

APPENDIX 1

Application No: Y14/0850/SH

Location of Site: Airport Cafe Ashford Road Sellindge Kent
TN25 6DA

Description of Development: Retrospective application for a change of use to lorry park incorporating extension of existing parking area; and retention of two mobile units for toilet and shower facilities.

Applicant: Mr G Morgan
46 Ripley Road
Ashford
Kent

Agent: Mr AJ Scott
Forest House
Malthouse Lane
Warehorne
Ashford
Kent TN26 2EL

Date Received: 28.07.14

Date of Committee: 14.07.15

Expiry Date: 26.09.14

Officer Contact: Mr John Macauley

RECOMMENDATION:

- a) That planning permission be refused for the reason(s) set out at the end of this report
- b) That the applicant be given a period of one month to cease the use of the site
- c) 1. That if the use does not cease within the required period an Enforcement Notice be served requiring the cessation of the use.
2. That the Head of Planning and Environmental Health be given delegated authority to determine the exact wording of the Notice.
3. That the period of compliance with the Notice be one month.
4. That the Head of Democratic Services and Law be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

1.0 THE PROPOSAL

- 1.1 This application seeks retrospective permission for an extension to the existing car and HGV truck parking facilities at the site, to be used for an extra 15 lorry parking spaces. The whole site has long been used as a mixed use for a cafe with associated parking; lorry parking to the front of the site; and industrial uses to the rear which comprised car repair/scrap/paint spraying uses. The parking area outside this application site is not marked out for lorry parking and as a result lorries park where space is available. The extension of the parking area has taken place over land at the rear of the overall site that was previously used for a vehicle scrap business. Extra hard standing has been provided to accommodate extra HGVs. The application also seeks the retention of two mobile units used for toilet/washroom facilities in connection with the use.
- 1.2 The site is intended to accommodate drivers and their vehicles overnight to provide a rest area. It is proposed that the site is open 24 hours a day; however it is normal for the majority of lorries to arrive between the hours of 4pm and 11pm and subsequently leave again between the hours of 5am and 9am.
- 1.3 The application has been supported by vehicle tracking plans as well the reports and studies which are listed and summarised below:

Design and Access Statement – A review of the development proposal and rationale behind the use proposed.

Transport Statement – Considers all traffic and transport issues and evaluates the likely vehicle movements and compares this to other permissible employment B class uses of the site.

Ecology Survey – A separate survey which investigates potential habitats and protected species that may be present upon the site.

Contamination Risk Assessment

2.0 LOCATION AND DESCRIPTION OF SITE

- 2.1 The application relates to the rear northwestern section of a larger site which contains the Airport Cafe and other uses. The overall site has an area of approximately 0.2 hectares. It is located off the main A20 between Junction 11 of the M20 and the village of Sellindge. It is a secluded site surrounded on three sides by fields and is very well screened by vegetation. It consists of a cafe known as the Airport Cafe to the south east of the site; a large expanse of hard standing for parking used by customers to the cafe as well as HGVs to park overnight on the remainder of the southern half; and to the north east there was a mixture of car/ scrap related businesses that had existed for many years. Some of these businesses have ceased and an area in the north western section where cars were stored/ taken apart for scrap has been replaced with hard standing for extra HGV parking. It is this area which is the subject of this application. The WC and washing facilities for

drivers are along the eastern boundary of the application site adjacent to an industrial building.

2.2 Prior to the commencement of this current use the overall site was, and in part still is, used for car related businesses including those for paint spraying; storage; and dismantling for scrap. Although this has never been regularised via a planning application or certificate of lawful use application, the use of the site for scrap and car related activity was accepted to have been in existence for some time when the site was assessed as part of an officer's report into the 2009 application to redevelop the site for light industrial and storage units. HGV parking also takes place to the front of the site but is not subject of this application. Although there is no planning history for the use of any part of the site for lorry parking, it appears that the parking area to the front of the site has also used for HGV overnight lorry parking in connection with the use of the Airport Cafe for many years. As such it appears likely that the use of the front part of the overall site for lorry parking has become lawful.

2.3 The site lies within an area of archaeological potential.

3.0 RELEVANT PLANNING HISTORY

3.1 Y09/0871/SH - Erection of 9 light industrial units (Class B1) and storage (Class B8), with associated parking following the removal of existing units and scrap yard. Approved. Foundations have been put in for the first unit

4.0 CONSULTATION RESPONSES

4.1 Stanford Parish Council

Support subject to the following concerns

1. There should be plug-in facilities for refrigerated lorries and the noise caused by this type of lorry could be detrimental to residents in the surrounding area.

