

KD/4

PUBLIC INQUIRY

into an appeal by Kent International Gateway Ltd

for a proposed rail/road freight interchange, warehousing and other works

Land between the M20 and A20 to the west of Junction 8
and east of Thurnham Lane, Maidstone

Maidstone Borough Council application ref: MA/07/2092
Planning Inspectorate appeal ref: APP/U2235/A/09/206565

Evidence-in-Chief of Richard Bate MA MPhil MRTPI

on behalf of

Kent Downs Area of Outstanding Natural Beauty Executive



October 2009

1 Definitions

S1 “I am presenting evidence on behalf of the Kent Downs AONB Executive.” Various terms have been used in this inquiry not always in an entirely accurate way, and it may be helpful to be precise about them:

The North Downs is a geological line of chalk hills running through Kent and Surrey into Hampshire with a broadly south facing scarp slope and a north facing dip slope.

The Kent Downs AONB is a nationally designated area which includes not only the Kentish part of the North Downs but also, in its western sector, the Greensand Ridge. This ridge parallels the North Downs on its south side, but is less prominent eastwards into Kent. The North Downs and Greensand Ridge are separated by the Vale of Holmesdale.

The Kent Downs AONB Executive is the executive committee of the Joint Advisory Committee for the Kent Downs AONB. Each AONB has a Joint Advisory Committee (other than those with Conservation Boards). In this AONB, the Executive is the body which takes an active part in AONB affairs on behalf of the JAC.

The Kent Downs AONB Unit is the small body of staff used to carry out the functions of the JAC and its Executive.

2 Emotive judgements

S4 “The outstanding beauty of the chalk scarp...” In his rebuttal proof, Mr Rech at paragraph 2.20 criticises me and others for being “somewhat emotive in their judgements”. I was surprised by this comment. I don’t think it’s possible to have a full appreciation of landscape if you have no emotional response to it. So I feel a bit sorry for Mr Rech that he is missing out. He is certainly out of step. It is not just some of us at this inquiry which have this perspective: emotive judgements (in Mr Rech’s terms) are written into some key documents. For example:

- just six lines into the Countryside Commission’s landscape assessment ‘The Kent Downs Landscape’ reference is made to the “dramatic south facing scarp” (see the extract in the last part of my Appendix 7); and
- the AONB Management Plan refers to “breathtaking long-distance panoramas” and to “spectacular views... along the chalk escarpment” (see the underlined parts in paragraph 3.30 of my evidence).

3 Understanding ‘settings’

S7 On ‘setting’, “what matters is the significance of the landscape asset which would be affected and the degree of impact of the proposed development upon it”. Mr Lovell, Mr Tyldesley and myself have each in our own ways contributed on this subject. For the avoidance of doubt, I wanted to clarify my view and explain why it is that I feel we are all making very much the same point.

Insofar as the visual aspects of the landscape are concerned, the setting for a protected landscape is primarily a matter of what can be seen from it, and where it can be seen from. However, that description is simply of the visual envelope from the protected landscape, and setting is a more subtle concept. Setting addresses the significance of what is happening within the visual envelope in relation to the importance of the views in and out: i.e. the impact of the proposal on the value of the asset – in this case the Kent Downs AONB. So this covers matters such as integration of the protected landscape with the surrounding area, and the perception of the value of views.

So far as existing or potential development within the visual envelope is concerned, these may or may not detract from the setting (or do so in varying degrees). The acceptability or otherwise of an impact on the setting will depend on the significance of the views within which it can be seen, and matters such as its size, proximity and other features relevant to its impact – i.e. features which cause discordance with the AONB and with the landscape surrounding it.

So far as the Kent International Gateway is concerned, I obviously consider the following, as my evidence explains:

First, that the views over the proposed site are of outstanding significance and quality, greatly enjoyed by many people;

Second, that the proximity – indeed adjacency – of so enormous a development is very significantly detracting;

Third, that the appeal site has a close relationship with the AONB: this has been noted by Mr Lovell in respect of the way the landform of the Downs continues across the M20/CTRL corridor onto the appeal site, and by myself by reference to the planning history of the designation and the creation of the SLA at the foot of the scarp;

Fourth, that many features of the proposal are discordant with the surroundings, such as in terms of: flat plates of development carved out of an undulating landscape; large amounts of movement across the landscape due to HGVs, trains and gantries; incongruous man-made shapes; and vast quantities of metalwork.

