

Statement of Case of the Local Planning Authority in respect of:

Sevington Inland Border Facility, Mersham, Ashford TN25 6GE

Crown Development Application by:

Department for Transport (DfT), DEFRA, and HMRC

For proposed:

‘Buildings, Goods Vehicle parking spaces, entry lanes, refrigerated semi-trailers, staff car parking spaces, access, site infrastructure, utilities, hardstanding, landscaping and ancillary facilities and associated works; and ongoing use of the site for an Inland Border Facility and Border Control Post, operating 24 hours per day, seven days per week.

Application Reference: CROWN/2025/0000002

Local Planning Authority Reference: OTH/2025/1437

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1.0 Introduction

- 1.1 This Statement of Case (“SOC”) is submitted on behalf of the Local Planning Authority (the “LPA”), Ashford Borough Council (“the Council”).
- 1.2 A Crown Development Application (ref: CROWN/2025/0000002) has been submitted to the Planning Inspectorate under section 293D of the Town and Country Planning Act (as amended) for the following development:

“Buildings, Goods Vehicle parking spaces, entry lanes, refrigerated semi-trailers, staff car parking spaces, access, site infrastructure, utilities, hardstanding, landscaping and ancillary facilities and associated works; and ongoing use of the site for an Inland Border Facility and Border Control Post, operating 24 hours per day, seven days per week.”

- 1.3 As requested by the Inspector, this SOC responds to the Statement of Matters (“SOM”) issued on 21/10/2025. The SOM identifies the main issues as:

- i) the effects of the development on the character and appearance of the area; and,*
- ii) the effect of the development on the local landscape, including on the Wye Downs National Landscape (formerly Area of Outstanding Natural Beauty (AONB)); and,*
- iii) the effects of the development on heritage assets; and,*
- iv) the effect of the development on local biodiversity and/or ecology; and,*
- v) the effect of the development on the local traffic network; and,*
- vi) 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; and,*
- vii) the effect of the development on agricultural land; and,*
- viii) Whether or not the application makes adequate provision for infrastructure;*
- ix) The overall planning balance.*

- 1.4 The SOM also includes 95 specific questions and queries relating to the main issues set out above.
- 1.5 At the Pre Inquiry Meeting (“PIM”) held on 11/11/2025, the Inspector suggested how each SOC might be structured based on whether a relevant party supports or objects to the application.
- 1.6 As set out in its Application Consultation Response, the Council’s case is that it does not object to the application but it has identified a number of planning harms with the proposals and has made recommendations for

how those harms might be mitigated or minimised.

1.7 In this context this SOC seeks to assist the Inquiry by responding to the questions and queries raised in the SOM.

1.8 This SOC refers to the Council's Application Consultation Response issued on 25/09/2025 and copied at **Appendix 1**. The SOC also refers to the report to the Planning Committee 24/09/25 ("the Officer report") copied at **Appendix 2**. Other relevant documents are appended as appropriate.

2.0 Application Site Context

2.1 A description of the application site ("the Site") and its surroundings is provided in the Officer report (paragraphs 15-27).

3.0 Relevant Planning History

3.1 The Site has been subject to previous planning history as set out in the Officer report (pages 1.14-1.15).

4.0 Relevant Planning Policy

4.1 The status of the Development Plan is set out in the Officer report (paragraphs 44-46). There are no Neighbourhood Plans relevant to the determination of this application.

5.0 Response to the Statement of Matters (SOM)

5.1 The following section sets out the specific queries contained in the SOM and where relevant, the LPA's response.

	History of the Site / general questions
1	<p>The Applicants are DfT, DEFRA and HMRC; however they are not listed as the 'owners of the land' on Box 23 of the submitted Application form.</p> <p>It is unclear as to how the s106 may operate in terms of other parties owning it, but it not being clear in terms of the realistic provision of biodiversity for example on the blue line area. Indeed, who owns this?</p>
	ABC response: see Applicant's SOC.
2	<p>Copies of the previous four (4) temporary planning permissions under the Special Development Order 2020 do not appear to have been provided – could these be supplied? This should include a site layout of what was approved under each permission.</p>
	ABC response: see Applicant's SOC.
3	<p>In relation to these four temporary planning permissions, what s106 TCPA and/or legal agreements, and related obligations, do these earlier permission(s) secure/require?</p>
	ABC response: see Applicant's SOC.
4	<p>Are these planning permissions all extant and/or built out, or is it the most recent temporary planning permission which is the scheme as it appears today?</p>
	ABC response: see Applicant's SOC.
5	<p>The CDAO25 sets out in Article 1, that <i>'this Order applies to all land in England, but where land is the subject of a special development order this Order applies to that land only to such extent and subject to such modifications as may be specified in the special development order.'</i></p> <p>The SDO remains extant. Therefore, any planning permission granted under the Crown Development Application route, (as under s293 TCPA, CDAO25), must be within the extent of the SDO as it has not been rescinded or revoked.</p> <p>The SDO provides the ability of the SoS to grant temporary planning permission for specified development (Article 3(1)), that these permissions are subject to conditions set out in schedule 2 of the SDO (Article 3 (2)), that a border department may carry out reinstatement works specified in a reinstatement plan approved by the SoS until 31 December 2026; and in respect of all other development, the planning permission granted ceases on 31 December 2025.</p> <p>The SDO also sets out the conditions in Schedule 2, which include that 'development...must cease by the dates specified' (as above), and that 'the site operator must submit a reinstatement plan to the SoS on or before 30</p>

	<p>June 2025...' and 'the reinstatement works must not be commenced until the SoS has approved the reinstatement plan' and 'the reinstatement works must be carried out and completed in accordance with the approved reinstatement plan'.</p> <p>Therefore, it is clear that any permission granted before 31 December 2025 (subject to the application being acceptable), could only be granted to cease on 31 December 2025. That is a specific condition (or extent) imposed by the SDO. As such, in order to provide the Applicants with the permanent permission sought (subject to the application being acceptable in all other respects), 'permanent' planning permission could only be granted after 31 December 2025 under the Crown Development Application route.</p> <p>With regard to the reinstatement element and SDO imposed condition, it is unclear as to how this would operate within the extent set out in the SDO and its applicability with regard to the Crown Development Application route. Clarity on this from the Applicants would be helpful.</p> <p>In particular, does the requirement for reinstatement as set out in the SDO – and by 31 December 2026; which is the extent to which planning permission could be granted under the Crown Development Application route – still apply after the 31 December 2025. Put another way, if planning permission was granted on 1 January 2026 for example, would this be required to contain a condition requiring the reinstatement of the site by 31 December 2026?</p> <p>Consideration has been given to factors such as changing conditions attached to planning permissions under s73 TCPA. However, as the conditions in this case are set out in the SDO, it is not possible to amend the conditions set out in legislation as set out in the SDO.</p>
	ABC response: see Applicant's SOC.
6	Can the Applicants provide an update on the status of the discharge/approval of the reinstatement condition set out in Schedule 2, Part 4 of the SDO?
	ABC response: see Applicant's SOC.
7	What is the planning status of the St Mary's Church, Sevington, car park? This is shown on the submitted drawings, and on the legal agreement for the s106 2017 – is this where it obtained planning permission?
	ABC response: see Applicant's SOC.

8	<p>The Environmental Statement indicates that ‘<i>Should the full planning application for the permanent continued use and operation of the Sevington IBF not be granted, then the operation of the IBF would cease, and the Application Site would be reinstated. In this case, the reinstatement would not encompass the complete reinstatement of the Application Site to its former use. The reinstatement would involve the removal of all built infrastructure on the Application Site as permitted under Article 3(1) of the SDO, including all buildings, cabins, fencing (including acoustic and security fencing) and lighting. The only elements that would be retained on the Application Site would be the development hardstanding plot areas, the drainage system, including all SuDs ponds, and the landscaping, including all bunds and the habitats created within the Eastern Land offsite.</i>’⁵</p> <p>Can the Applicants please provide a copy of the reinstatement plan, as required by the Special Development Order 2020, and by the various temporary planning permissions related to this?</p>
	<p>ABC response: see Applicant’s SOC.</p>
9	<p>In terms of the number of HGV spaces sought by this application; which is for a new planning permission – what is the correct figure?</p> <p>The submitted Planning Statement, at page 14 of 57, indicates 855 goods vehicles spaces and capacity for 260 goods vehicles in 42 entry lanes. However, at page 22 of 57, at paragraph 5.2, it indicates 984 goods vehicle spaces and 240 goods vehicles in 42 entry lanes.</p>
	<p>ABC response: see Applicant’s SOC. The Council understands from clarification shared by the Applicant that it is intended that there will be a reduction of goods vehicle parking within the site to 833 ‘marked out’ spaces for HGVs.</p> <p>The Council also notes the applicant’s indication that, in the case of the Romeo and Tango emergency holding areas, these might be made operationally available for the ‘double-stacking’ of smaller vehicles.</p> <p>The Council remains concerned that the Applicant’s response to Question 71 fails to clarify how the need for these emergency holding areas has been demonstrated to be needed during the 5 years that the site has already been in use, which it must surely know and be able to evidence to the Inquiry given the Applicant’s response to Question 35 identifies that this areas is currently only used as ‘last resort’. This lack of clarity is particularly problematic in relation to the southern ‘Tango’ area because;-</p>

	<p>(i) it is a parking area close to noise sensitive receptors,</p> <p>(ii) the Council has received concerns about noise from vehicles (both parked and moving) using the southern part of the site, and</p> <p>(iii) unlike the 'Romeo' area this area has been developed (and presumably used) without any acoustic fencing to help mitigate noise impacts when in use.</p> <p>The Council set out its concerns in section 7 of the Application Consultation Response and paragraphs 31, 141, 146 and 152 of the Officer report.</p>
10	<p>What capacity is being used on the site?</p> <p>What is this in terms of per year and percentage terms?</p> <p>Is this the same for both parts of the site (i.e. IBF and BCP)?</p>
	ABC response: see Applicant's SOC.
11	<p>How has any need for the IBF and BCF, and associated facilities, in this location rather than any other, been demonstrated?</p> <p>Within the <i>ES, Volume 1, Chapter 5, Alternatives</i>⁶, it indicates that:</p> <p><i>Inland border facilities were built in the UK, all under the SDO granting temporary consent (sic). Two facilities were built in Kent: one at Waterbrook and the other at Sevington...The Sevington IBF currently serves the Port of Dover and Eurostar Hub (sic) (short straits portals). Owing to confidentiality, specific details regarding site selection cannot be provided...</i></p> <p><i>Whilst other temporary inland border facility sites were provided at other locations across the UK, no alternative sites have been pursued as a permanent IBF, which would serve the South-East, given the Application Site's strategic and efficient location.'</i>⁷</p> <p>Observations have been made by a number of interested parties in terms of the need for the IBF and BCP in this location. Given this, it would appear to be material that the details of site selection is provided in this case, given that it is for a scheme which has been identified as of national importance.</p> <p>Could the Applicants please provide these 'confidential' details? If it is not possible to provide this and for it to be published, full reasons should be given as to why it is not in the public interest to provide such information and recognition that the decision maker would have to determine the application in the absence of this information.</p>
	ABC response: see Applicant's SOC.

