

**KENT INTERNATIONAL GATEWAY****CLOSING STATEMENT ON BEHALF OF STOPKIG****1 Introduction**

1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

1.2 Objectors have clearly demonstrated that KIG is seriously in conflict with both the South East Plan; with the saved policies of the Maidstone Borough – wide Local Plan 2000; and with the emerging draft proposals of the Maidstone Borough Core Strategy.

1.3 The evidence submitted by StopKig and particularly MBC and KCC, has clearly shown that there are no material planning considerations that would enable KIG to override the policies of the statutory development plan which are well founded; derived from a sound evidence base; and which have been carefully formulated over a number of years with full public consultation. It is the firm belief of StopKig that KIG, if permitted, will do serious and irreparable harm to the implementation of national, regional and local planning policy and have a devastating impact on the local environment and on local communities.

**2 Conflict with Local Planning Policy**

This issue has been comprehensively dealt with by other objectors.

**3 Conflict with National and Regional Policy**

3.1 In order to justify a non conforming development, the appellant must show policy support for this particular development in this location.

**Government/SRA policy**

3.2 A potential source of policy support is the need, established by the SRA, for 3 to 4 SRFI in the greater South East. The appellant is not clear on whether it sees KIG as one of this 3 to 4, but talks about a hybrid model and 'transcending the SRFI debate'. However, the SRA made it clear that priority should be given to projects directly satisfying its policies<sup>1</sup>.

3.3 Half of the 'hybrid' role envisaged for KIG is as a rail linked regional distribution centre. The policy requirement for this part of KIG's role is met by Howbury Park (HP), against which KIG was considered and rejected as a suitable alternative with the conclusion that there were 'no viable

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<sup>1</sup> CD6.5.15/7.11

alternatives in the arc around south and east London<sup>2</sup>. HP is targeted on a larger area of London and the South East, is closer to the largest market (London) and is better located to minimise the secondary road leg. KIG is poorly located to serve London and the wider South East compared with sites closer to the M25 and is only claiming to serve the 5.5% of the UK population living in Kent, East Sussex and SE London. There are also many other potential sites for rail linked RDCs in the greater South East.

3.4 The other half of KIG's throughput is postulated to come from a new role as an import and national distribution centre. This is a completely new, unproven model for UK logistics for which there is no policy support, other than the general support for 'road-to-rail'. There are already a number of rail linked logistics parks in the Midlands and North which were designed as, and can meet the need for, import centres. In addition, the import centre element was partially covered by the HP approval, in which it was stated that HP was well placed to accept freight traffic coming through the Channel Tunnel<sup>3</sup>. HP was expected to receive 3 trains per day compared with 6 postulated at KIG. KIG would thus compete with HP, possibly reducing its viability.

3.5 Although the appellant prefers to maintain ambiguity about the status of KIG as one of the 3 to 4 to serve the market in London and the South East, it is clear that KIG is not well suited because its location prejudices the primary role of reducing the secondary road leg. This appears to be a case of a single developer proposing a new concept and expecting a plan led system to approve it. StopKig maintains that an individual planning appeal should be guided by national policy, not speculative theories which have no national policy support or evidence based justification. Loose statements of general policy do not explain why this proposal at this location should be granted permission at this time.

### **South East Plan**

3.6 Policy T11 refers to 'enhanced capacity for the movement of freight by rail' in four freight corridors including that of Dover/Channel Tunnel. Mr Ashness pointed out and it was not disputed that enhanced capacity could include a variety of solutions (e.g. a terminal for HS1; a rail connection at the port of Dover; an upgrade to gauge on the Redhill-Tonbridge line; a Folkestone container terminal<sup>4</sup> etc) but there is nothing in this policy that refers to a need for a SRFI in this corridor or the other three corridors.

3.7 Policy T12 encourages 'development with a high generation of freight to be located close to intermodal facilities'. KIG will not generate freight in the South East, but is intended to capture freight which is generated by the UK's high propensity to import. This policy says that if a new freight generator is to be built, it should be near intermodal facilities, but, as Mr Garratt agreed, says nothing about where intermodal facilities should themselves be located.

3.8 Policy T13 is the policy for up to 3 intermodal interchange facilities in the South East. Mr Garratt agreed that this policy applies to KIG; that recently approved policy is for a limited number of intermodal interchanges; and that, given the limited number, we should look for sites with the least

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<sup>2</sup> CD7.2/15.177

<sup>3</sup> CD7.2/15.121 & 15.130

<sup>4</sup> STO3.1/1

environmental cost and most vehicle miles benefits. This is inconsistent with the appellant's claim that there is no requirement to prove need or consider alternatives.

3.9 Clause 8.37 of T13 states that 'potential sites for new intermodal interchange terminals must' meet four criteria. One of these is that they must be situated away from incompatible land uses. There is no argument that a thriving and historic village with 4000 homes and a nationally protected AONB are incompatible land uses. It is interesting to note that the SRA list of criteria is rather longer than just these four obligatory criteria in the South East Plan. It also includes...adequate level site area, potential for expansion, proximity to workforce, proximity to commercial customers. In previous Inquiries it has been stated that all factors do not have equal weight e.g. proximity to workforce may be desirable but not essential. However the SE Plan appears to have chosen the factors from the SRA list that it regards as essential. It is clear that this clause provides no policy support for KIG. It appears to go further and provide policy opposition to the construction of KIG in this particular location.

3.10 At any stage of the five year process of formulating the SEP, it could have been concluded that more than three SRFI were needed, but it was not. There is clearly no policy support for an additional 'hybrid which transcends the SRFI debate' in addition to the sites envisaged by the SEP. This is despite the fact that KIG made representations supported by MDS as acknowledged by Mr Garratt.