So far as existing urban areas within view of the AONB are concerned, these for the most part detract from the enjoyment of the AONB. I consider these as within the setting of the AONB (by virtue of the fact that you can see them) but discordant. The degree of that discordance depends on local circumstances. Mr Tyldesley, though, considered large towns as part of the ‘surrounding area’ of the AONB rather than part of the ‘setting’. I have come to the conclusion that this is a distinction between our approaches without a difference. Mr Tyldesley’s approach is quite helpful from a policy perspective: if there is a straightforward redevelopment proposal within an urban area that is visible from the AONB, then there is no need to apply the full weight of the policy on settings (in South East Plan Policy C3 or elsewhere) to such a proposal: it would affect the setting, obviously, but no more so than what is there at the moment, and it was not the purpose of Policy C3 to interfere with the continual process of urban land recycling. Policy C3 is more intended to address proposals for change in the parts of the setting which positively

contribute to the AONB, which for the most part means not already urbanised. Mr Tyldesley's separation of 'surroundings' from 'setting' is therefore essentially about how policy is applied, and not a new definition of 'setting'. I share his views on the discordance of actual and proposed schemes seen from the AONB.

4 Grand views

S8 "This [landscape] asset has always been treated as one which relies for a significant part of its merit on the grandeur of the chalk scarp slope of the North Downs." I should like to add here a point about the Hollingbourne Vale – which is the landscape character area for the AONB above the appeal site. Mr Rech in his proof at paragraph 9.3 and in a plan at Appendix 10 notes that this area is said to be "in a poorer landscape condition than the vast majority of this designated landscape to the east, west and north of the site". This derives originally from the Countryside Commission's character assessment, which I have reproduced at the end of my Appendix 7. (The 'restore and create' notation was added later by the Babbie study 'The Landscape Assessment of Kent', CD 5.13).

I do not accept that a "poor" landscape condition does justice to the popular experience of this landscape. The Countryside Commission report refers to "vast arable 'prairies' that in places sweep up over the scarp onto the downland plateau. The scale of these 'prairies' is inappropriate to the character of the surrounding landscape". I can understand that approach, but the same paragraph notes that "The Ordnance Survey maps of the late 19th century show a pattern of large, regular fields similar to that of today." In other words, the landscape as a whole has been much the same for over a century, and part of the grandeur I refer to in my summary paragraph S8 derives from the openness of these fields on the scarp. For generations they have made their own grand impression on the viewer, and that is not diminished because of a perceived defect in their character.

5 Understanding the proposals

My Summary did not try to summarise the impacts of the proposed development from different parts of the AONB: that is in my main proof. However, I wish to emphasise that KIG Ltd's continual evolution of its proposals has left some loose ends. I have drawn attention to what seem to me the most significant ones, in paragraphs 3.38-39 of my proof: these concern the proposal to install screen fencing along the M20 beside the intermodal area. Mr Rech in his rebuttal comments unhelpfully that I do "not appear to have understood the design proposals". That may be true, but if so I am probably not the only person. It could also be that the design proposals have not been explained properly; or that there is an error and (until proved otherwise) my concerns are fully justified.

6 Previous appeal decisions

Previous appeal decisions in circumstances comparable in principle to the current appeal – but understandably on a much smaller scale – have resulted in refusals partly on

grounds of marring the views from an AONB and detracting from its natural beauty. I refer to them in paragraph 3.7 of my evidence and provide copies in my Appendix 2.

The parallels between the two separate caravan site schemes in Weymouth & Portland and the KIG proposal are remarkable. All the sites are:

- outside an AONB but very close to it;
- subject to a regional policy to protect AONB settings (emerging in the SW);
- overlooked by a National Trail;
- subject to refusal by the local planning authority on landscape grounds.

Furthermore, in the Seaview case (APP/P1235/A/06/2012807) the site was covered by a local landscape designation with an accompanying Local Plan policy. There was a dispute at that inquiry about the relevance of the Local Plan policy protecting the designated landscape in view of the more recent approach taken in PPS7, just as there has been here at KIG. The Inspector concluded in his paragraph 8 that “It is not my role in the context of a section 78 appeal to review the merits of the designation, and in my opinion the guidance in PPS7 about how to formulate future policies is an insufficient justification for me not to give full weight to Policy N12” (the one in question). The Inspector went on to dismiss the appeal for reasons which included Policy N12, as well as impact on the setting of the AONB. In the Waterside case (APP/P1235A/A/08/2072794) the Inspector reached the same conclusion on the relevance of local landscape designations through Policy N12 (paragraphs 26-27).