2. We consider that methods of clearing accidental spillage are not good enough, especially in wet weather as run-off could pollute the River Stour.

3. There is no mains connection (septic tank only) with regard to showers and toilets. We note from the application that this lack will be addressed in the future, and it must be implemented.

4. Lighting to be kept to a minimum with regard to light pollution, and the barbecue area should be screened.

Request application be called in.

4.2 Sellindge Parish Council

Comments dated 10th September 2014

SEWERAGE

- The use of two 4,500 litre tanks in series (believed to be Clargester sewerage digester units) causes concern. They are designed to work on their own. There are concerns that having them in series may cause them to malfunction.
- If connected by the usual 4in piping, there are concerns that with the amount of possible usage, these pipes will not be able to cope.
- One of these units is designed to serve a four bedroom house, with 35+ lorries, this is the equivalent of at least 8.75 four bedroom house, plus some of the vehicles will have passengers.

LORRY PARK DRAINAGE / RUN OFF

- There are great concerns that not enough attention has been paid to the drainage / run off of the lorry park itself. There are no safeguards in place to deal with any major incident, as a result of spillage. Members of the Parish Council have observed that at times there are tanker HGV's parked up, which may well contain hazardous or even toxic materials.
- If one of these tankers were to get compromised, leading to the tanker being ruptured, this could well lead to a major environmental incident, both in the site and in the village of Sellindge, as the ditch drainage from the site leads to the East Stour River, which is only a matter of approx. 500m away, with the village being downstream.
- There are concerns as to using road grindings as part of the hard standing, if there was a significant diesel spillage this could well result in Heavy Oil Pollution. The Parish Council would like to draw your attention to Environment Agency Incident number 208396, which happened in 20036, in Swan Lane, Sellindge, where there was “**significant damage to the ecosystem, and damage to ground by oil and fuel**”. This happened on some ground, which has just been developed. It was known that a considerable amount of road grindings had been buried on site, and the developer was supposed to remove, but did not. There was an incident where an oil central heating pipe had become ruptured, and around 1000 litres of central heating oil leaked into the ground and came into contact with buried road grindings (planings), resulting in Heavy Oil Pollution due to the reaction between the central heating oil (which is basically pink diesel) and the road grindings.

This significant pollution incident was just caused by central heating oil, reacting with road grindings (planings), which is the same material used for the hard standing at the lorry park.

The clear up for this incident took approximately two years. In fact the dwellings concerned, are more or less unsaleable as it cannot be confirmed whether there is any road grinding (planings) under them.

- In the **ecology statement** it states

“Were there to be an unfortunate accident and an oil spillage, the area of the car park that were to be affected could simply be graded off and polluted material disposed of off-site to licensed dump and the surface re-made by simply adding further hoggin and planings to match”

However this simply grading off would have to be done extremely quickly, within hours, as the oil will react with the road grindings (planings) very fast. There are grave concerns that if any spillage got into the ditch at the back of the site, the East Stour River could quickly be contaminated. The East Stour River passes through Sellindge at the bottom of Barrow Hill. Looking up the stream from the bridge at Barrow Hill you can quite often see Brown Trout and the people of The Cedars have their private waterside garden, where residents report often seeing Kingfishers.

The East Stour River looking down stream, here the river is shallower, but this is where the children of Meadow Grove and the wider community play in the river, and catch bullfish and minnows.

Were a diesel tank of a lorry was to be ruptured, there would be no stopping the escape of fuel, if it was a twin tank, both tanks would be compromised. The average tank is around 400 litres, but some can be even larger, up to 1000 litres.

FIRE RISK

- We had a report from a concerned Barrow Hill resident (who is a Police Officer). He had gone up to the Airport Café on a Sunday, where he counted more than 60 trucks parked up. The way they were parked, if there had been a fire, there would have been no chance of stopping other trucks getting consumed with the fire. If it was to be a truck in the midst of the lorry park, there would be no chance of moving it or the surrounding lorries. The nearest Fire Hydrant is Hydrant 24514 which is located on the A20 at the bottom of Otterpool Lane.

WELFARE UNITS

- There are concerns as to whether the Welfare Units are up to standards. We would like Shepway Environmental Health to check the units to ensure, they are up to standard.

ANTI-SOCIAL BEHAVIOUR

- Over the years since the site has been operating as a lorry park, there have been vast reports to the Parish Council, about lorry drivers, coming down into Sellindge to the Co-Op and purchasing packs of beer and bottle of spirits, (this has been confirmed by the employees of the Co-Op), they then make their way back to the Airport Café. The big problem is while they make their way back, they start drinking, which is resulting in lager cans and various bottles being thrown into the gardens of Barrow Hill – This could be considered as a loss of Human Rights to the residents of Barrow Hill.

