

## APPENDIX 3

### ADDENDUM

<b>Application No:</b>	<b>Y14/0850/SH</b>
<b>Location of Site:</b>	<b>Airport Cafe Ashford Road Sellindge</b>
<b>Development:</b>	<b>Retrospective application for change of use to lorry park incorporating extension of existing parking area and retention of two mobile units for toilet and shower facilities</b>
<b>Applicant:</b>	<b>Mr G Morgan 46 Ripley Road Ashford Kent</b>
<b>Agent:</b>	<b>Mr AJ Scott Forest House Malthouse Lane Warehorne Ashford Kent TN26 2EL</b>
<b>Date Received:</b>	<b>28.07.14</b>
<b>Expiry Date:</b>	<b>26.09.14</b>
<b>Committee Date:</b>	<b>30.05.17</b>
<b>Officer Contact:</b>	<b>Lisette Patching</b>

**RECOMMENDATION:** That planning permission be granted subject to the conditions set out at the end of the report.

### 1.0 UPDATE

1.1 This application was originally reported to committee on 14<sup>th</sup> July 2015 with a recommendation for refusal on the following grounds:

- 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.

A copy of the original report is appended at Appendix 1 and the Supplementary Sheets are appended at Appendix 2. At the meeting the Committee resolved that consideration of the application be deferred so an updated contamination report could be prepared.

## **2.0 OTHER RELEVANT PLANNING HISTORY**

- 2.1 In on 25<sup>th</sup> April 2017 the Planning and Licensing Committee resolved to refuse planning permission was refused on the former Otterpool Quarry opposite this site for the following application:

Y16/0068/SH Retrospective planning application for change of use of a former quarry site to a temporary secure 24-hour lorry park with associated facilities for a period of 24 months.

1. *The use of the application site as a temporary lorry park is considered to be unacceptable on grounds of highway safety concerns associated with the continued unlawful operation of the access to and from the site and in particular from data obtained from a CCTV survey of the site showing manoeuvres of lorries across the A20 between the lorry park and the Airport Cafe opposite, causing a significant highway safety hazard to oncoming traffic especially during hours of darkness. As such, the development is contrary to policies TR9 and TR11 of the Shepway Local Plan Review 2013 and Paragraph 32 of the National Planning Policy Framework.*
2. *In the absence of any relevant and up to date surveys, it has not been demonstrated that the lorry park use would minimise its impact on biodiversity and protected species and their habitats in particular within the site and surrounding area and whether the continuing use of the lorry park is currently impacting adversely on biodiversity and protected species and their habitats. As such, the application fails to comply with central government planning policy as set out in section 11 of the National Planning Policy*

*Framework 2012 and Circular 06/2005 and Policy CO11 of the Shepway Local Plan Review 2013.*

The Committee also resolved that an Enforcement Notice and Stop Notice be served to secure the cessation of the use. These were served on 11<sup>th</sup> May 2017 with the Stop Notice requiring the use to cease by 25<sup>th</sup> May 2017.

### **3.0 ADDITIONAL CONSULTATION RESPONSES**

#### **3.1 Sellindge Parish Council**

- Welcome the resurfacing plan, however, only for 15 lorry spaces at the rear of the park and not at the front.
- Lorries are parked up on whole site most nights.
- Ignoring concerns raised by Environment Agency and disregarding submitted Contamination Land Risk Assessment.
- Upgrade of cesspit to a Mantair PE 15 treatment plant is for residential use only of up to 15 people and not for commercial use.

#### **3.2 Lympne Parish Council**

- Huge increase in lorry movements from unofficial lorry parks.
- Highway safety hazard accessing and exiting site and a number of accidents and a fatality have been recorded in the area.
- Lorries stop on the A20 queuing to enter the lorry sites.

#### **3.3 Environment Agency**

No objection to the proposal following the additional drainage plans and Contaminated Land Risk Assessment subject to the following conditions:

1. The development hereby permitted shall not be carried out except in accordance with the approved plans, drawings, reports and supporting documents:

0112/10/01 - Site location plan

0112/13/11 – Proposed layout plan

SDS 203796 – 01 – Topographic Land Survey

SDS 203796 – 02 – Topographic Land Survey

Ecological Scoping Survey dated 11 April 2014

Reptile Survey dated 11 July 2016 (amended 16 November 2016)

Tree Survey dated 17 April 2014

Tree Position plan dated April 2014

Reason:

For the avoidance of doubt and in the interests of proper planning.