3.11 The Planning Issues Report, Transport Assessment and evidence given by Mr Garratt and Professor Braithwaite all point to support for rail freight in general terms, but this support gives no locational guidance for rail linked logistics parks and is therefore not an over-riding consideration vis a vis the Development Plan.

3.12 It is therefore clear that neither regional policy, nor Government/SRA policy support the case for KIG.

#### **4 Failure to establish an over-riding case of need**

##### **a. Failure to attempt to establish such a case**

4.1 The appellant in effect argues that Government policy regarding the increased use of rail freight and attendant reductions in carbon emissions creates an established adopted policy framework of sufficient importance to create an over-riding case of need.

4.2 The Inspectors' notes on the Pre Inquiry Meeting (INQ/1) stated that a key topic would be the 'need' for a road/rail freight interchange near Maidstone. This was confirmed in the Inspectors' Issues set out in Opening (INQ/7) 'whether or not there is a need for a SRFI at the location proposed and whether the policy support for SRFIs in general could better be met in an alternative way to that proposed'.

4.3 However, Mr Bullock, for the appellant, argues ‘that there is no requirement to demonstrate need’<sup>5</sup>. Mr Bullock’s evidence was clearly that general policy support for road to rail as a mechanism of reducing carbon emissions was sufficient to justify granting permission for this development, and that there is no requirement to assess the likelihood of achieving the objective or its ‘best fit in respect of vehicle mileage and/or CO<sub>2</sub> benefits at least environmental cost’<sup>6</sup>.

4.4 Therefore the appellant does not attempt to prove specific need at this location or, indeed, for a rail linked logistics park anywhere in Kent. The appellant appears to rely on the general need to reduce carbon emissions by moving freight from road to rail; the assertion that ‘without more terminals, rail freight growth will stall’; and the claim that, if a new rail linked logistics park is built, rail will be used.

4.5 The fact that the appellant is unwilling to justify the Bearsted site despite powerful Development Plan objections seriously undermines its case. StopKig believes that this is because the appellant is unable to prove that the development will reduce carbon emissions – it is a speculative property development, seeking to exploit government policy and concerns about climate change.

4.6 The appellant maintains that there is no requirement to prove that any particular scale of gain to the national interest will be achieved by KIG, or indeed that it will result in any gain at all; and that there is no need to assess whether less damaging ways of achieving the same objective are available. The suggestion is that the development should be approved simply because its declared aim is to reduce carbon emissions by transferring freight from road to rail, regardless of whether it can be demonstrated that those aims can and will be achieved.

4.7 The Inspectors and the Secretary of State are being asked by the appellant to accept that the government’s declared policy on climate change and reduction of carbon dioxide emissions overrides all other planning policy considerations, and that the test for this planning application should be simply whether the appellant aims to support that policy.

#### **b. Small scale of benefits claimed**

4.8 Prior to examining the logic of the argument that KIG meets an over-riding general need, it is worth noting that the benefits of the KIG proposal identified at the Inquiry, in the unlikely event that it were to achieve its own claimed objectives, are rather small.

4.9 **Carbon saving** - Despite assertions made by KIG representatives at the MBC planning committee meeting on May 2009<sup>7</sup> that KIG would save tens of thousands of tonnes of carbon per year, it was agreed during Professor Braithwaite’s evidence that the CO<sub>2</sub> savings would be only c12000 tonnes. This is only 50% more than that achieved by one daily train from Spain.

4.10 **Reduced congestion** - In terms of reduced congestion, if KIG achieved its own targets, it would remove less than 2% of HGVs from the M20. These modest benefits were justified by the Professor

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<sup>5</sup> KIG 1.2/8.2

<sup>6</sup> KIG 1.12/24

<sup>7</sup> CPRE 24/02.48.22

on the basis that ‘every little helps’. Clearly this (uncertain) ‘little help’ must be seen against the (certain) scale of the damage caused by the development.

4.11 **Modal shift** - In addition, KIG’s own numbers show that the site will not achieve modal shift for imports from the continent. The number of units arriving from Europe by train is forecast to be the same as that leaving for the UK regions by train<sup>8</sup>. The appellant has repeatedly stated at the Inquiry that the critical function of KIG would be to intercept lorries carrying imports along the M20 and switch their cargoes to rail. Given the rail in – rail out match described above, this must mean that reverse modal shift is expected for some of the goods arriving by rail. It is therefore clear that even if KIG achieves its own numbers, it is mode shift neutral overall.

4.12 Any claim that KIG would contribute to modal shift must therefore rely on the assertion that the very existence of KIG would be responsible for a switch of imports, which would otherwise arrive by road, to rail. However, such a claim is not supported by the evidence provided by Mr Blissett which has shown that there are many reasons for historically low levels of rail freight through the Tunnel, but there is no evidence to suggest that the absence of a terminal in Kent was one of these.

4.13 It is axiomatic that if KIG does not achieve modal shift, there is no basis for even the very modest claims regarding emissions and congestion reduction

### **c. Failure to counter evidence that modal shift would be unlikely**

4.14 StopKig evidence on logistics matters, summarised below, has shown that it is highly improbable that KIG would actually achieve even the modest benefits claimed. It would therefore not contribute to meeting the general ‘need’ to move freight from road to rail.

