

- a) **DOV/16/00044 – Erection of a guyed steel lattice mast (322m in height) with nine anchor points, installation of telecommunications and associated equipment, site compound, secure fencing, single storey equipment structure, access track, ground-mounted solar panels within compound and associated works - Land at Richborough, Ramsgate Road, Sandwich**

Reason for report: Number of contrary views

- b) **Summary of Recommendation**

That planning permission be refused.

- c) **Planning Policy and Guidance**

Legislation

The combined effect of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) is that planning applications must be determined in accordance with the statutory development plan unless material considerations indicates otherwise.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the planning authority should pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses.

Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) applies in the event that planning permission is granted and requires that a planning obligation (under s.106 of Town and Country Planning Act 1990) may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

Dover District Core Strategy (Adopted February 2010)

The stated aim of the Core Strategy is to regenerate the District so that economically and socially it out performs the region. At Sandwich the strategy seeks to support the town's tourism and leisure function. There is a general priority on protecting the qualities of the built and natural environments.

Specific objectives of the Core Strategy are to maintain and enhance the District's natural environment inheritance; that the intrinsic quality of the historic environment is protected and enhanced.; and that the infrastructure needs to support the high growth strategy are delivered.

Policy CP6 identifies the importance of the provision of infrastructure to meet the demands of development. In determining infrastructure requirements, it should first be considered whether existing infrastructure can be used.

Policy CP7 seeks to protect and enhance the existing network of green infrastructure. The integrity of the existing network of green infrastructure will be protected and enhanced.

Policy DM1 restricts development on land outside the urban boundaries and rural settlements unless it functionally requires such a location.

Policy DM12 relates to the access arrangements of development proposals.

Policy DM15 seeks to protect the character and appearance of the countryside. Development will only be permitted under specific circumstances.

Policy DM16 addresses landscape character – development that would harm the character of the landscape will only be permitted if its impacts can be reduced or mitigated to an acceptable level.

Dover District Local Plan (Adopted 2002) - Saved Policies

Policy CO5 seeks to conserve, protect and enhance undeveloped or heritage coasts.

Policy ER6 seeks to ensure that proposals incorporate appropriate avoidance and mitigation measures against light pollution.

Dover District Land Allocations Local Plan (Adopted January 2015) ("LALP")

The LALP confirms that the conservation and enhancement of the landscape character remains an important policy objective as set out in the Core Strategy.

The LALP should be read in conjunction with the Adopted Core Strategy and Dover District Local Plan (saved policies). The LALP recognises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. The value and significance of heritage assets is included in the LALP as specific reference is made to the Dover District Heritage Strategy (2013).

Kent County Council Minerals and Waste Local Plan 2013 - 2030 (adopted 2016)

Policy CSM11 states that planning permission will be granted at suitable locations for drilling operations associated with the prospecting for underground limestone resources in East Kent. However, the Local Plan clarifies that the surface working area of any an East Kent limestone mine is not identified for safeguarding. This is because there has been no advancement in the mine's development since the identification of this resource in the 1993 Minerals Subject Plan. There is no certainty where the built footprint for the surface aggregate processing facility is likely to be situated (if it is ever developed).

National Planning Policy Framework ("the Framework")

At paragraph 7, the Framework states that there are three dimensions to sustainable development – an economic role, a social role and an environmental role. These roles (Framework paragraph 8) cannot be undertaken in isolation because they are mutually dependent.

Relevant core planning principles of the Framework that should underpin decision making include:

- proactively drive and support sustainable economic development to deliver infrastructure (amongst other types of development) that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

- take account of the different roles and character of different areas; recognise the intrinsic character and beauty of the countryside; and supporting thriving rural communities within it;
- encourage the reuse of existing resources;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- encourage multiple benefits from the use of land in urban and rural area;
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Paragraphs 18 to 22 address sustainable economic growth, including that local planning authorities should plan proactively to meet the development needs of businesses.

Paragraph 42 recognises that advanced, high quality communications infrastructure is essential for sustainable economic growth and that it plays a vital role in enhancing the provision of local community facilities and services.

Paragraph 43 identifies that whilst the local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband, they should aim to keep the numbers of radio and telecommunications masts and the sites for such installations to be a minimum consistent with the efficient operation of the network. The use of existing masts, buildings and other structures should be used unless the need for a new site has been justified.

