

2.2 REFERENCE NO - 15/505213/FULL		
APPLICATION PROPOSAL		
Part retrospective application for the importation of waste material and engineering operations to form landscaped bunds, construction of a 3 metre high Gabion basket stone wall, change of use of land and construction of van and HGV lorry park, access and construction of a roadside transport café for A3/A5 uses plus 24 hour WC and driver wash and shower facilities.		
ADDRESS Land adjacent to Thanet Way, Highstreet Road, Hernhill, Kent ME13 9EN		
RECOMMENDATION – Application Permitted.		
SUMMARY FOR REFERRAL TO COMMITTEE		
The application is recommended for approval. Members will recall that this item was deferred at the meeting on the 21 July to allow officers to prepare a new report to incorporate the additional information set out in the update report that had been tabled at the meeting.		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT P&S Property Services (South East) AGENT Mr. John Burke
DECISION DUE DATE 13/11/2015	PUBLICITY EXPIRY DATE 10/08/2016	OFFICER SITE VISIT DATE 09/11/2015
RELEVANT PLANNING HISTORY - Enforcement Notice the permanent stationing of a snack wagon – Appeal dismissed Enforcement Notice upheld with amendments		
App No	Summary	
14/500654/OPDEV	Enforcement Notice (as amended): Without planning permission the permanent stationing of a Snack Café and attached ‘lean-tos’ on the land. Appeal dismissed and the enforcement notice upheld as corrected. The period for compliance is 3 months	

1.0 BACKGROUND

As noted above, this application was reported to the Planning Committee on 21st July 2016, and the minute of the meeting included the following resolution:

“Resolved: That application 15/505213/FULL be deferred to allow officers to prepare a new report for a later meeting to incorporate the information in the extensive officer update.”

This report incorporates the key element from the tabled officer update and provides a general update in respect of the application.

2.0 DESCRIPTION OF SITE

The site is located on a vacant parcel of land, located on the south east side of the A299 Thanet Way at Dargate Interchange, north east of Plumpudding Lane and to the north west of the slip road to the A299. The site extends to one hectare and is bounded on the north-west boundary with the A299 by trees and vegetation and trees/hedgerow along part of the south east boundary of the site. The north east part of the site adjacent to the A299 is open and visible from the London-bound carriageway of the A299.

At present a snack wagon is located at the north eastern end of the site. This is the subject of a confirmed enforcement notice as noted above.

Directly to the south east of the site is a business park and freight terminal. A short distance to the north of the site on the coast bound carriage way of the A299 can be found a petrol filling station and retail shop, a Travelodge hotel and a café. On the London bound carriageway there is also a petrol filling station and a coffee shop premises.

To the northeast of the site are Highstreet Road and a number of residential properties.

3.0 PROPOSAL

The description of the proposal has been amended to more accurately describe the development as follows:

“Part retrospective application for the importation of waste material and engineering operations to form landscaped bunds, construction of a 3 metre high Gabion basket stone wall, change of use of land and construction of van and HGV lorry park, access and construction of a roadside transport café for A3/A5 uses plus 24 hour WC and driver wash and shower facilities.”

Café Building

The proposed café building is a single storey structure which measures 18.6 metres in length by 9.2 metres in width. The building would be designed with a mono pitch roof which measures 3.5 metres high at the front and 2.7 metres high at the rear. The roof projects beyond the front of the building by approximately two metres to create a canopy/overhang which is supported by “Y”-shaped struts. The overall height of the canopy is 3.65 metres above ground level. The building is shown to be constructed with brick to the elevations, but no details of the roof covering have been provided. The principal front elevation will be largely glazed with double doors to the café and a separate door from the outside to the toilets and shower facilities. Access to the toilets and showers will also be provided from the café.

The café will provide seating for 44 persons and includes a large kitchen area and store room. Access to the kitchen/store room is provided by a door in the rear elevation. Four high-level windows are also provided in the rear elevation.

Layout

The proposed layout of the development is shown on drawing PLM 0515-01 C sheet 1. The café building is located at the northern end of the site adjacent to the A299 and the on/off slip road from the A299. Parking for cars, light goods vehicles (vans) and motorcycle is to be provided adjacent to the café. Access to the café site will be via existing access from the slip road.

The HGV parking area is located on the southern part of the site and this will provide parking for 61 HGVs. Access to the parking area again will be via an access from the slip road.