12	How does the site operate in practical terms, given that it is about 15 – 22 miles from the entry/exit point to the UK?
	ABC response: see Applicant's SOC.
13	<p>How would the site be used as part of Operation Brock/TAP and/or any other similar situation or emergency?</p> <p>What would be the frequency and length of 'emergency' use?</p> <p>What facilities would be provided on site to accommodate Kent Resilience operations and/or emergency situations? (for example toilets and other amenity facilities).</p> <p>How has this use been demonstrated?</p> <p>How does this use relate to the scheme as a whole being determined as of 'national importance' by the SoS MHCLG?</p>
	ABC response: see Applicant's SOC.
14	<p>In terms of the maintenance of the Public Right of Way (PRoW), and concerns raised over it washing away and the provision of litter/dog waste bins; could the Applicants provide clarity on this?</p> <p>Have all the necessary extinguishments referred to in the temporary planning permissions now occurred?</p>
	ABC response: see Applicant's SOC. The Council notes the Applicant's intention to deal with litter maintenance and management by planning condition and welcomes clarification whether this will extend beyond the Site boundary to deal with wind-blown litter that is carried beyond its boundaries. The litter removal responsibilities of the relevant authorities to the PRoW primarily relates to litter from users of that highway land beyond the site.
15	<p>There is reference to a 'pledge' to hand land over to ABC at Land east of Highfield Lane by the 'government' from interested parties.</p> <p>Could the Applicants provide clarity on this?</p>
	ABC response: see Applicant's SOC.
16	<p>Where is the power infrastructure referred to by UK Power Networks, located in relation to the application site – is it on/near to the site?</p> <p>How might it be affected by the application scheme?</p>
	ABC response: see Applicant's SOC.

17	<p>A holding objection has been submitted by Kent County Council (KCC) in its capacity as the Lead Local Flooding Authority (LLFA). This raises concerns that it has not been demonstrated that the current drainage network complies with the latest required standards.</p> <p>What observations are there from the Applicants on this point?</p>
	<p>ABC response: see Applicant's SOC.</p>

	<p>Character and appearance (some matters also relate to other issues, such as landscape)</p>
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18	<p>How has the scheme, which was originally granted permission under a temporary planning permission, designed to integrate with the area?</p> <p>How does this accord with Paragraph 88 of the Framework, where planning decisions should enable the sustainable growth of all types of business in rural areas...through...well-designed, new buildings?</p> <p>How does the scheme accord with Paragraph 96 of the Framework which sets out that <i>‘Planning policies and decisions should aim to achieve healthy, inclusive and safe places...’</i>?</p> <p>Paragraph 102 of the Framework, sets out that <i>‘the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications...’</i> How has this been achieved in the scheme here?</p> <p>Paragraph 135 of the Framework sets out that:</p> <p><i>Planning policies and decisions should ensure that developments:</i></p> <ul style="list-style-type: none"> <i>a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;</i> <i>b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;</i> <i>c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);</i> <i>d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;</i> <i>e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and</i> <i>f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.</i> <p>How has the scheme addressed the requirements of this national policy?</p>
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ABC response:

Paragraph 96 of the NPPF requires planning policies and decisions to achieve healthy, inclusive and safe places, including through promoting social interaction, being safe and accessible and through enabling and supporting healthy lives.

It is the Council's case that the accessibility of a development by sustainable modes of transport, including via the public right of way (PRoW) network is key to the achievement of healthy, inclusive and safe places.

As set out in paragraphs 171-174 of the Officer report, the Council notes that diversion and upgrades of PRoW around the site have been completed in accordance with the terms of the SDO. Nevertheless, the Council is disappointed that further opportunities to upgrade the PRoW eastwards beyond Blind Lane into the village of Mersham have not been proposed to fulfil the Frameworks' aspiration of allowing *"for easy pedestrian and cycle connections within and between neighbourhoods"* (para. 96 criterion 'a') and through the provision of *"clear and legible pedestrian and cycle routes"* (para. 96 criterion 'b').

The Council note that the Applicant considers that existing (non-vehicular) access to the site perimeter promotes healthy and safe communities. As set out in the response to Question 74 below, it is the Council's case that this Crown application should make provision, through an appropriate planning obligation, for PRoW enhancement works such as these to ensure compliance with the NPPF, Development Plan policies and objective AL02 (Active Travel) of Kent County Council's Rights of Way Improvement Plan (ROWIP) which cites actions including to *"Remove barriers to active travel and recreation and promote routes and opportunities"* (**Appendix 3**).

It is the Council's case that doing so is both logical and a reasonable expectation due to the proximity of the site to the village of Mersham located to the east and the narrow nature of its surrounding rural lane network. **Appendix 6** demonstrates this proximity and where the upgrade already in place 'ends' in the direction of the village.

It is the Council's case that such upgrades would help meet the needs of that community to the east of the Site both in terms of healthy leisure and active lifestyle and the ability to more easily and safely travel to the application site as a place of work by means other than a private vehicle. This is important for the lifetime of the development for which permanent planning permission is now sought. The Council has liaised with KCC PRoW and understands such upgrades are fully supported with a preference for a two-fold approach to provision involving (i) the funding of

	<p>an investigative feasibility study and, if upgrades are deemed feasible (ii) funding to be drawn down by KCC to facilitate delivery of the works.</p> <p>Section 12 of the NPPF (Achieving well-designed places) is concerned with design and recognises that <i>“good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”</i>.</p> <p>The Council’s pre-application advice letter acknowledged that <i>“the development involves a significant quantum of development on this site which has significantly altered the character and appearance of the site”</i>. It is the Council’s case that the existing development does not currently constitute good design insofar as it fails to address the requirements of paragraph 135 of the NPPF. Specifically, it does not add to the overall quality of the area, either in the short term or over the lifetime of the development (criterion ‘a’); it is not visually attractive and fails to provide appropriate and effective landscaping (criterion ‘b’); is not sympathetic to local character, including landscape setting (criterion ‘c’); and does not promote health and well-being, with a high standard of amenity for existing and future users (criterion ‘f’).</p> <p>Notwithstanding this, the Council’s Application Consultation Response and Officer report identifies what measures the Council considers are required to be secured by appropriate conditions to reduce the conflict with paragraph 135 of the NPPF and ensure that the proposal constitutes sustainable development in the short term and over its lifetime.</p>
19	<p>What certainty is there that the landscaping proposed (both hard and soft) can be secured and delivered, given that there are examples of failed landscaping arising from the temporary planning permission schemes?</p>

ABC response:

Section 1 of the Application Consultation Response and paragraphs 107-133 of the Officer report relate to landscaping within the Site and on land adjacent to it.

Given the historic failure of planting both within and in the vicinity of the site, the Council welcomes the Applicant's commitment to implement a comprehensive programme of weed eradication, soil testing (and any required improvement measures based on the results of testing), and review of the LEMPs to identify any required changes based on the results of testing.

It is the Council's case that planting on the southern side of the J10A link road needs to be significantly improved in order to accord with the requirement of paragraph 135 of the NPP in terms of 'appropriate and effective landscaping'. It is the Council's case that the very poor planting that exists adjacent to the site must be improved in order to help mitigate, as far as possible, the adverse visual and lighting impacts of the proposed permanent facility. The Council is disappointed that there appears to have been limited or even no active maintenance of this area since it was first planted contrary the requirements of the J10A DCO.

As set out paragraph 22 of the Officer report, National Highways is an executive non-departmental public body delivering the strategic highway network and sponsored by one of the Applicants (the Department for Transport) and is wholly owned by the Secretary of State for Transport. Given this the Council welcomes confirmation from the Applicant that they are in discussion with National Highways on landscaping matters and the ability for the development to be acceptably landscaped and screened as a key entrance to Ashford from the M20 corridor. This is consistent with paragraph 136 of the NPPF which requires that: *"Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users."*

The Council also welcomes the Applicant's agreement to undertake ongoing monitoring of new and replacement planting.

The Council is satisfied that the enhanced and high-quality landscaping sought in the Officer report both within and adjacent to the application site is capable of being secured by appropriate planning conditions.

20	What certainty is there that the town of Ashford would not coalesce with hamlet/villages such as Sevington, Marsham, etc?
	<p>ABC response:</p> <p>As set out in paragraph 186 of the Officer report, the Council is satisfied that the proposed habitat enhancement works to ‘Sevington East’ and its subsequent maintenance for a period of 30 years (to be secured through the unilateral undertaking) will ensure that an appropriate buffer is created preventing coalescence of Ashford with other settlements in accordance with Policy SP7 of the ALP.</p>
21	How does the soft and hard landscaping help integrate what would be a permanent facility, into the surrounding landscape?
	<p>ABC response:</p> <p>It is the Council’s case that the existing soft landscaping has failed to deliver appropriate mitigation for visual impact and does not adequately integrate the development into its landscape setting. The existing development is harmful to the character and appearance of the area contrary to national guidance and development plan policy.</p> <p>The Council welcomes the Applicant’s agreement to secure enhanced and high quality soft landscaping in accordance with the recommendations set out in Section 1 of the Application Consultation Response and paragraphs 107-133 of the Officer report. This would help reduce the visual harm of the proposed permanent facility and ensure greater consistency with paragraphs 135 and 187 of the NPPF which seek to ensure that developments incorporate appropriate and effective landscaping and contribute to and enhance the natural and local environment.</p>
22	What consideration has been given to the colour of the buildings so that their visual impact within the immediate and wider area (including the National Landscape) is minimised?
	<p>ABC response:</p> <p>The Council did not make any specific observations on the colour of buildings in its Application Consultation Response but acknowledges the concerns raised in written representations on this matter, including by the Kent Downs National Landscape team and CPRE.</p> <p>It is the Council’s case that an enhanced and high-quality soft landscaping scheme consistent with the recommendations set out in Section 1 of the Application Consultation Response and paragraphs 107-133 of the Officer report would assist in mitigating landscape harm.</p>

