parking of HGVs to a small-scale waste management facility at Units 1 & 2, Marshbank Industrial Estate, Old Ferry Road, Iwade, Kent.

2. Regulation 63 of the Conservation of Habitats and Species Regulations (2017) (the Habitat Regulations) requires an assessment where a plan or project, either alone or in combination with other plans and projects, may give rise to significant effects upon any Natura 2000 sites (also known as 'European sites').
3. Natura 2000 sites are 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.
4. 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. 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.
5. The following assessment has been undertaken by Kent County Council and is based on the information provided by Graham Simpkin Planning Ltd on behalf of ADS Skip Hire as part of the above planning application.

PROJECT INFORMATION

6. The proposal consists of the development of a small-scale waste management facility on land adjacent to an existing industrial estate that has been used for storage and parking of HGVs. Vehicle access would be via a private access road off Old Ferry Road that serves the existing industrial estate. The waste management facility would provide for the receipt and handling of 5,000 tonnes of waste per year, which would be collected as part of the Applicant's skip hire business. The material would be collected from commercial customers and households and brought back to site to be sorted. The application proposes the construction of a waste reception bay consisting of a sealed concrete pad with integrated drainage system, including positive falls to a drainage channel and silt traps and a sealed surface water drainage tank. The contents of the tank would be regularly emptied with the contents disposed of at another licenced site. The bay would consist of 3m high sleeper walls on 3 sides with netting on top. The material received would be divided into recyclables, including cardboard, metals, plastics, timber and residual landfill waste. These materials would be placed into separate containers for onward transportation (in bulk) for recycling or disposal (in the case of residual waste). The applicant indicates that a maximum of 22 HGV movements per day, with 10 HGVs based on site overnight. The site area surrounding the waste reception bay is already surfaced with hardcore and brick rubble and would be finished with road scalplings / plannings. The proposed development includes double stacked steel containers that would serve as storage and site office. The remainder of the site would be given over to turning, manoeuvring, parking and the storage of empty skips.
7. The working hours proposed would be 0700 to 1700 Monday to Friday and 0700 to 1300 Saturdays with no operations on Sundays or bank holidays. The stored material would not exceed the height of the sleeper walls (3m). Waste would be sorted each day so that no waste is left unsorted at the end of each day. The development proposes dust mitigation measures, including good housekeeping and best practice, provision of water strays around the waste reception bay, use of a water bowser, provision of the reception bay, storage of waste /

