

**NE/1**

TOWN AND COUNTRY PLANNING ACT 1990  
Town and Country Planning (Inquiries Procedure) (England) Rules 2000

**APPEAL BY  
KENT INTERNATIONAL GATEWAY LTD**

**AGAINST MAIDSTONE BOROUGH COUNCIL'S FAILURE TO DETERMINE A  
PLANNING APPLICATION RELATING TO**

**THE KENT INTERNATIONAL GATEWAY**

**RAIL / FREIGHT INTERCHANGE, WAREHOUSING AND OTHER WORKS**

**LAND TO THE NORTH AND SOUTH OF THE ASHFORD TO MAIDSTONE EAST  
RAILWAY LINE, AND BETWEEN THE M20 AND A20, BEARSTED, MAIDSTONE,  
KENT**

**PROOF OF EVIDENCE OF**

**DAVID TYLDESLEY DipTP (Dist), DipLD, MIEEM, FRTPI, FRSA**

**FOR**



**IN RESPECT OF THE KENT DOWNS AONB  
AND THE NORTH DOWNS WAY**

PINS reference APP/U2235/A/09/2096565/NWF  
Maidstone BC reference MA/07/2092  
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# 1. INTRODUCTION

## Witness qualifications and experience

- 1.1 I am David Tyldesley. I hold a Diploma with Distinction in Town and Country Planning (1973), and a Post Graduate Diploma in Landscape Design (1978). I am a founder Member and former Council Member of the Institute of Ecology and Environmental Management. I was elected a Member of the Royal Town Planning Institute in 1973 and a Fellow of the Institute in 1994, in recognition of my outstanding contribution to planning for landscape and nature conservation. I am also a Fellow of the Royal Society for the Arts (2000).
- 1.2 I am Principal of David Tyldesley and Associates, a planning and environmental consultancy based in Nottingham and Edinburgh which I founded in 1983. I have 42 years experience in environmental planning practice in local government (17 years) and consultancy (25 years). In local government I worked on the full scope of planning and environmental issues including, on the policy side, structure and local plans and in development management for almost 10 years.
- 1.3 I have studied and researched the subjects of landscape history and nature conservation. I have written two books and had over 30 papers published in the professional and technical press. I have worked in the fields of landscape planning, landscape ecology, landscape character assessment, landscape capacity assessment and strategic and project environmental assessment for over 15 years.
- 1.4 I have been retained by Natural England and its predecessor bodies as a specialist planning adviser for many years (English Nature since 1991 and the Countryside Agency since 1998). Consequently, I have considerable experience in dealing with a wide range of landscape and nature conservation casework throughout England (and through other similar contracts with Scottish Natural Heritage and the Countryside Council for Wales, in Scotland and Wales), including work relating to AONBs and National Trails. I have advised on well over 600 individual nature conservation, landscape and countryside access cases myself.
- 1.5 I have led a number of research and advisory projects, commissioned by the Governments in England, Scotland and Wales, including research into the establishment of National Parks and AONB in England and Wales to help to inform the establishment and designation of Scotland's National Parks.

- 1.6 I recently completed a project for Scottish Natural Heritage defining the ‘special qualities’ of Scotland’s National Scenic Areas, the nearest equivalent to AONBs in Scotland. I have also undertaken research and advisory projects into several other aspects of protected landscapes, including the drawing of their boundaries and effects of designation on adjacent areas.
- 1.7 I have been commissioned to advise several AONBs and the Brecon Beacons, Cairngorms, Lake District, Loch Lomond and the Trossachs, New Forest and Peak District National Park Authorities, as well as working on landscape character and capacity assessments for over 20 local authorities.
- 1.8 I am the principal author of *Environmental Quality in Spatial Planning* the coordinated advice to all regional and local plan making bodies on the incorporation of the natural, built and historic environment and rural issues in plans and strategies, published in 2005 by the Countryside Agency, English Heritage, English Nature and the Environment Agency. I have assisted Natural England with the evolution of policies and guidance in respect of protected landscapes and wider landscape conservation and management.
- 1.9 I have acted for Natural England and its predecessor bodies in respect of many public inquiries, since 1992. I am instructed by Natural England to present its case to this Inquiry, and to give evidence, based on my own professional judgement, which is entirely consistent with the views of the organisation. I examined the case in detail before agreeing to act in this capacity, to ensure that my judgement was consistent with the Natural England case to be presented.

### **Scope of this evidence**

- 1.10 The scope of this evidence relates to the potential impacts of the Kent International Gateway (KIG), the appeal proposals, on the enjoyment of the Kent Downs AONB, its setting and the North Downs Way. Comprehensive landscape and visual impact evidence is to be provided by those acting for the appellants, Maidstone Borough Council and the AONB Unit. I do not therefore reiterate or duplicate that detailed evidence, but I have regard to it in writing this proof. All of the detailed landscape and visual analysis available at the time of writing this proof has informed my judgement as to the effects of the appeal proposal.