Paragraph 45 requires that applications for telecommunications be supported by evidence to support the development, including the outcome of consultations; that the use of an existing building, mast or other structure has been explored before a new mast is proposed; and that International Commission on non-ionising radiation protection guidelines are met.

Paragraph 46 stresses that that local planning authorities must determine applications on planning grounds and should not seek to prevent competition between different operations, question the need for the telecommunications system, or determine health safeguards if the proposal meets the International Commission guidelines for public exposure.

Paragraph 65 recommends local planning authorities to not refuse planning applications for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

Under Paragraph 75, public rights of way and access should be protected and enhanced.

Paragraph 99 confirms that local plans should take account of factors including flood risk, and changes to biodiversity and landscape.

Inappropriate development in areas at risk of flooding should be avoided (Paragraph 100), with application of the sequential test and exception test.

Paragraph 109 sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Development should minimise impacts on bio diversity and provide net gains where possible.

Paragraph 113 states that local planning authorities should set out criteria based policies against which proposal for any development on or affecting protecting wildlife or geodiversity sites or landscape areas will be judged.

Local planning authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes (Paragraph 114).

Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Paragraph 125 seeks to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Under Paragraph 132, when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater that weight should be.

Paragraph 134 requires that where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 203 requires that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

At Paragraph 204, it is clear that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Planning Policy Guidance ("PPG")

The PPG provides guidance on matters relating to main issues associated with development and is underpinned by the Framework.

Other Documents

- Dover District Green Infrastructure Strategy (2014)

- Seascape Character Assessment for the Dover Strait (2015)
- Landscape Character Assessment (2006)
- Dover District Heritage Strategy (2013)

d) Relevant Planning History

Application Site

DOV/13/00794 - Creation of a solar farm and associated works. Permitted (24/01/14), not implemented.

In response to a EIA Screening Request, the Council issued a Screening Opinion that the development required EIA due to its likely significant environmental effects.

Surrounding Area

- i. DOV/16/00524: Erection of a 305m high / 2.5m wide guyed communication mast (with 5no. 9m wide anti-twist frames at intervals above 140m) with 6no. 3.7m diameter dish antenna, 206sqm base compound enclosing associated equipment cabins and electric meter cabinets up to 2.5m in height (4.2m above ground level), 9no. guy stay compounds, stone access track, hard and soft landscaping and associated works on Land to the North of Kings End Farm, Richborough, Sandwich, CT13 9JH. Pending determination.
- ii. Richborough Connection Project: A Development Consent Order application. Proposed electricity transmission development including substations and pylons between Richborough and Canterbury. The Examination of the DCO has now concluded and a decision for the Secretary of State is expected in Summer 2017.
- iii. Nemo Interconnector: Development Consent Order. An underground high voltage cable, with above ground works including converter station building (max height 30.8m), substation building (max height 15m), outdoor plant (max height 12.7m), converter station (max height 11.8m) construction compound, security fencing, access road and hard landscaping.
- iv. DOV/12/01017: Peaking plant facility at the former Richborough Power Station – electricity infrastructure plant – approved – under construction.
- v. F/TH/15/1245: Wind Turbine (67m tall) at the former Richborough Power Station – approved.
- vi. DOV/13/00701: Estover CHP Biomass Plant at Discovery Park – combined heat and power plant and associated fuel storage – approved under construction.
- vii. DOV/14/00058: Redevelopment of Discovery Park – redevelopment and change of use for a mix of employment, energy, retail, hotel, non-residential institution and residential uses – approved.
- viii. DOV/15/00430 & DOV/13/00783: Industrial units at Discovery Park – B2 use industrial unit and foodstore – both approved.