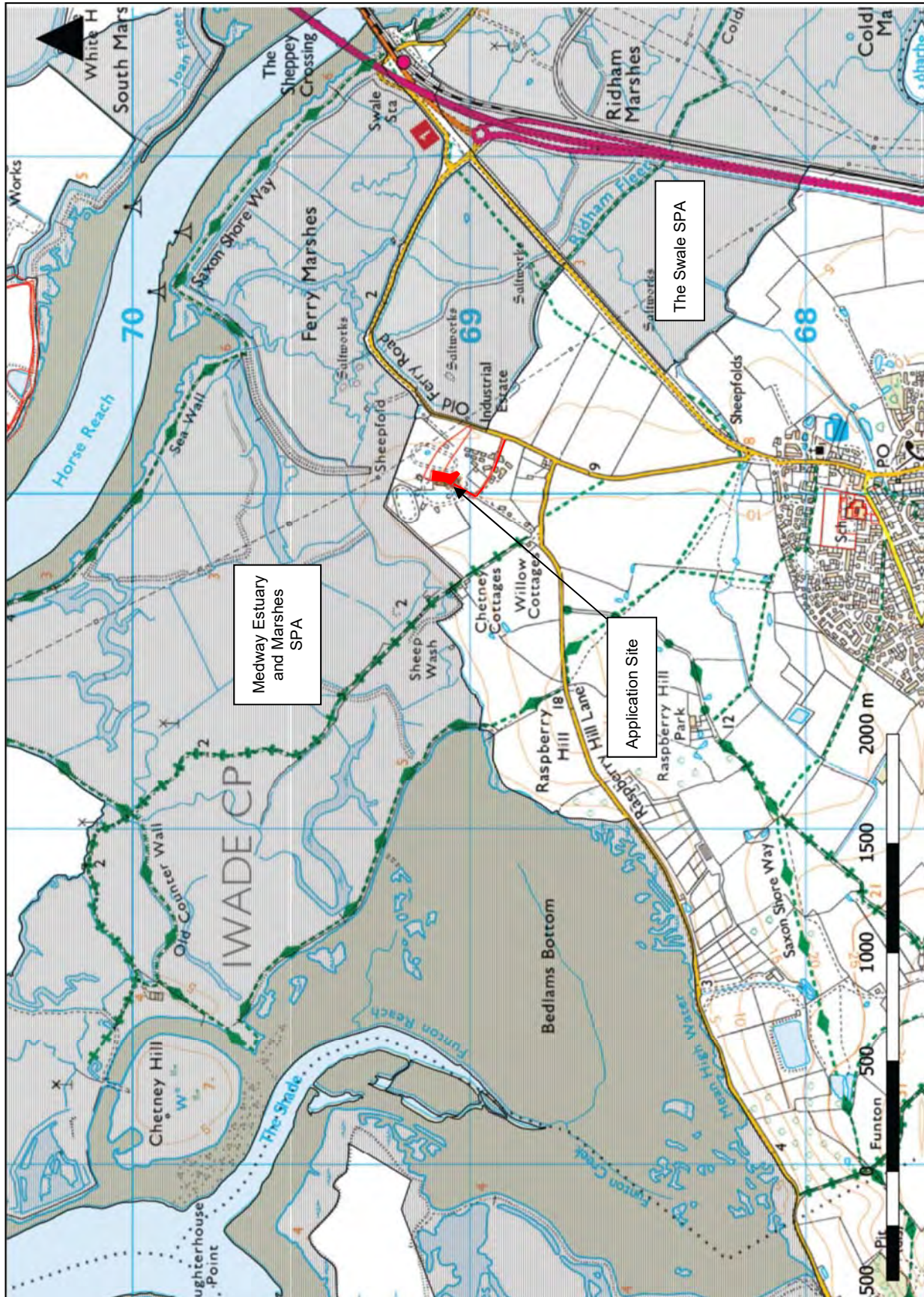
recyclables in containers, skips containing predominantly soils and brick rubble to be redirected to be dealt with at another facility, loaded vehicles to be covered and a mechanical wheel wash provided. Any fuel stored on site would be appropriately bunded. The site would not operate outside daylight hours and does not propose floodlighting. The only lighting on-site would be low-level bulkhead lights on stairs and at the entrance to site to facilitate safe exist. No floodlighting is being proposed.

SITE DETAILS

8. The application site is identified as Units 1 & 2 Marshbank Industrial Estate, Old Ferry Road, Iwade, Sittingbourne, Kent ME9 8SW. The map included below shows the application site in relation to the boundaries of the European, Ramsar and SSSI sites (which overlap). The site falls outside these designations. The Medway Estuary & Marshes SPA / Ramsar / SSSI surrounds the site on three sides to the north, east and west and at the closest point is 100m from the site. The Swale SPA / Ramsar / SSSI are located 500m further to the east (at the closest point).
9. The surrounding land uses included the Marshbank Industrial Estate and surrounding industrial activities (housing several local businesses). The Sittingbourne Speedway track is located to the north. A small number of residential properties are located to the south and west. Beyond the above, the surrounding landscape forms open countryside, chiefly in agricultural use. The industrial estate, speedway track and other surrounding land falls within a Scheduled Ancient Monument formed from a surviving World War II gun emplacement and the associated military camp.