4.15 **Intercepting HGVs** – Although the appellant repeatedly stressed the importance of intercepting trucks, it did not counter Mr Pagett’s evidence that this was unlikely to happen because the cost of continuing to destination warehouses by road is very small – an average of £55 per unit.<sup>9</sup> Although Professor Braithwaite argued that these prices were below cost, the KIG logistics witnesses did not dispute the explanations offered for this pricing by Mr Ashness. Having invested in the time and cost of crossing the Channel, trucks from the continent often spend several days in the UK taking advantage of a 2500km range using cheaper fuel to secure a variety of loads before returning. Mr Pagett explained that continental hauliers have secured cabotage licences to enable them to make UK/UK movements, so even if they delivered into KIG, they would continue further into the UK to ‘work’ for several days before returning to the Continent, and thus, again, KIG would not take HGVs off the roads.

4.16 The Channel State of Freight Report made it clear that it was highly unlikely that HGVs would be intercepted, and Mr Garratt’s explanation that this related only to rail provision at Dover was not convincing. Under cross examination Mr Garratt accepted that the CSOFR could have referred to scope for KIG to help the impact of freight in Kent, but it did not do so.

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<sup>8</sup> KIG 3.1/5.19

<sup>9</sup> STO 3.1/3.3

**4.17 No evidence that rail will be used in this location** - There is no dispute that there is a general need to reduce carbon emissions by moving freight from road to rail. However, no evidence was offered to support the assertion that more terminals are needed in this location or to fulfil the particular function (import centre & sub regional RDC) envisaged for KIG. Mr Garratt suggested that the fact that existing logistics parks with intermodal areas are used is evidence that rail would be used at KIG. However, Mr Blissett argued that this would not occur in Kent and described previous mis-placed optimism about new types of rail freight flows. Furthermore, there are considerable differences between rail freight at existing terminals and the KIG model: existing sites are dominated by containers from deep sea ports; subsidy plays a part; all had a slow rail take up and now have a different trade to that forecast; rail freight to Scotland, which began in 1998, is an important part of existing flows; and existing sites are well located in the Midlands, the North and Scotland. By contrast the case for KIG is predicated on interrupting existing flows and sending un-subsidised multi-user trains to the regions.

**4.18 Gradual shift to rail** - In evidence Mr Garratt stressed the importance of the SRA policy of facilitating a gradual build up of the use of rail by first attracting operators to the site and then allowing them to realise the scope for rail. However, the logic of this unique model is based on trains running regularly to each UK region from KIG. The model cannot work until trains are running to the regions, but prior to critical mass being achieved the trains cannot run. As Mr Pagett identified, it is so much more likely that this critical mass could be achieved in the Midlands where there is a much greater concentration of logistics activity.

**4.19 Onward travel by rail** – the appellant assumes that a very high proportion (64%) of goods despatched from NDCs at KIG travel by rail, based on the assumption that rail is the cheaper option for destinations more than 200km away. However, quotations provided by StopKig<sup>10</sup> show that onward journeys from KIG would be cheaper by road than rail to all UK regions except the far north. KIG suggested that these quotations were not comparable with their rail costs because the road quotations assumed a back load. However, Mr Ashness pointed out in evidence that the road prices were open market quotations which did not assume a back load, and that prices would be much lower if a back load were to be offered and much lower still if large numbers of daily return loads were offered (the true comparison with rail). Since both Mr Garratt and Professor Braithwaite repeatedly state that lowest cost will usually drive logistics decisions, and real world quotations show that road is usually the lowest cost, it follows that a major part of the case for KIG is undermined. Rail would not be used for most onward journeys from KIG. The KIG logistics witnesses did not rebut these calculations, but continued to insist, in spite of them, that rail would be used for middle distance journeys.

**4.20 Market share objective** - The promoters of KIG made it clear at the Inquiry that they would not expect imports destined direct for the final warehouse in the chain to stop at KIG because this would introduce an extra set of costs.<sup>11</sup> The import centre aspect of KIG is thus targeted solely on freight which now passes via a NDC north of London. Professor Braithwaite admitted that he had no evidence for the proportion of goods which have to be bought back south from the Midlands. StopKig highlighted statistics from three separate sources<sup>12</sup> which all indicate that Dover Straits

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<sup>10</sup> STO 4.5/6.9

<sup>11</sup> STO 4.7/7

<sup>12</sup> CD 4.7 table 13; CD 6.5.21 fig 37; KIG 3.1 fig 1

imports in the main travel direct to UK regions, and that only a small proportion travel via the Midlands. The appellant's own responses to INQ/9<sup>13</sup> showed an 'excess' over population to the Midlands of only 7.5% to 11.5%. In order to achieve its targets, KIG would thus need to intercept an extremely high proportion of imports which currently travel via Midlands NDCs.

**4.21 NDC location** – Mr Pagett gave extensive evidence confirming that the most favoured location for UK NDCs remains the Midlands. There is no evidence that companies importing from Europe will want to move their national distribution centres from the centre of the country to the far South East. Companies have been free to base European import centres or NDCs in Kent for many years, but have chosen not to do so. The argument can only be that they would do so in future because KIG would enable them to distribute onward in the UK by rail at a lower cost than with a Midlands based NDC structure. Apart from the fact that this model would only suit a company importing exclusively from Europe, StopKig quotations compared with KIG rail costs show that only Scotland and the NE are cheaper by rail from both Kent and the Midlands.<sup>14</sup> There would therefore be no economic incentive to locate NDCs at KIG, because onward journeys would cost less from the Midlands.

**4.22 The NDC/RDC split** described by the appellant cannot be controlled by planning conditions, but the concept depends upon it. If the development were to be approved, there would be no restriction on all tenants being RDC operators, which would have major implications for mode use, employment and traffic levels. Existing warehousing patterns in Kent suggest that the most likely use of warehouses at KIG would be as RDCs for food retailers, rather than NDCs.