- 1.11 I set out why Natural England, as the Government's adviser on the natural environment and its enjoyment, including protected landscapes and National Trails, advises that the appeal should not be allowed. I set out the importance Natural England attaches to landscape and countryside recreation, to AONBs and to National Trails.
- 1.12 In light of the detailed evidence of others, I concentrate on the importance of protecting these assets, and summarise, rather than detail, the impacts of the appeal proposals that are considered to be contrary to policies and which would lead to a significant diminution of the enjoyment of the AONB, its setting and the North Downs Way. In coming to these conclusions I have carefully read and analysed all available material but I do not consider it in the interests of the Inquiry to produce a long and detailed explanation for the views I express, when others will be providing the same material. That would only lead to unnecessary duplication and repetition.
- 1.13 I have read the relevant parts of the planning application, environmental impact statement, further submissions of environmental information, including the assessment of the revised proposals. I have read the relevant responses to the planning application and subsequent submissions. I have read the report of Jacobs on landscape and visual impact issues prepared for the Maidstone Borough Council. I have attended meetings with other parties, including the appellant's representatives in the lead up to the Inquiry, including the discussion on the preparation of the Statement of Common Ground on landscape and visual issues.
- 1.14 I have read an advanced draft of the proof of evidence of Mr Rupert Lovell, for Maidstone BC. I believe it is a thorough and appropriate examination of the landscape of the appeal site and surroundings and the potential effects of the appeal proposals on the landscape and visual amenity. I support Mr. Lovell's conclusions, particularly in respect of the effects on landscape character and, in section 7 of his proof, the visual impacts on the North Downs Way, adjacent access land and linking footpaths; the Pilgrim's Way; the White Horse Country Park and Thurnham Castle.
- 1.15 I concur with Mr. Lovell's observations on the inaccuracies and deficiencies of the environmental impact statement and further submissions of environmental information, particularly with regard to:

- a) the omissions from the mapping of the zones of visual influence in the AONB; and
- b) the omission of important viewpoints, including several in the AONB.

1.16 I find Mr Lovell's assessment to be a more comprehensive and accurate analysis, of the landscape character of the areas affected and the potential effects on landscape and visual amenity, than the environmental impact statement and further submissions of environmental information, submitted by the appellants.

1.17 I have visited the site on a number of occasions and I have viewed the site from several locations around, including several visits to the relevant parts of the AONB. I have walked the relevant sections of the North Downs Way, in both directions.

1.18 I have submitted a separate proof in relation to ecological issues.

## **2. FUNCTIONS AND POSITION OF NATURAL ENGLAND**

### **Statutory functions, duties and powers of Natural England relevant to this Case**

- 2.1 Natural England is the Government's statutory adviser on the conservation of England's landscape and biological and geological diversity and also on the promotion of access to the countryside and open space for recreation. Natural England has statutory powers and duties to support the conservation and enhancement of nationally important landscapes. It advises government on all matters relating to nationally protected landscapes.
- 2.2 Natural England has a duty to designate Areas of Outstanding Natural Beauty, under the provisions of section 82 of the Countryside and Rights of Way Act 2000 (formerly under the provisions of the National Parks and Access to the Countryside Act 1949). Natural England has the duty to give advice in connection with development matters affecting AONB<sup>1</sup>.
- 2.3 Natural England has the power to propose to the Secretary of State that a route, commonly referred to as a National Trail, should be established, so the public may make extensive journeys on foot (and in some cases on horseback or bicycle). Where such proposals are approved by the Secretary of State the relevant public bodies have the power, including compulsory powers where necessary, to establish and maintain the route, which Natural England will help to fund.
- 2.4 Natural England has statutory powers to create access provision over land, or linear routes. It is responsible for mapping open access land comprising areas of, amongst others, downland, and registered common land, where people can walk without necessarily staying on paths. Natural England also encourages access to land as part of the administration of Countryside Stewardship.
- 2.5 Natural England and predecessor bodies have supported and often helped to fund the establishment and management of Country Parks since their inception in 1968.

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<sup>1</sup> Section 84(1) Countryside and Rights of way Act 2000

- 2.6 The evidence of other witnesses will describe the extent of public access in the vicinity of the appeal site. Suffice for me to say that much of it arises from the above provisions.
- 2.7 Natural England is also a statutory consultee in respect of the Environmental Impact Statement submitted under the provisions of the Environmental Impact Assessment Regulations 1999.

### **Natural England's objection**

- 2.8 In its role as statutory adviser on landscapes Natural England is consulted on many proposed developments. Every proposal is judged on its merits in the light of the organisation's statutory duties and policies. Where important environmental information is deficient, an objection will be lodged until the information is provided, otherwise Natural England will only object when a proposal raises substantial concerns in respect of nationally important designations and assets, which cannot be met by further mitigation measures. This is the case in respect of the impact of the appeal proposals on the enjoyment of the Kent Downs AONB, its setting and the North Downs Way National Trail.
- 2.9 Natural England's representations about the appeal proposals, at application stage, were set out in its letter dated 27<sup>th</sup> November 2007 (**NE/2 Appendix A** pages 1 - 8), which expressed the opinion that in terms of landscape character and visual impact, a development of this nature would be wholly inappropriate at this location. Natural England also objected to the application pending submission of additional information in respect of protected species and biodiversity. In its letter dated 6<sup>th</sup> February 2009 (**NE/2 Appendix A** pages 9 - 14), Natural England sustained its objection on the grounds of insufficient information, despite additional information having been submitted by the applicants.
- 2.10 Further representations were made in respect of the revised scheme and the further environmental information by letter dated 24<sup>th</sup> July 2009 (**NE/2 Appendix A** pages 15 - 17). Natural England reiterated its objection on landscape and visual impact grounds in respect of the AONB and the North Downs Way. Natural England also maintained its objection on the grounds of insufficient information and mitigation / compensation measures, in respect of impacts on biodiversity.