REASON FOR AN APPROPRIATE ASSESSMENT

10. Whilst not within the designated sites the proposed development needs to be considered in the context of the Habitat Regulations. The changes proposed could alter the impact of the existing use such that the potential for an impact on the European Sites should be considered in the context of the mitigation measures that form part of the application.
11. An Appropriate Assessment has been prepared by the Council following the recommendations of Natural England and Kent Ecological Advice Service that without mitigation measures the development proposed could give rise to significant effects on the nearby European sites through the potential for the development to result in the contamination of ground and surface water resources impacting on water quality. The European sites are internationally important wetland sites designated predominantly for their wetland features such as: birds, invertebrates and vegetation. These features rely on high water quality and stable water levels. Natural England's advice recommends the proposals must demonstrate how negative impacts on water quality and water levels are avoided or mitigated.
12. The application, as amplified and amended, includes supporting information on the potential for impacts on ground and surface water, alongside drainage arrangements and other mitigation measures. This information, along with advice from Natural England, the Environment Agency, the County Council's Ecological Advice Service, Noise and Air Quality Consultants and Sustainable Drainage Team, can be used to inform the Appropriate Assessment.



EUROPEAN SITES POTENTIALLY AFFECTED

13. 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
Medway Estuary and Marshes SPA	130m	<p>ARTICLE 4.1 QUALIFICATION (79/409/EEC) During the breeding season the area regularly supports: Recurvirostra avosetta (Western Europe/Western Mediterranean - breeding) 6.2% of the GB breeding population (5-year mean, 1988-1992) Sterna albifrons (Eastern Atlantic -breeding) 1.2% of the GB breeding population (5-year mean, 1991- 1995) Sterna hirundo (Northern/Eastern Europe - breeding) 0.6% of the GB breeding population (Count as at 1994) Over winter the area regularly supports: Cygnus columbianus bewickii (Western Siberia/North-eastern & North-western Europe) 0.2% of the GB population (5-year peak mean 1991/92-1995/96) Recurvirostra avosetta (Western Europe/Western Mediterranean - breeding)24.7% of the GB population (5-year peak mean 1991/92-1995/96)</p> <p>ARTICLE 4.2 QUALIFICATION (79/409/EEC) Over winter the area regularly supports: Anas acuta (North-western Europe)1.2% of the population (5-year peak mean 1991/92-1995/96) Anas clypeata (North-western/Central Europe) 0.8% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Anas crecca (North-western Europe) 1.3% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Anas penelope (Western Siberia/North-western/North-eastern Europe) 1.6% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Arenaria interpres (Western Palearctic - wintering) 0.9% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Branta bernicla bernicla (Western Siberia/Western Europe) 1.1% of the population (5-year peak mean 1991/92-1995/96) Calidris alpina alpina (Northern Siberia/Europe/Western Africa) 1.9% of the population (5-year peak mean 1991/92-1995/96) Calidris canutus (North-eastern Canada/Greenland/Iceland/North-western Europe) 0.2% of the population (5-year peak mean 1991/92-1995/96) Charadrius hiaticula (Europe/Northern Africa - wintering) 1.6% of the population (5-year peak mean 1991/92-1995/96) Haematopus ostralegus (Europe & Northern/Western Africa) 1% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Limosa limosa islandica (Iceland - breeding) 12.9% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Numenius arquata (Europe - breeding) 1.7% of the population in Great Britain (5-year peak mean 1991/92-1995/96) Pluvialis squatarola (Eastern Atlantic - wintering) 2% of the population (5-year peak mean 1991/92 1995/96) Tadorna tadorna (North-western Europe) 1.5% of the population (5-year peak mean 1991/92-1995/96) Tringa nebularia (Europe/Western Africa) 2.6% of the population in Great Britain (No count period specified)</p>