There are concerns with the amount of alcohol being bought, as to are some of the drivers over the limit when they leave the lorry park in the early morning.

- The 2009 application there was a survey done by SLR which recommended certain works are done, and that no drainage into the subsoil be allowed, this was backed up by the RPS who are consultants to Shepway Environmental Health. In turn various conditions were passed, and there is no evidence that conditions 11 and 12 have been dealt with. Especially condition 12 which states no infiltration of water!

Comments dated 14th October 2014

CONTAMINATION RISK ASSESSMENT

CONTAMINATION RISKS

- The use of old road grindings is no less of a problem than new road grindings
- Although as said the area of contamination could be removed and replaced within hours. However if this was done in this manner, there is no way you could be sure that all the contamination had been removed. The area would have to be cordoned off and samples taken for testing, and the results received before the area could be made good.
- The cause of the spillage would have to be completely stopped before the affected truck was moved; otherwise the contamination would spread to other areas.
- If this happened on a Sunday, when trucks are sometimes parked nose to tail. This could present an even worse problem.

RISK AREAS – TRUCK PARKING AREA

- To say that drivers are responsible, and will attend with the help of the parking manager to deal with a spillage. The vast majority are, however there is nothing to stop a driver leaving, having not dealt with the matter, there are no proper marked parking bays, so the parking manager has no real way of knowing who has parked where. It may be the case that the driver is unaware of the problem, and with no knowledge of who parked where, no way of letting him know.

SURFACE WATER RUNOFF

- The gullies and petrol interceptor are welcome improvements. However the Parish Council feel that a gully is also needed at the edge of the original truck parking area, and then one down the bottom of the site, this would speed up the water runoff from the top of this site.

SEWAGE TANKS

- The conversion of one of the cesspool tanks with a Mantair TCU 2.1 is also a very welcome improvement. But signs must be in place to prevent the wrong cleaner being used in the toilets, which can cause these systems to fail.
- Would it be at all possible to see the maintenance contract, and EA licence?

OTHER COMMENTS

ECOLOGY

- As mentioned in our first comments, the Parish Council is still concerned on this matter.

FIRE HAZARD

- As mentioned in our first comments there are concerns, in the event of a fire breaking out.

WELFARE UNITS

- The Parish Council would like the Shepway Environmental Health to go and inspect the welfare units and do a proper report, not just a memorandum.

ANTI-SOCIAL BEHAVIOUR

- There are still the concerns as to the anti-social behaviour that happens in Barrow Hill as mentioned in our first comments. But we are still receiving concerns from residents of Barrow Hill concerning groups of drivers making their way back from the Co-Op with crates of beer and bottles of spirits, some drinking as they go. With the recent tragedy on the M26 involving a foreign driver who was drunk at 9:30am this must be a warning!

OVERPARKING

- There have been reports from people visiting the car repair workshop which is situated at the back of the Airport Café site that they have counted in excess of 40 trucks parked up.
- It is often the case that trucks are parked in areas that are not marked for parking. To the right of the café.

OVERFLOW

- Since the Airport Café has become so popular, once full we now get trucks parked all down through the village of Sellindge, where there is no toilet facilities whatsoever. The large lay-by at the top of Barrow Hill is now on most nights full with around 10 trucks, all pointing towards Ashford, so they will all go through the village of Sellindge.

TRUCKS GOING THROUGH SELLINDGE

- Since the trucks have been parking at the Airport Café in such large numbers, there has been a significant increase to the amount of trucks coming down through the village of Sellindge. The amount and the vibration is beginning to have an adverse affect on some of the cottages (some of which date back to the early 1700's) in Barrow Hill.

Sellindge Parish Council recommendations in the event that Retrospective Planning Consent is approved

- **Tankers** – to ban Taker Lorries from using the site.

A Tanker getting ruptured is the worst case scenario, not having them on site eliminates this problem.