### 3. THE IMPORTANCE OF LANDSCAPE AND COUNTRYSIDE RECREATION

#### The importance of landscape

- 3.1 As expressed in Natural England's Landscape Policy (**NE/2 Appendix B** pages 1 - 5) landscapes are key resources for the nation. Landscapes provide the physical settings of everyday life and are an important expression of the relationship between people and place. People's enjoyment of the natural environment is strongly influenced by the landscape setting.
- 3.2 Landscapes result from the interaction between different components of the environment, both natural (the influences of geology, landform, soils, climate and biodiversity) and cultural (the impact of historical and current land uses, settlement patterns, enclosure and other human interventions). People's perceptions are an inherent part of every landscape: there are close interactions between perception, experience and the appreciation of landscape's aesthetic qualities. Landscapes contribute to our sense of place and are a vital component of local distinctiveness.
- 3.3 Natural England's draft policy "All Landscapes Matter" (**NE/2 Appendix C** pages 1 - 8) is intended to promote this theme and the expectations of the European Landscape Convention (ELC)<sup>2</sup>. This is the first international treaty devoted exclusively to the management, protection and planning of all landscapes in Europe. It seeks to maintain and improve landscape quality and bring the public, institutions and local and regional authorities to recognise the value and importance of landscape and to take part in related public decisions.
- 3.4 The ELC came into effect in March 2007. The UK Government has ratified the Convention and considers the UK compliant with its requirements, although it aims to embed further the Convention's intent within UK policy and practice. UK Government's ratification of the ELC recognises that England's landscapes matter for the health, wealth and well-being of society, for our cultural identity and for the diverse habitats that exist as part of them. It underlines that landscape forms a whole, whose natural and cultural components should be considered together, not separately.

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<sup>2</sup> Council of Europe, 2000, European Landscape Convention at [http://www.coe.int/t/dg4/cultureheritage/conventions/landscape/default\\_EN.asp](http://www.coe.int/t/dg4/cultureheritage/conventions/landscape/default_EN.asp)

- 3.5 The ELC proposes that the management, protection and planning of landscapes “must become a mainstream political concern” and be further integrated into spatial planning and land management sectors as well as other sectoral policies. Landscape provides a spatial framework, applicable at different geographic scales, where ecology, landscape character, historical, cultural and aesthetic values can be brought together in an integrated way to aid decision making.
- 3.6 The development of England’s National Character Areas (formerly known as Joint Character Areas) and the development of landscape character assessment methodology (for example in Core Document **CD 6.3.2**) reflect this objective. Natural England is leading on the implementation of the ELC in England. An implementation framework has been prepared with Defra & English Heritage to guide the development of Action Plans by other stakeholders and organisations. Natural England has prepared its own ELC Action Plan to embed the Convention’s measures through its own work and through others.
- 3.7 Natural England’s draft Future Landscapes Policy (**NE/2 Appendix D** pages 1 - 7) records how change is an intrinsic characteristic of landscapes. Landscapes have never been static, and have evolved as a result of both natural processes and human use. Changes resulting from natural processes, such as erosion, deposition and vegetation succession, normally occur over very long periods of time and are often imperceptible. In contrast, change due to human actions, especially change arising from development, can often occur very quickly.
- 3.8 The policies, especially 1, 2 and 6 (**NE/2 Appendix D** pages 4, 5 and 7) emphasise that whilst change is a fundamental characteristic of landscapes, our future landscapes should emerge as a result of planned interventions, set within the context of a long term vision. The character, condition and quality of England's future landscapes should be built on an understanding of existing landscape character, through a landscape character approach. Developing our future landscapes requires an improved understanding of people's sense of place, values and perceptions, and of the factors that influence attitudes towards landscape change, in order that we can encourage more informed debate about specific proposals affecting landscapes.

## The importance of countryside access and recreation

- 3.9 Natural England has responsibility to promote access, recreation and public well-being for the benefit of today's and future generations. It is committed to ensuring that England's natural environment is a valuable and inspirational resource for everyone to enjoy. Natural England will increase the opportunities available for people to make the natural environment an enriching part of their daily lives.
- 3.10 The objective is to improve the quality of places and increase the number and diversity of people inspired by and enjoying the natural environment. Access to a high quality natural environment delivers a wide range of benefits including improved health and well-being, stronger local economies, greater social cohesion and educational benefits. Recreation and access are therefore integral parts of Natural England's statutory remit.
- 3.11 Natural England manages the *England Access Forum* which helps the 81 statutory Local Access Forums in England, whose main task is to advise their appointing local highway authority or National Park authority, as to the improvement of public access to land in that area for the purposes of open-air recreation and the enjoyment of the area. The production and review, by local authorities, of Accessibility Strategies and Rights of Way Improvement Plans embedded in Local Transport Plans, is commended.
- 3.12 While recreation is not an objective of AONB designation, the demand for recreation should be met so far as this is consistent with the conservation of natural beauty. Natural England encourages recreation and access in AONBs, through the AONB management planning process.
- 3.13 Country Parks are significant places which contribute to England's accessible greenspace. Natural England supports the *Country Parks Network* and is working towards the establishment of a new accreditation scheme as the benchmark for facilities and services provided by Country Parks. Natural England is also a leading voice in the promotion of the establishment of green infrastructure. Green infrastructure should consist of networks of interlinked green (and blue) spaces and corridors, across and around urban areas, which connect with wider rural assets so that together they present multiple benefits for biodiversity, landscape, informal recreation, and sustainable movement, enhancing the quality of life for everyone.