		<p>Tringa totanus (Eastern Atlantic - wintering) 2.1% of the population (5-year peak mean 1991/92-1995/96)</p> <p>ARTICLE 4.2 QUALIFICATION (79/409/EEC): AN INTERNATIONALLY IMPORTANT ASSEMBLAGE OF BIRDS</p> <p>Over winter the area regularly supports:</p> <p>65496 waterfowl (5-year peak mean 1991/92-1995/96) Including: Gavia stellata, Podiceps cristatus, Phalacrocorax carbo, Cygnus columbianus bewickii, Branta bernicla bernicla, Tadorna tadorna, Anas penelope, Anas crecca, Anas platyrhynchos, Anas acuta, Anas clypeata, Aythya ferina, Haematopus ostralegus, Recurvirostra avosetta, Charadrius hiaticula, Pluvialis squatarola, Vanellus vanellus, Calidris canutus, Calidris alpina alpina, Limosa limosa islandica, Numenius arquata, Tringa totanus, Tringa nebularia, Arenaria interpres.</p>
<p>Medway Estuary and Marshes Ramsar</p>	<p>130m</p>	<p>A complex of rain-fed, brackish, floodplain grazing marsh with ditches, and intertidal saltmarsh and mudflat. These habitats together support internationally important numbers of wintering waterfowl. Rare wetland birds breed in important numbers. The saltmarsh and grazing marsh are of international importance for their diverse assemblages of wetland plants and invertebrates.</p> <p>Ramsar criterion 2</p> <p>The site supports a number of species of rare plants and animals. The site holds several nationally scarce plants, including sea barley <i>Hordeum marinum</i>, curved hard-grass <i>Parapholis incurva</i>, annual beard-grass <i>Polypogon monspeliensis</i>, Borrer's saltmarsh-grass <i>Puccinellia fasciculata</i>, slender hare's-ear <i>Bupleurum tenuissimum</i>, sea clover <i>Trifolium squamosum</i>, saltmarsh goose-foot <i>Chenopodium chenopodioides</i>, golden samphire <i>Inula crithmoides</i>, perennial glasswort <i>Sarcocornia perennis</i> and one-flowered glasswort <i>Salicornia pusilla</i>. A total of at least twelve British Red Data Book species of wetland invertebrates have been recorded on the site. These include a ground beetle <i>Polistichus connexus</i>, a fly <i>Cephalops perspicuus</i>, a dancefly <i>Poecilobothrus ducalis</i>, a fly <i>Anagnota collini</i>, a weevil <i>Baris scolopacea</i>, a water beetle <i>Berosus spinosus</i>, a beetle <i>Malachius vulneratus</i>, a rove beetle <i>Philonthus punctus</i>, the ground lackey moth <i>Malacosoma castrensis</i>, a horsefly <i>Atylotus latistriatus</i>, a fly <i>Campsicnemus magius</i>, a soldier beetle, <i>Cantharis fusca</i>, and a crane fly <i>Limonia danica</i>. A significant number of non-wetland British Red Data Book species also occur.</p> <p>Ramsar criterion 5</p> <p>Assemblages of international importance:</p> <p>Species with peak counts in winter:</p> <p>47637 waterfowl (5-year peak mean 1998/99-2002/2003)</p> <p>Ramsar criterion 6 – species/populations occurring at levels of international importance.</p> <p>Qualifying Species/populations (as identified at designation):</p> <p>Species with peak counts in spring/autumn:</p> <p>Grey plover, <i>Pluvialis squatarola</i>, E Atlantic/W Africa -wintering 3103 individuals, representing an average of 1.2% of the population (5-year peak mean 1998/9-2002/3)</p> <p>Common redshank, <i>Tringa totanus totanus</i>, 3709 individuals, representing an average of 1.4% of the population (5-year peak mean 1998/9-2002/3)</p> <p>Species with peak counts in winter:</p>