- **Parking Bays** – To have all the parking bays marked and numbered
Parking bays could be numbered easily by using marker posts
- **Drivers** – Drivers to book in and out
When a driver enters the site they should book in and are given an allocated bay to park in. When booking in full details should be recorded; Reg number, company and load details. This way if a driver leaves and a spillage is noted they could quickly be traced, with any costs for repair for the area being passed onto the company. When they book out the parking manager should inspect the parking bay for any signs of a spillage.
- **Environmental Protection**
Proper robust Environmental Protections should be put in place and monitored, to protect the countryside.
- **Temporary** – temporary permission
As this is temporary, until the agreed development of 2009 Y09/0871/SH for 9 light industrial units can go ahead, if permission was to be granted it should only be granted for a period of up to 3 years. Then reviewed.
- **Turn Left**
A planning condition, stating that all trucks MUST TURN LEFT when leaving the site and travel to junction 11 to rejoin the M20

CLOSING STATEMENT

The Parish Council, are disappointed that the comments made to them by a Shepway Councillor (who is actually on the Planning Committee) and an officer of Shepway Planning Department, appears to show that this planning application has been pre-determined, by them at least, without the valid concerns of Sellindge Parish Council being fully considered. It is hoped that a full debate can take place on the application at a full Development Control Committee where a representative of Sellindge PC can attend and address members.

Comments dated 12th November 2014

PARKING ISSUES

The site plan to the application states 21 truck parking spaces and according to the application an extension of at least 8. We can only count 19 current spaces, 11 backing on to the west edge of the site and 8 backing on the north edge of the site. We can accept that the 11 spaces backing on to the west edge have been there for many years, mind you these do not have proper planning permission for lorry parking. However the 8 spaces that back on to the north edge of the site have not been there for many years. They cannot have been as this area was the site of the vehicle scrap yard

which only closed in 2012 so therefore these 9 spaces are new and do not have planning permission.

VEHICLE PARKING

Section 10 – in this section the applicant states that the HGV parking spaces proposed, including those retained is 19. However the actual being parked daily is 50+ and ever more over the weekend. At weekends the lorries are parked in as tight as possible.

EMPLOYMENT

According to the application the applicant states that there is only 1 part time employee. The Parish Council find this totally unacceptable, as it leaves the site drastically under staffed. Having just 1 part time employee, there is no way that spillages or other emergency issues could be tracked.

As mentioned in our previous comments lorries need to be booked into a certain space and booked out, there is no way that this can be done.

HOURS OF OPENING

In the application it states that the site is open 24 hours and 7 days a week (24/7). The Parish Council feel there would be a need for at least 4 to 5 full time employees to operate the site safely.

HAZARDOUS SUBSTANCES

This section asks if there will be any hazardous substances stored on the site, the applicant has treated this as not applicable.

However if a tanker is parked there from Friday afternoon to Monday morning, with a tanker full of hazardous substance, then this hazardous substance has been stored on site.

It has been observed at various times, that tankers do not display any legally required warning signs of what they contain. However it has been observed that on at least one occasion a tanker was observed to be parked in the Airport Café over the weekend, but was then seen parked up in the lay-by on the way back to the junction 11 of the motorway, where the driver is seen to be replacing them.

HIGHWAY ISSUES

Within the application for the Otterpool Quarry site, the PC requested that all vehicles should turn right to leave the site and come in from junction 11 via Newington. This was included as a condition of the application which has been approved.

At this time there is no restrictions on the direction that HGV's can access and egress the café and the PC expects the same conditions should be applied to this application to maintain fairness, except in this case they would be required to turn left when exiting the site.

4.3 Kent Highways

No objections to the proposals subject to the following conditions being attached to any planning permission granted:

- a) Provision and permanent retention of the vehicle parking spaces and turning space shown on the submitted plans.
- b) Provision of a visibility strip along the frontage of the site measuring 6 metres in depth from the edge of the carriageway, with no obstructions over 0.9 metres above carriageway level.

Notes:

The reason why the 6 metre visibility strip is required is because the site exit is on the inside of a bend and so the visibility requirement of 2.4 metres by 160 metres in a westerly direction goes 6 metres deep into the side due to the curvature of the A20.

4.4 Kent Archaeological Officer

No measures required.

4.5 Highways Agency

No objection.

4.6 Southern Water

The applicant is advised to consult directly with the Environment Agency regarding the use of a cess pit. The owner will need to empty and maintain the cess pit to maintain its long term effectiveness.

The application details for this development indicate that the proposed means of surface water drainage for the site is via a watercourse. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

Due to changes in legislation that came into 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 above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its conditions, 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.

4.7 Environment Agency

We have referred to the submitted Contamination Risk Assessment report and have concluded it does not comprehensively assess risks from any existing land contamination to controlled waters.

The report has not been carried out in accordance with relevant guidance with regards managing land contamination or best practice and therefore we cannot accept the report's conclusions. We would recommend to the developer that they instruct an environmental consultant who is competent

and is experienced in managing land contamination to carry out a risk assessment for the site.