2. Within 2 months of the date of this permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the local planning authority:

i) An additional investigation scheme based on the above reports and comments, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

ii) The results of the site investigation and detailed risk assessment referred to in i) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

ii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason:

For the protection of Controlled Waters.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason:

For the protection of Controlled Waters.

4. Prior to the occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long term monitoring and maintenance plan) for longer term monitoring of pollutant linkages maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long term monitoring and maintenance plan shall be implemented as approved.

Reason:

To prevent pollution to controlled waters.

5. Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site 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 approved details.

Reason:

To prevent pollution to controlled waters.

We have reviewed the following documents: 'Desk Study Report' by Solitec (reference 041979/15 dated 21<sup>st</sup> September 2009) and Contaminated Land Risk Assessment by Soil Environmental Services (reference SES/AJS/AC/2R#1 dated 14<sup>th</sup> August 2015). The CLRA has summarised the findings of the Desk Study. The site is located in a very sensitive location with respect to Controlled Waters (Principal Aquifer, direct on the Hythe Formation) and is reported to have been a petrol filling station and vehicle workshop/breakers. Both documents refer to underground fuel tanks in the south of the site having been decommissioned, but no confirmatory evidence has been provided to support this.

The CLRA presents the findings of a 2010 site investigation and identifies some elevated concentrations of PAHs and recommends remedial measures. However, no intrusive investigation appears to have been undertaken in the southern half of the site where the petrol filling station and underground fuel tanks are located.

The site is located over a Principal Aquifer and it is reported to have been used for potentially contaminating activities, including vehicle breaking and a petrol filling station.

Consequently, we consider that additional investigation needs to be undertaken (including documentary confirmation of the decommissioning of the tanks).

Should remediation be deemed necessary, the applicant should demonstrate that any remedial measures have been undertaken as agreed and the environmental risks have been satisfactorily managed so that the site is deemed suitable for use.

Infiltrating water has the potential to cause remobilisation of contaminants present in shallow soil/made ground which could ultimately cause pollution of groundwater.

There is always the potential for unexpected contamination to be identified during development ground works. We should be consulted should any contamination be identified that could present an unacceptable risk to Controlled Waters.

A bespoke Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2010 may be required at this site for the foul drainage to cover the discharge.

#### **4.0 ADDITIONAL NEIGHBOUR REPRESENTATIONS**

4.1 Three additional letters/emails of objection have been received and are summarised as follows:

- The cafe lorry parking draws HGVs into the area causing noise, rubbish, urine in bottles and faeces.
- Drivers pull out of the site covering both lanes of the A20 causing highway safety hazard particularly during periods of poor visibility.

- Houses vibrate during the evening and night resulting in lack of sleep and cracks in the walls and structural damage..
- There should be no right turns out of site towards Sellindge. Lorries should be directed towards junction 11.

## **5.0 APPRAISAL**

- 5.1 Since the application was deferred by the Committee the following additional and amended information has been submitted:
- Contaminated Land Risk Assessment dated August 2015
  - 212/03 – 08A – Foul drainage provision layout plan
  - 212/03 – 09A – Run off drainage provision layout plan
  - 212/03 – 10B – Site layout/ block plan
  - 212/03 – 13 – Proposed surface finish

### **Drainage**

- 5.2 One of the grounds for the previous recommendation for refusal was that the surfacing of the lorry parking area is not permeable and it hadn't been satisfactorily demonstrated that the use would not lead to unacceptable pollution of groundwater and the nearby watercourse. The additional information shows that the site is to be resurfaced with a solid surface. The existing hardcore base is sufficiently deep to allow a surface dressing of reinforced concrete laid to the existing natural falls of the site to prepared dish trough drains with a containment kerb behind, all draining to the proposed bypass interceptor. This surface dressing and drainage catchment is proposed only for the application site. The existing surface will most naturally run off onto the new surface and will also therefore be accommodated by the new drainage installation. The Environment Agency now has no objection subject to conditions.

### **Contamination**

- 5.3 The second proposed ground of refusal was that it hadn't 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. A revised Contaminated Land Risk Assessment has been provided and this recommends remedial action which can be required by condition. On this basis the Environment Agency now has no objection subject to conditions.
- 5.4 The Environment Agency comments refer to the lack of intrusive investigation on the southern part of the site where the petrol station and underground fuel tanks were located. However this area falls outside the site of the current planning application, therefore the local planning authority cannot require any investigation of this area.