**4.23 Reverse modal shift** – Mr Ashness argued that KIG would introduce the danger of reverse modal shift via: diversion of freight from environmentally efficient east coast ports – Mr Garratt admitted that most of the projected increase in freight through the Tunnel would be diverted from east coast ports ; retailer RDCs importing by train & transferring to road only a short distance into the UK; stopping trains which would otherwise continue to the Midlands and transferring freight to road. This was not disputed.

**4.24 Appellant's response** – rather than countering the arguments above, the appellant chose to rely on various statements of 'support'. For example: Mr Russell said that he would be prepared to operate rail services from KIG if there were a demand; a Tesco project manager wrote to say that his company 'would welcome the opportunity to explore the site and its rail connectivity in more detail'<sup>15</sup>; DB Schenker would be 'pleased to service the market if it proves to be commercially viable'<sup>16</sup>. These and similar statements offer no certainty that KIG would be used as proposed. They are simply indications that companies would be willing to consider future commercial opportunities which might arise...as would any profit seeking business.

**4.25 Conclusion** - the evidence presented by StopKig logistics witnesses shows that it is extremely doubtful that KIG would actually meet all or any of the 'need' claimed by the appellant, even after all the harm of construction was done. The mid Kent import centre model will not be effective in moving freight from road to rail. Transport economics dictate that KIG will not save lorry km travelled and thus not reduce CO2 emissions.

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<sup>13</sup> KIG 0.12 & KIG 0.13

<sup>14</sup> STO 4.5 app 1

<sup>15</sup> KIG 0.14

<sup>16</sup> KIG 3.4 app2

4.26 Of course one could not be certain that KIG would not result in some use of rail, but it should not be approved on the basis that it just might achieve some modal shift at some stage...any site with road and possible rail links could make such a claim...this could result in a series of ill considered competing sites, non fully viable, which would not achieve the aim of maximising freight movement by rail because it would dilute the necessary flows which require critical mass. In this respect the 'every little helps' approach referred to by Professor Braithwaite is actually incorrect... policy is for a limited number of interchanges.

## **5 Alternative means of meeting the 'need'**

5.1 Stopkig has described several alternative means of reducing HGV traffic and CO2 emissions which are better, will happen sooner and cause less harm. It is the StopKig case that the 'need' can be better met elsewhere and in other ways. The appellant maintained the position that it was not necessary to consider alternatives, but did not dispute their existence.

5.2 **Channel Tunnel rail freight to existing SRFI** – the really big opportunity for carbon saving on imported goods is to put freight on rail in Europe. Although this could have happened since the Tunnel was built, the changes listed in evidence given by Mr Blissett, especially European rail freight liberalisation, suggest that this will now begin to happen. The Norfolk Line train from Italy to Daventry and the Stobart fruit train from Spain could well be followed by many others. There is a much greater opportunity to save significant amounts of carbon emissions on the longer rail journeys which are possible across continental Europe than on the shorter distances available in the UK. For example the Stobart train from Valencia is expected to save 8650 tonnes of carbon compared with c12000 for KIG, with no environmental damage, because it travels to an existing terminal. There is no shortage of rail linked logistics parks in the UK to fulfil this import centre function.

5.3 **Rail access at Dover** - there are no plans for a rail linked logistics park at Dover, but the Dover Harbour Board intends to create a rail head at the port. This will have the potential to contribute to modal shift in this freight corridor, probably by providing scope for more unaccompanied trailers to carry containers on the Dover route. This is consistent with clause EKA5i of the SEP which envisages running freight trains from Dover. The appellant has not demonstrated that KIG would not compete with this plan and undermine this policy.

5.4 **More use of east coast ports** - European policy favours increased use of the, environmentally friendly, 'motorways of the sea'. This involves coastal feeder vessels delivering to rail linked east coast ports and there is scope for this to increase especially via the Thames ports. KIG would actually compete with this and thus create reverse modal shift.

5.5 **Consolidation centres in northern France** e.g. the land bridging proposal from Dunkerque, and the Calais 2015 plan. The arguments against this (specifically Dunkerque) in the MDS rail report of Sept 08 p26 are easily rebutted. These warehouses would not be RDCs for the South East of England – they would be NDCs/PCCs (primary consolidation centres) for the UK market. The 'weak link' of

the Channel crossing a) exists anyway for imports and b) is overcome by using rail. The flexible labour market argument is offset by property costs in northern France. In order for rail to be economic for onward travel from these hubs, trains would have to travel to the centre or north of the UK (It would not be cost effective to run trains for the short distance from the northern continent to Kent). Inward journeys to these sites by rail from the south or east would of course result carbon savings.

**5.6 Howbury Park** – this site was approved as a SRFI to serve a regional market including the area to be served by KIG and was expected to receive 3 daily trains via the Tunnel. Once it comes forward it will therefore contribute to meeting the ‘need’ for modal shift. Prologis is committed to developing a national network of rail linked warehousing sites, but in the current financial climate, is awaiting a pre-let before proceeding.

**5.7 London Gateway rail linked logistics park<sup>17</sup>** - although LG port is primarily targeted at deep sea imports, it will also be able to receive goods from Europe via short sea crossings, on rail via Barking or by road. Operators of warehouses at LG will have a strong incentive to route European imports to the site where they can be combined with deep sea imports and UK produced goods.

**5.8** Unlike other port centric logistics locations in the UK, LG is also close to a major market. It is therefore highly likely that businesses will co-locate port centric PCCs (primary consolidation centres) with RDCs to serve the London and South East market. Since trains will clearly take freight north from LG (as in the case of Southampton and Felixstowe and as clearly anticipated by Network Rail), there will be scope for returning trains to feed the RDCs.