		<p>Dark-bellied brent goose, <i>Branta bernicla bernicla</i>, 2575 individuals, representing an average of 1.1% of the population (5- year peak mean 1998/9-2002/3) Common shelduck , <i>Tadorna tadorna</i>, NW Europe 2627 individuals, representing an average of 3.3% of the GB population (5-year peak mean 1998/9-2002/3) Northern pintail , <i>Anas acuta</i>, NW Europe 1118 individuals, representing an average of 1.8% of the population (5 year peak mean 1998/9-2002/3) Ringed plover , <i>Charadrius hiaticula</i>, Europe/Northwest Africa 540 individuals, representing an average of 1.6% of the GB population (5- year peak mean 1998/9- 2002/3) Red knot , <i>Calidris canutus islandica</i>, W & Southern Africa (wintering) 3021 individuals, representing an average of 1% of the GB population (5- year peak mean 1998/9- 2002/3) Dunlin , <i>Calidris alpina alpina</i>, W Siberia/W Europe 8263 individuals, representing an average of 1.4% of the GB population (5-year peak mean 1998/9-2002/3)</p> <p>under criterion 6. Species with peak counts in spring/autumn: Black-tailed godwit , <i>Limosa limosa islandica</i> Iceland/W Europe 721 individuals, representing an average of 2% of the population (5-year peak mean 1998/9- 2002/3)</p>
<p>The Swale Special Protection Area (SPA)</p>	<p>500m</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; <i>Avocet Recurvirostra avosetta</i>, 103 pairs representing at least 17.5% of the breeding population in Great Britain (RBBP 1996) <i>Marsh Harrier Circus aeruginosus</i>, 24 pairs representing at least 15.0% of the breeding population in Great Britain (Count, as at 1995) <i>Mediterranean Gull Larus melanocephalus</i>, 12 pairs representing at least 120.0% of the breeding population in Great Britain (RBBP 1996) Over winter; <i>Avocet 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) <i>Bar-tailed Godwit Limosa lapponica</i>, 542 individuals representing at least 1.0% of the wintering population in Great Britain (Count as at 91/92- 95/96) <i>Golden Plover 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) <i>Hen Harrier 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; <i>Ringed Plover 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; <i>Black-tailed Godwit 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) <i>Grey Plover 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)</p>

		<p>Knot <i>Calidris canutus</i>, 5,582 individuals representing at least 1.6% of the wintering Northeastern Canada/Greenland/Iceland/Northwestern Europe population (Count as at 91/92-95/96)</p> <p>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)</p> <p>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)</p> <p>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)</p> <p>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>
<p>The Swale Ramsar</p>	<p>500m</p>	<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: 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</p>

		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).
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CONSULTEE RESPONSES

14. The following consultee responses were received in the relation to the application and are relevant to this assessment.

15. **Natural England: No objection - subject to appropriate mitigation being secured.**

NE consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Medway Estuary and Marshes Special Protection Area (SPA), Ramsar site.
- damage or destroy the interest features for which Medway Estuary and Marshes Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- an appropriate assessment of proposed mitigation measures for the nearby designated site.

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

16. **Environment Agency: No objection to the change of use to the proposed waste management facility in this location.**

The EA advise that the development will require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12.

It also confirms that drainage arrangements associated with this development will also require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016, unless an exemption applies.

17. **Kent County Council's Ecological Advice Service: No objection – subject to the conclusions of an appropriate assessment.**

Protected/Notable Species

The EAS advise that a review of the current aerial photos and photos provided by the planning officer confirm the site is a mixture of hard standing/hard core, bare earth, sparse vegetation and rubble. The EAS understand that the site is currently being used as a vehicle depot and skip storage site and as such are satisfied that the site does not provide suitable habitat for protected/notable species.

Designated Sites

The site is within 200m of the Swale SPA/SSSI/Ramsar which have (in part) been designated for their wintering bird interest. Due to the distance from the designated sites when the EAS originally commented it raised concerns that the proposed works may have a negative impact on the designated sites due to an increase in noise, dust, lighting, pollution from both works

being carried out within the site and from vehicle movements to and from the site. The EAS accept that due to the habitats currently within the site the site does not provide functionally linked habitat (functionally linked habitat is habitat which is used by species for which a site has been designated but is not within the designated area). It notes that additional information has been submitted by the applicant to try and address earlier concerns.

