

**CROWN/2025/0000002**

**SEVINGTON INLAND BORDER FACILITY**

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**APPLICANT'S CLOSING STATEMENT**

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**Introduction**

1. In this closing statement, we do not repeat all the points made in our opening statement, the Statement of Case, Statement of Matters Response and the supporting technical notes. Instead, we focus on discussions at the inquiry which have highlighted:
  - (i) the overwhelming need for, and national importance of retaining the existing Sevington Inland Border Facility (“IBF”) and Border Control Post (“BCP”) and absence of any objection in principle to the use of the Site for these purposes;
  - (ii) the Site’s intrinsic qualities and ideal location in strategic and planning terms to serve the functions required of the IBF and BCP;
  - (iii) any residual issues of concern by local residents, but also the Applicant’s unwavering commitment to being a good neighbour to address those concerns where practicable. It is considered that productive discussions and the collaborative efforts of all parties at the inquiry have permitted the Applicant to narrow what were already a limited set of issues.
2. At the outset of the inquiry, the opening statements and statements of case illustrated the extent to which pre-inquiry discussions had already resolved many issues. Amongst other things:
  - (i) The local planning authority (“LPA”) through its own committee report and then statements to the inquiry recorded and confirmed its support for the application in principle and acknowledged the proactive working relationship with the

Applicant which had already allowed some of the residual concerns to be addressed before the inquiry commenced.

- (ii) Neither Sevington with Finberry Parish Council nor Mersham Parish Council (“the Parish Councils”) opposed the application in principle, but they were able to express residual concerns which they wished to be addressed through conditions regarding character and appearance, noise, landscaping, lighting, highways, litter and environmental management.
- (iii) Councillor Bartlett welcomed the Applicant’s proposals for lighting mitigation, the proposed undertaking in relation to St Mary’s Church and mitigation proposed for the A20. He also welcomed and expressed his support for the securing of Sevington East for the delivery of biodiversity net gains for the next 30 years. He too was able to express any residual concerns as relating to conditions.
- (iv) The Ramblers and the Village Alliance confirmed that they were also not directly opposed to the grant of permanent planning permission and acknowledged the need for the facility. As with other parties, their outstanding concerns related to the way in which the development is operated and the securing of appropriate mitigation by condition.
- (v) Ms Arthur’s separate opening statement on behalf of the Village Alliance also did not oppose the principle of the application but again, focused on mitigation that the group would like to see in respect of the development.
- (vi) In his opening remarks, Councillor Coppins expressed his view that the Site’s noise management had in fact significantly improved. His representations were similarly focussed on ensuring that the Site operates in the least disruptive way possible to local residents.

3. In light of this **common ground** as to the acceptability in principle of the grant of permanent planning permission for the development on the Site, it is considered unnecessary to spend any material time in these closing submissions dealing with that issue.

4. These submissions are consequently structured around the main issues you identified for consideration, but where there is no dispute as to the principle of granting permanent planning permission for what is proposed. The submissions focus on any residual issues regarding conditions or other obligations. The structure is as follows:

- (i) The planning and legal background for this application for Crown Development in the national interest, but in brief given the common ground identified above;
- (ii) The effects of the development on the character and appearance of the area;
- (iii) The effect of the development on the local landscape, including on the Kent Downs National Landscape (formerly Area of Outstanding Natural Beauty (“AONB”));
- (iv) The effects of the development on heritage assets;
- (v) The effect of the development on local biodiversity and/or ecology;
- (vi) The effect of the development on agricultural land;
- (vii) The effect of the development on the local traffic network;
- (viii) The effects of the development in terms of noise, lighting, and air quality on the living conditions of existing and future occupiers of nearby residential dwellings;
- (ix) The overall planning balance.

#### **The planning and legal background for this application for Crown Development in the national interest**

5. We adopt, but do not repeat, the summary in our Opening Statement. In addition to those points regarding the new provisions in section 293D of the Town and Country Planning Act 1990 (“1990 Act”) for Crown Development, and the established principle of significant development on this site, we deal with points that were discussed during the inquiry.

#### ***The status of the 2017 planning permission and its relationship with the SDO permission and relevant approvals***

6. The suitability of the site for significant development has long been established by its previous allocation as a Strategic Employment Site under the previous Local Plan and the subsequent grant of outline permission for Stour Park West in 2017 under that allocation.