Surface Water

We do not permit site drainage. The Owner of the land however, is solely responsible for any pollution that may occur and cause a detrimental environmental impact on the land, groundwater and/or controlled waters. Enforcement action may be taken if the necessary pollution prevention measures have not been carried out, such as:

- (a) impermeable surfacing of the lorry park to protect groundwater in the case of an oil/fuel spill.
- (b) kerbing around the lorry park to contain any pollution.
- (c) oil interceptor for the separation of any contaminated surface waters before discharging to the local watercourse.
- (d) gully pots are a useful addition to the surface water drainage system.

On the Run off Drainage provision Layout Plan 212/03-09 there appears to be 21 lorry spaces, not 19 as stated in the application.

Foul Water

We can see that there is an intention to convert one of the existing 4,600 litre cesspits into a sewage treatment plant with the installation of a PE15 Mantair conversion unit.

- (a) There should be a designated sample point located between the sewage treatment plant and the outlet giving easy access to us for any required sampling to be carried out. For Health & Safety reasons it is not acceptable for the samples to be taken from the discharge outlet at the receiving controlled water.
- (b) Any surface water underground drainage pipe-work must not connect to the foul drainage discharge pipe-work prior to the designated sample point for the sewage treatment plant.
- (c) I note that the calculations have been estimated for 30 users @ 50 litres per day. 1,500 litres maximum per day, 1.5 cubic metres per day.
- (d) This retrospective planning application is for the change of use from commercial to transport parking incorporating extension of existing car park including the provision of welfare facilities. It is not clear what foul drainage facilities serve the existing cafe?

Are the existing cesspits serving the cafe at the moment?

- (a) If so, the installation of the Mantair Unit should be sized to include the cafe in addition to the calculations above.
- (b) If so, as the Cafe is a very busy Cafe, the discharge volume could be greater than 5 cubic metres per day to a watercourse and so a bespoke environmental water permit will be required under the Environmental Permitting (England & Wales) (Amendment) (England) Regulations

2014. For a roadside restaurant the calculations are 12 litres per person per day. This would be for each and every customer each day.

A detailed foul and surface water drainage plan of the whole area showing surface/foul water drainage pipe-work including any gully pots, manholes, grills etc., would be advisable

4.8 Environmental Health

No objections.

5.0 PUBLICITY

5.1 Site Notice. Expiry date 01.09.2014

5.2 Press Notice. Expiry date 07.09.2014

6.0 REPRESENTATIONS

2.1 3 Letters/ e-mails received objecting to the development upon the following grounds:

- The parking of the HGV trucks and the cars not only restrict visibility, but force the drivers to have to take wider turns in front of and on to the opposite side of the road.
- Increase in lorry movements creating a health and safety issue due to waste transfer station granted planning permission opposite.
- Site is allowed to be completely filled up with HGV's parking on laybys on the road endangering people's life.
- Overbearing impact on the surrounding countryside, road and village. Visually unattractive, overbearing and not in keeping with the local natural area, including the North Downs behind the site, which is an AONB.
- The HGV truck parking area has no facilities to deal with oil or fuel spillage, and as the trucks are just parking on gravel/ soil, any contaminants would just go into the soil and local farming land. There is also a river at the rear of the site which would be contaminated due to this. This River feeds into the Stour River.
- If a fire took place on site, with at times 70 trucks crammed in so close, not only would there be a serious risk to life, but the inevitable impact would be catastrophic.
- The surface is not adequate for lorry parking- other lorry park at Stop 24 has a hard surface more suitable for a lorry park, also the industrial estate at Otterpool is more suitable having a hard surface also.
- Speed limit on the A20 passing the site should be reduced to 50mph.
- Poor access to the site causing safety concerns with Lorries turning into and out of the area impacting on driver safety of those using the A20.

7.0 RELEVANT POLICY GUIDANCE

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

7.2 The following saved policies of the Shepway District Local Plan Review apply:

SD1, TR11, U4, U10a, U15, BE1, C01, CO11.

7.3 The following policies of the Shepway Core Strategy Local Plan 2013 apply:

DSD, SS1, SS3, CSD5

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework paragraphs. 14, 17, 120, 121
National Planning Policy Guidance
Kent Design Guide

8.0 APPRAISAL

Relevant material planning considerations

8.1 The application site is not subject to any designation in the local plan. Thus the principle issues to be considered in the determination of this application are the acceptability of allowing this use having regard to the impact upon the residential amenities of the local residents, highways and transportation matters, visual impact, ecology and contamination.

Policy

8.2 The key saved policies of the Shepway District Local Plan are SD1 and BE1 relating to sustainability and design issues; BE16 that seeks the protection of landscape features and highway policy TR11 sets out the criteria for proposals which involve the formation of a new access or intensification of an existing access.

