

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL BY KENT INTERNATIONAL GATEWAY LTD
APPU2235/A/09/2096565/NWF**

**PROPOSED RAIL FREIGHT INTERCHANGE, WAREHOUSING AND
ASSOCIATED DEVELOPMENT**

APPLICATION MA/07/2092 LAND EAST OF MAIDSTONE

**KCC PLANNING
SUMMARY OF POLICY PROOF**

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ON BEHALF OF KENT COUNTY COUNCIL

**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000**

SUMMARY

Policy applying to SRFI and the appeal proposal

Regional and national policy

3.1 The South East Plan is the recently adopted strategic level of the development plan. Policy T13 and the supporting text provide the criteria against which broad locations and sites for SRFI should be assessed. Policy T13 proposes that broad locations within the region for up to 3 facilities should be identified through joint work by the relevant parties. It requires that interchanges should have the potential to deliver modal shift and be well related to rail and road corridors capable of accommodating the anticipated level of freight movements, to the proposed markets, and to London.

3.2 In addition sites must be of sufficient size and configuration to accommodate an appropriate rail layout, transfer operation and value added activities, be already rail connected or capable of rail connection at a reasonable cost, have adequate road access or the potential for improved road access, and be situated away from incompatible land uses.

3.3 The Government has confirmed that it continues to support the former SRA Policy for SRFI of 2004. This states the required capacity *"would be met by three of four new SRFI in the region.... suitable sites are likely to be located where the key rail and road radials intersect with the M25"*. A defining feature of a SRFI is a facility that *"optimises the use of rail for the primary trunk leg and minimises the secondary distribution leg by road"*

3.4 The Regional Spatial Strategies for London, the South East and East of England have all been recently approved by the Secretary of State with policy support for the provision of SRFI. Each refers to the SRA policy (2004) for 3-4 interchanges to serve the wider region, and to their location at the intersection of radial routes and M25. In the London Plan, two locations are identified with potential for the provision of strategically important inter-modal freight transfer. In the East of England Plan, provision should be made for at least one SRFI.

Development Plan Policy for Maidstone

3.5 Maidstone is outside the sub regions identified in the South East Plan as the focus for growth and regeneration. Maidstone is a regional transport hub but this is not concerned

with freight. The South East Plan recognises the designation of Maidstone as a “New Growth Point” and provides for the completion of 11,080 dwellings between 2006 and 2026. Policy H1 places a clear responsibility on local planning authorities to plan for and deliver this housing provision.

3.6 The strategic role for Maidstone is amplified in Policy AOSR7. This gives clear guidance for the LDF to provide for employment of sub regional significance but *“with an emphasis on higher quality jobs to enhance its role as the county town and a centre for business”*. Associated infrastructure to support growth should include the South East Maidstone Relief Route (now known as the South East Maidstone Strategic Link or SEMSL).

3.7 The Maidstone Borough Wide Local Plan (MBWLP) was adopted in 2000 and selected polices were saved by the Secretary of State in September 2007. The MBWLP makes no development allocations on the appeal site. Consultation on Preferred Options for the LDF Core Strategy took place in 2007. The preferred approach to delivering the dwelling provision of the South East Plan is to create a new mixed use community to the south-east/east of the town. Key infrastructure to support development includes the South East Maidstone Strategic Link and other transport improvements. The Local Transport Plan for Kent adopts the same approach.

Policy for landscape and countryside

3.8 The importance of protecting and supporting the countryside is a fundamental objective of the South East Plan. Policy C3 gives high priority to the conservation and enhancement of the natural beauty in the region’s Areas of Outstanding Natural Beauty, and planning decisions should have regard to their setting. AONBs have statutory protection to secure their permanent protection against development that would damage their special qualities and to conserve and enhance their natural beauty. The Government’s overall aim in PPS7 is to *“protect the countryside should for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife”*.