4.0 PLANNING CONSTRAINTS

The application site is located outside of the urban area and village confines and within the defined rural area as defined by the adopted Local Plan, the immediate vicinity is characterised by a range of types of built development that are not typical of rural areas.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 Adopted Swale Borough Local Plan 2008

The following saved policies are relevant to the determination of the application:

Policy E1 - General development Criteria

Policy E6 – Countryside Protection
 Policy E9 - Protecting the Quality and Character of the Borough's landscape
 Policy E19 - Achieving High Quality Design and Distinctiveness
 Policy T3 - Vehicle Parking for New Development

5.2 Bearing Fruits 2031

The emerging Local Plan Bearing Fruits 2031 – Modification Consultation Document June 2016 is at an advanced stage and accordingly it is considered to be a material consideration and weight can be given to the relevant policies.

The following policies are considered to be relevant to proposal:

ST1 - Delivering sustainable development in Swale
 CP4 – Requiring Good Design
 DM7 – Vehicle parking
 DM14 – General development Criteria
 DM 19 – Sustainable Design and Construction
 DM20 – Renewable and low carbon energy

5.3 Promoting Sustainable Transport

Paragraph 5.2.1 states:

“Transportation will play a key role in the delivery of the Local Plan strategy. An efficient transport network which has good connectivity with the regional and national network is vital in helping the Borough to realise its economic potential. At the local level, easy access to employment, education, shops, services and facilities is important in creating inclusive and prosperous communities. The transport network needs to strike a balance between providing adequate capacity for current and future residents and business needs, whilst minimising any negative environmental, social and health impacts. This can be achieved through improvements to the capacity of the highway network and through provision of an integrated sustainable transport network.”

5.4 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)

National policy comprises the National Planning Policy Framework March 2012 (NPPF). This provides national guidance for Local Planning Authorities on plan making and in determining planning applications. A presumption in favour of sustainable development runs throughout the document and this presumption is an important part of both the plan-making process and in determining planning applications stating;

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural

resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. (Para 7 NPPF)”

One of the core principles of the NPPF is to “encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”.

In addition paragraph 31 states that:

“Local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development, including large scale facilities such as rail freight interchanges, roadside facilities for motorists or transport investment necessary to support strategies for the growth of ports, airports or other major generators of travel demand in their areas. The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user”.

5.5 DfT CIRCULAR 02/2013 The Strategic Road Network and the Delivery of Sustainable Development

Annex B paragraph B9 deals with the matter of road side services and states:

It is for the private sector to promote and operate service areas that meet the needs of the travelling public. New and existing roadside facilities are subject to the provisions of relevant planning legislation and regulation, which together set the framework within which local planning authorities would consider the planning proposals for such developments.

6.0 LOCAL REPRESENTATIONS

Nine letters of objection and one letter of support have been received from local residents/businesses which can be summarised as follows:

6.1 The key points raised by the nine objection letters are summarised as follows:

- Work started on six months ago when the land level was raised. The bund around the site perimeter has been raised causing environmental damage and destruction to habitat and environment.
- There is no access to the site.
- There is no mains drain in the area.
- The site lies in an area of Wealden clay and is notorious for flooding.
- Hedgerows and trees have been removed.
- No opening hours have been specified truck stops operate on a 24 hour seven days a week.
- The slip roads off A299 are dangerous already as speed goes from 60mph to nothing in a short distance. The layout of the roads is unsophisticated and not intended for large trucks on a constant basis.
- The roads leading to the site are unsuitable for HGV's and are already in poor condition additional traffic would exacerbate the problem.
- Unsuitable site with access problems. Will cause 24 hour noise pollution.
- Environmental litter is already a huge problem and is not addressed by the already existing commercial businesses which line the A299 at this junction.
- The surrounding hamlets and villages should be protected from huge trucks manoeuvring around on small narrow roads in the area.
- The site should be reinstated and landscaped.
- This is a retrospective application after a major land raise, strange how similar the shape that was made by the previous owner and that now in the new owner's plans.
- The increase in traffic will overwhelm the local road network.

- Wrong location, the A2 has the lorry problem not the A299.
- There are already two cafes at this junction, neither are trading well if this venture fails we will be left with another mess for the future.
- There continues to be an increasing number of car crashes along this section of the
- A299 and the road infrastructure would require substantial change in order to support such an application.
- The area is already strewn with waste from local food outlets and garages which litter the environment making it extremely displeasing to local residents.
- The environment around Yorkletts is also awash with illegal advertising signs giving the feel of an industrial area.
- The geography of the area has some outstanding beauty and natural richness. This is slowly being eroded by fields of plastic greenhouses and increased traffic continuously trying to make use of Dargate Road as a 'rat run' for lorries.
- Wraik Hill is treacherous with oversized lorries getting stuck and causing chaos and danger for local residents.
- Agreeing to such a sight would exacerbate the problems already in situ. The current owner has already blighted the landscape with his ranch style cafe and bulldozed an area of natural beauty into a flood stricken bog which is now an eyesore to us all.
- Please do not agree to this 'business' being created here. This applicant clearly contravenes the planning laws and any request should be denied on grounds of safety and inappropriateness to the local area.
- There have been a number of pile ups which has occurred on this section of road. The last being a week ago, involving lorries.