7. On the first day of the Inquiry, the question was asked as to whether the SDO planning permission and relevant approvals had overridden the 2017 permission and clarification was sought on the status of the 2017 planning obligations. The Applicant responded by the note dated 3 December 2025 in which it was identified that in the absence of an application for reserved matters approval for Phase 1B of the 2017 permission, Phase 1B cannot proceed without further permission. By contrast, Phase 1A has been lawfully implemented for the access route as shown on the plan submitted alongside the application for a Certificate of Lawfulness of Existing Use or Development (“CLEUD”).<sup>1</sup>
8. In *Pilkington v Secretary of State for the Environment* [1973] 1 W.L.R. 1527, as endorsed by the Supreme Court recently in the *Hillside* case, the Court confirmed that where two planning permissions exist in relation to the same land, both cannot be implemented if they are mutually inconsistent. The implementation of the 2017 permission through the limited Phase 1A works means that there are two extant planning permissions on site. As a result of the development carried out under the SDO, the remainder of the Phase 1A works which have not been constructed are likely to be physically incapable of implementation. However, where works are carried out under the proposed Reinstatement Plan, this would remove any such physical incompatibility and the Phase 1A works in relation to the landscaping, layout and estate road works approved under Phase 1A could be completed.
9. The draft Reinstatement Plan submitted to SoS MHCLG on 26th June 2025, was prepared in line with Condition 5 and Informative 5 of the current relevant approval dated 28 April 2022. The condition and informative expect the retention of the landscaping and environmental improvement works, the bunds, associated surface water drainage facilities, site access, circulation roadways and the development platforms.
10. The Applicant refers to the note on the proposed Reinstatement Plan at Appendix 1 of this closing statement for further information.

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<sup>1</sup> [INQ Certificate of Lawfulness from 2017 Permission Phase 1A.pdf](#)

11. The planning obligations in the section 106 agreement dated 13 September 2017 for the outline permission are a helpful indicator of the kinds of obligations necessary to make this development acceptable in planning terms.
12. Given the requirement under the CIL tests for s106 obligations to be fairly and reasonably related in scale and kind to a specific development, the s106 obligations attached to the 2017 outline permission do not automatically carry over to this proposal. However, in this case, the similarities in scale and kind between what was proposed under the 2017 outline permission and what was developed under the SDO mean that the proposed planning obligations accompanying this application naturally follow on from, and would respect, the planning obligations concluded between the LPA and the previous site owner in 2017.
13. The Applicant and the LPA have worked closely since 2020 to negotiate a unilateral s106 undertaking that respects and now gives further effect to the financial commitments identified in 2017. This is considered to be in keeping with the Applicant's intention to work closely and collaboratively with the LPA to ensure that any decision to make the development permanent is acceptable in planning terms. The Applicant and LPA have each provided CIL compliance assessments, describing how each of the obligations in the unilateral s106 undertaking meets the CIL tests. In this context, the Applicant confirms that the unilateral undertaking submitted on 12 December 2025 supersedes the undertaking submitted in October 2025.

***The use of the site for the Kent Resilience Forum and emergency uses***

14. The national importance of the Site is further reflected in its ability to allow a response to national or regional civil emergencies such as the disruption of freight traffic and the closure of the Port of Dover and/or the Channel Tunnel. The Site's strategic location just off Junction 10A of the M20, accessed via the A2070, approximately 13 miles inland from the Channel Tunnel and 22 miles inland from the Port of Dover, and the designated Romeo and Tango areas within the Site, allow it to alleviate pressure on the Strategic Road Network ("SRN") by accommodating HGVs in such emergency situations. Outside of national or regional emergencies, the Romeo and Tango areas are also critical to the Site's internal operations to manage or prevent overcrowding on other parts of the Site in its use as the IBF.

15. By way of illustration in practice, it is noted that in 2024, Romeo and Tango were required on 42 and 5 occasions respectively. In 2025, they were required on 47 and 2 occasions respectively. Those occasions were for internal situations. For SRN emergencies, Romeo and Tango have not been used since they were stood up in Easter 2023 (but not actually used on that occasion). Between January 2021 and Easter 2023, Romeo and Tango were used on two occasions for external emergency use.
16. As set out in the note of 3 December 2025, the use of the Site for the Kent Resilience Forum and emergency uses are not considered to require further planning permission. Romeo and Tango have been operating in this way since 2020 under the “*incidental*” activity provision of Article 3(1)(a)(i) and (ii) of the SDO and Condition 9 of the latest relevant approval. Moreover, Part 4, Class B and Part 19, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (“**GPDO**”) grant traffic management and emergency use permission for 28 days in any calendar year and 12 months respectively. The 12-month emergency use permission specifically relates to development by or on behalf of the Crown on Crown land.
17. At its core, it is submitted that the planning and legal background of this application demonstrate that the Site is an ideal location for this development and there are no planning or legal impediments to the permanent use of the Site as an IBF and BCP. Indeed, it has already been operating successfully in providing this critical service over the past 5 years.
18. The following sections of this closing statement address the effects of the development before explaining why the Applicant considers that the overall planning balance militates strongly in favour of approval.

#### **The effects of the development on the character and appearance of the area**

19. The existing development permitted under the temporary permission enables one to assess the continued acceptability of the development in terms of its effect on the character and appearance of the area over the past five years. Five years of daily on-site operation has given the Applicant an understanding of the Site’s actual impact.