Previous consideration of the appeal site

3.9 The Kent and Medway Structure Plan EiP in 2004 considered employment land at Maidstone and distribution and transshipment facilities in Kent, including proposals for a rail terminal and warehousing on part of the appeal site. The SRA representation to the EIP stated : *“The SRA would prefer such interchanges to be located in and around London to*

minimise HGV movement through Kent.” The Panel for the South East Plan EIP suggested that a suitable broad location could be identified “*at the north west end of the Dover-London corridor*”. However, the Secretary of State did not take the opportunity to include this or other locations in the adopted South East Plan.

Compliance of the appeal proposal with policy

Broad locations for up to three facilities

4.1 In determining proposals that come forward in the South east region, consideration must also be given to the progress that has been made towards meeting the need for 3-4 interchanges in the wider region. At present there are no SRFI's with planning permission proceeding in the South East Plan area, and on numerical grounds alone the KIG proposal is not in conflict with policy. However, there is a planning permissions for an SRFI at Howbury Park in London; there are active proposals at Radlett and Colnbrook; and is strong policy support for Barking. These 4 locations would together meet the South East Plan policy for “up to three” locations, and meet the SRA policy for 3 to 4 in the wider region. Other sites could come forward, or be identified through joint work at the regional level.

The potential to deliver modal shift from road to rail

4.2 I rely on the estimates of transport costs and the conclusions of Jacobs Consultancy for Maidstone Borough Council, which demonstrates that the proposal will not be successful in transferring freight from road to rail. The KIG concept is largely dependant on capturing cross Channel rail and road traffic. The business model at best balances the expected inward freight train movements from the Channel Tunnel with outward movements to UK destinations. This does not demonstrate modal shift compared to use of the rail freight potential of the Channel Tunnel for through rail services. The appellant's claims for modal shift to rail rely on the majority of the warehousing being used as national distribution centres. Jacobs Consultancy show that the appeal site would be more likely to attract regional distribution, reflecting the current market, with onward distribution by road.

The relationship to rail & road corridors capable of accommodating anticipated freight

4.3 The appeal site complies with Policy T13 in that it is located on the transport corridor that is seeks to serve and that sufficient capacity for the number of freight trains exists on this part of the rail network. However, a small number of SRFI are envisaged for the wider

region, and sites well located for more than one transport corridor, as suggested by Policy T13, would be preferred as part of this network. The appeal site is not well related to the major container ports, notably Felixstowe and Southampton, nor to the main rail and road routes serving London and the South East, and links to other regions.

The relationship to the proposed markets

4.4 The appeal site is an intermediate point for the main trade that it seeks to serve, which is the transport of goods from the Continent to markets in the UK, notably the main urban centres. Geographically the proposal is not well related to its ultimate markets. The KIG proposal seeks to combine regional and national distribution but would be at a disadvantage compared to locations near London, or to the north or west of London.

The relationship to London.

4.5 The South East Plan endorses the conclusion of the SRA Policy that “suitable sites are likely to be located where the key rail and road radials intersect with the M25 motorway.” The London Plan and the East of England Plan envisage similar locations for SRFI’s. The appeal site does not meet the criterion of Policy T13 that interchanges should be well related to London.

Site, configuration, layout and operation

4.6 The area of the appeal site is 112 ha and is within the range suggested by the SRA. The SOCG on rail (CD 8.5) states that trains of 775 m length can be dispatched in either direction. It is proposed that the formation of the intermodal area and rail sidings would precede creation of the first development platforms for Units A-D (CD 3.28 para. 1.15). The proposal therefore complies with the South East Plan and the SRA Policy in these respects.

4.7 However, there are features of the appeal site that are not well suited for its development as an SRFI. To accommodate very large warehouse units the design attempts to deal with the difficult configuration of the site, variations in height, sensitive neighbouring uses, public rights of way, and water courses on the site. The configuration and topography of the site limit the number of units that could be rail connected and contribute to the harm that the proposal would cause to amenity, countryside and landscape. The site does not fully comply with the criteria in the South East Plan and SRA Policy.

Rail connection and road access

4.8 The site does not have a rail connection at present, but the advice commissioned by MBC from Jacobs Consultancy is that a rail connection could be made to the main line subject to signalling etc. At present there is no adequate access to the site, and it has not yet been demonstrated that road access can be improved satisfactorily.