6.2 The key points in the one letter of support are as follows:

The proposal will be beneficial to the local area. The truck stop will not only improve the look of the site and local area but will prevent the need for trailers to be left unattended in the road outside KTS which is a danger to motorists.

Trailers are often left unattended too close to the junction with the flyover and lorry drivers' park half on the verges sleeping overnight in their cabs along the exact stretch of road where the truck stop is proposed. The area has no street lighting and these lorries are a danger to motorists having to brake heavily to avoid trailers sticking out into the road with oncoming traffic passing.

Currently drivers leave large quantities of litter including bottles of urine along hedgerows in the local lanes which I see as a larger problem than maybe increased HGV traffic to this already industrial area.

So provided there is a suitable waste management plan in place on the site that is policed by the staff, and suitable signage clearly preventing drivers from going off route through Dargate and Yorkletts villages I have no problem with the worry of HGV traffic.

The truck stop will provide jobs for the local village people.

7.0 CONSULTATION RESPONSES

7.1 Hernhill Parish Council Comments dated 2 August 2015

Objection on the grounds that the road access to the site is not of a suitable width for HGVs and gave the following comments:

“1. It is considered that the slip road access alongside Lychgate Services (Dargate) is not wide enough to enable two HGVs to pass in the same direction. Many HGVs currently park temporarily alongside the service station and there is currently nothing preventing these vehicles from parking in such a way. This slip road would be the main access to the proposed site from the A299 in a London bound direction.

2. The slip road access on the coast bound A299 is potentially too short for HGVs to slow down before taking the sharp left turn Highstreet Road in order to access the proposed site.

3. There are currently no detailed plans for signage advertising the proposed site. If planning permission was granted then the Parish Council would request that there is a requirement for advertising the lorry park at suitable intervals along the main roads (M2/A299/A2) and that local road signs are strategically placed to ensure that HGVs do not try to access the site using the country lanes (which are unsuitable for such vehicles).

4. The current proposal does not appear to have taken account of noise/light pollution to residential properties in the local area. The scale of the proposed site and the intended usage will generate a significant increase in traffic to the area and will therefore increase the noise. There will also be an increase in light pollution from both headlights on vehicles and the fixed lights at the proposed site.

5. The proposed site has been of concern to locals in recent years as the land level at the site has been raised and the neighbouring roads (Plumpudding Lane & Highstreet Road) have both been affected by flooding. Previously the site was at the same level as the existing neighbouring roads.

6. The Parish Council is not welcoming of the fact that the application is part retrospective after there has been a considerable amount of land-raising with no prior consent from any of the relevant authorities including Swale Borough Council and The Environment Agency.

7. If the Parish Council's objection is contrary to that of Swale Borough Council, then the Parish Council would like to request that this application be discussed at Swale Borough Council Planning Committee at a future date”.

Parish Council comments on revised proposal:

The Parish Council continue to maintain objection to the application, based on the reasons set out in their correspondence dated 2nd August 2015.

7.2 Environmental Protection Team Leader:

The potential noise issue was the only one of EH significance. As I am satisfied this is no longer an issue, there is nothing else of concern from my viewpoint.

In terms of the imported waste material, Mid Kent Environmental Health Service has advised that a Waste Acceptance Criteria (WAC) testing assessment and test analyses has been submitted in support of the application. To ensure there is no risk to human health from the imported waste material, no further development shall take place until a human health risk assessment has been submitted to and approved by the Local Planning Authority which demonstrates the suitability for use of the imported waste material for the end use.

Condition (4) below is proposed to address this matter.

7.3 Environment Agency:

Comments dated 16th July 2015

We have assessed the application as having low environmental risk. Therefore we have no comments to make.

The Environment Agency has been re-consulted on the proposal in light of the importation of waste material and the following comments dated 10 June 2016 have been received:

As explained, the East Kent Waste Team are not concerned with the final use of the site. However:

“Our concerns regard the importation of waste soils, stone and other construction demolition waste to the site without the required environmental permit, which is an offence. A notice has also been served on the land owners to remove the waste imported to site but this has not been complied with, which is also an offence. A case file is with our Legal Team awaiting assessment at this time.

The application proposals that you have supplied include retrospective application for the importation of waste material, and whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations.

The new proposals also seem to include further importation of possible waste (crushed concrete). Unless this material is produced in line with the Aggregates Protocol it will remain a waste and be subject to waste regulation, i.e. require an environmental permit or exemption to be used.

Our team would also be interested if waste has to be removed from site, as disclosed previously there may have been too much waste imported to site initially, and some may need to be removed. The Environment Agency would have an interest in the movement and disposal of this material”.