From reviewing the planning statement and the additional information provided the EAS note the following:

- 22 HGV vehicle movements in and out of the site a day (no significant increase from current use)
- The materials to be sorted externally, dry recyclables would be separated from the general waste including cardboard, metals, plastics and timber.
- Working hours would require the need for some external lighting but no flood lighting would be used.
- Dust suppression methods would be used to minimise dust leaving the site.
- Surface water drainage would be into a sealed tank.

The EAS notes the advice of the County Council's Noise Consultants and Sustainable Drainage Team on the application as amplified and amended.

- Noise – The information submitted is sufficient and the noise levels from the proposed development are unlikely to result in a significant impact on the designated sites
- SuDS – The measures proposed for surface water drainage are appropriate to ensure the development will not result in polluted water entering the designated sites and adjacent habitat.

The EAS advise that the provision of that additional information has provided reassurance that the development would not result in a likely significant effect on the designated site and no further information is required prior to determination of the planning application.

Appropriate Assessment

Notwithstanding, the EAS advises that due to the need for measures to be implemented to avoid an impact on the designated sites an Appropriate Assessment is required.

From reviewing the submitted information the EAS consider that the AA should cover:

- Dust
- Surface Water Drainage.

Noise and lighting can be ruled out as it is satisfied that, following receipt of additional supporting information, no mitigation would be required to avoid a likely significant effect on the designated sites.

18. Kent County Council's Noise Consultant (Amey): No objection given the nature of the use and the context of the surrounding site, subject to a condition securing the preparation of a site management plan.

However, it notes the concerns regarding potential effects of the development on the adjacent SSSI/RAMSAR/SPA ecologically designated sites. Amey advise that there are no current guidance documents for assessing noise affecting ecological species. It notes that a noise levels of 55dB_{LAeq} and 85dB_{LAm_{ax}} are often used, however these controls based established ecological guidance and are most likely adapted from other guidance relating to noise effects on humans. It notes that experience shows that wetland/foreshore bird species habituate readily to steady noise, irrespective of level, and are generally disturbed by intrusion i.e. by humans, dogs etc. or by sudden loud noises, again, irrespective of noise level.

Amey draw attention to the conclusions of the noise assessment that the noise from the industrial estate (without the proposed use) is clearly audible in the SPA/Ramsar/SSSIs,

however that due to the nature of the proposed use the results show that the noise from the waste management activity would be inaudible in the context of the background levels. The calculated impacts of the development at the closest boundary of the designated sites would be 13dB below the lowest measured background noise level (21dB_A). The BS4142 assessment of the proposed development at the nearest residential properties demonstrate that the noise from the development would be 16dB below the lowest measured background noise level. In terms of BS4142, this rating demonstrates that there is unlikely to be a negative impact due to the waste management activity.

Amey confirms it is satisfied that, due to the location, limited scale and size of the operation, along with the limited additional number of vehicles accessing the site and the proposed preparation of detailed site management plan, noise would not be a significant cause for concern and no further noise assessment is required.

19. **Kent County Council's Air Quality Consultant (Amey): No objection, subject to the dust mitigation measures proposed by the application and the preparation of a site management plan being secured by condition.**

Amey recommend that, due to the location, limited scale and size of the operation, along with the limited additional number of vehicles accessing the site and the preparation of detailed site management plan, dust, pollution and odour emissions would not be significant and no further detailed assessments are necessary.

Concerning the nearby ecological designations, Amey recommend that the dust mitigation measures proposed by the applicant, alongside considerations referenced above, would ensure there would not be a significant impact from the proposals.

20. **Kent County Council's Sustainable Drainage Team (SDT): No objection to the development.**

The SDT note the proposed development boundary includes existing paved and hard standing. The site is not crossed by any flow paths. Surface water would appear to flow in a north-easterly direction. A sensitive site is located approximately 130 m to the northeast. The land falls 4m from the development area to the sensitive site boundary.