### **Highways**

- 5.5 Policy TR9 of the Shepway Local Plan Review, which relates to roadside service facilities on primary routes, states that in all cases, it will be

necessary to weigh the need for the proposal against the importance of preserving the countryside and wildlife and other interests, to include road safety and residential amenity.

- 5.6 The A20 Ashford Road is a circa 7.3m wide single carriageway road along the Airport Cafe site frontage. It runs along an east-west alignment from the village of Newingreen, east of the site, turning north-west of the site where it routes through the village of Sellindge. The road bends slightly as it runs along the front of the site, with the site frontage situated on the outside of the bend.
- 5.7 In the vicinity of the site, the A20 is best described as a rural 'A' road with limited frontage access. Where it routes through villages it becomes more urban in character. Along the site frontage the speed limit of the A20 is 50mph rising to 60mph (derestricted) around 30m east of the existing access.
- 5.8 West of the site, the A20 junctions with the B2067 Otterpool Lane via a 3-arm signal junction and the A20 then routes north towards the village of Sellindge. Beyond Sellindge, the A20 winds through smaller settlements running parallel to the M20 until it eventually reaches junction 10, a circa 9.3km drive north west from the site access.
- 5.9 To the east, the A20 routes through Newingreen village turning north towards junction 11 of the M20. Junction 11 is the closest junction route to the motorway network from the site, circa 3.2km drive from the access.
- 5.10 The section of the A20 where the site is located is classified as a 'Primary Route' within KCC's Local Transport Plan. East of the M20, the A20 is classified as a Trunk Road.
- 5.11 The Council's officers, working alongside KCC Highways and Transportation, commissioned independent professional consultants to undertake a fully classified video turning movement count survey for all movements to include in and out of the Airport Cafe and the Otterpool Quarry Lorry Park as well as movements eastbound and westbound along the A20. This was carried out primarily to obtain details of lorry movements related to the Otterpool Quarry Lorry Park opposite (application Y16/0068/SH).
- 5.12 The survey period extended over a 4-day period between Thursday 2<sup>nd</sup> March (PM onwards) and Monday 6<sup>th</sup> March 2017 (AM period only). The data obtained shows that on the Friday of the survey, (the busiest day), the following numbers and types of vehicles visited the Airport Cafe over a 24 hour period:

From A20 East (M20 J11) to Airport Cafe:

105 cars

2 taxis

43 light goods vehicles

67 HGV's

From Airport Cafe to A20 East (M20 J11):

108 cars

35 light goods vehicles

53 HGV's

From A20 West (M20 J10) to Airport Cafe:

90 cars

30 light goods vehicles

35 HGV's

From Airport Cafe to A20 West (M20 J10)

88 cars

37 light goods vehicles

26 HGV's

- 5.13 Analysis of the arrivals and departures from the Airport Cafe site as recorded during the CCTV survey on Friday 3<sup>rd</sup> March 2017 demonstrates that the significant majority of HGV movements to and from the site involve interaction with the A20 to the east of the site, to and from M20 Junction 11, with a significantly lower number involving movements to and from M20 Junction 10. HGV movements from the site towards Sellindge averages 1.08 movements per hour over 24 hours and movements from Sellindge to the application site averages 1.46 movements per hour.
- 5.14 Accordingly, the numbers of HGV's visiting the site from either direction are quite low. As such, it can be reasonably deduced that the impact on the residential amenity of residents of Sellindge cannot be directly attributed to the lorry park at the Airport Cafe as the lorry park is not generating sufficient numbers of additional HGV's through Sellindge to have any significant adverse impact on residential amenity, when compared to the daily average HGV trip numbers.
- 5.15 It would also be reasonable to deduce that this stretch of A20, designated as a Primary Route for all traffic, is popular by not only being a Primary Route for all forms of traffic, but also being the access to Link Park and the Lympne Industrial Estate which generate a great deal of HGV movements in the area. Whatever the reasons may be for the increase in HGV traffic along the A20 and through Sellindge, they are not considered factors that would warrant a refusal in the determination of this application.
- 5.16 In terms of highway safety, the refusal of planning permission for the Otterpool Quarry Lorry park opposite and the serving of the enforcement notice and the stop notice to cease the use will prevent any dangerous manoeuvres of HGVs across the A20 between the Airport Cafe and the Otterpool Lorry Park entrance. Consequently, it is considered that the



operation of the lorry park from the application site would not result in any significant highway safety concerns.