**5.9** Ironically, the model proposed for KIG actually works at LG since either the port centric aspect or the proximity to London are good reasons to locate there in the first place...and the other benefits spin off. LG really is a unique opportunity to combine deep sea, European and UK sourced products at large rail linked warehouses close to the UK’s main market. Once LG proceeds following the delay caused by the recession and world financial crisis, it will become the location of choice for logistics operations in the South East. LG will contribute to modal shift for European imports, both inbound via short sea and possibly rail, and outbound to the north, on an already approved brownfield site.

**5.10** A key point emphasised by the proponents of rail freight is that policy does not demand immediate use of rail, but the creation of conditions which will allow it to blossom in time. Compare and contrast the opportunities for rail freight to grow over time at KIG with that at LG which has almost three times the warehousing, six times the rail capacity, more sources of product and is close to a much larger market.

**5.11 Use of HS1 for freight** – this has very strong policy support (Europe, UK govt, LBB, TfL)... very strong support from the Rail Freight Group... is advocated strongly by DBShenker...and is at last expected to commence in 2010 as a result of realistic access agreements. Mr Russell confirmed in evidence that his company expects to receive freight at Barking via HS1 from 2010.

**5.12 Barking<sup>18</sup>** – the potential for Barking and Dagenham to play a role in modal shift from road to rail is significant, and has become much more so very recently. The Barking and Dagenham Area is already naturally developing as an SRFI (with multiple modal interchange facilities and extensive

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<sup>17</sup> See STO 4.9

<sup>18</sup> See STO 4.8

distribution warehousing, some of which is directly rail linked). The logistics case for this location is clear, shown by both the current investment in warehousing and the operation of intermodal trains (such as the Valencia Fruit train). The area will expand this role further under a positive local planning framework that explicitly supports the development of SRFI facilities at this location - it has support from the strategic planning authority (GLA) and the RSS (London Plan), the strategic transport authority (TfL) and the local planning authority (LBBD). The location can further benefit from its unique access to freight services that will use HS1.

**5.13 Use of larger road vehicles** – not always popular, but longer trailers, double deckers and draw-bars can contribute to reducing congestion and carbon emissions.

5.14 All the initiatives listed above are either already happening or are likely to do so long before KIG could be built. They are all more likely to be effective than KIG. They all do less damage to the environment than KIG – none involves using green fields. Cumulatively they will add up to a very substantial contribution to reducing lorry miles and saving carbon emissions. This list demonstrates clearly that the ‘need’ for KIG put forward by the appellant can and will be met elsewhere.

## **6 Alternative sites in Kent**

6.1 StopKig believes that the evidence above clearly demonstrates that there is no need for a rail linked logistics park anywhere in the M20 corridor between Dover and London. However, if the Inspectors accept the KIG case that such a location is not only desirable, but sufficiently necessary to contemplate causing the harms identified (including to national, regional and local planning policy and to the nationally protected AONB), it is then necessary to consider the evidence that KIG has produced to show that no other location in that corridor could meet the need (or a substantial part of it) while causing less harm to interests of acknowledged planning importance.

6.2 It is for KIG to prove the absence of alternative sites, rather than for opponents to disprove. In order to do this a robust analysis of alternative sites is required. The appellant must prove that there are no suitable and available other sites capable of meeting the need, which would be less damaging in environmental and policy terms.

6.3 The appellant undertook this task in conjunction with the planning application in the KIG Rail Report Sept 2007 and the Supplementary Information on Other Sites Assessment June 2008. These analyses were flawed in several ways, including the exclusion of all sites not in the M20 corridor. However, the position taken by appellant at the Inquiry was that there is no need to consider alternatives at all.

6.4 In any event, there are sites in the Dover/Tunnel corridor which have been discounted by the appellant without serious consideration. At least two of these could fulfil the functions of a rail linked logistics park with much less environmental and policy damage than KIG<sup>19</sup>. Sevington is an available 90ha site, owned by the appellant, which is allocated for industrial/warehouse development and on which AXA wishes to build 400,000 sq m of industrial units. It has excellent road access, is located in a growth area with good access to labour and is not adjacent to

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<sup>19</sup> See STO 4.10

incompatible land uses. Mr Garratt discounted this site in his proof because Waterbrook is designated for mixed use and in evidence argued that rail connection would be difficult, but StopKig sees no practical difficulties with a rail connection to the south in the Waterbrook area. Given the emphasis placed on the climate change agenda by the appellant, StopKig finds it inexplicable that a serious evaluation of the potential of this site as a SRFI has not been conducted.

6.5 StopKig considers that the former CTRL construction site at Beechbrook Farm is equally practicable. This site is close to the Ashford growth area and has the advantage of keeping security risks well away from housing.

## **7 Local impact and safety**

7.1 The evidence of Mr Clifford, Mr Heard and Mr Saunders demonstrated that the KIG site is totally unsuitable because of its horrendous physical impact in a serene rural area and on an archetypal Kentish village; the massive increase in lorry and other traffic movements; and safety and security considerations. Each of these aspects of 'harm' is described below individually.

7.2 **Construction:** Noise, dust, and vibration associated with the seven year construction programme would be detrimental to residential amenity and could not be eliminated by mitigation measures. There are aspects of this site caused by gault clay which increase the harm to local people beyond that on other construction sites. Mr Bracegirdle acknowledged in cross examination that vibration caused during the construction process would be uncomfortable for local people. He also acknowledged that lime spreading was an unpleasant process and that prolonged exposure to lime dust would be dangerous.