As with any waste facility, the expectation would be that appropriate surface water management is implemented in and around the proposed waste reception area. The applicant has indicated that the waste would be tipped into skips and sorted within a bay which has a concrete base and would have a drainage channel from which water will be directed to a sealed tank.

The proposed development provides mitigation to manage any excess surface water from the area where it may collect any potential pollutants. There do not appear to be any other significant changes to the access road or parking area which changes the level of risk associated with surface water management.

SDT recommend that based upon the description provided the proposed development would not appear to represent a significant risk to surface water drainage flood risk or water quality given the inclusion of appropriate mitigation.

ASSESSMENT

21. 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.

22. 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?
23. Further to the recommendations of the consultees included above only air quality and drainage are considered in this assessment. Information submitted with the application demonstrates that lighting, noise and vibration associated with the proposed development would not have a significant impact on the designated sites.

AIR QUALITY (DUST)

24. Dust deposition can have a detrimental impact on the composition and condition of habitats, primarily through localised dieback as a result of smothering of plants. Given the proximity of the site to the Swale SSSI/SPA/Ramsar, it is important to understand whether dust is likely to have a negative impact on the designated site and determine whether dust suppression methods are required to avoid dust impacting on the designated site.
25. The application proposes a small-scale outdoor waste management facility. In terms of the baseline, the application states that the site is already the operating centre for the applicant's skip hire business and associated vehicles and that the number of HGV movements per day would not be significantly different from the present use of the site. Waste would be tipped and sorted on site within a purpose-built waste reception bay, which would include integrated drainage and dust suppression systems with netting to prevent windblown litter. Once sorted waste material would be stored in containers for onward transportation in bulk. The application proposes 10 skip loads would be delivered to the site each day with a further vehicle relating to the exportation of bulked up waste from site. The application states that skips containing predominantly soils or hardcore / brick rubble would be directed directly to another licenced site to be recycled.
26. The application sets out a dust management strategy, which includes:
- Construction of a waste reception bay including concrete hardstanding with integrated drainage and the surfacing of the remainder of the site with road planings;
 - Installation and routine use of fixed dust suppression spray system to be installed on the sleeper walls surrounding the tipping area;
 - Minimising movement of materials;
 - Minimising drop heights;
 - Use of a water bowser to damp down other surfaces when necessary;
 - Storing of waste in roll on/roll off containers
 - Skip containing predominantly soils and brick rubble to be diverted for processed off-site;
 - Suspending works if weather is likely to make mitigation ineffective.
 - No material stored on site shall exceed the height of the sleeper walls hereby permitted.
 - Use of a mechanical wheel wash at the entrance to the yard.
 - All loaded vehicles to be covered.
27. The most recent response from Natural England raises no objections subject to the mitigation measures proposed being secured by condition.

28. Should planning permission be granted, I am content that the above avoidance and mitigation measures could be secured by way of a suitably worded condition. Taking account of the consultees responses above and the mitigation proposed, the small amount of waste that would be received, the low number of HGV movements, the types of waste that would be processed and the way these materials would be received and stored, officers are content that dust and air quality is not likely to have a negative impact on the Swale SSSI/SPA/Ramsar.