20. The character and appearance of the area as it already exists includes the urbanised and industrial use at the edge of Willesborough in the context of the wider rural landscape and nearby heritage assets. The application seeks to respond sensitively and appropriately to all of these elements, but within the constraints of the design and appearance of the Site that are required to meet the operational requirements of an IBF and a BCP.

21. Councillor Coppins during the roundtable session (“**RTS**”) on character and appearance acknowledged the need for a common-sense approach, given the nature of the site and what it is designed to deliver. The Site’s design must continue to support the functional requirements of the Site’s ongoing operation as a secure Government site serving the public interest. Mr Bodman pragmatically recognised the constraints posed by security requirements, gas mains and utility corridors around the Site whilst also remarking that the Site is nevertheless well planted.

22. The Applicant is committed to ensuring that the design of the Site and associated landscaping are in keeping with the character and appearance of the area. Mr Sheppard explained during the RTS that the Applicant has endeavoured to do this by ensuring that the buildings are appropriately set back from the highways network and the public rights of way (“**PROW**”), so reducing the visual permanence of the Site in the surrounding area and providing the opportunity for meaningful landscaping. Furthermore, the buildings comprised in the development are of durable and energy efficient material with a lifespan of some 25 years. Their design and grey neutral tone reduce their visual impact in the wider landscape whilst at the same time being visually appropriate given the industrial nature of the Site.

23. Similarly, the heritage viewing corridor, which preserves a wide expanse of central open space on the Site, has been carefully designed to respect the visual connectivity between the Grade I listed Church of St Mary and the Grade I listed Church of St John the Baptist.

24. During the first afternoon session on the proposed planning obligations which took place on Day 1 of the inquiry, the parties discussed the request for reinstatement of the now extinguished PROW which previously ran through the heritage ‘viewing corridor’. The LPA and other parties requested that provision be made in the s106 agreement for its

reinstatement should the future use of the site obviate the need for a secure fencing preventing access to that corridor.

25. However, the Applicant explained that any condition or obligation to that effect would not be in accordance with the necessity test in the CIL Regulations and asked that the LPA reconsider its request in light of the relevant case authorities. In due course, the LPA withdrew its request. The Applicant submits that the LPA was correct to do so, as the proposal does not meet the CIL tests. If, for any reason, permanent use of the Site for the proposed operations were to cease, then any consequential use of the land in question would be subject to development control in the ordinary way.
26. The landscape mitigation planting already provided for the temporary use will be vastly improved by the opportunities secured by the permanent grant of planning permission that this application provides. Mr Bodman noted that planting which relates to the IBF site, which is expected to conclude in February 2026, is currently underway in accordance with the landscaping conditions governing the most recent approval. He remarked that whilst some of the planting that has taken place in recent years has not established as expected, the planting that has established is achieving a normal growth rate for planting of that type. He cited the planting around ponds 2 and 4 and the acoustic fences by way of example.
27. As to any planting under the SDO and relevant approvals that has not been successful to date, Mr Bodman observed that a period of drought after the first year of planting put pressure on the plants and prevented some of them from establishing. Furthermore, prevailing winds over the southern bund and lack of shading place further pressure on the plants. This is to be contrasted with the northern bund which benefited from the wind break and shading provided by a mature hedgerow.
28. As Mr Bodman identified the comparative successes of some planting, the planting which failed must be considered in the round but more importantly, it has provided the opportunity for the Applicant to learn lessons and to identify areas for improvement that will be secured and included in the updated Landscape and Ecological Management Plan (“LEMP”) which the Applicant will submit to the LPA for its written approval within 6 months if permission is granted.

29. Amongst the areas that the Applicant will seek to address in the updated LEMP, Mr Bodman noted the following:

- (i) Improvements to the boundary planting of the Site will address the challenges posed by climate change by ensuring greater variety between ever green species and broad leaf trees;
- (ii) Provision for soil testing, specifically in areas where planting has been less successful to date around the eastern bund, will enable the Applicant to understand better any challenges to planting in those areas and to address them;
- (iii) The elaboration of a watering strategy for the Site will enable that the tree stock and particularly that on the eastern bund to be maintained more successfully and to establish with greater effect;
- (iv) Greater monitoring through, for example, one monitoring visit during the winter period and three during the growing period will enable any issues to be identified at an early stage and dealt with.

30. The LPA welcomed all of these proposals and the opportunity for ongoing analysis to inform the updated LEMP. Councillor Coppins also expressed his desire to see appropriate landscaping conditions that would improve the boundary treatment and achieve the aim of the Site settling better into its surroundings.

31. There is therefore very little by way of dispute between the parties on the overall acceptability of the development on the character and appearance of the area with such mitigation. The parties generally welcomed the Applicant's commitments to respecting the character and appearance of the area in this way, and the contribution that more effective and carefully monitored planting (which would be secured if planning permission were to be granted) in this regard.

