

KENT INTERNATIONAL GATEWAY INQUIRY**Closing Statement by Richard Bate, *Green Balance***on behalf of the Kent Downs AONB Executive

1. At the opening of the Inquiry the Inspector identified eleven main matters he expected the inquiry to consider (INQ/7). The evidence of the Kent Downs AONB Executive addresses two of these:
 - the effect the proposal would have on the countryside, the special landscape area and the nearby Kent Downs Area of Outstanding Natural Beauty; and
 - the extent to which the development would impact on footpaths and bridleways near to and crossing the site and people’s enjoyment of the area for recreational purposes.
2. The Kent Downs AONB Executive is strongly opposed to the proposed development, welcomes the opposition to it by the local planning authority (Maidstone BC), and urges the Secretary of State to refuse Kent International Gateway Ltd’s appeal.

Policy to be applied in the setting of the AONB

3. Mr Bate has summarised his views on what is meant by ‘setting’ in KD/4 paragraph 3. A matter of common agreement amongst the parties is that the proposed development is within the setting of the Kent Downs AONB (KIG/6.1 paragraph 8.2). Policy C3 of the South East England RSS 2009 (CD/2.1) therefore applies. This states that “High priority will be given to conservation and enhancement of natural beauty in the region’s Areas of Outstanding Natural Beauty (AONBs) and planning decisions should have regard to their setting. Proposals for development should be considered in that context...”. Similarly, Government guidance on *Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads* (Defra, 2005) (in KD/2, Appendix 1) states that “it may sometimes be the case that the activities of certain authorities operating outside the boundaries of these areas may have an impact within them. In such cases, relevant authorities will also be expected to have regard to the purposes of these areas.”
4. South East Plan Policy C3 (CD/2.1) also requires local planning authorities to have regard to statutory AONB Management Plans. The preparation of these every five years is a legal requirement. The *Kent Downs AONB Management Plan 2009-2014* (CD/6.3.3), which has been adopted by Maidstone BC (and, in line with PPS 12, should be afforded weight equivalent to a Supplementary Planning Document), includes policies highly relevant to the protection of the AONB’s setting. These should therefore carry considerable weight in the assessment of the current appeal (KD/2 paragraphs 3.10-12).
5. The evidence submitted to the Inquiry by Mr Bate (KD/1 section 3) demonstrates that significant weight should be afforded to the protection of the setting of the Kent Downs AONB in the area covered by the appeal site. The outstanding beauty of the

chalk scarp of the North Downs, together with the views from it over its setting, was the central reason why the AONB was designated in the first place. These features have remained critical to its value and to public enjoyment ever since. A key part of the asset whose setting merits protection is the chalk scarp, while at the same time the setting itself is integral to the experience of that asset.

6. Previous appeal decisions in strikingly similar policy circumstances, though involving much smaller schemes, have upheld the importance of protecting the setting of an AONB (KD/2 Appendix 2 and KD/4 paragraph 6). Furthermore, in both cases, challenges by the developer to the merit of a county-level landscape protection policy in an adopted Local Plan (on the basis of a revised approach in the more recent PPS7) were dismissed by the Inspectors. The same approach should be taken here to a comparable challenge by KIG Ltd.

The importance of the AONB setting in the designation process and in planning policy

7. The AONB boundary was drawn tightly around the ‘outstanding’ landscape and the setting was excluded from the designation (Minutes of the meeting between the National Parks Commission and Kent County Council held on 22nd January 1964, included in KD/2 Appendix 5). The setting of the AONB was protected through planning policies prepared by Kent County Council. The Kent Structure Plan (approved in 1980) included Special Landscape Areas (SLAs) on a Supplementary Diagram, the boundaries of which were identified through the Kent Countryside Local Plan (adopted in 1983). The Written Statement and Report of Survey for that Local Plan establish that SLAs were designated not only on the basis of landscape quality but in places as the foreground to more striking scenery, and specifically in the case of the North Downs SLA to include a strip of land at the foot of the escarpment, including across the appeal site. This was because the Structure Plan, approved by the Secretary of State, “recognised the importance of preserving the foreground to important scenic features” (KD/2 Appendix 6).

