

**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 JUNCTON 8 AND EAST OF THURNHAM LANE, MAIDSTONE.**

**Revised Proof of Evidence on behalf of the Joint Parishes  
Group (JPG)**

**Environment & Ecology**

Sarah Goodwin

5 October 2009

JPG

c/o Clerk to the Joint Parishes Group  
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CHATHAM  
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**1. PERSONAL DETAILS**

- 1.1 My name is Sarah Goodwin and I appear at this public inquiry on behalf of the Joint Parishes Group (JPG). I have been helped in the preparation of this proof of evidence by colleagues within the JPG.
- 1.2 I am a Project Coordinator working for Natural Resources International and I am also a Parish Councillor for Lenham Parish where I take an active role in working on environmental issues in particular. I am not an expert in planning law or any other technical matter relevant to this public inquiry.

**2. SCOPE OF EVIDENCE**

- 2.1 This proof considers the affect of the development on the environment and ecology. In particular, it demonstrates that the development will adversely affect several rare species, including the White Clawed Crayfish, the Great Crested Newt and Desmoulin's Whorl Snail. Furthermore, whilst we have now received some additional ecological information it is incomplete, and we are still waiting for a number of reports on various species. It also shows that the development will lead to an unacceptable loss of agricultural land and is in breach of local, UK and EU regulation.
- 2.2 Sustainable development can be defined as meeting the needs of the current generation without compromising the ability of future generations to meet theirs. Whilst we recognise the potential value rail freight interchanges may have in working towards improved sustainability in both environmental and socioeconomic terms- with some environmental compromise being acceptable in local areas should this be the case; in this particular proposal, the potential benefits are themselves very much questionable and the clear environmental damage that will be incurred, no matter the extent of mitigation measures undertaken, cannot be accepted as justifiable in this light. JPG submits that KIG is not sustainable.

**3. International and European Law**

- 3.1 There are some 94 houses within 25m of the proposed site which will be acutely affected by KIG whilst the rest of us will suffer from the noise, pollution and traffic chaos resulting. We feel our human rights to live in a decent environment are threatened and that the proposal conflicts with Article 8 (Right to respect for private and family life) and Article 1 of Protocol 1 of the Human Rights Act (Right to Peaceful enjoyment of possessions and protection of property<sup>1</sup>).

**4. Environment**

- 4.1 The case for KIG is so weak that the argument that it may benefit the common good does not apply. There are no over-riding reasons why there should be a departure from government guidance, the South East Plan Regional Spatial Strategy, and the local development plan, and in particular the designation – Special Landscape Area.

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<sup>1</sup> The Human Rights Act 1998

4.2 The increase in noise, light and air pollution resulting from the construction and then operation of KIG cannot be tolerated. The Supplemental Environment Statement, and recently published Proofs of Evidence, fail to fully assess the environmental impact of this scheme and it is abundantly clear the impact and the lack of mitigation will urbanise this part of rural Kent.

4.3 We believe that the KIG proposal is one of the biggest environmental threats that Kent has witnessed since World War 2 and adds to the existing environmental threats from increasing population. It clearly conflicts with Government guidance which states that the protection of the countryside is the Government's overall aim:

"the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all."<sup>2</sup>

For rural areas the Government believes in the:

"continued protection of the open countryside for the benefit of all, with the highest level of protection for our most valued landscapes and environmental resources."<sup>3</sup>

4.4 The South East Plan<sup>4</sup> states that the protection of the countryside is a fundamental objective. I could quote from numerous paragraphs and policies but, in order to be concise, I shall select just one paragraph and one policy:

"The importance of protecting and supporting the countryside is a fundamental objective for this Plan, as the countryside performs various functions that contribute to quality of life in the region. It is valuable:

*Environmentally* - through its provision of key habitats, as a flood management resource and carbon sink, and as a provider of renewable energy sources and food

*Economically* - through the jobs it creates, the millions of visitors it attracts and by helping the region retain and attract high value employees and businesses

*Socially* - through the enjoyment and tranquillity it provides its users, and by providing recreational opportunities and supporting more healthy lifestyles."<sup>5</sup>