## **RECOMMENDATION**

Following the receipt of a additional information it is recommended that temporary planning permission be granted subject to the following conditions:

1. Use to cease etc by XXX (a suggested time period will be provided on the Supplementary Sheets).
2. With 2 months of the date of this decision notice the lorry parking area the subject of this application shall be surfaced with reinforced concrete and the surface water drainage system to include dish trough drains, containment kerb and bypass interceptor shall be installed all in accordance with Drawings 212/03 – 13 – Proposed surface finish and 212/03 – 09A – Run off drainage provision layout plan both received on 08.09.15. The surfacing and surface water drainage scheme shall be retained all the time that the area is used for lorry parking.

Reason:

To prevent pollution to controlled waters.

3. Within 2 months of the date of this decision foul drainage provision for the site shall be carried out in accordance with Drawing 212/03 – 08A – Foul drainage provision layout plan received on 08.09.15 and the foul drainage details received on 06.10.14 and the foul drainage system shall remain in operation all the time that the lorry park is in use.

Reason:

To prevent pollution to controlled waters.

4. Within 2 months of the date of this decision notice the lorry parking spaces shall be marked out in accordance with the details shown on the site layout/block plan 212-03-10B dated received 11.12.15. The parking spaces shall be kept available for lorry parking all the time that the lorry park is in use and the lorry park shall only operate in accordance with this plan.

Reason:

In the interests of highway safety

5. Within 2 months of the date of this decision, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the local planning authority:

i) An additional investigation scheme based on the Contaminated Land Risk Assessment dated August 2015 and the Soiltec Desk Study Report 04179/15 dated 21 September 2009 , to provide information for a detailed

assessment of the risk to all receptors that may be affected, including those off site.

ii) The results of the site investigation and detailed risk assessment referred to in i) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

ii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason:

To prevent pollution to controlled waters.

6. Within 4 months of the date of this decision, a verification report demonstrating completion of the works set out in the approved remediation strategy and the verification plan and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long term monitoring and maintenance plan) for longer term monitoring of pollutant linkages maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long term monitoring and maintenance plan shall be implemented as approved.

Reason:

To prevent pollution to controlled waters.

7. If during the resurfacing and drainage works any contamination not previously identified is found to be present at the site then within 1 month of it being found a remediation strategy detailing how this unsuspected contamination shall be dealt with shall be submitted to the local planning authority) and the remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority within 4 months of the remediation strategy having been approved.

Reason:

To prevent pollution to controlled waters.

8. Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site 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 approved details.

Reason:

To prevent pollution to controlled waters.

9. Within 3 months of the date of this decision HGV electrical connection points shall be installed for each of the lorry parking spaces and the electrical connection points shall be retained in a functioning condition at all times.

Reason:

In the interest of the residential amenities of local occupiers, to control noise pollution, to allow HGV refrigerated lorries to operate refrigeration units in accordance with policies SD1 of the Shepway District Local Plan Review.

10. In conjunction with condition 9 above, no refrigerated vehicles and trailers within the park, shall operate or run refrigerated units unless connected to the electrical points required by and installed under condition 9 and all engines shall be switched off while the lorries are parked.

Reason:

In the interest of the residential amenities of local occupiers, to control noise pollution, to allow HGV refrigerated lorries to operate refrigeration units in accordance with saved policy SD1 of the Local Plan Review.

11. Within 2 months of the date of this decision details of the facilities for storage and collection of refuse shall be submitted to the Local Planning Authority the approved scheme shall be made available for use within 1 month of the date of its approval. Such areas as agreed shall thereafter be retained for refuse/recycling storage purposes.

Reason:

To ensure adequate means of refuse collection in the interests of the amenities of residents in accordance with policy SD1 of the Shepway District Local Plan Review.

12. Within 2 months of the completion of the surface water strategy and surfacing, 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 shall be provided and retained and maintained in perpetuity.

Reason:

In the interests of highway safety in accordance with policy TR11 of the Shepway District Local Plan Review.

13. No more than 15 lorries shall be parked within the site the subject of this application at any one time.

Reason:

In order to ensure adequate room for manoeuvring of lorries in the interests of highway safety.

Y14/0850/SH  
Airport Cafe  
Ashford Road  
Sellindge