## **4. THE IMPORTANCE OF AREAS OF OUTSTANDING NATURAL BEAUTY**

### **Origins and designation**

- 4.1 England's system of protected landscapes has its roots, arguably, in Victorian times with pressure for mountain and moorland Bills and access to the countryside for health, exercise and recreation for an urban working population. The Government first considered the setting up of National Parks and other similar areas in 1929 but it was not until 1949 that legislation enabled a system of Areas of Outstanding Natural Beauty (AONBs) and National Parks to be set up, with the first English AONB (the Quantock Hills) designated in 1957. Since 1949, the system has evolved with adaptations to legislation, purposes and governance; whilst upholding and strengthening the original purpose of AONB designation.
- 4.2 The Countryside and Rights of Way (CRoW) Act 2000 significantly enhanced the importance of protecting and managing AONBs. It introduced a requirement for AONB management plans, established a mechanism to create AONB conservation boards, and placed a duty of regard to AONB purposes on relevant authorities (see 4.7 below), similar to that applying to National Parks. The Natural Environment and Rural Communities Act 2006 imposed similar duties on Natural England.
- 4.3 23% of England is covered by the statutory landscape designations of AONBs and National Parks. There are currently 36 statutorily designated AONBs (15% of England). Together, these National Parks, AONBs and Heritage Coasts comprise England's most iconic and intrinsically valued countryside. They are lived-in, working landscapes that provide diverse opportunities for tourism, outdoor recreation, enjoyment and understanding with associated economic and improved public health benefits. They also provide a wide range of natural and cultural goods and services.
- 4.4 The economic benefit of protecting and managing our nationally designated landscapes is probably impossible to calculate, because they influence so many aspects of the economy both directly and indirectly. However, it is fair to say that the Kent Downs AONB is a significant economic asset of Kent, and the South East of England, in its own right. It underpins a great deal of economic activity. It attracts many visitors and tourists. It provides a scenic background for many recreational and some sporting activities.

- 4.5 The role of AONBs in helping to provide a high quality environment which attracts and helps to retain business is less well recognised. Protection of the enjoyment of AONBs adds substantially to the quality of life and, in so doing, helps to recruit and retain the key personnel, who drive the local economy forward. The landscape and scenic beauty of the Downs is a positive element of the region's image.
- 4.6 Development projects can often demonstrate a detailed economic case to help to justify permitting them. However, conversely, it is very difficult to provide a similarly detailed economic case for not permitting them, because of the negative economic impact development projects may have, alone or cumulatively, through the diminution of landscape quality and scenic beauty.
- 4.7 England's AONBs and National Parks fit within the six IUCN (the world conservation body) protected area categories as "category v – protected landscapes". Some 6.4% of all the world's protected areas are category v, with around 40% concentrated in Europe. The UK model is often referred to as The Protected Landscapes Approach and is cited as an international exemplar in its governance and management of both natural and cultural interests. By applying the principles of sustainable development to protected landscapes, it demonstrates how adaptive their management can be in dealing with conservation aims, alongside social and economic ones.

### **Statutory duties of public bodies**

- 4.8 In exercising or performing any functions in relation to, or so as to affect, land in an AONB, all public bodies, including the Secretary of State and Natural England, have a duty to have regard to the statutory purpose of AONBs, which is the purpose of conserving and enhancing the natural beauty of the area<sup>3</sup>.
- 4.9 Local planning authorities are required to take such action as appears to them to be expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty and amenity of an AONB to the extent that it lies within their area<sup>4</sup>.

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<sup>3</sup> Section 85 Countryside and Rights of Way Act 2000

<sup>4</sup> Section 84(4) Countryside and Rights of Way Act 2000

- 4.10 Most AONBs are managed by partnerships, which act as Joint Advisory Committees to their constituent local authorities, one of which will host and employ a dedicated AONB staff unit. AONB Partnerships are composed of local authority members and other stakeholder groups.
- 4.11 AONB managing bodies, as local authority organisations, must also seek to foster the economic and social well-being of local communities within the AONB.
- 4.12 It is the duty of local authorities, which cover an AONB to prepare and publish a Management Plan for the AONB. This formulates their policy for the management of the AONB and for carrying out their functions within it.
- 4.13 Natural England provides discretionary grants to fund AONB Partnerships which, in 2008/09 amounted to about £9.5m.
- 4.14 Natural England has a duty to give advice where any Minister or local authority consults it about proposals for development of land or the preparation of any development plan in an AONB. This is routinely extended by most local planning authorities to include proposals located outside, but affecting the enjoyment or natural beauty of an AONB.
- 4.15 AONB Partnerships have no planning powers and are not statutory consultees, but they are usually consulted by the respective local planning authorities in respect of Local Development Frameworks and relevant planning applications. Again, these consultations routinely include proposals outside the AONB.