23	<p>With regard to the site fencing, which includes palisade fencing with razor tops, how was this designed so as to integrate with the wider rural setting?</p> <p>Why is it required to appear as it does; with razor fencing tops? Is this to keep something within the site (and if so what), or prevent access to the site (in which case why does it require razor style fencing, why would people being trying to get into the site unlawfully or incorrectly)?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>As set out in paragraph 121 of the Officer report, the Council accepts that the use of the Site necessitates the provision of security measures including fencing. However; it is the Council's case that enhanced and high-quality soft landscaping would assist in screening such fencing and visually containing the site thereby reducing the existing visual harm to the character and appearance of the area and to residential amenity (including from light pollution).</p>
24	<p>What commitment and certainty is there that the land East of Highfield Lane would be preserved and maintained as a green buffer to ensure that there is no further coalescence of the settlements of Ashford, Sevington, Finberry, and / or Mersham?</p>
	<p>ABC response: see Applicant's SOC and the Council's response to query 25 below.</p>
25	<p>How does the application scheme comply with Policy SP7 of the Ashford Local Plan 2030? This sets out:</p> <div data-bbox="395 1200 1433 1581" style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>Policy SP7 - Separation of Settlements</p> <p>Proposals for built development on non-allocated sites outside the built up confines of settlements shall be permitted only where its impact, individually or cumulatively, would not result in the coalescence or merging of two (or more) separate settlements, or the significant erosion of a gap between settlements resulting in the loss of individual identity or character.</p> <p>Proposals for outdoor sports and recreational uses will be permitted subject to there being no overriding conflict with other policies and the wider objectives of the Plan. Any related built development should be kept to the minimum necessary to enable the functioning of the associated use, be sensitively located and of a high quality design.</p> </div>
	<p>ABC response:</p> <p>The objective of Policy SP7 of the ALP 2030 is to maintain the separation of settlements and preserve their individual character and identity. Paragraphs 66-71 of the Officer report set out how Policy SP7 applies to the proposed development, and in particular the role of 'Sevington East' in acting as a buffer to prevent coalescence of the Ashford urban area with Mersham. The Council is satisfied that subject to the legal safeguards necessary to secure BNG, the proposals would ensure consistency with</p>

	the strategic planning objectives of Policy SP7.
	<i>Local landscape, including on the Wye Downs National Landscape (formerly Area of Outstanding Natural Beauty (AONB))</i>
26	<p>How does the application consider the duty under s245 of the <i>Levelling-Up and Regeneration Act 2023</i> (LURA) and the 'Duty' in respect of Areas of Outstanding Natural Beauty (AONB) / National Landscape?</p> <p>This sets out that:</p> <p><i>'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.'</i>⁸</p>
	<p>ABC response:</p> <p>The statutory duty under the Levelling-Up Regeneration Act (LURA) 2023 is considered to be a strengthening of the former duty of 'having regard' to NLs under the Countryside and Rights of Way Act (2000). Paragraph 39 of the PPG confirms this duty is also relevant in considering development proposals that are situated outside NL boundaries, but which might have an impact on their setting or protection.</p> <p>As set out in paragraph 97 of the Officer report, both Kent Downs National Landscape team and Natural England have identified harm to the setting of the National Landscape. It is the Council's case that the existing development fails the duty to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape; however that subject to the recommendations to secure enhanced and high-quality soft landscaping on and in the vicinity of the Site and an effective lighting mitigation strategy as set out in sections 1 and 6 of the Application Consultation Response, then the statutory duty under the LURA is capable of being discharged and the level of harm to the setting of the NL is capable of being reduced.</p> <p>In this regard the Council welcomes the Applicant's agreement to secure further details of enhanced and high-quality soft landscaping and mitigate the impact of external lighting by appropriate conditions.</p>
27	<p>What mitigation has been proposed to specifically mitigate the impact of users of the Kent Downs National Landscape (KDNL)? This includes night-time views when the site is illuminated.</p>

	<p>ABC response:</p> <p>The Council's pre-application advice response acknowledged that the impact of lighting is significant and that the glow from the site is discernible from multiple short and longer distance vantage points, including from the village of Mersham and from elevated land at the village of Aldington and from the KDNL. The Council notes the Applicant's intention to provide lighting mitigation albeit that, in its opinion, it is disappointing that having raised the issue with DfT throughout the period of the temporary use a clear and comprehensive strategy as to what can be done to mitigate impacts and will be implemented within a set timescale is still awaited.</p> <p>It is the Council's case that the details for enhanced and high-quality soft landscaping and external lighting mitigation should take account of impacts on these sensitive receptors and particularly the KDNL. The Council acknowledges the KDNL team's observations on the submitted LVIA and anticipates that the soft landscaping and external lighting details will be supported by appropriate technical assessments that take particular account of the currently temporary, but proposed permanent and therefore ongoing impact of this major development on users of the KDNL.</p>
28	<p>The LVIA, page 21/28, Fig 32 Light pollution, and Para 7.20 Planning statement indicates that associated lighting impacts on the AONB are in the external lighting assessment – where can these be found?</p>
	<p>ABC response: see Applicant's SOC.</p>
29	<p>Is the LVIA accurate in terms of its assessment of the impacts on the KDNL/AONB?</p> <p>The Kent Downs National Landscape Team have set out that, in their view; <i>'The assessment of the LVIA, as set out at Table 41 that "Due to the distance of this viewpoint to the Development and the dense tree and hedge coverage within the wider landscape the recreational users of North Downs Way will experience no views of the Development" is factually incorrect and therefore the assessed Magnitude of Change and Likely Significance of Effect for Viewpoint 12 is also strongly contested by the KDNL team.'</i></p> <p>What observations are there from the Applicants on this point?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council welcomes the Applicant's commitment to undertake further surveys to assist a robust assessment of the currently temporary, but proposed permanent and therefore ongoing day and night-time impacts of the development on the KDNL.</p>

30	<p>Kent Downs National Landscape Team go on to indicate that: <i>‘Our contention is that the findings of the Assessment in respect of impacts to the KDNL should either be disregarded or the LVIA corrected, including with the substitution of photographs that should be taken in conditions of clear visibility.’</i></p> <p>What observations are there from the Applicants on this point?</p>
	<p>ABC response: see Applicant’s SOC.</p> <p>The Council welcomes the Applicant’s commitment to undertake further surveys to assist a robust assessment of the currently temporary, but proposed permanent and therefore ongoing day and night-time impacts of the development on the KDNL.</p>
31	<p>How does the application accord with Paragraph 189 of the Framework? This sets out that:</p> <p><i>‘Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.’</i></p> <p>How does the application accord with Policy ENV3b of the Ashford Local Plan? This sets out:</p> <div data-bbox="339 1328 1396 1881" style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>Policy ENV3b – Landscape Character and Design in the AONBs</p> <p>The Council shall have regard to the purpose of conserving and enhancing the natural beauty of the Kent Downs and High Weald AONBs.</p> <p>Major development proposals within the AONBs will only be permitted in exceptional circumstances and where it is demonstrated they are in the public interest.</p> <p>All proposals within or affecting the setting of AONBs will also only be permitted under the following circumstances:</p> <ul style="list-style-type: none"> • The location, form, scale, materials and design would conserve and where appropriate enhance or restore the character of the landscape. • The development would enhance the special qualities, distinctive character and tranquility of the AONB. • The development has regard to the relevant AONB management plan and any associated guidance. • The development demonstrates particular regard to those characteristics outlined in Policy ENV3a, proportionate to the high landscape significance of the AONB. </div>
	<p>ABC response:</p> <p>The Site is visible from a number of locations within the KDNL and as</p>

	<p>identified by the Kent Downs National Landscape team it lies within its setting. Policy ENV3b of the ALP 2030 is therefore relevant to the application.</p> <p>It is the Council's case that the existing development fails to avoid or minimise adverse impacts on the KDNL as required by paragraph 189 of the NPPF. Furthermore, the existing development does not enhance the special qualities, distinctive character and tranquility of the KDNL or have regard to the AONB Management Plan.</p> <p>It is also the Council's case that the adverse impacts on the setting of the KDNL are capable of being reduced through enhanced and high-quality soft landscaping and a sensitive lighting scheme as set out in sections 1 and 6 of the Application Consultation Response.</p> <p>The Council welcomes the Applicant's agreement to secure these mitigations through appropriate conditions.</p>
32	With regard to the Kent Downs AONB Management Plan, and specifically policies SD3, SD7, SD8, SD10, SD11 and SD12, as identified by the Kent Downs National Landscape Team, what observations do the Applicants have on these and this plan?
	ABC response: see Applicant's SOC.
33	<p>What observations do the Applicants have in respect of the following comments from the Kent Downs National Landscape Team?</p> <p>These are:</p> <p>'It is recommended that appropriate mitigation is incorporated into the development. In addition, all measures to reduce the impacts of the lighting scheme should be implemented. Additional planting is unlikely to be effective in assisting in ameliorating impacts in views from the KDNL, as the buildings would remain visible above any planting along the north boundary of the site, due to the higher topography of the views from the KDNL. It is therefore recommended that the existing roofing materials and external cladding to the north face of the buildings is changed to a much darker tone, which should be informed by reference to the Kent Downs Guidance on the Selection and use of colour in development. This would result in a significant reduction in the impact of the built facility in views from the KDNL. Such a requirement would also help demonstrate compliance, for both the Applicant and Planning Inspectorate, with the new Protected Landscapes Duty.'</p>
	ABC response: see Applicant's SOC.