32. There remains some difference of opinion as to the palisade fencing which secures the Site's boundaries and whether it should retain its currently grey coating or whether, as suggested by the LPA, Councillor Coppins and Mrs Drury (Chair of CPRE Ashford), the fencing might be painted green to improve integration into the surrounding landscape.

The Applicant does not consider such a requirement to be necessary or reasonable. The intention of the landscaping strategy is to mitigate the visual impact of the fencing with requisite landscaping which will obviate any benefits from painting of the fencing. Moreover, the cost of repainting the fencing and ensuring long-term maintenance for such painting would impose an unnecessary and disproportionate burden in circumstances where mitigation planting under the landscaping strategy will achieve the desired effect. Councillor Coppins himself expressed a clear preference for low-maintenance fencing that remains suitable in the long term. Imposing a requirement to paint the fencing green would directly contradict that preference.

33. The Applicant therefore maintains its position that the palisade fencing should remain in its current form and colour (taken in conjunction with the landscaping strategy). This approach avoids unnecessary disruption to the Site, ongoing and unnecessary costs to the public purse, and disruption to local residents from ongoing maintenance. It also avoids risk to boundary planting from the paint itself, or from damage resulting from access to the fence for painting purposes. In any event, such a requirement is unnecessary in circumstances where the visual impact of the boundary fencing will be appropriately and effectively mitigated through the landscaping strategy.

#### **The effect of the development on the local landscape, including on the Kent Downs National Landscape (formerly Area of Outstanding Natural Beauty (AONB))**

34. Based on expert evidence and a professional Landscape and Visual Impact Assessment (“LVIA”) carried out in accordance with the Landscape Institute’s Code of Practice, the Applicant submits that the development would have no significant effects on the Kent Downs National Landscape (“KDNL”). This is unsurprising given that, at its closest point, the Site is located some 2.6km from the KDNL.

35. Concerning the longer-range day time views from viewpoint 12, which is located 5km from the Site, the Applicant’s landscape expert has rightly identified that the development would cause no easily discernible change to visual amenity and key views. Viewed by night, the Site appears as an extension of the urban environment from Ashford and surrounding areas and is read in conjunction with the wider landscape. Moreover, any residual nighttime visual impact is necessarily qualified in any event by the fact that the escarpment is extremely unlikely to attract a significant number of visitors after dark.

36. The robustness of the Applicant’s approach is demonstrated through its further site study on 10 and 11 November 2025, undertaken in clear weather conditions, when photography for viewpoint 12 and further photography from 8 additional viewpoints was carried out. This further assessment, which was conducted to address representations made by the Kent Downs National Landscape team, confirmed that there is very limited visibility of the Site in the long-range views and no visibility from the closest viewpoint location to the Site. As such, the natural beauty of the KDNL would be retained and not materially harmed.

37. The Applicant’s landscape evidence is the only professional landscape evidence before this inquiry. No other party has conducted a professional LVIA of their own. In the absence of any competing professional evidence, it is submitted that more subjective views do not attract any material weight in the decision-making process compared with those of an expert landscape witness and the professional assessment that has been undertaken.

38. As the development’s wider landscape setting includes the KDNL, the protected landscapes duty under s245 of the Levelling-up and Regeneration Act 2023 (“**LURA 2023**”) applies to this development proposal.

39. Section 245 of the LURA 2023 requires relevant authorities to “*seek to further*” the statutory purposes of Protected Landscapes. In December 2024, the Department for Environment, Food and Rural Affairs (“**DEFRA**”) published guidance which clarifies that relevant authorities should take appropriate, reasonable and proportionate steps to explore measures which further the statutory purposes of Protected Landscapes. In so far as is reasonably practicable, they should seek to avoid harm and contribute to the conservation and enhancement of Protected Landscapes. They should be able to demonstrate with proportionate, reasoned and documented evidence the measures to which consideration has been given.

40. The substance of the amended duty has recently been considered by the High Court. Notably, in New Forest National Park Authority v SSHCLG [2025] EWHC 726 (Admin), Mould J held at [62] that as the duty is expressed in qualified terms, there is no duty necessarily to fulfil the statutory purposes. Moreover, Mould J clarified at [61-62] and

[66] that to discharge the duty, a decision-maker must first reach a view as to whether a development is consistent with the furthering of the statutory purposes. If it is not, they must then consider whether a decision to grant could be justified. Such a justification may include mitigation or compensation secured by planning conditions and obligations. Mould J rejected the Claimant's argument that the decision-maker failed to expressly consider enhancement, concluding at [82] and [86] that there is no such requirement in circumstances where they are already satisfied that relevant attributes were unharmed by the development.