7.3 Mr Sharps for KIG conceded<sup>20</sup> that construction noise would be likely to exceed 65db trigger level, but was unable to say whether or not the trigger periods would be exceeded. Mr Sharps acknowledged<sup>21</sup> that noise from construction activity 'is a most serious concern' but identified that he believed that with the control measures in place 'the impact of construction noise would be constrained to acceptable levels'. StopKig identified residents' lack of confidence in mitigating measures and enforcement procedures preventing a most serious impact being experienced by residents adjoining the site, particularly Thurnham Lane, Bearsted Green, The Street, Roundwell, Mallings Drive and Fremilins Road. Mr Sharps in cross examination agreed no mitigating measures on properties would reduce the impact on garden use, or the effect of noise in bedrooms being used by shift workers or the infirm in daytime with windows open.

7.4 **Night-time visual impact** – StopKig has shown that the lights from the site will be to the detriment of many homes and many points of public access in the villages of Bearsted and Thurnham. Mr Pollard accepted during cross examination that well designed lighting can reduce but not eliminate night time visual impact. Although only one third of the site will be lit, this represents about 35ha and he agreed that the lights would be visible from many points in Bearsted and Thurnham, in addition to from the AONB and the North Downs Way. Mr Pollard made a comparison

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<sup>20</sup> KIG 11.1/5.39&5.40

<sup>21</sup> KIG 11.4/2.1&2.2

with a hockey pitch but agreed that sports clubs are obliged to turn off floodlights at night to give relief to local residents. He also agreed that light would be reflected upwards from lorries, cars and containers. A further source of new light intrusion would be at the various worker access points which would need to be brightly lit. The suggestion by Mr Pollard that these could be turned off outside shift changeover times indicated his acknowledgement of the intrusion, but was hardly realistic, and was not confirmed by subsequent KIG evidence.

**7.5 HGV parking:** Mr Heard for StopKig<sup>22</sup> pointed out that it is inevitable that trucks would need to park overnight, pre book in, or awaiting their next load. This location is very short of suitable nearby spaces and there would inevitably be considerable nuisance caused by HGV parking in inappropriate locations. Mr Clifford provided photo evidence<sup>23</sup> of the overnight HGV parking outside Crick village. He identified that there are spaces to park between Crick and DIRFT but the same situation transposed to the area surrounding the KIG site would cause the most serious problems.

**7.6 Traffic:** Mr Heard's evidence showed that, whilst it may be possible to engineer solutions for trunk roads, the local village streets and country lanes are fundamentally unsuited to the traffic associated with a major industrial site. It is unrealistic to suggest that all KIG traffic would always use J8, which would be near capacity before KIG were complete. Employees, tradesmen and some HGV would inevitably use local roads regularly.<sup>24</sup> Vehicles using the A20 would exacerbate problems at the Willington Street junction which is already at capacity. There would be very substantial congestion at times of incidents on or near the M20. This site is especially difficult because of the lack of diversionary routes other than via village streets and country lanes. Mr Rivers accepted that these would inevitably be used in the event of a blockage at J8 or disruption on the M20 as a result of Operation Stack or other incidents.

**7.7 Road safety** – The increased traffic on narrow village lanes will increase risks for all road users especially children, pedestrians and cyclists. The absence of footpaths or space to install them will make this worse.

**7.8 Noise** As a result of the background noise caused by the M20 line source, generally accepted principles of noise measurement do not result in high predicted changes to noise levels, and it is therefore difficult to make a 'formal' case on noise grounds. However, a common sense approach suggests that intermittent noises from site operations including that of shunting trains, reversing vehicles, and container stacking will cause significant disturbance. This will be especially true for homes near the shunting line or open to the intermodal area, but as a result of the elevated nature of the area of Bearsted to the SW of the site, it is likely that these impacts will affect a large number of homes. Sleep disturbance for many would be a real possibility. While it was suggested that broadband reversing beepers would restrict noise Mr Sharps conceded during cross examination that this would only apply to the few site based vehicles and unlikely to apply to many of the 2,900 vehicles arriving at the site per day. Mr Sharps also advised that the noise source from the motors on the gantry cranes would be considerably above the 4m acoustic fence intended to run along the Intermodal between IND 2 and E.

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<sup>22</sup> STO 1.1/4.8

<sup>23</sup> STO 2.4/15

<sup>24</sup> STO 1.1/section 3

**7.9 Proximity to residential area** – SRA and SEP policies both state that it is inappropriate to locate SRFI close to residential areas. Mr Clifford drew attention to his experience of DIRFT<sup>25</sup>, which is not close to homes, and the conflict with residential amenity that a similar site would cause. During cross examination of Mr Clifford, the appellant sought to identify examples of housing close to logistics parks, but did not offer examples in any way comparable to Bearsted.

**7.10 Vibration** – residents speaking at the Inquiry noted feeling the effects of vibration, both during the CTRL construction and from freight trains on the local line.

**7.11 Staff Travel** The site would not create new jobs but would move employment from other warehouse locations. Some of these jobs would be imported from the Medway towns and London Gateway, creating travel pressures and environmentally harmful commuting, contrary to SEP policy. This would in turn lead to the negative impacts of use of country lanes & village streets, parking in village streets near pedestrian entrances to the site<sup>26</sup>, and cars dropping off employees<sup>27</sup>. The site is not well located in relation to public transport.

**7.12 Security** – a number of issues were identified under the security heading.<sup>28</sup> Some of these, such as the increased scope for crime and vandalism in a currently tranquil village, add to the weight of the list of ‘harms’ caused by the development. Mr Saunders, Mr Duncan<sup>29</sup> and Mr Hattley (HGV driver) explained that crime is “endemic” around SRFIs due to the parking up of the loaded HGV’s. Other issues, especially the risk of a major fire, terrorism, or accidental explosion, in their own right suggest that the balance falls firmly on the side of harm and that the development should not be permitted in this location so close to so many homes.