Incompatible land uses

4.9 The proposal would operate for 24 hours each day and much of the activity would be in the open. It would have a cumulative impact on the amenity of Bearsted. I consider that it does not meet the criterion of the South East Plan states that facilities "*in particular must ... be situated away from incompatible land uses*". This requires a clear separation of an SRFI from housing so that its operation can develop without harm to residential amenity.

Workforce and strategy for employment – Maidstone's strategic role

4.10 Maidstone is located outside any sub region, and is neither a Growth Area identified in the Government's Sustainable Communities Plan, nor an area for regeneration. Maidstone is a New Growth Point and the South East Plan requires that the LDF and other programmes ensure the delivery of 11,080 dwellings from 2006 to 2026. This single proposal in its development stage would absorb more than the annual increase in workforce arising from the South East Plan dwelling provision.

4.11 The KCC highway witness will show that the capacity created by the SEMSL to enable Maidstone to deliver the growth policy of the South East Plan would be pre-empted by the KIG proposal. In the longer term severe congestion would be caused by the construction of KIG in addition to the planned dwelling and commercial provision. The access arrangements that would be required for KIG would also prejudice the implementation of the SEMSL. The KIG proposal would therefore frustrate the policy of the recently adopted RSS, and damage the future of Maidstone by preventing a long term solution to its transport problems.

Policy for the protection of Landscape and Countryside

4.12 The proposed development would have an impact on the AONB that should be given considerable weight, even though the site is adjacent to but not within the AONB. The

existing landscape of ridges and water courses that extends from the down-land to the north would be replaced by a series of plateaux on which the warehouse units would stand with their extensive parking and loading areas. Jacobs for MBC consider the proposal *“unacceptable on landscape grounds as a result of the considerable adverse landscape and visual effects that would arise from it”*.

4.13 To allow the proposal to proceed would be contrary to the statutory protection given to AsONB and fail to have regard to the setting of the AONB as required by South East Plan Policy C3. The development would transform farmland into an urban landscape, and would be contrary to the emphasis in national, regional and local policy for the protection of the countryside. The harm to the AONB and its setting, and the loss of countryside caused by the proposal is not justified by the appellant’s claims to achieve modal shift of freight to rail. Other interests of acknowledged importance are also detrimentally affected, including PROW and archaeology.

The alleged need and benefit for an SRFI near Maidstone

The Appellant’s Business case

5.1 The analysis of transport costs by Jacobs Consultancy for MBC demonstrates that the proposal would not shift cross Channel freight from road to rail. For freight assumed to use KIG, the transfer of cross Channel road freight to rail is the most costly option for onward transport into the UK. The estimated costs for national distribution are lower for both road and rail if KIG is not used by cross Channel freight. KIG would also fail to intercept Channel Tunnel trains because it would be more cost effective for them to continue to a destination in the Midlands for national distribution of their freight to end users (CD 4.7 Tables 20 and 21).

5.2 Jacobs Consultancy conclude that with 3-4 SRFI in the South East, there could be 2-3 cross Channel freight trains per day to the appeal site, but for the regional market with onward transport by road. In the longer term, with a national network of SRFIs, the appeal site might attract 2-3 trains each day from within the UK, but as a regional distribution centre with onward transport by road (CD 4.7 pages 63 and 64).

5.3 KIG would not clearly demonstrate a net transfer of freight from road to rail unless the number of outward domestic trains significantly exceeded the number of inward Continental trains. The appellant has not made such a case.

Appellant's Assessment of Other Sites for SRFI

5.4 The site-search undertaken by MDS Transmodal and supplemented by RPS does not appear to include planning policy criteria from the outset. Nor does it apply its own criteria consistently to the appeal site and other sites. The potential to provide CTRL rail gauge to the appeal site influenced the site selection process, but such an upgrade is not part of the planning application and could have significance for rail and road traffic that is not elaborated.

5.5 There are sufficient environmental and other policy grounds to dismiss the appeal without evidence that other sites can meet the need identified in policy for up to three sites in the South East Plan area, and 3 or 4 sites in the wider region. However, Jacobs Consultancy conclude that *"Barking, Howbury Park, Colnbrook and Radlett would realise the regional network of 3-4 SRFI ... being of adequate size and located near intersection points of the M25 with radials"*.