### **Government policy for AONB**

- 4.16 The Inquiry will be well aware that national planning policy on the protection of landscape, including nationally designated landscapes, is included within *Planning Policy Statement 7: Sustainable Development in Rural Areas* (2004). Nevertheless, it bears repeating here that the key principles of the PPS include the need to strictly control development in the open countryside, noting that 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*” as set out in Key Principle (iv).

- 4.17 Key Principle (vi) states that “...All development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.” These principles would apply to the KIG development even if it were not immediately adjacent to an AONB.
- 4.18 While the quality and character of the wider countryside should be protected and enhanced, paragraph 15 also states that planning authorities should have “...particular regard to any areas that have been statutorily designated for their landscape, wildlife or historic qualities where greater priority should be given to restraint of potentially damaging development.”
- 4.19 The PPS goes on to address further the importance of nationally designated areas, and the need to protect them. In paragraph 21 it states that:
- “...Nationally designated areas comprising National Parks, the Broads, .....and Areas of Outstanding Natural Beauty (AONB), have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas”* (paragraph 21).
- 4.20 Whilst recognising that the appeal site lies just outside the AONB, it is clear from PPS 7 that we should endeavor to avoid development that may harm the landscape and scenic beauty of our most important landscapes, including designated AONBs, and that great weight should be given to the conservation of their landscapes and scenic beauty. By using the expression “scenic beauty” in addition to “landscape” PPS7 is referring to the scenery enjoyed within the AONB. In practice, that includes the enjoyment of scenery both within and often outside the designated area, especially where outward views form an important quality towards the edge of the AONB.
- 4.21 Natural England recognises that whilst PPS7, and earlier guidance, transposed through the regional and local planning systems, appear to have been effective in limiting damaging development in protected landscapes, there remain challenging issues about the effectiveness of policies relating to the setting of protected landscapes (**Appendix E** page 6).

- 4.22 The character of any defined spatial unit of landscape can be influenced by features outside as well as inside the area. When describing the landscape character of a particular unit of a landscape character type, such as a wide basin or valley, landscape character assessments will describe how it is affected by features in adjacent landscape character types or units, such as the hills which enclose the basin of define the valley. Equally, when describing the hills, landscape character assessment will emphasise the views they provide over the adjacent valley or basin. Protected landscapes do not sit in isolation and their context and setting are important.
- 4.23 PPS 17, *Planning for Open Space Sport and Recreation* urges planning authorities to meet recreational demand in AONBs where proposals are consistent with the primary objective of conservation of the natural beauty and the landscape, and the needs of agriculture, forestry and other uses.

#### **Natural England's policy for AONB**

- 4.24 Policy 3 of Natural England's Landscape Policy (**NE/2 Appendix B** page 2) states that:

***.... protected landscapes play a key role in the conservation, enhancement and delivery of the sustainable use and management of England's natural environment.***

- 4.25 Policy 1 of Natural England's draft policy on Protected Landscapes (July 2009) (**NE/2 Appendix E** pages 1 – 11 at page 4) states:

***England's nationally protected landscapes are of intrinsic value and deliver an important range of public benefits associated with a healthy and accessible natural environment. Natural England will continue to be a determined champion for their conservation, management and special status.***

- 4.26 The policy explains that England's system of landscape designations affords the highest level of statutory protection for our nationally important landscapes. It also provides opportunities for the public to benefit from high quality, outdoor recreational experiences and experience our cultural heritage. Although largely unchanged since 1949, the purposes of AONBs and National Parks remain highly relevant to 21st century needs. Natural England will work to support their effective stewardship now and in the future.

## **Development plan policy for designated landscapes**

4.27 The South East Plan (**CD 2.1**) contains policy C3 relating to AONB and their settings. Policy C4 recognises the importance of open countryside outside nationally designated areas and the value of landscape character assessment informing planning decisions. The saved policy ENV34 in the Maidstone Borough Wide Local Plan 2000 (**CD 2.2 and 2.5**) relates to the Special Landscape Area (SLA), of which the appeal site forms a part. It refers to the need to give particular attention to the protection and conservation of the scenic qualities and distinctive character of the SLA, where priority will be given to landscape over other planning considerations. Mr Lovell discusses the purpose and history of the Special Landscape Area in this context. I do not repeat that analysis but note the important relationship between the SLA and the AONB.

## **Consistency with policy**

4.28 Witnesses called by the local authorities will explain why the appeal proposals are not in accordance with national guidance and development plan policies. I do not duplicate the detail of their evidence but, as a qualified landscape architect and planner, I agree with it. Natural England considers that the appeal proposals:

- a) would not be consistent with principles (iv) and (vi) of PPS7;
- b) would detract from the scenic beauty of the AONB (para 21 PPS7);
- c) would not be in accordance with policies in the development plan, specifically C3 and C4 of the South East Plan and ENV34 of the Local Plan.

