

Town and Country Planning Act, 1990

Public Inquiry into the appeal by Kent International Gateway Ltd arising from Maidstone Borough Council's failure to determine an application for planning permission for a proposed Rail/Road Freight Interchange, Warehousing and Other Works on land between the M20 and the A20, to the west of Junction 8 and east of Thurnham Lane, Maidstone.

Note of Pre-Inquiry Meeting held on Friday 12 June 2009

1. Introduction

Andrew Phillipson, the Inspector, introduced himself and Malcolm Rivett, the Assistant Inspector, and the representatives of the parties present. He reminded everyone that the purpose of the meeting was to consider the administrative arrangements for the Inquiry, not to debate the merits of the proposal. The main representatives of organisations present were:

Kent International Gateway Ltd (KIG) – Christopher Katkowski QC
Maidstone Borough Council (MBC) – Stephen Whale (of Counsel)
CPRE (CPRE) – Richard Knox-Johnston
Cemex (CX) – Andrew Street
Environment Agency (EA) – Angus Ferguson
Highways Agency (HA) – Mark Beard (of Counsel)
Joint Parishes Group (JPG) – Peter Waite
Kent County Council (KCC) – Libby McCutcheon
Kent Downs AONB Exec (AONB) – Richard Bate
Kent Police (KP) – Meyric Lewin (of Counsel)
Natural England (NE) – David Tyldesley
STOPKIG (STO) – Richard Ashness
Tonbridge and Malling Borough Council (TMBC) – Richard Ground (of Counsel)

Other representatives of the above organisations, the press and several members of the general public were also present.

MBC indicated that the Council had not formally published a notice of the Pre-Inquiry Meeting (PIM), although the time, venue and purpose of the meeting had been reported in the Kent Messenger on 5 June 2009. Following discussion, it was agreed between the parties that, as the meeting was an Inspector's PIM, there was no statutory requirement for it to be formally advertised.

2. Scope of the Inquiry

Based on the provisional list circulated by the Inspectors, and following discussion at the meeting, it was agreed that the following were likely to be the main matters for consideration at the Inquiry:

- Planning Policy, including policies in the development plan and Government and other policies relating to SRFIs etc.
- Need for a road/rail freight Interchange near Maidstone, including consideration of (i) the likely use of the warehouses, (ii) the extent to which the facility would attract traffic by rail, and (iii) the potential interaction with other SRFIs
- Economic impact, including employment and labour supply
- Landscape and visual impact

- Biodiversity and nature conservation, including impact on trees and woodland
- Transportation
 - Trunk and major local roads (capacity)
 - Other local roads and access by public transport, cycling and walking
- Noise
- Lighting
- Archaeology and other features of historic interest, including the effect on listed buildings and conservation areas
- Air quality
- Culverting, surface water drainage and water resources
- Security
- Rail matters
- Footpaths/bridleways (Diversion Orders are also likely to be considered at the Inquiry)
- Prematurity
- Climate Change
- Engineering Feasibility/Geology
- Conditions and S106 Undertaking(s) (without prejudice)

The Inspector emphasised the importance of discussion between the parties in the period before the Inquiry to:

- identify areas of agreement which can be dealt with through a SOCG
- avoid duplication of evidence between the parties opposing the scheme.

He also reminded the parties that, whilst some objectors had raised alternative sites as a matter to be considered at the inquiry, his remit was to consider and report on the KIG SRFI, not other possible SRFI sites. Evidence on alternative sites would be relevant in the context of need and the justification for KIG, but the scope of the evidence brought before the inquiry on other sites should be limited with that in mind.

Parties expecting to call witnesses at the inquiry are:

KIG - 11 (possibly 12) witnesses covering the following areas:

Planning, Transportation (Road), Transportation (Rail), Landscape/Visual, Archaeology/Cultural Heritage, Drainage, Ecology, Noise, Air Quality, Security, Lighting (and Engineering Feasibility).

Maidstone BC – 11 witness broadly aligning with those called by KIG.

CPRE/STOPKIG – 14 witnesses (including Water Resources, Leeds Castle Conservation Area, Effect on the Community, Climate Change and Engineering Feasibility). CPRE and STOPKIG are individual Rule 6 parties in their own right but are likely to jointly present their evidence.

Cemex – may elect not to appear at the Inquiry but to rely on written submissions (to be submitted at the time of exchange of Proofs of Evidence).

Environment Agency – 2 witnesses covering drainage and ecology

Highways Agency – 2 witnesses.