7 Light pollution

S13 “...the significant adverse light intrusion into the AONB at night should be a ground for refusing the appeal.”

I would like to pick up a few important points from Mr Pollard’s rebuttal proof.

The starting point is Chapter 7 of the original Environmental Statement, and my proof of evidence comments on that. The focus of that work was on residential amenity, not on the wider impacts on the AONB. The Supplementary ES addresses that criticism mainly by introducing two new night-time viewpoints NV6 and NV7, both from the Pilgrims Way. Other than this, the revisions appear to have little bearing on the generality of impacts on the AONB: the SES states simply that “The outline lighting design given in Appendix 7.2 of the ES has been fine tuned to reflect current design thinking two years on as well as meeting the modified Masterplan” (paragraph 7.6.7).

So far as the detail is concerned, the SES makes the point (in Table 7.2.1) that motorists on the Pilgrims Way will be low down with a limited view, and I accept that. I do not however accept that there will not be recreational users at night: as a metalled surface it is safe to walk, and on my visit after dark I met both a solo cyclist and a cycling group.

So far as the viewpoints are concerned, it is true that the baseline backdrop to the view from NV7 at the top of Water Lane includes the lights of Bearsted and Maidstone. However, the lights of traffic on the motorway are only just discernible from here, probably because they are moving perpendicular to the view. It is striking that vehicle

lights on the M20 do not show up at all on the photograph from viewpoint NV7. I therefore disagree with the point made by Mr Pollard in his rebuttal proof, at paragraph 2.3.2 that “the M20 and CTRL lie between the site and the AONB both of which already contribute a degree of obtrusive light throughout the hours of darkness”: I did not find the M20 lights intrusive, though intermittent trains on the CTRL are more noticeable.

Viewpoint NV6 confused me until I realised the photograph was taken perhaps 200m east of where it is marked on the map. The viewpoint used is about 30m west of Aldington Cottages, above Thurnham Keep Farm: the associated oast houses are just visible in the photograph.

It is unfortunate that no photograph has been taken towards the appeal site from the Pilgrims Way further east. East of the lane down to Whitehall there is a 200m section of road with clear views day and night into the centre of what is proposed to be the intermodal area. This omission is perhaps because this part of the Pilgrims Way does not appear on Mr Rech’s diagram in Appendix 11 to his proof as a section from which the appeal site is visible. There is a very dark backdrop to these views at night. Sightlines are towards the point where a pedestrian subway passes under the M20 and CTRL, and is about the lowest point of the motorway in the vicinity. Mr Rech explains that this motorway elevation is 61.0m AOD (paragraph 4.18 of his proof). Given that the plate of the intermodal area is set at 56.0m AOD, this means that stacked containers would rise 7 metres into view from the Pilgrims Way and the gantry cranes would have lights 20 metres above the M20. Table 7.6 in the SES shows that the lamps in the intermodal area will be far more intense than anywhere else on the site, and the whole area will be floodlit, including the containers. It is inevitable that the intermodal area would be significantly intrusive in the view from this section of the Pilgrims Way, particularly at night.

The other metalled road from which lighting at night on the appeal site would be clearly visible is Broad Street Hill, on the scarp north east of Broad Street. From here the dark area of the appeal site, between the lights of the A20 and the lights of Bearsted/Maidstone, is clearly visible and would experience significant light intrusion if KIG were developed.

On the footpaths and bridleways at higher elevations, the KIG site would show up much more prominently when lit. Given the absence of lighting at all through 80% of the compass, the eye would be drawn to the lights here. While there are likely to be few users of these rights of way in the dark of the night, numerous users towards the end of the day could expect to experience the lighting. This has been neglected in the lighting assessment. As well as the readily apparent views over parts of the site from various sections of the North Downs Way, there are views into parts of the ground level of the intermodal area (over or around the edge of Longham Wood) from the North Downs Way:

- north of Thurnham Keep Farm;
- above Broad Street;
- north of Hollingbourne.

From these sections not only would cones of light be visible but also the lit ground, and the trains, containers and HGVs on it. The gantry lights (and the lit upper levels of

containers and structures) would also be visible from many other points on the North Downs Way.

I view these lighting impacts as significant and damaging to the enjoyment of the AONB, and I maintain my earlier view that permission should be refused for this reason.