Further comments have been received from the Environment Agency as follows:

“that it is an offence to import waste material without a licence and as a consequence a Removal Notice has been served on the land owners to remove the waste imported to site. We are advised that the Notice has not been complied with, which is also an offence and the matter is with the Environment Agency Legal Team awaiting assessment.

Whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations”.

The Environment Agency has been contacted to seek clarification on their Legal Team’s assessment. The following response was received on 24 August 2016:

There has been no progress with the case file regarding the importation of waste at Pit Stop, the file sits with our legal team awaiting review.

Further contact was made with the Environment Agency on the 21 September 2016 to establish if any progress has been made in respect of the outstanding Removal Notice which was issued by the Environment Agency on the 11 June 2015. Clarification was also sought concerning the issue of the importation of waste material without the necessary Environmental Permit.

The Environment Agency responded by email dated 27 September 2016 as follows:

“The failure to comply with the removal notice is only a summary offence, this gives the prosecution 6 months after the act to prosecute, this time has now lapsed.

However the act of carrying out a waste activity without a suitable environmental permit is a statutory offence and not time limited. The case still sits with our legal team.”

7.4 Kent Police:

“I recommend that the café also be covered by CCTV and be adequately alarmed. Security shutters or internal security grilles could also be considered as an added layer of security, particularly if high levels of food stocks (for example) or monies taken for parking etc will be stored. It is unclear if the café will also be a 24 hour operation, if so, the staff may act as capable guardians for the site from a security aspect.

The inclusion of female and male changing and shower facilities is to be commended, it is unclear however if these will also be available 24 hours and how these facilities will be accessed and secured.

Good site management practices and processes should be in place to ensure safety and security to the site. The applicant may also wish to consider the use and standards of the British Parking Association Safer Parking Scheme.

I would welcome the opportunity to meet with the applicant to discuss security for this site, should the application proceed and I recommend that such a meeting become a planning requirement”.

Appropriate measures to minimise the risk of crime can be secured by condition.

7.5 Kent County Council Highways and Transportation:

“No objections in principle to this proposal since the access arrangements off the A299 are existing and suitable for all traffic movements. The new accesses to the site will need to secure 120m x 2.4m x 120m sight lines between heights of 1.05m and 2m.

The applicant will also need to liaise with KCC's District Manager for Swale to determine measures for verge protection outside of the site to prevent lorries and cars parking when the facility is full. I am satisfied with the internal layout and welcome the fact that spaces for disabled users and motorcycles have been considered.

Any gate or barrier should be set back a minimum of 17m from the public highway. The following conditions should also apply:

Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

Provision of measures to prevent the discharge of surface water onto the highway.

Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Use of a bound surface for the first 5 metres of the access from the edge of the highway. Subject to the above being appropriately addressed I do not wish to recommend the application for refusal.

KCC Highways and Transportation have provided further comments dated 30th June 2016 and they advise that *“they have no further comments to make”*.

7.6 Highways England: No objection.

7.7 Kent County Council SUDS Team:

“We are satisfied that the surface water generated by this proposal will be able to be accommodated within the site’s boundaries and discharged at a controlled rate without exacerbating the flood risk to the surrounding area.

At the detailed design stage we would expect to see further detail on how the system has been designed and how the flow rate will be controlled. It is likely that a series of baffles will be required throughout the filter trench system to slow the linear flow, and that a final flow control structure will be required at the point of discharge. It should be ensured that the system is designed to be able to discharge via gravity alone.

In light of the intended end-use of the site, a means of isolating the site’s drainage from the receiving watercourse network should also be provided to prevent any on-site spillages causing problems off-site.

We would therefore recommend that the following conditions are attached should your Authority be minded to grant permission to this development”

The condition suggested would read as follows:

(i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the recommendations within the report prepared by (RMB Consultants – October 2015), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted, critical, 100yr storm) can be accommodated on site before being discharged at an agreed greenfield rate.

(ii) Development shall not begin until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

Amended Proposal

“The advice provided in our previous response applies equally to this application although we made no objection to the original proposal (15/505213/FULL), we look forward to receiving the detailed drainage design”.

7.8 Lower Medway Internal Drainage Board

The site of this proposal is outside of the IDB's district but is thought to drain eventually to the Graveney/Seasalter marshes, and therefore has a potential to affect IDB interests. Other than to state on the application form that surface water runoff will be disposed of by means of soakaways there is no further information available. Should the Council be minded to approve this application it is requested that details of site drainage be made subject to a condition requiring separate LPA approval in direct consultation with Kent County Council. Should the use of soakaways prove impracticable I would be grateful to receive details of any alternative proposal.

7.9 Natural England

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

Statutory nature conservation sites – no objection.