41. Following New Forest, R (CPRE Kent) v SSHCLG [2025] EWHC 1781 (Admin) considered a situation where planning permission was granted in circumstances where there was some harm to the natural beauty of the High Weald National Landscape. Mould J confirmed at [63] that the principles he enunciated in New Forest remained applicable and rejected the Claimant's construction of the duty as obliging a decision-maker to refuse permission whenever any harm was found ([52]). This "*would result in a radical shift in the planning authority's performance of its statutory functions...replacing an essentially evaluative determination with a single determinative factor*" ([58]).
42. Applying those principles to this application, we commend the following approach to the Inspector:
  - (i) The development will not result in any material harm to the KDNL, and this is sufficient in itself to satisfy the statutory duty. There is no obligation to give further express consideration to whether the development enhances the KDNL;
  - (ii) Even if it were to be concluded that the development may result in some harm to the KDNL, that is not a reason to refuse permission or to contend that the duty has not been satisfied. As explained by Mould J, the statutory duty involves an evaluation determination. It is not a single determinative factor. The Inspector can still decide to grant the application if a grant is nonetheless justified given the Applicant's commitments to landscaping, lighting and other mitigation or compensation secured by planning conditions and obligations, and in consideration of the overall planning balance.

43. Mrs Miller on behalf of the KDNL team and the LPA suggested that the Site buildings should be painted a darker colour to facilitate their integration into the wider landscape. Mrs Miller referred to the KDNL Guidance on the selection and use of colour in development<sup>2</sup> to put forward an argument that the buildings should be repainted a dark green colour. The Applicant submits that such a requirement is unnecessary and unwarranted for a number of reasons.

44. First, the KDNL Guidance is non-statutory guidance from June 2019 which significantly pre-dates the entry into force of the s245 duty. It should therefore attract limited weight in this decision-making progress.

45. Second, as Mrs Miller acknowledged, the recent DEFRA guidance from December 2024 on the s245 duty notes the need to act in a reasonably practical and operationally feasible manner in discharging this duty.

46. Third, the main concern regarding the visibility of the Site from the KDNL expressed by other parties related to nighttime views. At night, the colour of the buildings would not be perceptible, particularly from many kilometres away.

47. The Applicant submits that it would be highly impractical and operationally unfeasible to impose a condition requiring the painting in green (or any other colour) of all buildings on Site for the following reasons (amplified in the attached document);

- (i) Painting the buildings will require scaffolding to all sides of the building and on the roofs, thereby necessitating the closure of inspection sheds for health and safety reasons as they will no longer be accessible by HGVs;
- (ii) Important biosecurity checks on products of animal origin are conducted in these sheds. Their uninterrupted operation is crucial for testing the biosecurity and overall food safety of the food that is consumed in the UK, of which approximately one third enters the UK through the Short Straits. Therefore, the closure of these buildings during painting and future maintenance works would cause disruption at the UK border and compromise the important biosecurity

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<sup>2</sup> [INQ - Kent Downs AONB - KDAONB-Colour-guidance-final-SCREEN.pdf](#)

checks that take place on Site. These are specialist facilities that cannot be replicated on Site or at the Short Straits;

(iii) Disruption to the operation of the Site would be likely to cause supply chain issues that may harm the UK's reputation with the EU and the WTO;

(iv) The cost and maintenance of painting and maintaining that paint would be excessive. This cannot be justified when there is simply no professional landscape evidence or LVIA before this inquiry demonstrating the necessity or proportionality of such a measure, the effectiveness of any particular colour of paint, or indeed, the shade of any such paint.

48. The Applicant therefore submits that a condition to this effect is unnecessary and disproportionate. The only expert landscape evidence before this inquiry has firmly concluded based on robust and thorough assessments that the development would have no significant effects on the KDNL without the need for such painting. Against this background, it would be neither necessary nor proportionate to impose a paint colour condition. Indeed, the improvements already made by the Applicant in respect of lighting and its further commitments to a condition requiring a lighting mitigation and implementation plan further obviate the need for any such measure. An additional note on this point is included at Appendix 2 of this closing statement.

**The effects of the development on heritage assets**

49. The Applicant's heritage assessment concludes that that the development will result in less than substantial harm to the settings of the Grade I listed Church of St Mary and to six Grade II listed buildings. Historic England also considers the harm to the Church of St Mary to be less than substantial. As such, and in accordance with the paragraph 212 of the NPPF whilst great weight is afforded to heritage harm, any such harm has to be balanced against the benefits of the proposal and the public interest. The Applicant submits that the compelling public benefits from this nationally important development very clearly and strongly outweigh the less than substantial heritage harms in any event.

50. During the RTS, the Applicant's heritage experts explained that the setting of the Church of St Mary's is best appreciated from within the church yard. As such, the key

components that contribute to the church's significance are not undermined by the development. Beyond the immediate church yard setting, the church's wider setting includes rural paddocks and the Site has been designed to respond appropriately to that wider rural setting through the ponds and planting that have been incorporated into the scheme. The hardstanding and buildings that comprise the IBF are some 100m and 200m away from the church respectively. This facilitates the continued appreciation of the church from its immediate surroundings.