8.3 Policies U4 and U10a cover drainage and contamination and policy U15 addresses light pollution. Policy C01 requires consideration to be given to protecting the countryside for its own sake, and policy CO11 requires consideration to be given to ecology and the safeguarding of any protected species or habitats within the site or close by. Safeguarding residential amenities is required under policy SD1.

8.4 There are a number of key strategic policies within the recently adopted Core Strategy Local Plan. Policy SS1 gives priority to building on previously developed land in the urban area and urban regeneration, policy SS3 seeks to direct development towards existing sustainable settlements and policy CSD5 relates to water quality and management.

8.5 The National Planning Policy Framework (NPPF) provides the national government policy background with paragraph 14 setting the key principles

in terms of the presumption in favour of sustainable development. Much of the NPPF is relevant to the current application with particular emphasis on paragraph 14 – sustainable development, 17 – core planning policies, paragraph 120 – reducing risks from pollution and paragraph 121- ensuring sites are suitable for their new uses.

Residential amenity

- 8.6 The site is located amongst fields beside the A20, approximately 500 metres from the settlement boundary of the nearby village of Sellindge which is to the west of the site. The closest residential property is approximately 200 metres away, located also beside the A20 to the west of the site.
- 8.7 The access to the Airport cafe and lorry park can be made either from Sellindge along the A20 or junction 11 off the M20. Considering the lorry park will be used by HGVs on long distance journeys, it is unlikely the A20 through the village of Sellindge will be used, rather junction 11 of the M20 which provides the fastest and easiest access to the M20 and to the port of Dover as well as the county's motorway network.
- 8.8 The highest predicted vehicle movements at the site would be approximately 185 per day (as set out in the applicant's transport statement), with only approximately 48 being HGVs. This compares to a daily vehicle movement of approximately 166 (29 of which were HGVs) prior to the works taking place to extend the site. However as a lorry park the use does attract extra HGV movements as set out above.
- 8.9 It should be noted though that since being a mixed use site, the cafe itself generates traffic movements (including lorries) being located only a few miles from the M20 and close to Link Park and Lymgne Industrial Estate, and so not all movements are related to the lorry park. Also lorries visiting the cafe are likely to stay for shorter periods unlike the lorry park where HGVs park up for long periods of time.
- 8.10 Although there are residential properties along the A20 between the M20 and the site, particularly at Newingreen, it should be noted that the applicant's transport statement shows daily vehicle movements along the A20 (all vehicles) of approximately 3070, with approximately only 588 being HGV's. The statement shows that of these movements, there are 185 vehicle (all) movements to the site (including visits to the cafe), where 48 are HGV. Therefore the proportion visiting the lorry park is relatively low. The route is popular by not only being the A20, but being the access to the Lymgne Industrial Estate which generates a great deal of HGV movements.
- 8.11 Therefore having regard to the number of HGV movements taking place in this location anyway, the additional movements created by the lorry park are considered unlikely to have a significant impact on residents along the A20.
- 8.12 Given the location of the site behind the existing parking area, lighting is not considered to be an issue and has not been raised by local residents. The

amount of lighting can be controlled by condition if Members resolve to grant planning permission.

Highways and Transportation

- 8.13 With regard to highways and transportation matters, comments from both Kent Highways and Transportation and the Highways Agency are set out in paragraphs 4.3 and 4.5 above, neither of which has raised an objection to the development. The application has been submitted with a detailed Transport Assessment as well as vehicle tracking plans.
- 8.14 There is a single access into the site off the A20 which is considered acceptable, subject to a condition requiring a visibility strip along the site frontage. There is sufficient room to manoeuvre internally within the site, which a block plan and tracking plan clearly demonstrates. The site benefits from good connectivity having access to the major road network being in close proximity to the M20 motorway and A20 trunk road, and helps to alleviate the problem suffered throughout the district of lorries parking indiscriminately to conform to their working hours regulations. With easy access to the M20 most lorry movements will be to the M20 via junction 11.
- 8.15 It is acknowledged that a representation has been made about highway issues and the unsuitability of the local road network. However, given that Kent Highways & Transportation and the Highways Agency have raised no objection to the application there is no planning justification for refusing the application on highway grounds. The roads are public and available for all to use and Kent Highways have advised that these are not subject to any width or weight restrictions and they already serve Lympne Industrial Estate further along from the application site which HGVs often deliver too and despatch from.
- 8.16 Therefore on highways and transportation grounds, whilst there is a local objection, the development is considered to be acceptable, and in accordance with the NPPF and saved local plan policies TR11. It is considered that no ground of refusal could be substantiated on highway safety matters.