8. While the County Council has sought to protect the appeal site from inappropriate development in the setting of the AONB through its own planning policies since the preparation of its Structure Plan in the late 1970s, it also considered the appeal site worthy of inclusion in the AONB itself (KD/1 paragraphs 3.17-19). In particular, it wished the A20(M) [now the M20] to benefit from AONB designation on either side of this major road, as was secured with the Sevenoaks Bypass [now the A21], “by the inclusion of sufficient land on both sides of such roads to preserve the views therefrom” (letter of 10.3.66, in KD/2 Appendix 5).

9. This regard for the perception of the AONB and its setting by the huge number of users of the M20 is significant. Although Mr Rech in cross-examination had been unaware of this designation history, he included (at a late stage in the inquiry) proposals (KIG/6.10) for close-boarded fencing up to 2.5 metres high to screen views of the appeal site from the M20 with specific reference to the containers stored on the intermodal area. (This was a potential visual intrusion of particular concern, aside from views from the M20 into other parts of the site.) Nonetheless, this screen fencing, Mr Rech agreed, would not be effective for vehicles approaching for half a mile from the west (but only when immediately passing the intermodal area). From the east, the landform ensures that

views from the M20 open up quickly across the whole site west of Crismill lane, and the screen fencing would not prevent this, he accepted. Furthermore, the fencing placed on the access ramp on the north side of the intermodal area would not be particularly effective for M20 users immediately adjacent, as stacked containers would still be visible and even east-bound HGV drivers could see to the lowest containers (cross-examination demonstrated). The screen fencing proposals – to shield one of the most prominent aspects of the site – would therefore be largely ineffective, and the objective in the *Planning Issues Report* (CD/3.2 paragraph 7.36) to “remove views of stored containers, leaving only short glimpses of the cranes above, lattice structures with far less visual impact” could not be achieved. The fears which Kent County Council had back in 1966 about not preserving views from the M20 in the setting of the AONB would unfortunately be realised if this proposed development were to proceed. When seen from higher up the AONB, the fencing would be yet another intrusion from this direction without, Mr Rech accepted in cross-examination, performing any significant screening function.

The importance of the views beyond the designated area to the merit of the AONB

10. Mr Bate showed in his evidence (KD/1 paragraph 3.26-33) that the landscape asset of the Kent Downs AONB in the vicinity of the appeal site has always been treated as one which has relied for a significant part of its merit on the grandeur of the chalk scarp slope and the views from it beyond the designated area. This was not questioned. The Kent International Gateway proposal is inherently a major challenge to the purposes for which the Kent Downs AONB was designated, and should be assessed in that light.

The visual harm caused by the proposals

11. The reasons for which the AONB was designated are immediately apparent from the scarp above the appeal site. The current experience of the view is largely of unspoilt rural farming countryside. The M20 and Channel Tunnel Rail Link at the foot of the Downs are visible but for the most part not prominent: they obviously have great visual impact from nearby, but it is a common judgement that they have a quickly declining impact with distance to the north into the AONB (KD/1 paragraph 3.37, KIG/6.4 paragraph 2.9). Similarly, the northern parts of Maidstone are visible from higher elevations when looking in that direction from above the appeal site, but the town is generally not intrusive in the view due to its distance at an oblique angle and mitigated by hedgerows and woodland on rising ground through and behind it (KD/1 paragraph 3.35). Mr Rech accepted similarly that “the urban area does not intrude significantly into the character of the AONB landscape” (KIG/6.4 paragraph 2.8). The overwhelming impression, therefore, is of just how fortunate Kent is to have retained such remarkable rural quality in this area.