Joint Parishes Group – it was initially suggested that the JPG could call up to 40 witnesses. However, the Inspector urged the Group to reduce this substantially - whilst he recognised that the group represented many Parish Councils, in his view it would not be helpful to have witnesses representing each Council individually. Where matters of concern overlap, one witness should be able to effectively represent the interests of several Parishes.

Kent CC – 4 witnesses covering Planning Policy, Highways, Public Rights of Way and Archaeology.

Kent Downs AONB Exec – 1 witness

Kent Police – 2 witnesses

Natural England - 2 witnesses (if necessary)

Tonbridge and Malling BC – potentially 4 witnesses although they will liaise with others in an attempt to reduce this.

3. Inquiry Programme

The Inspector confirmed that the Inquiry will open on Tuesday 13 October 2009 at 10.00. Thereafter it will sit on four days each week (Tuesday to Friday), nominally between 10.00 and 17.00 (with some 09.30 starts where the parties agree that this will be helpful).

It was agreed that, on the information currently available, eight sitting weeks should be allowed to complete the Inquiry. Given the overall length of the Inquiry and the presence of half-term holidays it was agreed that the Inquiry would not sit on 26th, 27th or 28th October.

Having heard the varying views of the parties, the Inspector indicated that the order of appearances would follow that preferred by the Rules with Maidstone BC giving their evidence first, followed by the other objectors and finally the appellant.

Notwithstanding this, it was agreed that the Highways (trunk and major local road) evidence would be heard separately as a discrete topic (ideally immediately before KIG give their evidence).

The Inspector confirmed that at least one evening session would be arranged for local residents to attend and speak. It was indicated that demand from local residents to speak is likely to be high.

Short opening statements from KIG, MBC, the EA and STOPKIG/CPRE would be heard at the beginning of the Inquiry.

Closing submissions will be expected from all the main parties calling evidence at the Inquiry. The Inspector indicated that the closing submissions will be used as a framework for the gist of the cases reported to the Secretary of State (SoS). The submissions will therefore need to be comprehensive and include all matters relied on. Cross-references to the evidence (with document and paragraph numbers) and concessions made during cross-examination (with the day and approximate time) should be included. Whilst the Inspectors will edit the submissions and add to them if they feel it desirable in the interests of fairness or clarity, they will not cast around for additional points mentioned in support of a case made - if the matter is not covered in the closing submissions, the parties should assume that it will not be reported.

Copies of the closing submissions will be included with the Inquiry documents submitted with the report to the SoS. They will therefore need to be in writing. The inquiry will be adjourned if necessary to allow adequate time for their preparation.

4. Documents and Evidence

Statements of Common Ground and Core Documents

The Inspector once again urged all the parties to work together in the run up to the Inquiry to narrow the areas of dispute as far as possible. All areas of agreement should be included in bi-lateral or multi-lateral Statements of Common Ground (SoCGs), which should be prepared following the guidance in Circular 05/2000, Annex 3(ii). Where matters are not fully agreed, but the areas of dispute are clearly defined, the scope of the disagreement could usefully also be recorded in the SoCGs.

A set of core documents should also be agreed (KIG offered to send out a draft list to which other parties can add). The organisation nominating the document should normally supply the necessary copies of it. Items published by the Government (e.g. PPSs, PPGs), need not be included as core documents unless they are specific to the area or otherwise not likely to be readily available to the Inspectors.

Proofs of Evidence

The Inspector advised that proofs should be prepared following the advice in Circular 05/2000, Annex 3(i). However, all proofs will be included as Inquiry documents and will be sent with the report to the SoS. Accordingly, it will not be necessary to separate the tables and technical data out into appendices – they can be included wherever is most convenient.

Appendices to proofs should not duplicate material contained in the Statements of Common Ground or core documents.

Where proofs exceed 1,500 words, a summary should be provided.

For further guidance on the preparation, numbering and indexing of documents, see Appendix A.

Conditions and Undertakings

The Inspector advised that a draft list of conditions should be available at the opening of the Inquiry along with Heads of Terms of any s106 Undertakings. Fully executed undertakings will be required by the close of the Inquiry.