We have not assessed this application and associated documents for impacts on protected species".

Comments on revised proposal:

"the advice provided in our previous response applies equally to this proposal although we made no objection to the original proposal".

7.10 Southern Water:

"There is no public sewer in the vicinity of the site. The applicant is advised to examine alternative means of foul sewage disposal".

7.11 Kent County Council Environment, Planning and Enforcement Division

Kent County Council has been consulted on the proposal and has responded by letter dated 14th July 2016 as follows:

"We are making this response given the potential for the pre-imported material, in the absence of a planning application to the Borough Council, to be considered as a waste management activity. The enforcement lead on this occasion however, has been taken by the Environment Agency in the form of a Waste Materials Removal Notice.

Informal officer level views were given on the first submission, reinforcing the need (as pointed out by a number of consultees) for the surplus and imported bulk materials on site to be either:

- (a) included and justified within the scheme in terms of land-raising and perimeter earth-bunding; or*
- (b) excluded from the set of proposals, with the scheme re-drafted at the original ground level*

The applicants have chosen option (a), which includes retention and incorporation of the surplus material, within an all embracing development package. This falls to Swale Borough Council to determine. However, there are aspects which KCC Planning Enforcement, as endorsed by the County Council's Regulation Committee, would wish to be considered in the balance at the Borough Council's Planning Committee on 21st July 2016.

Our initial officer level views were designed to assist in the shape, content and processing of the application. Foremost amongst these were the need for more explicit 'before and after' contours; detailed cross and long sections; land drainage profiles and the modelling of surface water run-off, particularly from the enhanced site boundary profiles, with water being directed

onto the adjoining and encircling public highway (owned by the County Council), with a water-handling capacity designed at the original (lower) site level, along with land encroachment, stability and related technical issues. It is understood that these have been raised with the applicant(s) and addressed through the help and advice of technical consultees.

A key material consideration in determining the revised planning application is the existence of the Environment Agency's (EA) Waste Materials Removal Notice, under section 59 of the Environmental Protection Act 1990 (as amended). This requires the imported material on site (within given parameters) to be taken off the land. The works were carried out in an uncontrolled way, with no apparent or prior ground work studies; pre-stripping / storage of available soils; control over the types of materials brought in; a placement regime (including compaction rates) and overall Waste & Resources Action Programme ('WRAP') compliance. All of these matters, including land drainage concerns have contributed to the EA action.

In support, it is clear that the proposed development is in no way dependent upon the materials imported before submission of the application. It could equally be carried out in practical terms, at the original ground level. This questions the need in the first place to elevate the landform, using imported and unspecified materials. There is also the convenience of ready primary / secondary road access for removal of the imported bulk materials in compliance with the EA's Notice.

The EA action to require the materials on site to be removed has been supported in principle by the County Council's Regulation Committee and is reinforced by Planning Enforcement Policy DM22 of the Kent Minerals & Waste Plan 2016 (as adopted by the County Council on 14th July 2016). This seeks to uphold the integrity of planning law. Members in particular are concerned that alleged contraventions should not unfairly advantage any land interests or prospective developer(s). It is recognised however that the overall planning determination is a matter for Swale Borough Council.

In determining the above and revised set of proposals, the County Council would request the Borough Council to fully consider the presence and purpose of the imported material on the site and satisfies itself that the material is reasonably necessary for the development to take place and that its retention represents sustainable development.

The County Council also recommends that you consider the potential impact of the EA pursuing its Material Removal Notice and the implications for the implementation of any grant of planning permission.

Should the Borough Council on balance decide to grant planning permission, the County Council (Planning Enforcement) would be available to assist in the drafting of technical conditions, covering amongst other matters, those areas itemised under paragraphs 05 and 06 above. In addition, we would appreciate being re-consulted on any further details and schemes required to be submitted by the applicants under any pre-commencement conditions.

Could you also please advise us of the outcome of the Committee Meeting and any progress in the case, particularly given our commitment to work more closely together along with the EA. This was agreed at our recent meeting in your offices, which was chaired by the leader of your Council in this and in his further capacity as the Chairman of the County Council's Regulation Committee".

7.12 Economy and Community Services Manager

No comment, from an economic development perspective.

7.13 Canterbury City Council

Canterbury City Council has been consulted on the application. No response has been received.

8.0 APPRAISAL

8.1 The key material considerations in assessing this application are as follows:

- Principle of the development;
- Importation of waste material;
- Impact on the character of the countryside;
- Design and layout;
- Impact on amenity;
- Highways Impacts; and
- Other matters.

8.2 Principle of Development

As stated above, the site is located outside of the urban area and village boundary and within the countryside wherein Policy E6 of the adopted Local Plan applies. This seeks to restrict development in the countryside to a limited number of categories, but none of these apply in this case. Furthermore, none of the other policies of the Local Plan are relevant to this proposal.