Visual Amenity

- 8.17 The site is not located within any settlement boundary. It is considered to be positioned in a fairly obscured area, surrounded on three sides by trees and vegetation that results in the site being not highly prominent and it is screened to a large degree. It is in a rural area with the closest residential property being approximately 200 metres away, and being surrounded by fields except where it fronts onto the main A20. As such this area is not visually prominent in the wider environment where it is considered that the proliferation of parked vehicles is not visually harmful.
- 8.18 In terms of its visual relationship with the surrounding locale, the immediate surrounding area has a predominantly rural character. However, there are

long standing commercial/industrial uses on this site, including a history of lorry parking and, as such, the proposal does not exacerbate any existing visual impacts on the area.

- 8.19 The application required very minimal operational development which consisted of an extension to the hard standing at the site to incorporate land used for by a scrap metal business, and the retention of two small portable units for use as a washroom and WC facility. These are not considered to present an adverse visual impact. The buildings are small in size and low in height and are tucked away behind the existing industrial units, and the extension of the hard standing replaces a scrap metal business interrelating to the existing expanse of hard standing in this area and has a similar appearance and visual impact.
- 8.20 It is therefore considered that in visual built environment terms, the extension of the site to accommodate further HGV's presents no visual harm sufficient to warrant a ground of refusal of planning permission and overall is acceptable in accordance with saved policies BE1 and SD1 of the Local Plan Review.

Ecology

- 8.21 In terms of ecology the site does not have any national or international nature conservation protection and is on land previously used for industrial purposes. The applicant's ecology report states that the hard standing extension has taken place on land previously used for a scrap metal business. The survey concludes that as a result of the development the ecology of the site has not been adversely affected.

Surface and foul water discharge/ drainage, and contamination

- 8.22 In terms of surface water, a gully is proposed to be installed along the rear of the parking area to collect rainwater runoff and discharge from HGV's. The gully will lead to a Klargestor (oil interceptor) to ensure that any pollutants in the runoff are separated off before discharge into the local watercourse that runs alongside the site. However, the EA also requires impermeable surfacing of the lorry park to protect groundwater in the case of an oil/fuel spill and kerbing around the lorry park to contain any pollution. The surface of the application site is stated as being hardcore hoggin with fines, which has been compacted and rolled to form a surface to match the existing carpark. This is a permeable material. The applicant has stated that the surface is not going to be hard surfaced as the current use is only considered temporary with the intention being to complete the approved commercial development. Permeable surfacing is not considered acceptable for lorry parking areas as spills of fuels or other contaminants can soak through the surface and contaminate ground water and, in the case of this site, the adjacent watercourse, rather than draining through the interceptor. Saved policy U4 of the SDLPR seeks to resist development where it has not been demonstrated that it would not lead to an unacceptable risk to surface or ground water resources or a risk of contamination. Core Strategy Policy

CSD5 requires that the quality of water passed on to watercourses and the sea must be maintained or improved. Paragraph 120 of the NPPF seeks to prevent unacceptable risks from pollution. Therefore, without the appropriate impermeable surfacing it is not considered that planning permission should be granted.

8.23 Presently the foul drainage from the toilet facilities discharges into a cess pit. The applicant is proposing to upgrade the cess pit to a full waste treatment system using a Mantair unit and has submitted details. This can be controlled by condition to ensure it is implemented. The Environment Agency recommends a detailed foul and surface water drainage report for the entire site, including the cafe, to be submitted showing all pipe work/gully connections. Their concerns are that the proposed foul drainage for the application site will include that for the cafe and therefore the size of unit needs to be appropriate for this. Although the application is for a section of the site, not all of it, it is understood that the drainage proposals intended for the new parking area will upgrade the existing sewage arrangements (cess pit) for the Airport cafe also. This will result in an improvement to the existing facilities. Therefore provided the Mantair Unit is of sufficient size for the cafe as well as the lorry parking welfare facilities the method of foul drainage proposed is considered acceptable. This can be covered by condition if Members resolve to grant planning permission.

8.24 With regard to contamination, the Environment Agency does not consider the Contamination Risk Assessment submitted with the application to be acceptable as it does not comprehensively assess risks from any existing land contamination. They recommend the developer instructs an environmental consultant who is competent and is experienced in managing land contamination to carry out a risk assessment for the site. The applicant has been requested to provide such a report but none has been submitted. The previous car scrapping use can lead to extensive sub surface contamination and the EA considers that this needs full investigation with a Preliminary Risk Assessment (PRA) and that continued use for lorry parking would not be suitable until a PRA and risk assessment shows the site can be dealt with adequately. Saved policy U4 of the SDLPR seeks to resist development where it has not been demonstrated that it would not lead to an unacceptable risk to surface or ground water resources or a risk of contamination. Paragraph 121 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of pollution arising from previous uses. In the absence of the appropriate risk assessments it is not considered that planning permission should be granted for the use.