4.5 The KIG proposal is therefore clearly in conflict with the South East Plan and, in particular, policies such as C4.<sup>6</sup>

Of particular relevance are the 2nd and 4th paragraphs, which I quote in full:

"In particular, planning authorities and other agencies in their plans and programmes should recognise, and aim to protect and enhance, the diversity and local

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<sup>2</sup> PPS 1, Delivering Sustainable Development, ODPM 2005

<sup>3</sup> PPS 7, Sustainable Development in Rural Areas, ODPM 2004

<sup>4</sup> The South East Plan, DCLG 2009

<sup>5</sup> The South East Plan, DCLG 2009

<sup>6</sup> The South East Plan, DCLG 2009 Countryside Chapter

distinctiveness of the region's landscape, informed by landscape character assessment. Positive land management is particularly needed around the edge of London and in other areas subject to most growth and change. In such areas, long-term goals for landscape conservation and renewal and habitat improvement should be set, and full advantage taken of agri-environmental funding and other management tools."

"Local authorities should develop criteria-based policies to ensure that all development respects and enhances local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided."

- 4.6 Does the KIG proposal protect, respect or enhance the landscape? Clearly it does not. Whilst we accept some sustainable growth can be accommodated in Maidstone, as per the South East Plan designation of the County Town as a regional hub under policy SP2<sup>7</sup>, this proposal is neither proportionate to that, nor is it sustainable.
- 4.7 A good measure of the scale of the impact on the environment is the impact of the estimated 9126 vehicle movements per day<sup>8</sup>, or 9952 including 3402 HGVs according to KIG 21.1, which will seriously undermine national, regional and local policies on the environment. This is the case, particularly given the fact that HGV engines are at their most inefficient state of operation when entering or leaving a site such as KIG, when they will inevitably sit, idling. The Department for Transport's Case Study on Engine Idling (DfT, 2008)<sup>9</sup> demonstrated that there are significantly greater emissions of CO<sub>2</sub> and other pollutants compared with an HGV "en route".

## 5. Ecology

### 5.1 Lack of evidence

- 5.1.1 I now turn to the KIG's environmental report, and the SES in particular. These reports in the main only deal with the site in question and only make passing reference to the affect on adjoining or nearby areas. This is a significant deficiency and is in breach of the Environmental Impact Assessment Directive<sup>10</sup>.
- 5.1.2 There are also woodlands on and near the site where there are known populations of threatened and other species. However, we are still waiting for further surveys or effective mitigation measures in relation badgers, dormice, reptiles, bats, wild birds and invertebrates from the appellant.<sup>11</sup> In the absence of this evidence we are not able to provide as much input as we would like to, and indeed have a right to do at, to quote the Directive an "early stage."<sup>12</sup>

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<sup>7</sup> The South East Plan, DCLG 2009

<sup>8</sup> KIG Supplemental Environmental Statement July 2009

<sup>9</sup> DfT, Idling Engines 2009

<sup>10</sup> Environmental Impacts Assessment Directive, Directive 85/337/EEC 9 (European Commission)

<sup>11</sup> Letter, Marrons to MBC, 20 August 2009

<sup>12</sup> Environmental Impacts Assessment Directive, Directive 85/337/EEC 9 (European Commission)

5.1.3 We will, nonetheless, address these issues as best as we can in the absence of that vital evidence. For example, bats have different roosts at different times of year. The loss of habitat and light effects will adversely affect their population.

## **5.2 Rare Species not adequately addressed by the KIG SES**

5.2.1 Little mention is made of the Len Valley in the SES, a major deficiency given the water courses on site are tributaries of the Len. Recent discoveries of the extremely rare Desmoulin's Whorl Snail (*Vertigo Moulinsiana*) have been made amongst beds of Branched Bur-reed Lesser Pond-sedge and Greater Reed Mace lining the main channel of the Len (downstream from the site). These snails are of international importance and are protected by Annex II of the European Habitats and Species Directive<sup>13</sup>. It is also a priority species within the UK Biodiversity Action Plan (HMSO 1996) and is listed in the British Red Data Book (Bratton 1991) as an RDB3 rare species. Desmoulin's Whorl Snail is particularly vulnerable to reduced water flow.