Having inspected the site, it is evident that the land has not been returned to agricultural use after the completion of the road works. The site is now isolated and is bounded to the north by the A229, to the south by the slip road to the A299 and the south west by Plumpudding Lane and is not connected to nor does it adjoin agricultural land.

Although the site is located within the countryside it is understood the land was used as depot site in connection with the widening of the Thanet Way. In the circumstances, the site is considered to be previously developed land in the context of Annex 2: Glossary of the NPPF.

As noted above the site is located immediately close to a cluster of transport related development including petrol filling stations, hotel, café and coffee shops which serve passing traffic on the A299 Thanet Way. Directly opposite the site to the south is a small business park/commercial. In the circumstances, and taking into account the general support for road side facilities as set out in paragraph 31 of the NPPF where the roadside facilities would support the safety and welfare of the road users it is considered that this site is a suitable location for this type of facility.

It should also be noted that the emerging Local Plan at paragraph 5.2.1 notes that transportation will play a key role in the delivery of the Local Plan strategy. An efficient transport network which has good connectivity with the regional and national network is vital in helping the Borough to realise its economic potential.

The provision of a transport facility as proposed can be considered to help improve the main highway network and help to contribute to the provision of an integrated sustainable transport network.

Notwithstanding the above, the importation of waste material to the site to facilitate the development in the absence of planning permission is an important and significant consideration in the determination of this application. This matter is considered in detail below.

8.3 Importation of Waste Material

A large volume of waste material including soil and hardcore has been imported to the site and it is understood that the waste material was first brought onto the site in late 2014 and work continued on the site through to Spring 2015. The matter has been the subject of investigation by the Environment Agency, Kent County Council and officers of this Council.

The original application submitted in June 2015, was for a truck-stop facility including a café but it did not include the importation of waste material or engineering operations in respect of the formation of earth bunds. This matter has been raised with the applicant and as a consequence the description of the proposal has been amended to include these elements as set out above.

Discussions with officers and the Environment Agency have continued and the concerns of the Environment Agency relate to the importation of waste material to the site without the required environmental permit. The Environment Agency has advised:

‘that it is an offence to import waste material without a licence and as a consequence a Removal Notice has been served on the land owners to remove the waste imported to site. We are advised that the Notice has not been complied with, which is also an offence and the matter is with the Environment Agency Legal Team awaiting assessment’.

The Environment Agency has commented further on the revised description of the application and have stated:

The proposals that you have supplied include retrospective application for the importation of waste material, and whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations.

Members will note at section 7.3 above that the Environment Agency has advised that the period for prosecution in respect of the failure to comply with the Notice has expired and cannot now be pursued. The matter of the importation of waste material without an environmental permit is, however, still under consideration by the Agencies legal team.

In terms of the suitability of the imported waste material, Members will note that the applicant has submitted a WAC (Waste Acceptance Criteria) report in support of the application.

The report concludes that:

“Elute analysis takes into account Heavy Metals and Organic compounds by analysing them through a simple leaching test. The tests show Elution on a ratio of 2:1 mg/l, 8:1 mg/l and cumulative 10:1 mg/kg. From the results displayed in appendix A, the samples collected and analysed show that they are well within the acceptable limits for inert waste, non- reactive hazardous waste landfill and hazardous waste landfill.

To conclude, the WAC Testing completed by Jack Thompson at Edge-Enviro Services was to the required British Standard, with all correct procedures followed. The results (Appendix A) for loss of ignition in the soil tested revealed to be well within the acceptable waste criteria. Furthermore, the Elute analysis for the heavy metals and organic compounds revealed that the soils tested were well within the acceptable waste criteria”.

The WAC report has been considered by Mid Kent Environmental Health Service and they have advised that subject to the imposition of a condition (see number 4 below) to require the submission to details to demonstrate the suitability of the imported waste material for the end use and public health, no objection is raised to the development in this respect.

Notwithstanding the fact that the Environment Agency has not taken any action following the service of the Removal Notice in June 2015, nor has any action been taken to date in respect of the importation of waste material without an environmental permit, the matter for consideration by the Borough Council concerns whether or not the principle of the development including the importation of waste material comprised in the engineering works (formation of the bunds and site levelling) is acceptable.

From the information available it is unclear whether or not that the proposed development is wholly dependent upon the importation of materials or whether or not it could be carried out at the original ground level. If it is assumed that the development or at least the vehicle parking area could have been constructed and carried out at the original ground level with relatively minor land raising/levelling works, it would not be unreasonable to assume that some material, albeit a relatively small quantity may need to be imported. However, it does appear to be reasonably clear that that a much larger quantity of material would need to be imported to the site to create the landscaped bunds to enclose and screen the site.