## 5 THE IMPACT OF KIG ON THE KENT DOWNS AONB

### The impact on the character and enjoyment of the AONB and views from the AONB

- 5.1 Others will give detailed evidence as to the impacts on the enjoyment of the AONB and its setting. I have considered all the evidence available to date and made my own judgement, after a number of visits to the AONB scarp, and the general vicinity of the appeal site. I consider that the appeal proposals would have an important adverse impact on the character and enjoyment of the AONB and its setting.
- 5.2 Assessing the significance of impacts is an integral part of landscape and visual impact analysis (CD 6.3.1 section 7, e.g. at 7.16 and the methodological Appendix to Mr Lovell's proof of evidence). Fundamental to this process is the assignment of degrees of sensitivity to the landscape resource, or to viewpoints. To assign a level of sensitivity to any landscape or visual receptor it is necessary to define what change is being considered that the receptor may experience. Different landscapes and viewpoints will have different sensitivity to different changes. For example, the landscape of the appeal site would have a very low sensitivity to the extension of some of the existing woodland. The viewpoints on the scarp would have a very low sensitivity to small scale infill development in Bearsted.
- 5.3 In considering the appeal proposals it is necessary to consider the sensitivity of the landscape resource and viewpoints to a very large scale strategic rail freight interchange, which according to the revised (2009) Development Specification, involves, amongst other things, a 6.5ha intermodal transfer area, with 25m high gantries; and about 29 ha of mainly uniform, industrial / warehouse buildings which require extremely large, flat floor-plates related to the levels of the railway. There are variations between the stated areas of the units, for example units 1, 2 and E as shown below.

<b>Unit / Specification</b>	<b>1</b>	<b>2</b>	<b>E</b>
Para 2.16 Development specification June 2009 (gross)	102,025m <sup>2</sup>	39,463m <sup>2</sup>	67,646m <sup>2</sup>
Dimensions stated on illustrative masterplan ref 107.N June 2009 (sq feet x .0929)	97,164m <sup>2</sup>	37,582m <sup>2</sup>	64,423m <sup>2</sup>
Scaled dimensions on illustrative masterplan ref 107.N June 2009 (1/2,500)	97,447m <sup>2</sup> (355 x 274.5)	37,816m <sup>2</sup> (232 x 163)	64,791m <sup>2</sup> (313 x 207)

- 5.4 However, to give an idea of scale, a 97,447m<sup>2</sup> (9.7ha) building would be the size of 14 (of the largest permissible) rugby union pitches<sup>5</sup> and its external walls would be over 1.25km long. The total floorspace of only the industrial / warehousing buildings on the site (about 289,000m<sup>2</sup>) would be larger than the area of the White Horse Country Park (about 26ha).
- 5.5 The appeal site forms an integral part of the setting of the AONB east of Maidstone. It is characteristic of its landscape type, has a strong sense of place and many distinctive features including a subtle undulating topography, with small streams, contrasting areas of intimate enclosure and large scale openness, a strong pattern of woodland, trees and hedgerows, linear routes which link it to the land around (including the scarp slope of the AONB), a rich cultural and historic heritage, and many features of aesthetic interest.
- 5.6 Furthermore, the fact that it also forms the foreground setting of a dramatic and continuous chalk scarp, which is one of the most important topographical features in south-east England, and is designated as an AONB, makes the appeal site in the setting of the AONB of extraordinary sensitivity for such a large scale development.
- 5.7 There may be a number of ways of defining 'the setting' of an AONB in this context, for example inter-visibility, physical proximity or juxtaposition, landscape character transitions or contrasts etc. However, it seems obvious to me that whatever way the 'setting' of the AONB here may be defined, and however extensive it may be, the appeal site is patently in it.
- 5.8 When viewed from the most relevant sections of the Downs scarp Maidstone is not intrusive in views and sits well in the landscape in the setting of the AONB, there is nothing incongruous or strikingly intrusive about it, the higher buildings of the town centre are set well back from the AONB edge.
- 5.9 Despite the wide linear tract formed by the juxtaposition of the M20 and CTRL, neither is intrusive in the landscape of the AONB, away from the immediate vicinity of the corridor, except for the distant hum of traffic noise. The sound of the passing trains is of short duration and no more intrusive in the ambience of the AONB than

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<sup>5</sup> The maximum allowable size of a rugby union pitch is 100m x 70m. The allowable size of soccer pitches is much more variable so 9.7ha is equivalent to between nine of the largest (120m x 90m) and 24 of the smallest (90m x 45m) football pitches

the occasional aeroplane flying overhead. Whilst locally detracting from the landscape character, micro-topography and extensive vegetation cover help to assimilate the transport corridor into the landscape. The Ashford to Maidstone East railway line is even better assimilated into the landscape and hardly noticeable at a distance. The transport corridor does not have the effect of severing the appeal site from the AONB, as might be assumed when looking at a map purely in two dimensions. The appeal site forms part of the immediate setting of the AONB.

- 5.10 The motorway service station is remarkably well screened from the scarp.
- 5.11 The only intrusive feature in the views from the scarp is the poly-tunnels in the middle distance. These do not appear as part of the immediate setting of the AONB. They are not designed to be permanent structures, and their extent is likely to vary over time.
- 5.12 The appeal site is wholly rural in character and forms a part of the open countryside east of Maidstone, indeed what can be seen of Bearsted gives the impression of a village in the countryside, detached from the town.
- 5.13 The scarp includes many rights of way and a country park as well as open access land and land open to the public under Countryside Stewardship, it is frequently visited by people who specifically come here to enjoy the views and the exhilaration and inspiration of the downland and its scarp. The viewpoints along the scarp in the AONB are the epitome of what protected landscapes and countryside access provision should be about. The enjoyment of this exceptional feature, in a nationally designated landscape, should be regarded as a matter of national importance and given great weight in a planning decision.
- 5.14 Views are important to people. We have a seemingly irresistible urge to go to viewpoints, and stand and look out. Views provide us with pleasure, inspiration, spiritual enrichment, exhilaration and fascination. They are evocative and uplifting. They add to our quality of life and to our sense of well-being. The enjoyment of viewpoints makes us study and appreciate the landscape even more. We return to the same viewpoints time and again, they are compelling destinations. The views to and from the AONB are of the highest order of sensitivity and fundamental to the enjoyment of this part of the AONB.