34	<p>Is the E04 (town centre urban night time economy) standard, which has been used in respect of lighting, appropriate? If so, why is this an appropriate standard?</p>
	<p>ABC response:</p> <p>The Council's case in relation to external lighting impacts is set out at paragraph 89 of the Officer report.</p>
35	<p>How does the proposal integrate with the Policy ENV4 of the Ashford Local Plan 2030 and the locally adopted Dark Skies Supplementary Planning Document (2014)? Policy ENV4 sets out:</p> <div data-bbox="331 734 1326 1464" style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>Policy ENV4 – Light Pollution and Promoting Dark Skies</p> <p>Proposals will be permitted provided that the lighting proposed is: the minimum appropriate for its purpose; is designed such that lighting is directed downwards, with a beam angle below 70 degrees and; that no significant adverse effects individually or cumulatively will result to the character of the area, the residential amenity of local residents, the safety of vehicle users and pedestrians or the diurnal/seasonal rhythms of the Borough's biodiversity assets.</p> <p>The correlated colour temperature (CCT) of outdoor lighting should not exceed 3000 Kelvins in order to limit the effects of known environmental hazards associated with short-wavelength visible light.</p> <p>Proposals where external lighting is required should include a full lighting scheme that provides information about layout and beam orientation, a schedule of the light equipment proposed including luminaire type, mounting height, aiming angles and lumen unit levels. Schemes will be expected to comply with ILP technical guidance in relation to the Environmental Zone in which an application is proposed.</p> <p>Within the area proposed to be designated as a 'dark sky zone', proposals will only be permitted where they adhere to the above requirements and where they can demonstrate that there will be no significant adverse effects on the visibility of the night sky or its intrinsically dark landscapes.</p> <p>All proposals will be expected to demonstrate clear regard to the guidance and requirements set out in the Council's Dark Skies SPD (2014).</p> </div>
	<p>ABC response:</p> <p>The Council's case in relation to external lighting impacts is dealt with in paragraphs 84-106 of the Officer report. The Council concludes at paragraph 106 that <i>"even taking into account the mitigation measures already implemented and the further measures that might form an Implementation Plan in relation to the ELA, the proposal conflicts with the Council's 'dark skies' approach and results in unacceptable harm that renders the development contrary to the NPPF, policy EN4 of the ALP 2030 and the Dark Skies SPD."</i></p>

36	What consideration been given to how the landscape has been affected from being an arable field to now essentially, a lorry stationing area with associated buildings and infrastructure?
	ABC response: see Applicant's SOC.
37	What evidence is there that the Miyawaki method for indigenous woodland is required and/or workable?
	ABC response: see Applicant's SOC.
38	What landscaping has or will be placed within the viewing corridor between Mersham and Sevington Churches?
	ABC response: see Applicant's SOC and the Council's response to Question 47 below.

	Heritage assets (including archaeology)
39	<p>Could the Applicants provide a map showing the location of all heritage assets on or near to the site?</p> <p>This should include the approximate location of all known above and below ground archaeological remains, with a brief description of their nature.</p>
	ABC response: see Applicant's SOC.
40	<p>In terms of the Royal Observatory Corps (ROC) structure, it is indicated that this has been retained on site. This is defined as a Non-Designated Heritage Asset (NDHA)⁹.</p> <p>Where exactly is this on the site?</p> <p>Where have any impacts on its setting arising from the submitted scheme been considered?</p> <p>What measures are in place to protect it for future generations?</p> <p>When are the information boards relating to the ROC due to be provided?</p> <p>How will these be secured?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council's recommendation at section 14 of the Application Consultation Response and paragraphs 191-194 of the Officer report are relevant.</p> <p>The Council welcomes the Applicant's agreement to an appropriate planning condition to secure the provision of heritage information boards. This would</p>

	be consistent with paragraph 203 of the NPPF, which encourages new development to make a positive contribution to local character and distinctiveness, including through the promotion and interpretation of heritage assets.
41	<p>Chapter 10 (Cultural heritage) of the ES does not appear to include a chapter or section on archaeology, as noted by the KCC, Senior Archaeological Officer, Heritage Conservation Team.</p> <p>Is there a reason for its omission given the references to Bronze Age barrows, Anglo-Saxon cemetery, the ROC, and other potential archaeological artifacts and/or remains?</p>
	ABC response: see Applicant's SOC.
42	The post excavation programme for Sevington referred to in earlier decision(s) does not appear to be complete and/or submitted – where is this?
	ABC response: see Applicant's SOC.
43	<p>Are there any interpretation boards along the footpath, and especially in relation to a proposed replication of the Bronze Age burrow?</p> <p>Where are these and/or where would these be placed?</p> <p>How would their provision be secured and maintained?</p> <p>How is the proposed replication of the Bronze Age barrow, as noted by KCC Senior Archaeological Officer, Heritage Conservation Team, to be secured?</p>
	ABC response: see Applicant's SOC and the Council's response to Question 40 above.
44	<p>Put simply, Historic England (HE), the government's statutory adviser on the historic environment, indicate that whilst they agree with the assessment that the proposal would result in less than substantial harm to the Grade I listed St Marys Church, Sevington, they consider this to be towards the upper end of that degree of harm when articulated further.</p> <p>The Applicant's indicate that: <i>Taken overall, the Development results in permanent operation phase impacts of less than substantial harm within the middle of the scale.</i>¹¹</p> <p>In either scenario, what are the public benefits which outweigh this identified harm to this asset (notwithstanding other assets whose setting may also be harmed by the application scheme)?</p>

	What measures are being proposed in order to mitigate this harm?
	ABC response: see Applicant's SOC and the Council's response to Question 19 above in respect of the poor quality of the landscaping that currently exists but is referenced as helping reduce visual impacts
45	<p>How do the monies offered as 'mitigation' to the harm to the Grade I listed building in the form of the Church of St Marys Sevington, comply with the CIL Regulations and / or Paragraph 58 of the Framework?</p> <p>These are:</p> <p><i>Planning obligations must only be sought where they meet all of the following tests¹²:</i></p> <ul style="list-style-type: none"> <i>a) necessary to make the development acceptable in planning terms;</i> <i>b) directly related to the development; and</i> <i>c) fairly and reasonably related in scale and kind to the development.</i> <p>If these are demonstrated, when would these mitigation measures be delivered/enacted?</p> <p>What permission and/or consents are necessary to ensure that these can be delivered in a timely manner?</p>
	<p>ABC response: see Applicant's SOC and the Council's CIL Compliance Statement. The Applicant's agreement in respect of CIL compliance is noted.</p> <p>The Council's case is set out in paragraphs 175-181 of the Officer report and is consistent with section 16 of the NPPF.</p>
46	<p>In terms of the impact of the application scheme on the setting of other Grade II listed buildings within the hamlet/small village of Sevington, has it been demonstrated that there would be no loss or harm to their setting which previously comprised arable agricultural land?</p> <p>How has any such harm, if present, been mitigated?</p>
	ABC response: see Applicant's SOC and the Council's response to Question 19 in respect of the deficiencies of some existing landscaping at the Site which needs review and attention if it is to provide the mitigation that

	was intended
47	<p>Are the areas of planting going to occur, when would this occur, and how would this be secured?</p> <p>Would this consist of wildflower meadow?</p> <p>How does this help mitigate the identified harm to listed building(s) arising from the loss of its rural setting?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council's case in relation to soft landscaping within the designated viewing corridor is set out in paragraphs 119-121 of the Officer report and section 1 of the Application Consultation Response.</p> <p>The Council's view is consistent with Historic England's recommendations in relation to mitigating impacts on the rural setting of the Church of St Mary through appropriate landscaping.</p> <p>The Council welcomes the Applicant's agreement to secure enhanced and high-quality landscaping, including within the viewing corridor, through implementation of updated LMMP and LEMPS to be secured by appropriate planning conditions.</p> <p>Given the failures that the Council has drawn to the Applicant's attention during the last 5 years of the Site's operation, it is the Council's case that there is good reason to extend the mandatory replacement of failed landscaping to a 10-year period rather than the usual 5 years. The application is for permanent permission and landscaping must be improved to provide mitigation for the lifetime of the development.</p>
	Biodiversity and/or ecology (including Biodiversity Net Gain (BNG))

48	<p>Schedule 7A to the <i>Town and Country Planning Act 1990</i>, as amended, indicates that <i>'This Schedule makes provision for grants of planning permission in England to be subject to a condition to secure that the biodiversity gain objective is met.'</i>¹³</p> <p>MHCLG guidance indicates that <i>'Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain.'</i>¹⁴</p> <p>The application here was made after the 12 February 2024. Accordingly, it should be subject to the Biodiversity Net Gain (BNG) deemed condition. The MHCLG guidance sets out that this condition requires that the biodiversity gain objective of at least a 10% gain, which is measured against the pre-development biodiversity value of the onsite habitat for the development.</p> <p>As indicated under Article 4(2) of the CDAO25, the Applicants consider that the application benefits from the <i>de minimis</i> exemption, and therefore it should not be subject to the BNG condition.</p> <p>Both DEFRA and MHCLG guidance indicates that <i>de minimis</i> typically applies, in the case of DEFRA:</p> <p><i>A development that does not impact a priority habitat and impacts less than:</i></p> <p><i>25 square metres (5m by 5m) of on-site habitat</i> <i>5 metres of on-site linear habitats such as hedgerows</i></p> <p><i>A development 'impacts' a habitat if it decreases the biodiversity value</i>¹⁵.</p> <p>And in respect of MHCLG:</p> <p><i>What development does the de minimis exemption apply to? And how should it be assessed?</i></p> <p><i>The de minimis exemption only applies to development if the following two conditions are met:</i></p> <ul style="list-style-type: none"> <i>the development must not impact on any onsite priority habitat; and</i> <i>if there is an impact on other onsite habitat, that impact must be on less than 25 square metres (e.g. less than a 5m by 5m square) of onsite habitat with a biodiversity value greater than zero and on less than 5 metres of onsite linear habitat (such as a hedgerow)</i> <p><i>Onsite habitat is impacted by the development if it is lost or degraded such that there is a decrease in the biodiversity value of that habitat (as</i></p>
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	<p><i>determined by the statutory biodiversity metric). A decrease in biodiversity value occurs where there is a change in habitat type, extent, or condition which results in a negative unit score. A priority habitat is a habitat listed by the Secretary of State for Environment, Food and Rural Affairs under section 41 of the Natural Environment and Rural Communities Act 2006.¹⁶</i></p> <p>The Applicants submitted <i>Biodiversity Net Gain Report March 2025</i>¹⁷ indicates that <i>'With the retention of the IBF as a permanent facility, the Application Site has an overall prediction of -16.66% net change for habitats, and +58.49% net gain for hedgerows'</i>¹⁸</p> <p>In light of the above, with a minus 16.66% net change for habitats, as based upon the pre-developed value of the site, it is unclear why the planning application here benefits from a 'de minimis' exemption as indicated by the Applicants.</p> <p>This exemption from the deemed BNG condition needs to be adequately explained.</p> <p>The BNG Report goes on to summarise as: <i>'The total net gain from both the Application Site and Sevington East would be a positive net change of +65.35.% for habitats, and +58.49% net change for hedgerows. This net gain is based on the overall habitat unit uplift, when compared to the on-site habitat unit baseline.</i></p> <p>If the 'deemed condition' is not to be used, there appears to be a discrepancy between the BNG Report and the requirement for a <i>'detailed within a Habitat Management and Monitoring Plan (HMMP) to be agreed by the Local Planning Authority. All offsite improvements to address the BNG shortfall on site would need to be subject to a 30 years HMMP.</i></p> <p>In particular, the draft and incomplete legal agreement submitted does not refer to a HMMP. Clarity on this matter is necessary.</p>
	ABC response: see Applicant's SOC.
49	See also section on agricultural land in relation to land east of Highfield Lane.
	ABC response: see Applicant's SOC.
50	Reference has been made to the to the Landscape and Environmental Management Plan (LEMP). However, it is unclear as to how this relates to the Habitat enhancement works. Clarity on this would be helpful.