12. The harm inflicted by the KIG proposals on this quintessential English rural scene would be significant. The Executive has focused particularly on the most frequented areas from which the development could be seen in reaching this judgement. The map prepared by Mr Rech, in revised form with Mr Lovell (KIG/6.14), generally accords with Mr Bate’s assessment of the visibility of the site from the principal routes and public access areas (though a green notation for the North Downs Way is omitted on the edges of two access areas). However there are modest exceptions of the omission of glimpses from Cat’s Mount on the North Downs Way – though in cross-examination Mr Rech was

prepared to §§ §accept that – and additional land at White Horse Wood Country Park (noted on the site visit). This shows a substantially greater extent of visibility than had previously been acknowledged by the appellants, when the impact on the AONB had been understated (e.g. CD3.1 paragraphs 6.8.38 and 6.8.47). Parts of the proposed development would be clearly visible from the Pilgrims Way, including the likelihood of significant shining surfaces in the sun (KD/1 paragraph 3.41 and KD/4 paragraph 7). The daytime visual impact of the industrial units would be greater from higher elevations, notably from many sections of the North Downs Way national trail, White Horse Wood Country Park and Thurnham Castle (KD/1 paragraphs 3.42-50). The nature of these vantage points, including many places which encourage visitors to stop and look at the view, such as marker boards at White Horse Wood and Thurnham Castle, and viewpoints which suddenly appear on the North Downs Way (which Mr Rech agreed were important) will highlight this visual impact.

13. The sheer scale of the KIG development and the breadth of the AONB from which it would be clearly visible would create a remarkably massive intrusion, in effect causing Maidstone to sprawl out alongside the AONB boundary. Countryside would largely be replaced with metal, vehicles, industrial activity and dominant straight lines through otherwise undulating countryside.

14. The clearly visible industrial units, gantry cranes, containers and movements on the appeal site would significantly harm people’s enjoyment of the AONB for recreational purposes. The North Downs Way is heavily-used and the Thurnham section particularly so (KD/2 Appendix 8), and recognised in the Environmental Statement as a “key and sensitive location” (CD/3.1 paragraph 6.9.10). White Horse Wood Country Park has immense value for public enjoyment of the AONB and was created on land acquired by Kent County Council as part of a Millennium initiative, including specifically for its “extensive panoramic views from the scarp” (KD/1 paragraph 3.50 and KD/2 Appendix 9). The importance of the AONB’s setting and views is also emphasised in terms of public enjoyment from a survey by local newspapers, reported in the AONB Management Plan (CD 6.3.3), which found that ‘scenery and views’ are by far the most highly valued quality of the AONB, by 83% of respondents (KD/1, paragraph 3.32).

Light pollution impacts on the AONB

15. The Kent Downs AONB would also be significantly affected by light pollution from the proposed development at night. This would be very apparent from higher elevations but would also be significant from the Pilgrims Way – in some sections being more intrusive than views during daylight. Lighting would affect not only night-time recreation but also the significant numbers of people enjoying the AONB towards sunset and at dusk. The policy basis and detailed reasons for the Executive wishing to see the appeal rejected on light pollution grounds are set out by Mr Bate (KD/1 paragraphs 4.1-12 and KD/4 paragraph 7).

16. In addition, cross-examination identified that the light pollution from the development site when seen from much of the AONB had not been properly appreciated by the appellants. Mr Pollard, who had already acknowledged in evidence that the impact of lighting from Bearsted is “generally modern, well-controlled and unobtrusive”

(KIG/13.1 paragraph 7.4), also accepted the following points in respect of the AONB between Detling and Hollingbourne:

- there would be views to the illuminated intermodal area from the Pilgrims Way near the dwelling ‘Whitehall’ east of Cobham Manor, and that these would be against a dark backdrop;
- views to the illuminated site from higher elevations such as White Horse Wood Country Park would be against a dark backdrop; and
- there is no roadside lighting on the M20, and the M20 junction 8 and the service area cannot be seen at all, but he was unable to sustain his view (KIG/13.1 paragraph 7.3 and KIG/13.4 paragraph 2.3.2.) that the M20 contributes a degree of obtrusive lighting throughout the hours of darkness from vehicle headlamps (which he had not seen on his site visit (CD/3.27(a) Table 7.4.1) or observed in his photograph from Viewpoint NV7 – indeed so unobtrusive were the M20 headlights that he was unaware that the M20 was visible from this viewpoint, having not visited the area during daylight).