51. The development has been designed to sensitively respond to the nearby heritage assets and mitigate the identified less than substantial harm. A viewing corridor has been created on site to preserve the historic visual connectivity between the Churches of St Mary and St John the Baptist. Furthermore, mitigation measures comprising landscaped bunds, structural planting and timber fencing reduce the influence of IBF operations on the surrounding landscape. The landscaping strategy which will be secured by condition itself includes interpretive features, including the reconstructed Bronze Age barrow and information boards to support understanding of the historic environment.
52. Archaeological impacts have already been fully mitigated during construction of the temporary facility through evaluation, excavation and recording under agreed Written Schemes of Investigation. It follows that if permission is granted, there will be no further below-ground impacts arising from the development.

#### **The effect of the development on local biodiversity and/or ecology**

53. This application for permanent planning permission does not propose any new development, or habitat loss, over and above that which has already occurred under the SDO. As such, the Site qualifies under the 'de-minimis' exemption in respect of biodiversity net gain ("BNG") for developments that do not impact a priority habitat (BNG PPG Paragraph: 003 Reference ID: 74-003-20240214).
54. Moreover, despite not being subject to mandatory BNG requirements, the Applicant has taken a proactive positive approach by voluntarily and retrospectively committing itself to securing BNG for the permanent IBF which is of planning benefit.

55. Indeed, the BNG uplift from the status of the pre-SDO arable fields to the current development is secured through the 2020 LEMP for the Application site and the 2023 LEMP for the adjacent Sevington East site which is specifically dedicated to BNG. With the proposals for Sevington East, significant gain is achieved of +65.35% for habitats and +58.49% for hedgerows. The proposed unilateral s106 undertaking would secure the offsite BNG provided for in the 2023 LEMP for a period of 30 years with management and maintenance work intended to start once all habitat enhancement works are complete.

56. The LEMPs have been reviewed as part of this application and additional areas of planting have been proposed. As set out earlier in this closing and as remarked upon by Mrs Corfe during the RTS, the Applicant acknowledges and is intent on addressing any previous planting failures. This is reinforced by the Applicant's commitment, as part of the draft schedule of conditions, to submitting an updated LEMP and Landscape Maintenance and Monitoring Plan for LPA approval within 6 months of a decision to grant planning permission. The content of these plans will be informed by the proposals already set out by Mr Bodman and summarised earlier in this statement, and in cooperation with the LPA.

57. Similarly, in respect of lighting, the schedule of conditions provides for the submission and approval of a Lighting Implementation and Mitigation Plan. This plan will be informed by a variety of issues including operational requirements, security, health and safety matters, as well as ecology and biodiversity. On-site biodiversity areas are not negatively impacted from the Site's lighting arrangements because these are located along the operational areas, roads and access points. Moreover, on-site mitigation measures have been implemented since June 2025, which serve to further reduce the potential for negative impact on biodiversity areas. These mitigation measures include the switching off of luminaires in areas not required for operational reasons and the dimming of lights to the lowest levels suitable for operations. There is currently no identified need for further mitigation from a biodiversity perspective. However, should the need for further mitigation arise, this would be considered and catered for in the Lighting Implementation and Mitigation Plan.

58. Ms Corfe noted that additional baffles have been placed on 16 of the light columns and the on-site lighting strategy has already taken account of guidance from the Bat Conservation Trust, including consideration of LED colour temperatures and the provision of adequate vegetation. Ms Corfe highlighted the ongoing presence and diversity of bat species on site as evidence that bats are becoming increasingly habituated to the general lighting environment on the Site.

59. The position with respect to bird species is similarly positive. Mrs Corfe informed the inquiry that the transition from arable fields and the introduction of vegetation, wildflower planting, larger scrub and ponds has led to a larger diversity of bird species being detected on the Site. Notably, wetland birds, ducks and sandpiper, which were not present on site before the SDO, have been detected.

60. The Applicant refers the Inspector to its Statement of Matters response for further details on specific species.

61. The Applicant continues to be mindful of the need to ensure that any trade effluent or waste associated with the IBF does not impact on the Stodmarsh designated sites. For the past five years, the Applicant has been successfully managing this by ensuring that all tanks are emptied outside of the Stodmarsh catchment area. The Applicant remains committed to this approach and, if the Inspector grants permission, is content to have a condition requiring the continuation of these arrangements.

62. The proposals therefore deliver significant ecological enhancements and BNG across the combined area of the Site and adjacent Sevington East. These benefits, which attract significant weight in the planning balance, are widely acknowledged and welcomed, with the LPA and Councillor Coppins reiterating their support for the Applicant's BNG and ecology proposals during the RTS.

#### **The effect of the development on agricultural land**

63. The development does not result in the loss of any agricultural land (given the development that has already occurred). As explained by Mr Sheppard during the RTS, whereas the Site was previously comprised of Grade 2 best and most versatile

agricultural land, the SDO approval for temporary permission in 2020 resulted in the permanent loss of this agricultural land.