	ABC response: see Applicant's SOC.
51	In terms of biodiversity, there is reference to the loss of Roadside Nature Reserve AS07 alongside Highfield Lane by interested parties. What does this relate to?
	ABC response: see Applicant's SOC.
52	<p>The lighting for the scheme, which includes external lighting across the site, appears to be used for a majority of the night time – especially in autumn and winter months - in order to ensure the site's usage everyday of the year over a 24 hour period.</p> <p>What measures have been put in place to minimise the effect of this lighting on the areas protected for biodiversity values from earlier temporary permissions?</p>
	<p>ABC response:</p> <p>The Council's case in relation to lighting is set out at section 6 of the Application Consultation Response. The Council welcomes confirmation that since submission of this Crown application further measures have been implemented to mitigate external lighting effects, including on biodiversity.</p> <p>The Council welcomes the Applicant's agreement to a planning condition requiring submission of an updated lighting assessment and details of the mitigation measures proposed that would reduce the existing temporary and proposed permanent and ongoing harm from lighting impacts.</p>
53	<p>In terms of the species of dormice/dormouse, which are a European protected species and protected under the Wildlife and Countryside Act 1981, as amended, what is the habitat for dormice, which would be retained as part of the permanent operational phase of the development and how would the proposal (including aspects such as the lighting) ensure that impacts on this species are minimised?</p> <p>For example, whilst paragraph 11.106 of the ES refers to increased habitat to benefit target species such as dormice, how does the lighting strategy ensure that this is achieved?</p> <p>On page 23 of 30, paragraphs 11.125, indicates that there is historic evidence of dormouse within the site; however it goes onto to indicate that this ceased by 2022 and 2023. How is this loss accounted for?</p>
	ABC response: see Applicant's SOC.

54	<p>With regard to bats, the ES refers to: including common pipistrelle <i>Pipistrellus pipistrellus</i>, soprano pipistrelle <i>Pipistrellus pygmaeus</i>, Noctule <i>Nyctalus noctula</i>, Brown long-eared <i>Plecotus auratus</i>, Serotine <i>Eptesicus serotinus</i> and Daubenton's <i>Myotis daubentonii</i>, within 2km of the Application Site. The closet record was of a brown long-eared species approximately 80m west of the Application Site.</p> <p>How has the application taken into account these protected species, including their habitats?</p>
	ABC response: see Applicant's SOC.
55	<p>Reference is made to bird surveys from 2008 onwards. This includes identifying 38 bird species within the application site. In 2010 a survey recoded 37 species, including several Red and Amber-listed species such as skylark <i>Alauda arvensis</i>, yellow wagtail <i>Motacilla flava</i>, song thrush <i>Turdus philomelos</i>, starling <i>Sturnus vulgaris</i>, and house sparrow <i>Passer domesticus</i>. In 2012 a further survey recorded 46 species, this included the presence of two Schedule 1 (WCA) species (kingfisher <i>Alcedo atthis</i> and hobby <i>Falco subbuteo</i>) and ten Red-listed species of conservation concern, including swift <i>Apus apus</i>, house sparrow, skylark, and linnet <i>Linaria cannabina</i>.²⁴</p> <p>Most recently, surveys undertaken in 2023 recorded a total of 47 bird species within the Application Site, of which four species were confirmed as breeding (dunnock <i>Prunella modularis</i>, mallard <i>Anas platyrhynchos</i>, moorhen <i>Gallinula chloropus</i> and starling), seven were probably breeding (house sparrow, linnet, reed bunting <i>Emberiza schoeniclus</i>, skylark, whitethroat <i>Curruca communis</i>, wood pigeon <i>Columba palumbus</i> and wren <i>Troglodytes troglodytes</i>) and eight were possible breeding (greenfinch <i>Chloris chloris</i>, kestrel <i>Falco tinnunculus</i>, meadow pipit <i>Anthus pratensis</i>, rook <i>Corvus frugilegus</i>, sedge warbler <i>Acrocephalus schoenobaenus</i>, song thrush, stock dove <i>Columba oenas</i> and swift).</p> <p>It is unclear as to what mitigation, if any, has been provided in order to address the loss of this habitat – including the loss of habitats, nesting and/or territories for these birds (and in particular those detailed within Schedule 1 of the Wildlife and Countryside Act 1981. Please can the Applicants provide clarity on this matter?</p>
	ABC response: see Applicant's SOC.
56	<p>With regard to reptiles, including an 'exceptional slow worm population' identified in 2015, and moved in 2020; where are the locations suitable within the site for reptiles, and how do these integrate with the wider site?</p>

	ABC response: see Applicant's SOC.
57	In terms of water voles, what ecological survey work has been done to identify whether or not they are present within the site?
	ABC response: see Applicant's SOC.
58	What measures have been put in place to encourage the small number of priority invertebrate Species of Principal Importance, including stag beetle <i>Lucanus cervus</i> , cinnabar <i>Tyria jacobaeae</i> , rosy rustic <i>Hydraecia micacea</i> , white admiral <i>Limenitis camilla</i> , small blue <i>Cupido minimus</i> , and small heath <i>Coenonympha pamphilus</i> identified in 2012? How would these be secured?
	ABC response: see Applicant's SOC.
59	The Kent County Council, Ecological Advice Service (EAS) highlight that a condition assessment of the existing habitat on site does not appear to have been carried out, so it is unclear as to whether or not the habitats on site have already achieved the anticipated condition detailed in table 6 of the BNG assessment. What observations do the Applicants have on this point?
	ABC response: see Applicant's SOC.
60	What measures are in place to minimise litter and similar arising from the application scheme entering the local environment?
	ABC response: see Applicant's SOC and the Council's response to Question 14.
61	What measures are in place to ensure that potential biosecurity breaches from lorries travelling inland from the points of entry on the coast prior to their checking do not occur?
	ABC response: see Applicant's SOC.
62	Technical comments have been made by the Environment Agency as part of the consultation process. Could the Applicants provide a substantive response to the points made please?
	ABC response: see Applicant's SOC.

63	<p>Natural England have raised the following points:</p> <ul style="list-style-type: none"> - <i>Mitigation should consider continuation of current drainage arrangements whereby trade effluent is discharged outside of the Stour Valley catchment.</i> - <i>An adjusted lighting strategy, which allows lighting to be switched off in certain areas and shielded to prevent light spill.</i> <p>What observations do the Applicants have on these points?</p>
	ABC response: see Applicant's SOC.
64	<p>Natural England also provide comments in terms of the need for the competent authority to take into account the Habitat Regulations Assessment and undertake an appropriate assessment.</p> <p>What observations do the Applicants have on these points?</p>
	ABC response: see Applicant's SOC.
65	<p>Natural England also provide comments in terms of nutrient neutrality, including the need to outline why exceptional circumstances exist, which adequately justify the use of mitigation in this case.</p> <p>What observations do the Applicants have on these points?</p>
	ABC response: see Applicant's SOC.

	Local traffic network and/or highways
66	<p>A holding objection has been raised by KCC in its capacity as the Local Highway Authority. In this, they consider that there is a severe impact from the proposal on the M20 Junction 10A, and specifically on the A20 Hythe Road arms, and a suitable mitigation scheme should be submitted and implemented for these arms in order that the proposals would not have a severe highway impact on the junction.</p> <p>What observations do the Applicants have on this matter?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council's recommendations on this matter are set out in section 5 of the Application Consultation Response and paragraph 162 of the Officer report.</p> <p>The Council welcomes that the Applicant and National Highways continue to engage with the KCC as the local highway authority in relation to this issue (as well as the delivery mechanism for any agreed mitigation) in accordance with paragraph 109 of the NPPF, which requires development proposals to understand and address the potential impacts of development on transport</p>

	networks.
67	<p>Comments have been made in terms of HGVs on local road network and using laybys etc.</p> <p>Is the traffic/transport assessment correct in terms of taking into account the impacts arising from the application scheme on the local road network?</p> <p>What measures, sought by local Parish Councils / residents to reduce the usage of inappropriate routes into the site by HGVs through the use of signage (in multiple languages and multiple locations to the site) are proposed? How would these be secured?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council's recommendations on this matter are set out in section 11 of the Application Consultation Response and paragraphs 163-165 of the Officer report.</p> <p>The Council welcomes the Applicant's agreement to address these concerns, including through the implementation of a signage strategy and digital navigation improvements which can be secured by appropriate planning conditions and can be the subject of consultation with the strategic and local highway authorities to ensure that the location of access for HGV drivers approaching from all directions is clear and unambiguous. This approach would align with paragraph 109 of the NPPF which requires development proposals to understand and address the potential impacts of development on transport networks.</p> <p>As set out in section 5 of the Application Consultation Response the Council notes the concerns of interested parties in relation to the potential for conflict between users of the PRow and vehicles entering and exiting the Site at the staff entrance. The Council welcomes the Applicant's agreement to a planning condition to secure details of measures designed to reduce vehicle speeds adjacent to the staff vehicle entrance to enhance highway safety in this location. This would align with the requirements of paragraph 117 (c) of the NPPF requiring applications for development to, amongst other things, <i>"minimise the scope for conflicts between pedestrians, cyclists and vehicles"</i>.</p>
68	<p>What is the travel plan for the site's employees?</p> <p>Would all parking on site for employees be in the staff car park?</p> <p>Is there Electric Vehicle (EV) parking spaces provided within the staff car park?</p> <p>What about alternate modes of transport – walking, cycling, and public transport?</p>

ABC response:

The Council advised the Applicant in its pre-application advice in September 2024 that any future planning application would need to include a Travel Plan with details for the arrangements for staff parking and measures to facilitate and incentivise their journey to the site using sustainable modes of transport. The Council was therefore disappointed that the submitted Transport Assessment with the Application included the Staff Travel Plan drafted in 2022 to support the temporary use of land authorised by the SDO and not a permanent development.

Paragraphs 166-174 of the Officer report set out the Development Plan policy requirements relating to travel plans. Paragraph 118 of the NPPF is also relevant and requires all developments that will generate significant amounts of movement to provide a travel plan.

In accordance with the recommendation at section 4 of the Application Consultation Response the Council welcomes the Applicant's agreement to secure a Staff Travel Plan by an appropriate planning condition. In order to promote and support cycling as a means of active travel, the Council considers the development should make provision for on-site shower and changing facilities for cyclists as well as storage for clothing/kit. This would be consistent with PPG relating to Travel Plans which acknowledges they may include proposals to enhance facilities for cycling and walking both by users of the development and by the wider community (Paragraph: 011 Reference ID: 42-011-20140306). Without such facilities, the Council considers that some staff will not consider active travel to work as being a practical non-vehicular alternative. The Council encourages the Applicant to demonstrate good practice in application of government planning advice.