WATER QUALITY

29. The application proposes the management and sorting of the waste within a waste reception bay. The proposed bay is designed to contain and manage surface water discharge to the environment. The bay would consist of an impermeable concrete base surrounded with sleeper walls on three sides with netting on top (containing the waste materials within the bay). The concrete base would have a positive fall towards a drainage channel installed along the open side of the bay. This drain would discharge all surface water runoff from the area receiving waste into a sealed storage tank. The tank would include a silt trap, which would be regularly cleaned. The tank would be emptied on a regular basis with the contents disposed of at a suitable licenced facility.
30. The application proposes that the site would handle only inert waste. This would exclude receipt of any food or black bag waste. The application also states that no hazardous wastes would be received. Waste accepted would be sorted within the reception bay and transferred into a number of separate containers, including general (landfill) waste and wood storage containers positioned on the sealed hardstanding and further containers relating to storage of inert recyclables like cardboard, metal and plastic stored within the wider compound.
31. The application also includes the overnight parking of HGVs and the storage of empty skips within the wider compound. The surface of the site beyond the storage bay would incorporate the existing hardcore base topped with road scalplings / planings (recycled aggregate). This surface would be permeable. Given the existing use of the site there would be no significant change to the proposed function and drainage of this portion of this site. The application states that the applicant operates a modern fleet of vehicles that are maintained off-site by the manufacturer's main dealer. This reduces the risk of contamination from the storage of vehicles on site. Any fuel kept on site would be appropriately bunded / contained in accordance with Government regulations.
32. The Environment Agency's response raises no objection and highlights that the proposed waste use and associated drainage would be subject to the Environmental Permitting regime. This would control any emissions to the environment.
33. Should planning permission be granted, I am content that the proposed mitigation measures could be secured by way of suitably worded conditions. These conditions would include securing delivery and maintenance of the waste reception bay and associated drainage scheme, controls on waste types that could be accepted to those applied for, excluding putrescible or black-bag waste and all materials stored on site shall be positioned either within the waste reception bay or roll-on / roll-off containers as proposed.
34. I am content that the materials proposed for acceptance do not pose a significant risk of pollution of water resources, and measures to minimise contamination of the water resources can be imposed on any permission. Considering the advice received from the EA, Natural England and the County Council's Sustainable Drainage Team, I am satisfied that the proposed development would safeguard against impacts on the integrity of the European Sites from run-off and ground pollution if the planning condition(s) recommended above and below were included on any planning permission.

AVOIDANCE AND MITIGATION MEASURES TO BE SECURED THROUGH CONDITION

35. 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 development to be carried out in accordance with the submitted documentation and plans.
 - The overall throughput to be restricted to a maximum of 5,000 tonnes per annum (tpa);
 - The maximum number of HGV movements to be restricted to 22 per day (11 In / 11 Out);
 - Controls on the nature of the waste material that could be accepted to those applied for, excluding putrescible or black-bag waste.
 - The working hours to be restricted to 7:00 – 17:00 Monday to Friday and 7:00 – 13:00 Saturdays, with no working on Sundays or bank holidays.
 - The surface water drainage scheme proposed within the waste reception bay to be delivered before any waste is received and maintained in a good state of repair for the lifetime of the development.
 - The dust mitigation measures as set out in document titled 'Supplementary Information: Dust Management' dated 26 April 2019 (Reference: 2917), including those referenced above.
 - All incoming waste to be deposited within the waste reception bay with no waste destined for landfill to be stored beyond the waste reception bay, all other sorted waste shall be stored within the waste reception bay or the storage containers proposed. No waste shall be deposited or stored on the ground outside the reception bay.
 - No material stored on site shall exceed the height of the sleeper walls hereby permitted.
 - The submission of a site management plan reflecting the mitigation measures above and ensuring their continued implementation on site.
 - Any fuel, oil or chemicals stored on site, shall be stored in accordance with Government regulations.
 - The external lighting implemented on site shall be restricted to low-level lighting proposed within the application. No other external lighting or flood lighting to be installed without prior approval.
 - Site infrastructure, including hard surfaced areas, drainage channels and tank to be kept in good condition, inspected daily and any damage repaired immediately.

CONCLUSION

36. The application proposed is for a small-scale waste operation (5,000 tonnes per year / 22 HGV movements per day). This would not significantly alter the level of activity already taking place on site nor the in-combination impacts with the surrounding industrial activity and other land uses.
37. Following the advice received from consultees set out above, including Natural England, Kent County Council as the competent authority concludes that this project alone or in-combination would not have an adverse effect on the integrity of the Medway Estuary & Marshes SPA and Ramsar site nor the Swale SPA and Ramsar site, provided the works are carried out as set out in the application and the mitigation measures outlined above (amongst other matters) are secured by condition should planning permission be granted.