Human Rights

8.25 In reaching a decision on a planning application and enforcement matter the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance

the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

8.26 This application is reported to Committee as authority is required to serve an Enforcement Notice.

9.0 SUMMARY

9.1 This planning application seeks retrospective permission for the continued use of a rear portion of the site as an overnight lorry park following an extension of the existing hard standing, and retention of two mobile used for washroom and toilet facilities. The application does not include the front section of the site which has been used as lorry parking for a number of years such that it appears likely that this use has become lawful.

9.2 The principle issues to be considered in the determination of this application are the acceptability of allowing this use having regard to the impact upon the residential amenities of the local residents, highways and transportation matters, visual impact, ecology, drainage and contamination.

9.3 There are no adverse highway safety issues as Kent Highways and Transportation and the Highways Agency have raised no objection subject to conditions. Allowing this extended use will help reduce the number of Lorries parking on public highways which are a common problem throughout the District, and being with close proximity of junction 11 of the M20 lorries will logically access the site via the M20.

9.4 In terms of impact on the visual amenity of the area and the amenities of local residents the use is considered acceptable given the existing and previous uses on the site and its location off the A20.

9.5 The Environment Agency is concerned that due to the permeable surfacing of the lorry parking area and the previous uses of the site there are risks of contamination of ground water and the adjacent watercourse as a result of the current use which have not be satisfactorily addressed.

9.6 Overnight lorry parking is a problem for Shepway. The extension of this lorry parking area does help alleviate some of this problem by providing much needed overnight lorry parking space and taking lorries off the road and lay-bys. Without this extended facility more lorries are likely to park up on the roads causing further nuisance to users of the public highway, and in most severe cases annoyance to local residents where lorries park up close to residential properties. The development if granted planning permission would also lead to an improvement in terms of the foul drainage for both the lorry park and cafe as the applicant is proposing to install a Mantair Unit which can be required by condition. In addition refusing planning permission for the rear part of the site will not result in the cessation of the lorry parking

on the remainder of the adjoining land which is not controlled by planning conditions and could also result in contamination and pollution to the groundwater and watercourse.

- 9.7 However, this is not sufficient justification for granting planning permission for the application site where planning permission is required, given the concerns raised by the Environment Agency with regard to the contamination issues and potential pollution of ground water and the adjoining watercourse, which have not been satisfactorily addressed and as such the application is recommended for refusal.

10.0 BACKGROUND DOCUMENTS

- 10.1 The consultation responses set out at Section 1.0 and the representations at Section 3.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION –

a) That planning permission be refused for the following reasons:

- 1) The surfacing of the parking area is not impermeable and as a result any fuel or carried goods spillage resulting from the lorry park could result in contamination of ground water or the adjoining watercourse. It is not considered that it has been satisfactorily demonstrated that the development would not lead to an unacceptable risk of pollution to ground water and/or the nearby watercourse. As such the development is contrary to saved policy U4 of the Shepway District Local Plan Review which seeks to ensure development does not lead to an unacceptable risk of pollution and paragraph 120 of the National Planning Policy Framework which seeks to ensure development is appropriate for its location, taking into account the effects of pollution on the natural environment.
- 2) The Contamination Risk Assessment submitted with the application has not been carried out in accordance with relevant guidance or best practice and it does not comprehensively assess risks from any existing land contamination to controlled waters. Given the previous use on the site the Council does not consider that it has been satisfactorily demonstrated that the site is suitable for the current use or that appropriate remediation has been carried out such that any contamination is adequately contained or controlled. As such the development is contrary to saved policy U10a of the Shepway District Local Plan Review which seeks to ensure that development only takes place where practicable and efficient measures are taken to treat, contain and/or control contamination and paragraph 121 of the National Planning Policy Framework which seeks to ensure sites are suitable for

their new uses taking account of ground conditions, including pollution arising from previous uses.

b) That the applicant be given a period of one month to cease the use of the site.

c) 1. That if the use does not cease within the required period an Enforcement Notice be served requiring the cessation of the use.

2. That the Head of Planning and Environmental Health be given delegated authority to determine the exact wording of the Notice.

3. That the period of compliance with the Notice be one month.

4. That the Head of Democratic Services and Law be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

Decision of Committee