The enclosure of the site through the construction of landscape bunds is considered to be an appropriate means of mitigating visual impact arising from the development. Members will be aware that the creation/formation of landscaped bunds is a tried and tested method of creating effective means of landscaping, thereby ensuring a development assimilates in a positive way with its surroundings, particularly in the case of larger scale or more sensitive forms of development.

The importation of waste material by the applicant cannot be condoned in any sense by the Borough Council. However, having regard to the above, and on the basis that the location of the development is considered to be acceptable, the principle of the importation of inert waste material to facilitate the construction of landscaped bunds is on balance acceptable. Notwithstanding the above, precise details of the height and width of the bunds and the existing and proposed site levels are required before any further development commences. Details of which will be secured by conditions as set out below.

8.4 Impact on the character of the countryside;

It is clear that the proposal will result in a change to the character of the site and the immediate surrounding area, but as already noted, the site is located close to a cluster of transport related development including petrol filling stations, hotel, café and coffee shops which serve passing traffic on the A299 Thanet Way. Also directly opposite the site to the south is a small business park/commercial site.

The site is contained and bounded by highways on all of its boundaries and it is also partly enclosed from the London bound carriage way of Thanet Way by the existing vegetation and the trees on the boundary with the highway, and also by the earth bunds which have been created. The north eastern part of the site is more open and can be seen from the Thanet Way.

Whilst it is clear that there would be change to the character of the area, it can be argued the site is well related to the highway network and this facility would add to the existing cluster of transported related developments. Furthermore due to constrained nature and location of the site it would not encroach out on open countryside and would not cause harm to the rural character of the area.

External lighting can have a significant impact, not only in the immediate locality but also from some distance from the site. In this case the Thanet Way and the Dargate interchange are illuminated by street lighting and there is also illumination at many of the transport and business developments in the area. The area therefore is already subject of highway and other lighting and it is considered that any additional lighting arising from the development will not have such a harm impact to justify refusal of planning permission on this ground. However,

notwithstanding the lighting shown on the submitted drawings it is recommended that the precise details of external lighting is secured by condition to ensure that the development does not add unnecessarily to the level of lighting in the area or cause harm to residential amenity.

8.5 Design and Layout

The design and layout of the scheme is functional and practicable and is considered to be acceptable in these terms. The submitted drawings include sections through the site and the landscaped bunds and proposed Gabion basket stone wall. The general details are considered to be acceptable, but further details of the existing ground levels, proposed finished ground levels including the existing bunds and the proposed bunds and Gabion basket stone wall are required. It is suggested that the above details can be secured condition and an appropriate condition is suggested.

The design of the café building is simple and functional. Subject to the use of appropriate materials for the external surfaces of the building it is considered that the design is acceptable and there will be limited impact on the character of the area.

The landscaping of the site/development is a fundamental issue and will help ensure that the development assimilates with its surroundings in such a way that the rural character of the area is not harmed. The submitted drawings include illustrative landscaping proposals which suggest that the site will be screened and have limited impact on the character of the area. In order to secure a high standard of landscaping and to ensure that the development has a minimal impact on the character of the area, full details of landscaping are required. This can be secured by appropriate condition as suggested.

Members will note that a gatehouse is shown on the submitted site layout drawings, but no details of the gatehouse have been submitted. It is appropriate therefore to require details of the gatehouse to be secured by condition.

8.6 Impact Residential Amenity

The site is located approximately 160 metres from the closest neighbouring residential properties in Highstreet Road and the site is generally screened from view from those properties by the existing trees and hedgerows.

Having regard to the location of the residential properties relative to the existing commercial facilities on the A229 Thanet Way, which are approximately 60 metres distance from the closest houses in Highstreet Road it is considered that the proposal will have no additional impact on the residential amenity of the residential properties in Highstreet Road such to justify the refusal of planning permission on this ground.

As set out at paragraph 7.2 above, the Environmental Health Manager raises no objection.

8.7 Highway Impacts

Local concern has been raised regarding traffic generation and in particular HGV movements. The application has been assessed by Kent County Council Highways and Transportation and it has been confirmed that no objection is raised in principle to the proposal since the access arrangements off the A299 are existing and suitable for all traffic movements subject to conditions. It is also confirmed that the internal layout is acceptable and it is noted that spaces for disabled users and motorcycles have been considered.

Highways England has also advised that they raise no objection to the proposal and Members will note that the A299 is not a key network, which is limited to strategic roads such as the A2 and M2.

8.8 Other Matters

Matters relating to surface water drainage and foul drainage are capable of being resolved by conditions and Members will note that appropriate conditions have been recommended.