64. However, even before the SDO was granted, the permanent loss of agricultural land was envisaged by the Site's previous allocation as a Strategic Employment Site under the Previous Local Plan and the subsequent grant of outline permission for Stour Park West in 2017.

65. A refusal of planning permission would not result in the Site reverting to agricultural use. The permanent loss of this land is reinforced by Informative 5 in the most recent approval, which sets out a clear expectation that the Site will not be reinstated as agricultural land. Alternatively, if permission were to be refused, the full implementation of Phase 1A under the 2017 approval would create an additional obstacle to reinstating the land for agricultural use in any event. Nor is there any realistic prospect of Sevington East returning to agricultural use given that any reinstatement plan is expected to retain BNG and landscaping features.

66. Accordingly, this application does not result in any harm in terms of the loss of best and most versatile agricultural land.

#### **The effect of the development on the local traffic network**

67. Before the inquiry, the parties made significant progress in resolving any outstanding highways matters. Notably, both National Highways and KCC Highways, neither of whom object to the application, completed statements of common ground ("SoCG") with the Applicant noting the acceptability of the proposals from a highways perspective subject to conditions.

68. The Applicant acknowledges that the development impacts on existing capacity constraints on the M20 Junction 10A. It is therefore committed to funding a mitigation scheme, which KCC will deliver on its behalf if permission is granted.

69. Any highways impacts are further mitigated by the Applicant's commitment to ensuring clear access strategies and appropriate signage for HGVs accessing the Site. In this

regard, the Applicant agrees to a condition requiring an updated signage strategy for directing HGVs to the Site to be submitted for the written approval of the LPA in consultation with National Highways and KCC within three months of a decision to grant. It should also be noted that, as the Site becomes a permanent fixture, increasing familiarity will mean HGV drivers are progressively less likely to take wrong turns over time. Indeed, this is a benefit of this application seeking to make the SDO development permanent.

70. There are clear limits on the extent to which HGV drivers' behaviour can be controlled through planning conditions. However, the Applicant's concerted efforts to minimise any disruption caused by HGV drivers to local amenity are evidenced by its ongoing commitments in respect of signage and its agreement to a condition imposing a requirement for a Litter Maintenance and Management Plan within three months of a decision to grant.
71. The Applicant does not consider the LPA's request for a condition mandating the provision of additional electric vehicle ("EV") charging points to be lawful. This is neither necessary nor proportionate given the limited take up for the EV provision currently on site, nor has the LPA or any other party submitted evidence to this inquiry that increased provision of EV charging points increases demand for EVs. At present, such EV chargers are simply not required. In time, if the workforce at the Site requires further EV chargers, it will be in the Applicant's interest to provide them. As such, the Applicant submits that this is an issue that can be more appropriately addressed within the staff travel plan through the periodic monitoring of demand for additional EV charging points.
72. Therefore, in accordance with the NPPF, the development should not be prevented or refused on transport grounds as the residual cumulative impacts of the development, following mitigation, are not 'severe'.

**The effects of the development in terms of noise, lighting, and air quality on the living conditions of existing and future occupiers of nearby residential dwellings**

***Noise***

73. The Applicant's comprehensive noise assessment has correctly identified that the noise impacts will not result in any 'significant adverse' as defined by BS4142. The Site is therefore compliant with the requirements of the NPPF paragraph 198.

74. In response to concerns raised by local residents about low frequency noise ("LFN") coming from the Site, the Applicant has investigated the position. The assessment concludes that operational noise emissions from IBF are not giving rise to any significant adverse effects as explained in more detail in the Applicant's Technical Note.

75. Moreover, current mitigation for noise generally, including bunds and acoustic fencing, is effectively attenuating HGV noise on the exit road and therefore reducing the impact of HGV noise on Church Road receptors.

76. The Applicant has investigated complaints from local residents that HGVs are negatively impacting on the enjoyment of their homes. Those investigations show that there is no link between any low frequency noise from the IBF.

77. As pointed out by the Applicant's noise expert Ms Urbanski during the RTS, residents are exposed to other noise sources outside the application site, including from Ashford International Truck Stop, the railway, and traffic on roads adjacent to their properties. Mott McDonald's investigations concluded that the IBF site does not contribute significantly to any LFN experienced by residents on Church Road. As already set out at para 4.1 of the Applicant's Technical Note on noise, those findings led the local authority to close the complaint received from local residents in respect of LFN at their properties in 2021/22.

78. With respect to refrigerated trailers, the electric hook-up points are located approximately 345m from nearest Church Road residential properties. The Applicant's noise assessments have demonstrated that they are therefore not predicted to contribute significantly to the overall operational noise coming from the IBF. The dominant source is instead predicted to come from HGV movements on the internal access road.

79. As set out in the Applicant's Technical Note and reiterated during the RTS, suitable mitigation is in place for the noise that can be linked to the IBF operations.