- 5.15 Parts of the appeal site ground and vegetation are clearly visible in the foreground of the setting of the AONB in views from the scarp. Given the necessary engineering works and the scale of the buildings and infrastructure works, they are bound to be highly conspicuous from the AONB. The photomontages clearly show that large parts of the very large buildings will be visible.
- 5.16 Whilst the landscape design of the appeal proposals includes mitigation measures intended to reduce the impacts on landscape and visual amenity, the landscape design challenge is a considerable one. Nothing can mitigate the scale of the engineering works, even in the long term. The character of the appeal site, and this part of the setting of the AONB, would be permanently altered, beyond recognition.
- 5.17 The depletion of the vegetation pattern across the site would increase the conspicuousness of the development. Because the development would be so high, and overlooked from higher land, especially in the AONB, screening is not feasible.
- 5.18 Some local and lower level views of the development can be filtered by new planting in the middle to longer terms. Some views may be reduced by screen bunds and fences; but these measures are alien to the landscape character and would obstruct views which are currently valued.
- 5.19 Whilst better than doing nothing to mitigate the effects of the vast roof areas, colouring the cladding of the buildings has limited benefits and can make the buildings more noticeable rather than less, especially at different times of the year. The olive green selected may make the buildings recede in a summertime photomontage, but will not achieve the same effect in reality. The elevation of the viewpoints makes mitigation by screen planting, on or very close to the site, ineffective, even in the longer term. The reality would be that even with the most carefully selected materials, finishes and colours the vast areas of buildings will be conspicuous in the landscape most of the time.
- 5.20 The gently undulating, shallow rolling landscape of the Vale is not a topography appropriate to large scale levelling, the engineering of the site will destroy the natural land form which is an important landscape characteristic.

- 5.21 The flatness, horizontal mass, line and scale of the buildings would be incongruous and out of proportion to the undulating, complex, detailed and mature landscape on the edge of the AONB, which contrasts with the dramatic sweep of the scarp slope, to form a distinctive edge to the designated area.
- 5.22 Despite the assertions in the environmental statement that the development is designed with respect for the existing landscape, the development would be imposed on the landscape not a part of it. It would be wrong to assume that a development of the nature and scale of the appeal proposals in this location could be assimilated into the landscape in the way that the transport corridor, Ashford to Maidstone East railway line, motorway services and the settlements are, especially bearing in mind the vast scale of engineering works and the loss of on-site vegetation.
- 5.23 The Earthworks Construction Method Statement indicates that some 1.83m cubic metres of earth would need to be moved on site and the impacts of this would be exacerbated by the need to engineer the clay. Construction impacts could last seven years, but this may vary according to market conditions. The impacts over this time would not be dissimilar to a phased quarrying operation. It seems to me extremely unlikely that a 100ha quarry involving the moving of 1.83m cubic metres of material, over a seven year period, would be granted planning permission in this location, even if it was to be restored to open countryside. The engineering element of the appeal proposals themselves would have severe effects on the landscape and visual amenity over a significant period.

### **The impact on views of the AONB**

- 5.24 Views of the AONB are also important. AONBs are enjoyed from outside their boundaries, by many people who live nearby, or travel past, and see the natural beauty of the designated area. This is especially the case when the setting is lower than the designated area and the AONB forms the 'backdrop' to daily life. It adds considerably to the already strong identity of the area around the appeal site and adds to its distinctive sense of place. This enhances the quality of life and community cohesion of places such as Bearsted. Impediments to the views of the Downs inevitably diminish these benefits.

## **6 THE IMPORTANCE OF NATIONAL TRAILS**

### **The origins, purpose and importance of National Trails**

- 6.1 The vision of long distance routes was taken up by the National Parks Committee in 1947, which noted the importance of connecting areas in and between National Parks and areas which later became our Areas of Outstanding Natural Beauty. It was this vision that was developed into the statutory provision for the designation of long distance routes, now called National Trails, in the National Parks and Access to the Countryside Act 1949.
- 6.2 The first route to open was the Pennine Way, in 1965, offering 431km of walking the wild and remote backbone of England. The most recent Trail to open was the Cotswold Way in 2007.
- 6.3 Natural England contributes substantially to the funding of National Trails, along with local highway authorities and other vital funding partners. Natural England seeks to establish high standards across the National Trail network, so that they remain amongst the finest examples of the provision of linear routes, in outstanding countryside, primarily on foot, but in some cases on horseback and bicycle.
- 6.4 Each Trail has a National Trail Officer who is responsible for overseeing its management and maintenance to nationally agreed standards. Much of the maintenance work is carried out by local highway authorities helped by landowners and volunteers.
- 6.5 Natural England is currently reviewing the future of National Trails as part of a wider review of all Trails and Routes. It has consulted stakeholders on findings and recommendations of research and proposals, including the market and marketing of National Trails and other evidence. The importance of National Trails for regional and local economies, as well as their value for recreation, health and well-being is widely recognised.
- 6.6 National Trails offer a range of walking experiences, on routes that, for the most part, do not pass along roads used by vehicles, and which pass through attractive countryside. They often utilise routes which possess, or even divert specifically to enjoy, dramatic views.