6. Pre-Inquiry Programme

It was agreed that documents will be submitted in accordance with the following programme:

Statement of Common Ground and Core Documents	1 Sept 2009
Main proofs and summaries	15 Sept 2009
Supplementary (rebuttal) proofs	6 Oct 2009

The Programme Officer will make arrangements for the exchange of documents. The provisional requirements are as follows (numbers of copies and exchange of electronic versions to be finalised between the parties individually):

Inspectors	2 copies (via the programme officer)
KIG	6
MBC	6 (including the library copy)
CPRE	3
Cemex	2 of relevant proofs
Env Agency	3 of relevant proofs
HA	3 of relevant proofs
JPG	1
KCC	3
AONB	1 of all plus an additional 1 of relevant proofs
Kent Police	3 of relevant proofs
N England	1
STOPKIG	3
TMBC	4 of relevant proofs

As to core documents, the Inspectors require two sets for their use during the Inquiry. A further set should be placed in the Inquiry library (to be kept available for inspection by the Council/programme officer before the Inquiry opens).

The Inspector advised that the gist of any legal submissions should, wherever possible, be disclosed well in advance of the Inquiry.

7. Administrative Matters

Programme Officer

MBC indicated that they anticipate appointing an experienced programme officer shortly. The programme officer's primary duty will be to act as a link between the Inspectors and the parties, with responsibility for co-ordinating the Inquiry programme, taking account of witnesses' availability and other commitments wherever possible. He/she will also maintain the Inquiry library and document lists.

The Inspector requested that contact details for the programme officer (with a mobile phone number) be circulated to the main parties as soon as the appointment was confirmed.

Inquiry Venue and Facilities

MBC indicated that they were in the process of organising a suitable venue for the first week of the Inquiry when a large number of local residents are expected to attend. For the subsequent weeks a smaller room in the Council's offices in central Maidstone will be used (accommodating around 100 people). The Council was urged to consider making arrangements for the public to access the venue for the first week if it is not well served by public transport.

The Inspectors indicated that a small ancillary room would be required for their use at both venues, together with separate rooms for the other main parties, if possible.

Photocopying facilities will be required at both venues, including facilities for copying coloured material. A table or shelves will need to be provided for the Inquiry library, in a convenient position either near the back of the inquiry room, or in the vestibule.

8. Any Other Business

Additional Information

KIG confirmed that they intend to formally submit amended plans for the scheme and further environmental information on 3 July 2009. They would also arrange for the submission to be advertised. The Council indicated that they would be able to give an officer view on the adequacy of the further environmental information submitted and the appropriateness of the Inquiry considering the amended plans by the end of the first week in August (however, a Committee resolution on these matters may also be necessary).

It was agreed that any representations in response to the formal consultation on the amended plans/additional information should be directed to MBC who will copy them to Sarah Banwell at PINS. In response to questions, the Inspector indicated that any consultation responses to the advert should be restricted to comments on the changes proposed. Representations made on other matters at earlier stages in the process would be taken into account at the Inquiry.

Conflict of Interest

The Inspector advised that his daughter works at the Environment Agency's Kent office. However, her team at the EA had no responsibility for the matters at issue at this inquiry and she would have no involvement in the proceedings. Accordingly, he was content to continue as the Inspector appointed to consider the appeal. No one objected.

Guidance for Document Preparation and Numbering

See Appendix A

Contact List

See Appendix B for main contacts of organisations represented at the PIM.

Andrew M Phillipson and Malcolm Rivett
Inspectors

19 June 2009.

APPENDIX A

Guidance for Document Preparation and Numbering

Document Numbering

All documents put into the Inquiry should carry a unique reference number on the front cover. This will comprise a short acronym, identifying the party submitting the document (e.g. KIG, MBC, HA, followed by a number). For those parties expecting to submit less than, say, ten documents the numbers should be sequential (i.e. HA/1, /2, /3, /4 etc). If there are expected to be more than this, then a two part numbering system should be used with the first number identifying the witness, and the second the document in that witness's series (i.e. documents put in by the appellant's 2nd witness would be numbered KIG/2.1, /2.2, / 2.3 etc). A "zero" series of numbers (e.g. MBC/0.1, MBC/0.2 etc) should be used for any general documents and documents put in by advocates during cross-examination.

Loose plans should be numbered with the acronym, followed by "PLAN" and a number. Core documents should be prefixed CD/ and a number. Any documents generated by the Inspectors will carry the prefix INQ/.

Numbers will generally be assigned by the parties putting in the documents, but the master document list will be maintained by the programme officer. Numbers assigned to any documents put into the inquiry but subsequently withdrawn should not be reused.

Presentation of Proofs and Appendices

Proofs and appendices should generally be bound separately. Both should be paginated. Appendices should be separated by coloured dividers with thumb tags. Bindings should be secure – ring binders that can shed pages or suffer damage if roughly handled in transport are best avoided.