**7.13 StopKig** maintains that the enclosed nature of the western part of the site, squeezed between the village and the motorway/HS1 with vehicle access only from the east via country lanes makes it unsuitable for satisfactory emergency service response. This is not something that can be mitigated by condition. It is a fundamental weakness of the site. Neither Mr Keeling, nor Mr Rech fully dealt with his issue which is a consequence of the development being shoehorned into the site.

**7.14 StopKig** evidence also highlighted the serious potential for terrorism at KIG because of the multiple targets (M20, HS1, local rail, KIG site and Bearsted homes). Mr Keeling accepted that the site could be a high risk target, but argued that first class security measures would reduce the risk to a level that he considered acceptable. However, he agreed that no security system could eliminate risks. The open nature of the site increases its vulnerability, since, although vehicle access would be restricted to the main entrance, pedestrian access would be open at Thurnham Lane, Mallings Drive, Water Lane, Roundwell/Barty Lane, and Crismill Lane.

**7.15** It transpired during Mr Keeling’s evidence that the reception zone for HGVs entering the site had been designed without consideration for the frequency of HGV arrivals. Mr Keeling confirmed the view of Mr Heard that checks would take 3 minutes per vehicle, but subsequently modified this to 3 minutes for suspect vehicles only. In order to cope with peaks and surges in HGV flows (caused by ferry or shuttle arrivals and not accounted for in the COSG), there would have to be a large

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<sup>25</sup> STO 2.9

<sup>26</sup> STO 1.1/4.6

<sup>27</sup> STO 1.1/5.7

<sup>28</sup> STO 5.7

<sup>29</sup> MBC 08.01/6.2

number of reception lanes and zones for suspect vehicles, requiring a much larger allocation of space. In the absence of this, HGVs could not be thoroughly checked and the security measures would be undermined. The hastily revised plans<sup>30</sup> submitted towards the end of the Inquiry did not resolve this issue. In order to be able to process the high numbers of HGV arrivals, the appellant has belatedly suggested that many vehicles would only be checked by number plate recognition. This seriously undermines the argument that excellent security procedures will eliminate the high risk.

7.16 The possibility of IEDs arriving in containers carried by rail was also identified as a fundamental weakness of the security regime. The thoroughness of checks in France on trains arriving from the continent was brought into question, and Mr Keeling confirmed that there would be no checks at all on trains arriving from the west. The possibility of multiple container explosions in the intermodal area could not be denied.

7.17 Mr Saunders gave evidence on behalf of StopKig which showed that the consequences of either an accidental or deliberate explosion or fire on site could be very serious given the proximity of the residential area. The exclusion<sup>31</sup> and evacuation zones for a hoax or real incident would cover a very large number of homes.

7.18 **Visual impact** - Mr Clifford's pictorial walk around Bearsted & Thurnham<sup>32</sup> made it clear that there are a large number of public access viewpoints around the villages from which parts of the KIG site would be clearly visible. The impression that it could be visually cocooned is erroneous. Mr Rech did not contest the Inspectors conclusion that a substantial amount of the side of Ind 1 would be visible from the Green. An enormous industrial shed would form a new backdrop to the Green, the heart of the village, leaving residents and visitors alike in no doubt that the village was dominated by KIG. There would also be many private properties affected. In addition, there would be adverse visual impacts for the large numbers of people passing the site on the M20, HS1 and the local rail line, or on route to Leeds Castle.

7.19 **Public rights of way** - The loss of and damage to public rights of way, are a major contributor to harm. As Mr Clifford pointed out, the routes to the North Downs AONB would be along canyons between large industrial buildings, rather than through the countryside. Although Mr Rech referred to the Bearsted & Thurnham Society Footpath Saturday Group driving to the Downs, the shorter Friday evening 3 mile walks identified in the B & T Newsletter<sup>33</sup> and many other organisations and individuals use SLA footpaths on a regular basis. Mr Clifford identified that the proximity of significant parts of the revised footpaths and bridleways to lorry and car parks, and/or the M20 and the Intermodal area and the internal road made them places that walkers and riders would seek to avoid. There are also concerns about security and safety on the relocated footpaths.

7.20 **Landscape** - PPS 7 sets out Government Policy on protection of the countryside<sup>34</sup>. Ordinary open countryside is protected<sup>35</sup>. MBLP policy ENV28 applies to the entire KIG site. The proposal would greatly harm the character and appearance of the area. None of the exceptions to this policy apply and it would thus be breached. Policy ENV34 also applied to the whole site and said that

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<sup>30</sup> KIG 2.18

<sup>31</sup> STO 5.7/4.24

<sup>32</sup> STO 2.8

<sup>33</sup> STO 2.11 p6

<sup>34</sup> PPS7 objectives (i) & (ii) and paras 1 (iv) & 15

<sup>35</sup> PPS7 para 15

priority should be given to the landscape of this area ahead of other planning considerations. Although this policy has lapsed with the KMSP, policy C4 of the SEP requires a fresh character assessment of the area. Pending this assessment the former SLA status of the land should be given some weight.

**7.21 North Downs Way** – Mr Rech agreed that the site would be visible from very many vantage points on this national trail, and thus damage the enjoyment of it.

**7.22 AONB** – Several other rule 6 parties made clear that there would be a considerable impact on this nationally designated protected landscape - PPS 7 paras 21 & 22 refer to nationally designated areas including AONB. Although KIG is not in the AONB, it is a 'major development' on the boundary of the AONB and will have a 'serious impact' upon it<sup>36</sup>. The effects will include the impact on views from the AONB, impact on views to the AONB from Bearsted and on 'recreational opportunities' by disrupting footpath access to it from the south. SEP Policy C3 requires planning decisions to have regard to the setting of AONBs and SEP para 11.9 makes it clear that areas adjoining AONBs would form part of their 'setting'. It is clear that the AONBs natural beauty would be harmed by a very large warehousing development with cranes and lighting on its very boundary and clearly visible from within it.