- ix. DOV/15/00588: Land South of Stonar Cut, Ramsgate Road. Waste management for the sorting of skips.

e) **Consultee and Third Party Responses**

Ash Parish Council

Objection on the following grounds:

- the site boundary is not as described, at the former Richborough Power Station, Ramsgate Road, Sandwich. This was not clear in the previously submitted documentation. It is on the west side of the River Stour between the river and the railway line and is within the parish of Ash. It is on marshland and not on a brownfield site and there will be destruction of the special habitat, flora and fauna that is present on this site;
- the adverse visual impact of the mast is seriously understated in the photomontage submissions and in the assessment of the impact it has on surrounding historical sites, villages and the Saxon Way footpath;
- this application will set a precedent for this height of mast;
- the cumulative effect will increase the adverse visual impact of the mast; and
- other objections as per consultation response in February stand, except with acknowledgement that CAA has said that it will not prevent the possibility of the development of Manston Airport for aviation.

Sandwich Parish Council

No objection. However, the Council would urge any businesses planning to build telecommunication masts to work together, thus reducing the total number of masts.

Worth Parish Council

Support the application, providing the conditions of the benefits to local school children and community groups are carried out as presented to the Parish Council previously by the applicant.

Cliffsend Parish Council

Objection:

- the mast would tower over the whole area and aircraft lights would become a visual eyesore at night;
- over 80% of houses in the Cliffsend would see the mast, which would be extremely detrimental to their visual outlook;
- TV and radio signals to the village could be affected;
- dover community radio transmissions will not reach Dover; and
- other sites on higher ground should be considered. The application does not make the case as to why they are discounted;
- could there be a taller mast in Belgium instead;
- the mast would be a danger to aircraft, including if Manston Airport were to reopen.

Thanet District Council

The primary concern is that the proposals should not prejudice Thanet District Council's ability to undertake a proper assessment of the Manston airport's

commercial potential, and therefore the proper planning of the area. It is expected that Dover District Council will undertake its own assessment of aviation information submitted, with whatever additional professional advice it considers is required. If the Dover District's Council's assessment is that this proposal could prejudice these wider strategic decisions, Thanet District Council would request that the application be refused on those grounds.

Severe concerns are raised about the visual impact on the character and appearance of the former Wantsum Channel and the Wantsum Channel North shore area, with reference to long views of Pegwell Bay.

Historic England

In summary, Historic England comment that the proposed development would cause significant harm to the ability to appreciate the heritage significance of the Richborough Fort scheduled monument, though this is not amount substantial harm in the terms of the Framework. For a clear and convincing justification for the harm to be made it would be necessary to show that other less harmful designs and locations are not possible and that the unavoidable harm is outweighed by the public benefits of the scheme.

The Council should weigh the harm that this scheme will cause against any public benefits that the scheme might bring, as required by paragraph 134 of the Framework.

The full consultation response of Historic England provides comments in relation to the significance of Richborough Fort and the effects of the Proposed Development. For the benefit of the Committee, this is appended to this committee report (**Appendix 1**).

Natural England

The Site is in close proximity to the Thanet Coast to Sandwich Bay SPA, which is also listed as the Thanet Coast and Sandwich Bay Ramsar site and notified at a national level as the Sandwich Bay to Hacklinge Marshes SSSI.

The Proposed Development is unlikely to have a significant effect on any European site (the SPA and Ramsar). Subject to use of deflectors fitted to the guys to reduce the risk of bird collisions and a monitoring strategy to ensure that measures to avoid bird collisions are successful (with an option to increase measures if need be), there are unlikely to be implications from the Proposed Development on the Sandwich Bay to Hacklinge Marshes SSSI.

No objection with regard to internationally and nationally designated sites.

Civil Aviation Authority – Safety and Airspace Regulation Group

The CAA's position is that it would be inappropriate for it to support or refute any or all of the assessments made by either party in this case. This is because any future requests to activate airspace structures or procedures at Manston would be subject to regulatory scrutiny and assessment by the CAA, Safety and Airspace Regulation Group (SARG), of which Aerodromes and Airspace Regulation are two capability teams.

In summary, the CAA recognises that one must consider a variety of political and economic imperatives and technical assessments when reaching a decision on planning applications. Tall structures close to an airfield will obviously have some degree of impact on operations. The real issue that needs to be considered here is the scale of that impact and the ability of the aerodrome operator to mitigate those impacts and safeguard operations; this may well involve a degree of business risk on behalf of the aerodrome operator.

NERL Safeguarding Office

NATS (En Route) Public Limited Company ("NERL"), who is the organisation responsible for the management of en route air traffic, has reviewed the Proposed Development from a technical safeguarding aspect and advises that it does not conflict with NERL's safeguarding criteria. There is no safeguarding objection to the proposal.