Similarly, the Council is disappointed that the Applicant will not commit to providing any additional electric vehicle charging (EVC) infrastructure as part of its proposals. Only 2 active EVCs are provided to serve 3 of 357 parking spaces within the staff car park, equating to less than 1% of the overall staff parking provision. There is also no reference to any on-site passive provision that would easily facilitate future provision of additional EVCs. It is the Council's case that the Applicant's proposal to monitor on-site EV use to assess future demand and take-up prior to increasing provision would fail to incentivise staff to use electric vehicles.

The Council contends that this position is contrary to the Applicant's own Sustainability Statement; paragraph 4.7.1 of which states: *"The inclusion of sustainable design elements, such as cycle spaces, electric vehicle charging points, and green infrastructure, further enhances air quality and contributes to long-term environmental resilience."* Paragraph 5 concludes: *"Transport and parking provisions are aligned with local policies, promoting sustainable travel through electric vehicle (EV) charging points, cycle parking, and a staff travel plan."*

Whilst paragraph 117 (e) of the NPPF requires applications for development

	<p>to, amongst other things, “<i>be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations</i>”, there is no local development plan policy to secure either active or passive EVC infrastructure as part of development proposals and it is therefore disingenuous for the Applicant to suggest the proposal is aligned with local policies.</p> <p>In 2018 the Government published <i>The Road to Zero: Next steps towards cleaner road transport and delivering our Industrial Strategy</i> (Appendix 4). This document explains how the goals of cleaner air, a better environment, zero emission vehicles and a strong clean economy can be delivered, noting these ambitions need to be delivered in partnership between the Government and others, including local government. In relation to EVC infrastructure the document states that in addition to the provision of EVC infrastructure at people’s homes, “<i>workplace and public infrastructure will also be vital</i>” to achieve these ambitions.</p> <p>In the absence of development plan policy, Requirements S4 (Erection of new buildings which are not residential buildings or mixed-use buildings) and S5 (Buildings undergoing major renovation work which are not residential buildings or mixed-use buildings) of Approved Document S (Infrastructure for the charging of electric vehicles) of the Building Regulations (Appendix 5) are considered to provide useful benchmarks. Requirements S4 and S5 require that where more than 10 parking spaces are provided one parking space is to have access to an electric vehicle charge point; and cable routes for electric vehicle charge points are to be installed in a minimum of one fifth of the total number of remaining parking spaces.</p> <p>It is the Council’s case that the existing and planned EVC provision for this major development is inadequate and that all applications, but particularly those submitted for land owned by the Department for Transport, should make appropriate provision for active and passive EVC infrastructure to support sustainability objectives, including to reduce carbon emissions and mitigate impacts on air quality and future-proof the workplace.</p> <p>In respect of the Zeelo shuttle bus service for staff, the Council note the two existing stops involving rail commutes and partial car commutes. The Council considers that the scope to extend this shuttle service to cover additional stops in the Ashford urban/suburban area should be explored through a Travel Plan to cover a permanent facility. The Applicant’s response to Questions 18, 44 above and Question 92 below identify the locally significant direct employment benefits of the proposal: it is reasonable those who live within the urban and sub-urban area be extended the opportunity to use the shuttle bus service.</p> <p>The Council’s response to Question 18 above and Question 79 below are also relevant to enhancing active travel opportunities to and from the Site.</p>
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69	Has the car park for St Marys Church, Sevington, shown on the plans but does not appear to be referenced anywhere in the traffic assessment, been considered within the traffic assessment? If so where can this be found?
	ABC response: see Applicant's SOC.
70	What measures have been put in place to prevent and/or discourage lorries turning right off the A2070 into the IBF?
	ABC response: see Applicant's SOC. The Council consider that any additional signage in advance of the sign that is referenced by the Applicant is a matter that can be further addressed through the signage strategy subject of Question 67 above.
71	How are the parking areas referred to as 'Tango' and 'Romeo' used in relation to the IBF and/or BCP? How has the need for these two areas been demonstrated for these aspects of the application scheme?
	ABC response: see Applicant's SOC. The Council's case in relation to the 'Tango' parking area is that as existing it does not provide for adequate noise impact mitigation (see paragraph 141 of the Officer report). As set out in Section 7 of the Application Consultation Response, the Council is concerned that unrestricted use of the 'Tango' parking area in particular would be likely to result in unacceptable noise impacts that would adversely affect residential amenity. On the basis that permanent planning permission is now sought, the Council considers it would be appropriate to restrict the use of these parts of the site for emergencies only. As per the Council's response to Question 9 further above, the frequency and duration of use of each emergency holding area during the last 5 years of Site operation needs clarification by the Applicant so that the necessity for noise impact mitigation in relation to the use of the 'Tango' area close to noise receptors can be assessed.
72	How would the site be used in relation to the Kent Resilience Strategy, and other operational activities such as TAP and Operation Brock, when there are pressures on the strategic and local road network arising from disruption to the points of entry/exit into and out of the UK? How would this operate in practice and in practical terms, with the primary purpose of the site focussed on IBF and/or BCP activities rather than as a temporary HGV parking or stationing area?
	ABC response: see Applicant's SOC.

73	<p>Concerns have been raised in terms of the surfacing of bridleways and/or PRow are inadequate, with heavy rains causing parts of the paths being washed away.</p> <p>What measures have been put in place to minimise this?</p>
	<p>ABC response: see Applicant's SOC.</p>
74	<p>What consideration has been given to the local footpaths, including those that formerly crossed parts of the site?</p> <p>Have these now all been given permission for their extinguishment / moving?</p> <p>How has the former footpath and link between Sevington and Mersham churches been reinstated or its loss mitigated?</p>
	<p>ABC response:</p> <p>Please refer to Appendix 6 of this Statement.</p> <p>As set out in section 12 of the Application Consultation Response and paragraphs 41-43 of the Officer report, the Council's case in relation to the former PRow linking Sevington and Mersham running in a broad east-west axis through the viewing corridor within the Site is that provision should be made for its reinstatement closely following its original and direct alignment (annotated in white in Appendix 6) in the event that the operation of the Site as an Inland Border Facility, or its requirement to be secure, whether in whole or part clear of that corridor, ceases in the future so as to remove an operational impediment to PRow reinstatement.</p> <p>As set out on page 1.15 of the Officer report this position is supported by the County Council Public Rights of Way and Access Service.</p> <p>It is the Council's case that this would ensure compliance with paragraphs 105 of the NPPF requiring planning decisions to "<i>protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails</i>".</p> <p>It would also be consistent with paragraphs 109 and 117 of the NPPF requiring development proposals to identify and pursue opportunities, and to give priority to pedestrian and cycle movements both within a scheme and with neighbouring areas. Section M2 (Active travel) of the National Design Guide (Appendix 7) is also relevant insofar as requiring public rights of way to be protected, enhanced and well-linked into the wider network of pedestrian and cycle routes.</p> <p>At a local level, Policy ENV5 of the ALP requires all development in the rural areas of the Borough to protect and, where possible, enhance public rights of way and other local historic or landscape features that help to distinguish the</p>

character of the local area. Policy TRA5 requires development proposals to demonstrate how safe and accessible pedestrian access and movement routes will be delivered and how they will connect to the wider movement network. The policy also requires opportunities to be proactively taken to connect with and enhance Public Rights of Way whenever possible, encouraging journeys on foot.

Notwithstanding the case for reinstatement in purely movement terms, it is the Council's case, supported by Historic England (both previously (in respect of planning permission 14/00906/AS and its associated masterplans providing for a zone of 'no-build' aligned with the PRoW concerned and currently in its representation in respect of the CDA) that the in circumstances where the PRoW can be reinstated, it should be reinstated because, as a historic direct route, its presence contributes to meaning. The 'no-build' viewing corridor contributes to the remaining rural setting of St. Mary's (as a Grade 1 listed building that is otherwise harmed by the development of the Site). The direct ground level movement experience through that corridor linking the hamlet of Sevington with the village of Mersham is therefore a key part of that rural setting. It is how St. Mary's has been visually experienced approached from Mersham over the field system for centuries.

For reasons of nationally important infrastructure operational security, the Council accepts that this long-established route had to cease. However, if that security need no longer exists, then the Council consider that route should be reinstated at the Applicant's expense.

The pedestrian movement route located around the perimeter of the site (but beyond the secure fenced area) that is shown yellow on **Appendix 6** provides a welcome amenity and movement function for employees and the local community: in broad terms it mirrors the originally intended site layout approach when the site was proposed for commercial uses with a network of paths in a close to green space within which SUDs would be provided. It is not, however, a substitute for the direct PRoW through the site.

Given the progress that had been made in 2023 on an obligation within a draft bilateral s.106 agreement to secure funding KCC to deliver reinstatement with an all-weather surface similar to that around the site and from Blind Lane, the Council expresses its disappointed that this is not reflected in the s.106 unilateral undertaking. As per the Council's response to Question 83 further below, the inclusion of wording from the bilateral s.106 agreement in the Applicant's unilateral undertaking introduces confusion as to whether it is now the Applicant's intention to revert to funding the future reinstatement of the PRoW.