**7.23 Conclusion** – KIG would cause very substantial harm. The cumulative impact of this harm to the locality would be very great. KIG would also cause significant harm to the character of the location and the setting of the nationally protected AONB.

## **8 Scale of opposition**

8.1 Last but by no means least - and certainly not in the minds of the 9,000 members of StopKIG – is the truly awesome scale of local public opposition to KIG. The extent of opposition to this proposal is extraordinary. StopKig has over 9000 registered supporters; c70% of supporters are from the immediate locality of the appeal site, 25% from the wider mid Kent area and 5% from outside Kent<sup>37</sup>. Maidstone Borough Council received over 6000 letters of objection. The Inspector acknowledged at the PIM that he had received an unprecedented number of letters objecting to the development. All relevant public bodies are opposed, even including SEEDA which withdrew its 'support' on advice from the FTA. Hugh Robertson MP addressed the Inquiry and noted that he had never received such a large postbag on any subject. Over 850 people attended on the first day of the Inquiry and an unusually large number of members of the public have been in attendance on subsequent days. Over 100 members of the public gave evidence to the Inquiry to describe the specific harm from their individual perspectives. The very large number of people who have made various efforts to register their opposition is testament to the scale of harm that would be caused – a great many lives would be adversely affected by this development.

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<sup>36</sup> PPS7 paras 21 & 22

<sup>37</sup> See CT 01

## 9 Conclusion

9.1 Planning Policy Statement 1 (PPS1) sets out the overarching objectives of national planning policies for the delivery of sustainable development through the planning system. Paragraph 1 of PPS1 states that good planning ensures that we get the right development, in the right place and at the right time; that it makes a positive difference to people's lives and helps to deliver homes, jobs, and better opportunities for all, whilst protecting and enhancing the natural and historic environment, and conserving the countryside and open spaces that are vital resources for everyone.

9.2 StopKig considers that the KIG proposal will achieve none of these objectives.

9.3 Having heard all the evidence put to this inquiry by the appellants, StopKig remains absolutely convinced that:

9.3.1 KIG is the wrong development: it is not a SFRI – as envisaged in the SRA and the SEP – it is something unknown and speculative and all the evidence that we have heard from the appellants indicates that the proposal is vaguely trying to piggyback unsuccessfully on government policy to reduce carbon emissions and shift freight from road to rail. The appellants are unable to produce any evidence to indicate that KIG will bring about anything other than a possible minor reduction in carbon emissions. StopKig considers that the nationally important planning appeal decision on KIG that will affect the lives of millions of people for years to come cannot be based on such vague and unjustifiable aspirations – especially as there are much better ways of reducing the carbon emissions from freight movements.

9.3.2 KIG is in the wrong place: it causes a multitude of harms; it is opposed by SEEDA; it is contrary to the provisions of the development plan for the area; it will severely undermine government policy to encourage housing and employment growth in other parts of both Kent and the wider south-east region; it will prejudice Maidstone's housing growth point status; it will ruin a vast expanse of attractive and unspoilt countryside adjoining the Kent Downs AONB; it will devastate the local communities around it; and there are alternative sites available for developments that could be genuine SRFIs.

9.3.3 KIG is at the wrong time: HP is already approved - but delayed by the recession - and there must be a strong possibility that the proposed SRFI at Radlett – the subject of a concurrent planning appeal inquiry - might also now be approved within the next few months. Both these sites have almost immediate access to the M25 to serve the south-east region. It can also be argued that KIG is premature in advance of the publication early next year of a draft National Policy Statement on road and rail networks – including SRFIs; current reviews of the SEP; and the on – going preparation of the Maidstone Borough Local Development Framework.

9.4 The KIG proposal will fly in the face of national, regional and local planning policy. It will ruin and devastate the lives of local people; it will not deliver any homes – for which there is pressing need in the local area; it will deliver jobs that are not needed locally but which are urgently needed in other parts of Kent and the south-east; it will destroy the natural and historic local environment; and concrete over for all time 250 acres of attractive countryside and open spaces that are adjacent to the Kent Downs AONB.

9.5 Paragraph 14 of PPS goes on to say that a key principle of national planning policy is to create strong, vibrant and sustainable communities and to promote community cohesion in both urban and rural areas.

9.6 StopKig considers that the KIG proposal meets none of these principles.

9.7 StopKig considers that the existing local communities around the KIG proposal are already strong, vibrant and cohesive – as the Inspectors will have heard and seen from both the evidence of all the objectors to KIG, including the 100+ members of the public who spoke at the inquiry, and from the high numbers of people who have consistently attended it. StopKig considers that the KIG proposal will, contrary to government policy, devastate, destroy and disintegrate these existing strong communities.

9.8 In summary, StopKig concludes that the KIG proposal:

- i) is highly speculative and flies in the face of national, regional and local planning policy;
- ii) is seriously contrary to the provisions of the development plan;
- iii) will do little, if anything, to shift freight from road to rail and will in all probability lead to a net increase in carbon emissions which will prejudice the key government objective of reducing them;
- iv) will seriously prejudice government policy to encourage housing and employment growth at the 4 major growth points in the south east and housing growth at Maidstone;
- v) will do irreparable harm to the setting of the Kent Downs AONB and to the local natural and built environment; and
- vi) devastate and destroy the local communities in the area.

9.9 Having heard all the evidence presented to the inquiry, StopKIG firmly believes that the case for dismissing the KIG appeal is overwhelming and we request that the Inspectors recommend to Secretary of State to do so.