5.6 The Secretary of State need not be concerned that sites can be found to meet the policy commitment in each RSS to provide SRFI in the wider South East region. However, this should be achieved in manner that identifies an efficient network of sites as envisaged by the SRA, with the minimum harm. The Secretary of State can firmly reject the appeal site on these grounds. There is also an imminent process to identify broad locations in the South East through a Single Regional Strategy, and there is currently no urgency in the market place for new distribution space - an SRFI has already been permitted at Howbury Park in the Dover-London corridor.

In conclusion :

6.1 On numerical grounds alone the proposal is not in conflict with South East Plan policy to identify broad locations for up to three interchanges. However, other proposals could together meet the policy, and the SRA policy for 3 to 4 SRFI in the wider region.

6.2 The estimates of transport costs by Jacobs Consultancy for Maidstone Borough Council demonstrate that the proposal would not be successful in transferring freight from road to rail.

6.3 The appeal site is located on an important freight corridor serving cross Channel routes with sufficient capacity for the number of freight trains envisaged. However, the site is

not well related to any other major freight route, as might be expected with a small number of SRFI serving the wider region.

6.4 Geographically the proposal is not well related to its ultimate markets, and would be at a disadvantage compared to locations near London, or to the north or west of London.

6.5 The appeal site does not meet the criterion of Policy T13 that interchanges should be well related to London.

6.6 The appeal site is of sufficient size and trains of 775m length could be dispatched in either direction. An intermodal area and rail sidings could be created in the first stage of development. However, the configuration and topography of the site limit the number of units that could be rail connected and contribute to the harm that the proposal would cause to amenity, countryside and landscape and other associated interests.

6.7 A rail connection could be made to the main line subject to signalling etc. but there is no adequate road access to the site, and it has not yet been demonstrated that access can be improved satisfactorily.

6.8 The proposal does not meet the criterion of the South East Plan that facilities "*in particular must ... be situated away from incompatible land uses*". It would cause cumulative harm to the amenity and historic character of the community of Bearsted, contrary to policies for their protection.

6.9 The South East Plan gives no support to the location of an SRFI at Maidstone. The evidence of Mr Rosevear shows that the proposal would frustrate the delivery of the housing and employment strategy of the recently adopted South East Plan by pre-empting the planned capacity of the highway network. The access arrangements that would be required for KIG would prejudice the implementation of the SEMSL and damage the future of Maidstone by preventing a solution to its transport problems.

6.10 The proposal would be contrary to the statutory protection given to AONBs and fail to have regard to the setting of the AONB as required by South East Plan Policy C3.

6.11 The development would transform farmland into an urban landscape, and would be contrary to the emphasis in national, regional and local policy for the protection of the countryside, PROW and archaeological remains.

6.12 The analysis of transport costs by Jacobs Consultancy for MBC demonstrates that the proposal would not shift cross Channel freight from road to rail. KIG would also fail to intercept Channel Tunnel trains because it would be more cost effective for them to continue to inland destinations for national distribution of freight.

6.13 The site-search undertaken for the appellant is flawed and is influenced by claims that the site has particular potential for improved rail gauge. However, this is not part of the planning application, and could have a significance for rail and road traffic that is not elaborated.

6.14 The proposal would fail to achieve modal shift of freight to rail, and there is therefore no justification for the harm to the AONB and its setting, and the loss of countryside that the proposal would cause. The harm that it would cause to the landscape and to views in the area would be certain, and would be caused irrevocably at the outset of the scheme were it to be permitted. Any benefits from modal transfer are unlikely, and would be at an uncertain time in the future.

6.15 There are sufficient environmental and other policy grounds to dismiss the appeal without evidence that other sites can meet the need identified in policy for up to three sites in the South East Plan area, and 3 or 4 sites in the wider region.

6.16 The Secretary of State need not be concerned that sites can be found to meet the policy commitment in each RSS to provide SRFI in the wider South East region. However, this should be achieved in manner that identifies an efficient network of sites with the minimum harm. The Secretary of State should reject the appeal site on these grounds.