In addition, and as set out in paragraph 173 of the Officer report, the Council is disappointed that the Applicant has not agreed to an obligation to secure funding to establish the feasibility and potential delivery of PRoW upgrades eastwards beyond Blind Lane into Mersham as recommended in the Council's pre-application advice response and annotated in red on the plan forming **Appendix 6**. That plan highlights the direct nature of the PRoW between

	<p>Mersham and St. Mary's and the relatively limited amount of PRow upgrade necessary to fulfill multiple planning objectives aligned with the NPPF. These include promoting active travel and delivering on the objectives of the Staff Travel Plan.</p> <p>The enhancements sought would be consistent with the development plan and vision of the Rights of Way Improvement Plan (ROWIP) 2018-2028 <i>"to provide a high quality, well-maintained Public Rights of Way network, that is well used and enjoyed. The use of the network will support the Kent economy, encourage active lifestyles and sustainable travel choices that support health and wellbeing, and contribute to making Kent a great place to live, work and visit"</i>.</p> <p>Specifically, the delivery of the PRow upgrades sought would contribute to the ROWIP objectives AL02 (Active Travel) which cites actions including to <i>"Remove barriers to active travel and recreation and promote routes and opportunities"</i> and EN01 (Modal shift to cycling and walking to reduce road air pollution) actions 2.1 and 2.2 by assisting in the delivery of actions including the incorporation of active travel routes and provision of traffic free, safe walking, cycling and equestrian routes linking to towns, urban and rural areas.</p> <p>The proposed upgrading would also be consistent with the ROWIP objective of negotiating improvements (RR02), including by working with landowners to deliver improvements to the PRow network to increase accessibility and encourage active travel and active recreation, leisure use and the local economy.</p> <p>The proposed upgrading would be consistent with paragraph 117 of the NPPF requiring applications for development to <i>"give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas"</i>.</p>
	<p>Noise, lighting, and air quality on the living conditions of existing and future occupiers of nearby residential dwellings</p>

<p>75</p>	<p>In terms of noise – which is indicated as being discernible from nearby residential dwellings and also users of the PRow - is the acoustic fencing adequate?</p> <p>Is it in the right place(s)? Is it visually acceptable?</p> <p>Where are the acoustic fences / earth bunds on the site – they do not appear to be clearly shown on the submitted drawings? Both in terms of location and also in terms of type/style/design/nature. Para 7.45 Planning Statement refers to these.</p> <p>Related to their location and form, is it the most appropriate mitigation?</p> <p>How have the concerns reported to ABC's Environmental Protection Team in 2025 by a local resident in terms of noise, been considered and where is it shown that this has been taken into account and/or addressed?</p> <p>Has an independent noise impact assessment been undertaken as suggested by some local parish councils – if not, why not?</p>
	<p>ABC response: see Applicant's SOC.</p> <p>The Council has considered the noise impacts from this major development on residential amenity (see section 7 of the Application Consultation Response and paragraphs 138-152 of the Officer report). The Council welcomes the Applicant's acknowledgement that noise impacts are a key material planning consideration when considering the merits of granting planning permission for a permanent facility.</p> <p>In accordance with the recommendation set out at section 7 of the Application Consultation Response, the Applicant has agreed to a planning condition to secure submission of an updated Noise Impact Assessment to address the concerns raised by the Council and interested parties.</p> <p>This would be consistent with paragraph 198 of the NPPF which requires planning decisions to amongst other things <i>"mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life"</i>.</p> <p>Related to an updated Noise Impact Assessment, as per the Council's response to Question 9 further above, the Council considers that clarification is needed from the Applicant as to the likely frequency and duration of use of emergency holding area 'Tango' (currently without any acoustic barriers) based on the applicant's records of usage of that area during the 5 years the</p>

	<p>facility has been in operation. The Council notes the Applicant's intention to potentially 'double-stack' vehicles within marked bays within that area in emergency situations which suggests intensification of the number of vehicles parking/moving/parked with engines idling in that area with potential noise implications to sensitive receptors.</p>
76	<p>In terms of the effect of the external lighting, as viewed from the Kent Downs National Landscape / AONB – how can this be mitigated?</p> <p>Why would this strategy work, given that the site has been operational for a few years under the temporary planning permissions.</p>
	<p>ABC response:</p> <p>The Council welcomes confirmation that since the submission of the Crown Development Application further measures have been implemented to mitigate external lighting effects, including on the setting of the KDNL.</p> <p>The Council welcomes the Applicant's agreement to a planning condition requiring submission of an updated lighting assessment setting out full details of the mitigation measures that have been explored and are already and/or will be implemented within a clear timescale.</p>
77	<p>In terms of the effect of lighting on occupiers of neighbouring/nearby dwellings – how can this be further mitigated to reduce the impacts on the living conditions of nearby occupiers?</p>
	<p>ABC response:</p> <p>The Council welcomes confirmation that since the submission of the Crown Development Application further measures have been implemented to mitigate external lighting effects, including on the residential amenities of nearby occupiers.</p> <p>The Council welcomes the Applicant's agreement to a planning condition requiring submission of an updated lighting assessment setting out full details of the mitigation measures that have been explored and are already and/or will be implemented within a clear timescale.</p>
78	<p>Has the 2025 External Lighting Report been implemented as sought by ABC's Environmental Protection Team? If not, why not?</p> <p>If it has, is this in full accordance with the submitted report?</p>
	<p>ABC response: see Applicant's SOC and the Council's response to Questions 76 & 77 above.</p>

79	<p>What impacts and/or effects will there be in air quality terms from HGVs using, accessing, being stationary and exiting the site?</p> <p>What surveys and/or monitoring have been undertaken in terms of particulate pollutants?</p> <p>Does this assessment consider the site operating at full capacity?</p>
	<p>ABC response:</p> <p>The Council's assessment of the application relating to air quality impacts is set out in paras. 147-151 of the Officer report and is reflected in the recommendations at section 8 of the Application Consultation Response.</p> <p>Policy ENV12 of the ALP 2030 requires that all major development proposals should promote a shift to the use of sustainable low emission transport to minimise the impact of vehicle emissions on air quality.</p> <p>Furthermore, Policy ENV12 requires that <i>"proposals that might lead to a significant deterioration in air quality or national air quality objectives being exceeded, either by itself, or in combination with other committed development, will require the submission of an Air Quality Assessment to be carried out in accordance with the relevant guidance. This should address:-</i></p> <ul style="list-style-type: none"> <i>a) The cumulative effect of further emissions; and,</i> <i>b) The proposed measures of mitigation through good design and offsetting measures that would prevent the National Air Quality Objectives being exceeded or reduce the extent of the air quality deterioration."</i> <p>Policy ENV12 is consistent with paragraph 109 of the NPPF which requires development proposals to identify, assess and take into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.</p> <p>Policy ENV12 is also consistent with paragraph 199 of the NPPF that requires planning decisions to, amongst other things, identify opportunities to improve air quality or mitigate impacts, such as through traffic and travel management, and green infrastructure provision and enhancement.</p> <p>By reason of the nature of the development and the proposed use, including provision of a significant number of HGV parking spaces, the Council and other interested parties have raised concerns about the potential impact of this major development on local air quality (see sections 4 and 8 of the Application Consultation Response and paragraphs 168-169 of the Officer report).</p> <p>In 2018 the Government published <i>The Road to Zero: Next steps towards cleaner road transport and delivering our Industrial Strategy</i> (Appendix 4). This document explains how the goals of cleaner air, a better environment, zero emission vehicles and a strong clean economy can be delivered, noting</p>

	<p>these ambitions need to be delivered in partnership between the Government and others, including local government. Part 2c of the document notes that <i>“HGVs are a major source of pollution – accounting for 18% of greenhouse gas emissions and 13% of nitrogen oxide (NOX) emissions for road transport in 2016”</i> and recognises the <i>“need to reduce emissions from existing HGVs significantly”</i>.</p> <p>As set out in section 8 of the Application Consultation Response, the Council recommends the use of planning conditions to secure a Site Management Plan and ongoing air quality monitoring to ensure that the impacts of the development on local air quality, including from HGV emissions, remain within acceptable limits.</p> <p>The Council welcomes the Applicant’s agreement to secure an Air Quality Management Plan to include arrangements for ongoing monitoring and annual reporting of air quality to the Local Planning Authority for a period of 10 years, measures to mitigate operational impacts on air quality, including relating to minimising unnecessary idling of HGV engines whilst vehicles are stationary and provision and use of electric hook-up points for refrigerated vehicles across the site.</p> <p>The Council consider that this would be consistent with the recommendations of <i>The Road to Zero</i> report which states that <i>“As solutions emerge it remains essential to scale up and expand the behavioural and efficiency measures that can reduce emissions from existing HGVs”</i>.</p> <p>These measures would also be consistent with the Applicant’s Sustainability Statement, paragraph 4.7.2 of which states <i>“the use of electric hook-ups for refrigerated HGVs aims to reduce engine idling noise, and ongoing monitoring will help identify and address any emerging noise concerns.”</i></p> <p>Such measures would also be consistent with Kent County Council’s Local Transport Plan 5: Striking the Balance which sets out how the County Council in its role as the Local Transport Authority will work towards realising its transport vision, including helping the Government with its aims to decarbonise transport and travel. Policy Outcome 7 is relevant and states <i>“road-side air quality improves as decarbonization of travel accelerates towards the pursuit of carbon budget targets and net zero in 2050”</i>.</p> <p>Subject to securing relevant planning conditions, including relating to provision of EVC infrastructure, the Council is satisfied that the proposals are capable of complying with development plan policy and national guidance insofar as they would promote a shift to the use of sustainable low emission transport and identify opportunities to improve air quality.</p>
80	With regard to CCTV used and/or operated from within the site, are these only sited so as to observe and monitor the site itself and its immediate boundary?

	ABC response: see Applicant's SOC.
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	Agricultural land
81	<p>It is understood that the site is classified as Grade 2, Best and Most Versatile Agricultural Land (BMVAL).</p> <p>Has the loss of this BMVAL as a result of this application for planning permission, been justified? If so, where can this be found?</p> <p>Is it necessary to impose a condition in terms of reinstatement at the end of the useful life of the proposal?</p> <p>Would this ensure that BMVAL is returned to its former use?</p>
	ABC response: see Applicant's SOC.
82	<p>In terms of the blue line 'Land east of Highfield Lane' which is indicated to be the area in which BNG would be achieved, what is the current agricultural classification of this land?</p> <p>(In particular given footnote 65 of the Framework, which indicates that <i>'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality'</i> and Written Ministerial Statements, which whilst relating to solar development, indicate that 'Food security is an essential part of national security...' and <i>'For all Applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.'</i>²⁸).</p>
	ABC response: see Applicant's SOC.