Where the appendix is an extract from another document, it is necessary only to provide a copy of the identifying pages (e.g. the cover page plus a record of the date of publication), the extracts being referred to, and sufficient of the document to give the context of the extract. Appendices should not reproduce material contained in a core document, material contained in a statement of common ground, or commonly available Government policy documents (e.g. PPSs).

Where a proof exceeds 1,500 words a summary should be provided. Summaries should concisely cover the gist of the principal arguments in the main proof.

All documents should, where practical, be A4 size. Plans that are larger than A4 should be either A3 size or folded to A4 size. If there are several A4 or A3 size plans, they may be bound together. Larger plans should not generally be bound. All loose plans should be individually numbered.

Within proofs, every paragraph should be numbered. Individual paragraphs should be kept short – a maximum of 1/3 of a page. Extensive bullet points should be avoided, since they hamper easy reference. Only metric units should be used. If photographs are included, they should be bound into the appendices, with a plan showing the viewpoints and the date the photograph was taken. Where coloured material is included (e.g. photos or coloured plans) all copies should be similarly coloured.

Proofs may be printed double-sided. Single line spacing may be used, but if it is, sufficient space should be left for the Inspectors to make margin notes. Evidence on video or audio tape is not normally acceptable, neither are overhead projection or other slides, or "PowerPoint" presentations.

Legal Submissions

If any legal submissions are to be made, they should be presented in writing with full copies of any judgements referred to.

MAIN CONTACTS

Kent International Gateway Ltd

Morag Thomson
Marrons
1 Meridian Business Park
LEICESTER
LE19 1WY

Tel: 0116 2892200

E-mail: moragthomson@marrons.net

Maidstone Borough Council

Brian Morgan
Assistant Director of Development and Community Strategy
Maidstone House
Kings Street
MAIDSTONE
ME15 6JQ

Tel: 01622 602476

E-mail: brianmorgan@maidstone.gov.uk

Campaign for the Protection of Rural England

Brian Lloyd
3 Evegat Park Barn
Station Road
Smeeth
ASHFORD
TN25 6SX

Tel: 01303 815180

E-mail: Info@cprekent.org.uk

Cemex UK Ltd

Andrew Street
Synergy Planning & Property (on behalf of Cemex UK Limited)
Windmill Business Centre
Wrotham Road
Meopham
GRAVESEND
DA13 0QA

Tel: 01474 816704

Mob: 07773 390383

E-mail: a.street@synergypc.co.uk

Environment Agency

Niall Connolly
Planning Liaison Officer
Orchard House (Endeavour Park)
London Road
Addington
WEST MALLING
ME19 5SH

Tel: 01732 223111

E-mail: niall.connolly@environment-agency.gov.uk

Highways Agency

Amanda Hunt/Andrew Williams
Treasury Solicitors Department
One Kemble Street
LONDON
WC2B 4TS

Tel: 0207 2103103

E-mail: Andrew.Williams@tsol.gsi.gov.uk

Joint Parishes Group

Sherrie Babington
Clerk to the Joint Parish Group
4 Birkhall Close
Walderslade
CHATHAM
ME5 7QD

Tel: 01634 867173

E-mail: s.babington@softhome.net

Kent County Council

Tim Martin
Kent County Council
Environment & Regeneration
County Hall
Invicta House
MAIDSTONE
ME14 1XX

Tel: 01622 671411

E-mail: Tim.Martin@kent.gov.uk

Kent Downs AONB Executive

Nick Johannsen
Kent Downs AONB Executive
West Barn
Penstock Hall Farm
East Brabourne
ASHFORD
TN25 1HU

Tel: 01303 815170

E-mail: nick.johannsen@kentdowns.org.uk

Kent Police

Jerry Duncan
Force Architectural Liaison Officer
Partnership and Crime Reduction
Kent Police HQ
Sutton Road
MAIDSTONE
ME15 9BZ

Tel: 01622 653234

Mob: 07989 992167

E-mail: Jerry.duncan@kent.pnn.police.uk

Natural England

David Tyldesley
David Tyldesley and Associates
Sherwood House
144 Annesley Road
Hucknall
NOTTINGHAM
NG15 7DD

Tel: 0115 0680092

E-mail: david@dt-a.co.uk

STOPKIG

Richard Horton
STOPKIG
C/o Detling Post Office
Detling
MAIDSTONE
ME14 3JT

Tel: 01622 621077

E-mail: Info@stopkig.org

Tonbridge and Malling Borough Council

Cliff Cochrane
Tonbridge and Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
WEST MALLING
ME19 4LZ

Tel: 01732 876038

E-mail: Cliff.cochrane@tmbc.gov.uk