5.2.2 A tributary to the Len at Hollingbourne currently sustains a community of White-Clawed Crayfish (*Austropotamobius pallipes*). This nearby population is not covered in the SES and is also protected under UK and EU law.<sup>14</sup> It is likely these Crayfish persist in other tributaries to the Len. They are very vulnerable to fine silk and hydrocarbon poisoning and the failure of the SES to properly consider them again leaves it in breach of EU & UK law. Even taking into account KIG's latest Proof on Ecology & Nature Conservation (KIG 10.1) this remains the case and is confirmed by their refusal to conduct an assessment of the direct and indirect impact on White-Clawed Crayfish on adjacent sites, but also by their acknowledgement of the threat by suggesting "an engineering solution will be brought forward".

5.2.3 Within the site there are ponds where Great Crested Newts were relocated during the construction of the CTRL. The appellant admits in their ES that they know little about these ponds. Reference was made to the newt population in the KIG report but no consideration as to the effect of repeated relocation. I am therefore shocked to read in their Proof (KIG 10.1) and Appendices (KIG 10.3) that since last year the condition of two of the ponds has deteriorated so much they are unlikely to "support significant aquatic invertebrate assemblages", and the admission by the Colin Plant Associates in KIG 10.3 Annex 1 "the loss of water from the large pond and its generally poor condition was a surprise to us, since during the spring of 2008 it was in good condition and presented an attractive habitat to aquatic invertebrates".

5.2.4 According to the UK Biodiversity Action Plan the Great Crested Newt is listed on Annexes II and IV of the EC Habitats Directive (92/43/EEC) and Appendix II of the Bern Convention. It is protected under Schedule 2 of the Conservation (Natural Habitats,

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<sup>13</sup> Habitats Directive, Directive 92/43/EEC (as amended), Appendix II of the Bern convention and Schedule 5 of the UK Wildlife and Countryside Act (1981)

<sup>14</sup> White Clawed Crayfish are protected under Annexes II & V of the Habitats Directive, Directive 92/43/EEC (as amended), Appendix II of the Bern convention and Schedule 5 of the UK Wildlife and Countryside Act (1981)

etc.) Regulations, 1994, (Regulation 38) and Schedule 5 of the WCA 1981.<sup>15</sup> I hope the Inspector and authorities present will investigate the cause of this devastating loss of an important habitat and take the appropriate action. The site itself, and surrounding ponds, still support the Great Crested Newt and we believe the appellant has failed to adequately survey or propose adequate mitigation or compensation, in breach of the Habitats Directive and the Environmental Impact Assessment Directive.

### **5.3 Loss of Agricultural Land**

5.3.1 Finally, we question the proposals as an acceptable use for this area of land. Can we afford to squander good agricultural land? Current economic issues indicate that good agricultural land is again becoming a valuable asset for food production. This is an issue that will escalate rather than reduce. PPS 1 clearly seeks to protect agricultural land.<sup>16</sup> This proposal will clearly destroy it in perpetuity.

## **6. Conclusion**

6.1 In conclusion, I invite you to consider the adverse aspects of this proposal in arriving at your recommendation. The key points to consider in the context of the environment and ecology are:

- negative effects on threatened wildlife, in breach of the Habitats Directive (92/43/EEC) and loss of agricultural land in breach of PPS 7;
- the loss from an ecological point of view of at least one pond on the site that was an attractive habitat just a year ago, possibly in breach of the Habitats Directive (92/43/EEC);
- failure of the SES to identify the many species KIG will affect ,the delay in even starting to examine the impact on reptiles (due at some future point in September and far too late to comply with the Directive), and the still incomplete ecological data, or appropriate mitigation measures (See our SES Proff JPG 02/02);
- insufficient benefits to mitigate the environmental degradation caused. (see our proof on the SES).

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<sup>15</sup> Habitats Directive (92/43/EEC) etc

<sup>16</sup> PPS 1: Delivering Sustainable Development