	Adequate provision for infrastructure (planning obligations)²⁹
83	<p>Is the submitted legal agreement under s106 of the TCPA, (dated 7 October 2025), made by the Department for Transport (DfT) to Ashford Borough Council, adequate? It is submitted as a unilateral undertaking; however it is unclear as to why it does not involve the other Applicants – DEFRA and HMRC. Why is this?</p> <p>In terms of land ownership is DfT the only landowner / interest in the blue lined land area which is suggested to be set aside as the biodiversity net gain area?</p> <p>Why do the Plans on pages 33 and 42 of 50 of the pdf version of the</p>

	<p>submitted unilateral undertaking not appear to match the site area submitted on the site plan?</p> <p>What is the relevance of Plans 1, 2, 3, and 4, as defined in the submitted unilateral undertaking, when these are not referred to in the Owner's Obligations set out in Schedule 1 of the unilateral undertaking?</p>
	<p>ABC response:</p> <p>Like the Inspector, the Council has some overarching concerns about the submitted Unilateral Undertaking. The Council would make the following comments on the deed:</p> <ol style="list-style-type: none"> 1. No evidence of ownership has been provided (by way of a full suite of title plans and registers) for the entirety of the site, including the blue land proposed for biodiversity improvements. The Council cannot be certain that there are no other legal interests in the land that should be referred to, or other parties that should be included. As an example the Council is aware of a leasehold interest in part of the site that benefits SEPN, but this has not been referred to. It is the Council's standard position that all those with a legal interest in the land should be a signatory, (but given the previous reluctance of SEPN to be a signatory to an earlier s106 agreement additional wording had been included in that draft s106 suggesting their consent to the deed would be sought); where this is not to be the case then a reasonable explanation should be included in the recitals of the agreement and consent provisions also included. 2. There is a conflict between the defined term "Application Site" and the provisions of Clause 2.2 in respect of land that is not to be bound by the obligations in the UU, and which ought to be clarified in a supplemental s106 deed. 3. There is some inconsistency in how the BNG land shown on the BNG plan is to be bound. Despite the blue land extending as shown on the plan, not all of the relevant registered titles are referred to in the deed itself. Equally, there is an express obligation on this land in the schedule of obligations, and yet there is ambiguity as to whether or not the land is to be bound by the UU. 4. There is a legacy term retained in the definition of "Contributions" ("Public Footpath Reinstatement Contribution"). This links to the Council's position in respect of the applicant agreeing to funding reinstatement of this former PRoW through the site facilitated by the applicant's site layout that reflects the 'no-build' St. Mary's church 'viewing corridor' key to resolving harm to that heritage asset as set out in paragraph 186 of the Officer report and as articulated in the Council's

	<p>response to Question 74 above. If a supplemental deed is provided which reinstates this contribution and related obligation, then this issue will naturally fall away.</p> <p>5. The Council is concerned over the provisions of Clause 3 of the UU which pertains to make the deed conditional on the passing of a minimum period of 6-weeks after the decision has been issued. Whilst the notion of a period of time to elapse during which any legal challenge would be required to have been brought is noted, the Council feels this additional condition is unnecessary given the operation of Clause 4.3. If Clause 3 of the submitted UU operates as drafted then it serves to make the payment of the contributions secured pursuant to the schedule within 14 days of the decision being issued completely unenforceable which the Council consider cannot be the applicant's intention.</p> <p>6. The Council's final concern relates to the language used in respect of the contributions other than those referred to as 'Additional' since the Council is already holding these initial sums to order. A better choice of wording, for example 'release' rather than 'pay' or a dual 'release/pay' wording, is suggested.</p>
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84	<p>The submitted unilateral undertaking refers to four obligations its secures. These are shown on page 8 of 50 of the pdf as:</p> <div data-bbox="563 311 1270 913" data-label="Image"> <p style="text-align: center;">Schedule 1</p> <p style="text-align: center;">The Owner's Obligations</p> <ol style="list-style-type: none"> 1 Junction 10A Works Contribution The Owner covenants to pay to the Council the Junction 10A Works Contribution within 14 days of the date of the grant of the Planning Permission 2 Pedestrian and Cycle Connection Improvement contribution and the Additional Pedestrian and Cycle Connections Improvement Contribution The Owner covenants to pay the Council the Pedestrian and Cycle Connection Improvements Contribution to the Council prior to completion of this Agreement and the Additional Pedestrian and Cycle Connection Improvements contribution within 14 days of the date of the grant of the Planning Permission 3 Church Works Contribution (Remainder) and the Additional Church Works Contribution (Remainder) The Owner covenants to pay to the Council the Church Works Contribution (Remainder) prior to completion of this Unilateral Planning Obligation and the Additional Church Works Contribution (Remainder) within 14 days of the date of the grant of the Planning Permission 4 Off Site Habitat Enhancement Works The Owner covenants to carry out the Habitat Enhancement Works to the Off Site BNG Land within 36 months of the date of the grant of Planning Permission and to maintain the Off Site BNG Land for a period of 30 years from the date of completion of the Habitat Enhancement Works </div> <p>The Applicants, or the landowner, or the part that has submitted the unilateral undertaking does not appear to have provided a detailed justification for these being voluntarily provided.</p> <p>A short paper detailing why these are being provided by the signatory should be provided within the timeframe set out as part of the Inquiry process.</p> <p>In the interests of openness and fairness this should be provided so that interested parties can be aware of what the submitted unilateral undertaking obligates the signatory to.</p> <p>Moreover, it should be clearly indicated that the signatory has the full ability to ensure that the submitted unilateral undertaking would be enforceable against any future landowner(s) or persons holding an interest in the land, so as to ensure that the obligations that the unilateral undertaking secure can be realistically achieved and secured for their intended purposes throughout the longevity of the period that they are required for.</p>
	<p>ABC response: Please refer to the Council's CIL Compliance Statement for a full response.</p>
85	<p>What certainty is there, given that the submitted legal agreement is submitted unilaterally (and therefore suggests that the obligations it secures are only enforceable against the party 'entering' it), that the monies provided for certain activities will occur so as to provide the mitigation required?</p>
	<p>ABC response: The Council agrees with the applicant's draft response to the SOM but notes that this should be read in conjunction with the Council's comments on enforceability and conditionality in its response to Question 83.</p>

86	<p>The sum of £203,578.93 for church works contribution (page 4 of 10) – what is this and how does it relate to the above monies? There is reference to works to the church roof and that this is ‘mitigation’ provided to the heritage asset due to harm to its setting arising from the development; however it is unclear as to how this provides mitigation and/or complies with the CIL Regulations / Paragraph 58 <i>National Planning Policy Framework</i>.</p>
	<p>ABC response: see Applicant’s SOC.</p>
87	<p>What is the ‘Original S106 Agreement’ (page 3 of 10) and the payment of the Church Works Contribution Remainder being Twenty Three Thousand Nine Hundred and Sixty One Pounds and Two pence (£23,961.02) for the funding of the Church Works that is set out there? How has this been shown to comply with the CIL Regulations / Paragraph 58 <i>National Planning Policy Framework</i>?</p>
	<p>ABC response: see Applicant’s SOC.</p>
88	<p>The circa £4,973,012.83 for Junction 10A of the M20 motorway (page 4 of 10) – how is this justified?</p> <p>Have the works already taken place?</p> <p>How does this comply with the CIL tests – directly related to the development proposed, for example?</p>
	<p>ABC response: see Applicant’s SOC and the Council’s CIL Compliance Statement.</p>
89	<p>What is the £38,327.40 pedestrian and cycle connection monies (page 3 of 10) for in practical terms?</p> <p>How is Duckworth Close, Willesborough and / or the use of this pedestrian/cycle connection related to the application site?</p>
	<p>ABC response: see Applicant’s SOC and the Council’s CIL Compliance Statement. The Council notes the Applicant’s acknowledgement that the improvement works will enable staff to access the IBF by bicycle and on foot from locations across sub-urban Ashford and so will reduce reliance on the private car and car parking on the site.</p> <p>In the light of that acknowledgement of the importance of connecting people with place, the Council queries why the same thought process is not equally applicable in respect of upgrading PRoW to the east of the IBF Site to the village of Mersham to facilitate similar active travel benefits in accordance with the requirements of paragraph 117 of the NPPF which requires applications for development to “<i>give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas</i>”? Please refer to the Council’s response to Questions 18 & 74 further above.</p>

90	The definition of 'Crown' (page 4 of 50), refers to s.293 of the Planning Act. However, it is s293 of the Town and Country Planning Act 1990, as amended, which is understood to be the relevant Act, and not the Planning Act 2008.
	ABC response: see Applicant's SOC.
91	Has the Original S106 (dated 13 September 2017) been complied with? Alternatively, does it remain extant and enforceable? Related to this, have all the pre-commencement conditions (or conditions precedent) of the planning permission, and requirements of this legal agreement been approved so as to ensure that the Lawful Development Certificate ³⁰ is correct?
	ABC response: see Applicant's SOC.
	The overall planning balance
92	What are the economic and employment benefits arising from the application scheme?
	ABC response: see Applicant's SOC. The Council recognises that the development would provide the economic and ongoing direct and indirect employment benefits set out in the Applicant's Planning Statement and reflected in paragraphs 197-198 of the Officer report.
93	What are the other public benefits arising from the scheme?
	ABC response: see Applicant's SOC. The Council acknowledges the other non-economic and employment public benefits of the development set out in the Applicant's Planning Statement, including relating to habitat enhancement and BNG (see section 3 of the Application Consultation Response and paragraphs 74-78 of the Officer report).
94	Should any weight be afforded in planning terms to the application being deemed of 'national importance' in terms of it being appropriate for the Crown Development Application route? If so, what weight should be afforded to this factor, and what is the policy or other basis for this?
	ABC response: see Applicant's SOC. The Council recognises that the proposal is for development of 'national importance' as endorsed by the WMS made by Matthew Pennycook as Minister of State for Housing and Planning on 13th February 2025 and this is reflected in paragraphs 61-65 and 197 of the Officer report.

	The Council's case is that proposals for development of national importance should be afforded significant weight in the planning balance, regardless of whether that development is subject to the Crown Development Application or Town and Country Planning Act routes.
95	How does the proposal accord with the development plan? If there is conflict with the adopted development plan for the area, what material considerations indicate a decision otherwise than in accordance with the adopted development plan?
	ABC response: see Applicant's SOC. The Council's case, as set out in paragraphs 197-198 of the Officer report, is that elements of the existing temporary development fail to accord with various policies in the development plan, including relating to high-quality design, impact on character and appearance and the setting of NLs, public rights of way, sustainable transport, heritage and air quality. However, subject to appropriate planning conditions to secure mitigation that would reduce the identified planning harm, the extent of conflict with development plan policies is capable of being reduced such that the proposals can be deemed in accordance with the development plan when read as a whole.

6.0 Conclusion

- 6.1 It is the Council's case that Government proposals for development of national importance should represent the highest quality sustainable development by demonstrating how large-scale infrastructure projects can be delivered by integrating good design principles.
- 6.2 In this case, the development already exists, is not being altered as a result of the proposed permanent planning permission and the real-world impacts of the Site in operation are known and identified. The development and all its associated impacts were envisaged to be temporary pursuant to the SDO.
- 6.3 Now that the development is proposed to be permanent, the Council contends it is essential that where existing impacts are harmful they are appropriately mitigated and minimised. The Council also considers that as a permanent use of the land the development should accord with all national guidance and provide enhancements that will promote long-term sustainability. For these reasons, the Council requests that the planning conditions and obligations sought by the Council are secured through any grant of planning permission.

7.0 Planning Conditions

- 7.1 The LPA continues to discuss the wording of draft planning conditions with the Applicant and will continue to do so so that a schedule can be submitted for the Inspector's consideration.