17. These findings seriously challenge the assertion in the Supplementary Environmental Statement (CD/3.27(a) paragraph 7.7.25) that “public views from the AONB are very limited”. The remainder of that sentence “and where they are, the view is not of a totally ‘dark landscape’” now stands as a significant overstatement, in that some key views from the AONB were accepted by Mr Pollard to be against a dark backdrop.

Noise and traffic impacts on the AONB

18. The Executive is also concerned, finally, by the consequences of the proposed development in two further respects:
- there would be additional noise pollution adversely affecting the tranquillity of the AONB in a variety of respects (KD/1 paragraph 5.4); and
 - the increase in congestion created on roads in the area, including the M20 junction 8, would encourage rat-running by cars, foreseeably through Hollingbourne and along the Pilgrims Way (KD/1 paragraphs 6.1-4).

The appellants’ overall approach to the AONB

19. Mr Bate has pointed out in evidence that the appellants’ consideration of the light pollution impact on the AONB was an afterthought (KD/1 paragraph 4.5), and that by keeping the noisiest and most intensively lit parts of the development away from residential properties these have been located closest to the AONB – which would be correspondingly adversely affected (KD/1 paragraph 4.3).

20. Cross-examination identified additionally how limited was the practical appreciation of the AONB:
- Mr Pollard suggested that people who wanted to enjoy dark skies need not choose to walk near Maidstone or the KIG development, but had large areas of the remaining AONB available to them (i.e. in effect that KIG override such choices);
 - Mr Rech played down the quality of the visual experience of the AONB by insisting that the scarp above the appeal site was overall in ‘poor’ condition, albeit with exceptions on the steepest part of scarp and around Broad Street, even though

- he could identify no significant detracting features and agreed that other parts of the scarp in the same character area were in worse condition;
- Mr Rech had argued in evidence that the KIG scheme would be good for the AONB in that it would “be beneficial in wider climate change and transport growth terms and will therefore be in tune with broader AONB policies” (KIG/6.1 paragraph 7.21), whereas, he accepted in cross-examination, the AONB Management Plan had identified major transport infrastructure as a major threat to the AONB and that the KIG scheme would add to this (CD/6.3.3 section 4.9);
 - Mr Rech argued in his speaking notes (KIG 6.12, paragraph 8) that “Built development is repeatedly present in views from the AONB and within the setting of the AONB – Maidstone, motorways and major A roads cutting across the AONB... Such features need not read as being “intrinsically bad” especially if they are sensitively designed to respond to their setting”. He was prepared to contemplate the whole of the AONB being ringed by immediately adjacent development in this way – as if the quality of the AONB’ setting and its enjoyment by the public would barely be affected by such vast development.

Recommendation

21. In the light of all the above points and evidence supplied to the inquiry the Kent Downs AONB Executive requests that the Secretary of State refuses the Kent International Gateway appeal on the grounds of:

- the significant harm that would be caused by the development to the landscape setting of the Kent Downs Area of Outstanding Natural Beauty and its enjoyment by the public, contrary to: (i) Policy C3 of the South East Plan (2009), (ii) the North Downs Special Landscape Area in saved Policy ENV34 of the Maidstone Borough-wide Local Plan (2000); and (iii) Policies LLC8 and SDT5 of the Kent Downs Area of Outstanding Natural Beauty Management Plan 2009-2014 (2009);
- the significant visual harm that would be caused by the development to the recreational experience of the North Downs Way national trail;
- the significant harm from light pollution which would be experienced within the Kent Downs Area of Outstanding Natural Beauty.

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