- 6.7 One of the key characteristics of National Trails is that one is as likely to encounter a family group, enjoying a short walk from a local town or village, as a well equipped walker rising to the challenge of a long-distance journey on foot. The 2007 National Trail user survey revealed that 50% of National Trail users are out for a full day, with the equally surprisingly high proportion of 33% of them aiming to complete the whole Trail, either in one trip, or over a series of days or weekends.

### **Policy for National Trails**

- 6.8 Natural England's Access Policy (**Appendix F** pages 1 – 10) promotes high quality trails and routes in England to inspire outdoor adventure for local people, visitors and tourists (Policy 4 page 6). Policy 3 (page 5) promotes increased access to the natural environment using public rights of way, open access areas and access provided under agri-environment schemes, with improved sustainable connections from urban places. All these elements are strongly represented in the AONB and the area around the appeal site.
- 6.9 Policy C6 of the South East Plan seeks to maintain, enhance and promote the Public Rights of Way system explicitly referring to longer distance routes to facilitate access to, from and within the countryside for visitors and all members of the local community.

## 7 THE IMPACT OF KIG ON THE NORTH DOWNS WAY

### The impact on the enjoyment of the North Downs Way

- 7.1 Others will give detailed evidence as to the views of the appeal proposals that would be obtained from the North Downs Way. Having considered all the evidence and made my own judgement, following my walks along the North Downs Way, I consider that the appeal proposals would have a significant adverse impact on views from this highly sensitive receptor. As indicated in Natural England's letters of 27<sup>th</sup> November 2007 and 24<sup>th</sup> July 2009 (**Appendix A**), the areas shown in the landscape and visual impact assessment at Figure 6.5 rev A of the Supplementary Environmental Statement of June 2009, do not accord with the actual areas from where there would be clear views obtained of the KIG development from the North Downs Way. The lengths of the route would be longer than those shown and the Trail frequently runs along the edge of or even through the areas where there would be views of the appeal development.
- 7.2 It would represent a serious, inescapable intrusion at almost every point on the Trail from where panoramic views, and often glimpsed views, of the landscape below the scarp can be obtained. Overall a length of about 6km is potentially affected, continuously or intermittently, from above Detling (to the north of the appeal site) to above Hollingbourne (to the east). Key sections of the Trail where the appeal proposals would be particularly prominent and form a significant impact, continuously or intermittently, on the visual amenity takes about 45 minutes to walk whilst occasionally pausing to enjoy the views. This would represent a serious negative impact on the amenity value of the National Trail. I noticed, whilst walking the Trail in both directions, that the KIG development would be visible which ever direction was travelled. More importantly, the views are so spectacular and enjoyable that walkers pause to enjoy them, and in doing so look behind them as well as in front, so the development would still intrude on views even after the walker had effectively walked past the appeal site whilst progressing eastwards or westwards.

## 8 CONCLUSIONS

- 8.1 I am satisfied that Natural England's objection to the appeal proposals is well founded on a sound and substantial evidence base. The relative brevity and focus of this proof should not be assumed to reflect a lack of detailed examination of the proposals, or of a light touch to the objection. I simply see no benefit in repeating the detailed evidence of others.
- 8.2 Rather, I have sought to emphasise the enormous importance of protecting the character and enjoyment of our nationally protected landscapes, from development proposals that are wholly out of place, either in or immediately adjacent to nationally important areas, such as AONB, and which would affect their sustainable use, management and enjoyment.
- 8.3 The nature and scale of the KIG development would be inappropriate in this location. It would be an anathema to modern landscape planning. The sheer scale of ground engineering and landscape manipulation required in order to shoe-horn the buildings and infrastructure into this detailed, complex, mature, undulating, historical and sensitive landscape should have given a clear indication to the proposers that there was something seriously wrong with the site selection.
- 8.4 Add to that its close proximity to a nationally designated landscape, from which the visual impact would be a strikingly incongruous, obvious and harmful intrusion into spectacular and cherished views, including those from a long distance route of national importance, a Country Park and open access land, enjoyed by thousands of people each year, who come particularly to enjoy the views, and the wholly inappropriate location for this development becomes obvious.
- 8.5 Substantial reductions in scale have been conceded, but are not enough. No amount of landscaping or other mitigation can achieve the impossible and screen or significantly diminish the impacts. To reduce the built development to a scale that would not have these effects would be to diminish the scheme to a level that would no longer serve its intended function.

- 8.6 Natural England's advice is that the proposal is contrary to the development plan and national planning policy for landscape protection, the protection of the scenic beauty and enjoyment of the AONB and the safeguarding of the enjoyment of the countryside especially from National Trails.
- 8.7 Guided by the Inspectors, the Secretary of State will, of course, consider the need for and benefits of the development. Natural England's advice is that they would need to be of very substantial proportions, with an imperative need and compelling necessity to be located on the appeal site, in order to outweigh the scale of the potential harm to the environment and the enjoyment of the countryside. Natural England urges that the Secretary of State should accordingly dismiss this appeal.