80. There is no evidence that any further mitigation is necessary, particularly given the lack of conclusive expert assessment on the extent to which noise can be attributed to the IBF as opposed to other competing noise sources. However, notwithstanding all this, given the further concerns about noise (including LFN) raised by local residents, the Applicant has committed itself to a proposed condition directing further noise impact assessments.

81. If permission is granted, further investigations will therefore be carried out in relation to LFN, tonal noise from refrigerated HGVs, reversing beepers, clanging of curtain slider poles and horns, the use of Romeo and Tango and use of the southern perimeter road by HGVs to exit the Site. Those assessments will identify whether further mitigation is required and if so, what that might comprise of. As the need for further mitigation only arises if there is an identifiable problem (none having been shown to date), without the benefit of those further assessments, it would not be reasonable or proportionate to impose further noise mitigation conditions at this stage. As things currently stand, the present identifiable impacts do not give rise to a need for further mitigation.

### ***Lighting***

82. As already set out in closing and in the RTS on lighting, the Applicant has made considerable efforts, including in recent months, to mitigate any residual impacts on local residents from the lighting. Whereas previously, lights were switched on and off manually, lighting on the swim lanes and in the Romeo and Tango areas are now dimmed and switched off on an automated basis. Furthermore, lighting is now restricted to the swim lanes that are in use and the lights are switched off when not in use. Other lights across the Site have been dimmed to the lowest possible level having regard to operational requirements.

83. However, given the nature of the Site and the requirement for minimal levels of lighting for operational requirements and health and safety, a minimal level of lighting is nonetheless always required on-site.

84. In response to the query on whether there were any additional measures that the Applicant could consider, the Applicant's lighting expert Mr O'Loughlin noted that the current lighting is compliant with guidance and shields have been put on lights near the Church Road residents. In his professional view, there is no identifiable benefit which would result from implementing additional measures on the Site. Indeed, as noted by

Councillor Coppins and Mrs Drury, the introduction of baffles and the modification of lighting on the swim lanes have resulted in a significant improvement along Church Road.

85. In the event that any further but as yet unidentified need for mitigation arises, this would be identified and implemented in accordance with the proposed condition on a Lighting Mitigation and Implementation Plan.

#### *Air Quality*

86. During the RTS, the Applicant's air quality expert Ms Slater confirmed that although there have not been any site-specific air quality monitoring surveys, the Applicant has used EPUK/IAQM Planning guidance, DEFRA background maps and local authority monitoring to conduct a robust desktop-based assessment. The result of that assessment, which was conducted in accordance with a worst-case operational scenario, revealed that the impacts were deemed negligible for NO<sub>2</sub> as well as PM (PM10, PM2.5). Furthermore, no exceeding concentrations were noted and the assessments found an overall declining trend in annual NO<sub>2</sub> concentrations in the area. The assessment included additional traffic on the road network from the proposals, cumulative developments within the area, as well as the transport refrigeration area emissions.

87. If permission is granted, the Applicant will submit an Air Quality Management Plan (“AQMP”) which shall include arrangements for ongoing monitoring and annual reporting of air quality to the LPA for a period of 10 years from the date of the permission. The plan will also include measures to mitigate operational impacts on air quality and a timeline for their implementation.

#### *CCTV*

88. A further note on CCTV can be found at Appendix 3 of this statement. That note addresses the concerns raised by residents in respect of CCTV use on-site.

#### **The overall planning balance**

89. Taking each element of the main issue identified by the Inspector into account, the Applicant submits that the scheme is fully in accordance with the development plan when

read as a whole. Moreover, the Applicant submits that the identified significant and overwhelming benefits of the development in the public interest, as set out at para 8.99 of the Applicant's Statement of Case clearly and demonstrably outweigh any residual harms resulting from the development as addressed at para 8.100. Furthermore, the technical notes and RTS have demonstrated that any impacts associated with the development can be mitigated and addressed through planning conditions or obligations.

90. The national importance of, and established need for, the scheme is of paramount importance. It is difficult to overstate the importance of the development to the United Kingdom and all of its populace. We have no hesitation in commending the very substantial weight that these benefits must carry in the planning balance. Indeed, the primary purpose of the new Crown Development framework is to ensure that substantial weight is attached to decisions whose national importance dictates that they are more appropriately decided at national rather than local level. This is a development of vital importance to the United Kingdom, both for its national security and its economy. It is critical that it is approved.

## **Conclusion**

91. For these reasons, and for the reasons set out in our Statement of Case, technical notes and responses to the Matters raised by the Inspector, we respectfully submit that there is an overwhelming case for the grant of permission, subject to the imposition of conditions that have been discussed, to enable this nationally important development to remain on the Site to serve the vital public interest of the UK in terms of trade, economy and border security. We commend the application to you without hesitation.

**JAMES STRACHAN KC**

**MICHAEL FRY**

**CLAIRE NEVIN**

**12 December 2025**