9.0 CONCLUSION

9.1 This is clearly a case that has generated a significant amount of public interest and objection, much of which appears to some extent to have resulted from the importation of waste material to the site in advance of the submission of this application. This action cannot be condoned in any sense, however, having regard to all of the above and taking into account the general support for road side facilities as set out in paragraph 31 of the NPPF, where the roadside facilities would support the safety and welfare of the road users, it is considered that this site is a suitable location for this type of road side facility.

9.2 For the reasons set out above and subject to the suggested conditions, it is considered that the development will not cause significant harm to the character of the area and the wider countryside.

10.0 RECOMMENDATION Grant Planning Permission subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) No further development shall take place until details of the existing ground levels and proposed finished ground levels including the existing bunds and the proposed bunds and Gabion basket stone wall have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (3) No further development shall take place until the details and quantity of any material to be removed from the site as required by condition (2) have been submitted to and approved by the Local Planning Authority and any such material to be removed from the site shall be disposed of at a Licenced waste site.

Reason: To ensure a satisfactory appearance to the development and in the interests of public health and to ensure that these details are approved before further works commence.

- (4) No further development shall take place until a human health risk assessment has been submitted to and approved by the Local Planning Authority, which demonstrates the suitability for use of the imported waste material for the end use. The Soil Guideline Values for commercial use shall be referred to. In the event of the human health risk assessment failing, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority and the remediation shall be completed to the satisfaction of the Local Planning Authority before the development commences. This condition shall not be discharged until the approved remediation scheme has been implemented and a closure report has been submitted to the Local Planning Authority.

Reason: In the interests of public health and to ensure that these details are approved before further works commence.

- (5) No further development shall take place until written details and samples of the materials to be used in the construction of the external surfaces of any buildings including window details have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (6) No further development shall take place until written details and samples of the materials to be used in the construction of the hard surface landscaped areas have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (7) No further development shall take place until details to secure 120m x 2.4m x 120m sight lines between heights of 1.05m and 2m have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved details and maintained at all times thereafter.

Reason: In the interests of highway safety and to ensure that these details are approved before further works commence.

- (8) Any gate or barrier should be set back a minimum of 17m from the public highway.

Reason: In the interests of highway safety.

- (9) Notwithstanding the details shown on drawing PLM 0515-01 C Sheet 1 and 2 no external lighting of any description shall be erected or installed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

- (10) No further development shall take place until details of the gatehouse have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: No such details have been submitted and to ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (11) The areas shown on drawing number PLM 0515-01 C sheet 1 as vehicle parking and turning space shall be surfaced, including a bound surface for the first 5 metres of the access from the edge of the highway, and drained before the use is commenced or the premises occupied. Thereafter these areas shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that

Order), shall be carried out on that area of land or in such a position as to preclude its use for these purposes.

Reason: Development without provision of adequate accommodation for the loading, off-loading and turning of vehicles is likely to lead to such activities inconvenient to other road users and detrimental to highway safety and amenity and to ensure that these details are completed before further works commence.

- (12) No further development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based on the recommendations within the report prepared by (RMB Consultants – October 2015), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted, critical, 100yr storm) can be accommodated on site before being discharged at an agreed greenfield rate.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions and to ensure that these details are approved before further works commence.

- (13) No further development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions and to ensure that these details are approved before further works commence.

- (14) No further development shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter at all times.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (15) No further development shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

- (16) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (17) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity."

- (18) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (19) During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

- (20) No further development shall take place until details of parking for site personnel/ operatives/visitors have been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents and to ensure that these details are approved before further works commence.

- (21) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of highway safety and convenience.

- (22) No further development shall take place until adequate precautions and details have been submitted to, and approved in writing by the Local Planning

Authority to guard against the deposit of mud and similar substances on the public highway and shall be retained throughout the construction of the development.

Reasons: In the interests of amenity and road safety and to ensure that these details are approved before further works commence.

- (23) No further development shall take place until details of foul drainage have been submitted to and proved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of public health and to ensure that these details are approved before further works commence.

- (24) The development hereby permitted shall incorporate measures to minimise the risk of crime. No further development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of Security, Crime Prevention and Community Safety and in accordance with the guidance within The Kent Design Initiative (KDI) and protocol dated April 2013.

- (25) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

INFORMATIVES

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact Kent County Council Highways and Transportation to progress this aspect of the works prior to commencement on site.

The applicant will also need to liaise with Kent County Council's District Manager for Swale to determine measures for verge protection outside of the site to prevent lorries and cars parking when the facility is full.

2. Any feature on this site capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' (unless it shown by the EA's mapping to be a designated 'main river'). The applicant should contact KCC prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require the formal written consent of either KCC.

3. Southern Water's current records do not show any public sewers to be crossing the site. However, due to the changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2 SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.