The General Aviation Awareness Council

Objection: Any decision on the Application would be premature until Manston's future as an airport is clarified. Objection is maintained even with a deconstruction clause because of hazards to safe aviation.

Environment Agency

No objection in principle, subject to conditions relating to potential ground contamination and groundwater.

The submitted flood risk assessment is adequate and the proposal does not create or exacerbate flood risk on or off site.

Groundwater quality and nearby surface waters will be at risk from historic, current and proposed activities at this site and all precautions should be taken to prevent discharges and spillages to ground, both during and after construction. There should be certainty that pollutants at the identified ash lagoon will not be mobilised that may impact upon the groundwater and surface water environment.

The piling risk assessment should include information on any contamination.

Infiltration drainage is unlikely to be acceptable due to the high ground water level.

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water. Above ground pipework should be protected from accidental damage. Below ground pipework should have no unnecessary mechanical joints.

The production and implementation of a Construction Environmental Management Plan (CEMP) and Invasive Species Management Plan, as proposed in the Ecology chapter of the Environmental Statement, is sufficient to ensure that measures will be taken to avoid adverse impacts to ecology.

National Grid

National Grid has made a Holding Objection to the Proposed Development, because the Site falls partly within the limits of the Development Consent Order (DCO) application, made to the Planning Inspectorate for a 400kV electricity transmission

connection between Richborough and Canterbury – the Richborough Connection Project (RCP).

The application contains insufficient information to consider the effects of the Proposed Development's construction programme against that of the RCP. The eastern guy rope anchor point would impact the access roads required for the construction of the RCP. The access route for the Proposed Development interferes with that for the RCP.

National Grid is committed to discussions with Vigilant Global to ensure that both projects could be built and operated in parallel, but maintains its objection until there is agreement.

Network Rail

No objection. As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts AssetProtectionKent@networkrail.co.uk prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with it to enable approval of detailed works.

KCC Highways and Transportation

No objections in respect of highway matters. The proposals generate very little traffic for operational purposes and construction traffic can be managed through a Construction Management Plan, which can be secured by condition. This should include routeing of vehicles to/from the Site; access arrangements through the existing waste transfer site, in particular how the current height barrier, access route through to the bailey bridge and existing HGV movements to/from the waste transfer station are to be managed so that vehicles will not queue back onto the highway; parking and turning areas for deliveries and site personnel; and wheel washing facilities.

KCC Archaeology

The proposed mast lies close to the Scheduled Roman site of Richborough, which is a Scheduled Ancient Monument and Grade I Listed building (Richborough Castle). Richborough is a site that is of great importance in understanding the complete story of Roman Britain. It is here that the Emperor Claudius is believed to have landed during his invasion of Britain in AD 43, and it is at sites such as Richborough that the withdrawal of the last vestiges of Roman administration in circa AD 410 can be observed.

By virtue of its size and location the proposed mast will clearly be visible from within the English Heritage visitor site at Richborough and from across the wider Scheduled Monument. The proposed mast lies some 1.4km to the north of the Richborough Scheduled site (not 2.25km as suggested in the applicant's submission) and will be very conspicuous in views north from the fort across the former Wantsum Channel towards the Isle of Thanet.

The significance of the landscape setting of Roman Richborough is undervalued in the applicant's assessment of the schemes impacts. Conversely I think the existing harm caused by existing modern features in views from Richborough are overstated.

The construction of the proposed mast has the potential to be very harmful to the setting of the Richborough Roman site and could affect the ability of visitors to understand the significance of the place. At some 322m high the structure will be of a magnitude that far exceeds anything else in the local area and will be particularly conspicuous. Whilst there are sporadic masts, pylons and other industrial buildings within view from Richborough these are lower lying than the proposed mast and generally protrude little above the horizon. As such it is felt that the mast would become the prominent and defining feature in this view.

The mast's sheer scale would mean that it would be the dominant feature in views out from the Scheduled Monument to the north. Setting is not however just about views, but is also about how a person experiences an asset. The height of the mast is such that it will remain visible even from within the massive stone-walls of the Saxon Shore Fort. It would be a constant presence and would be harmful to the visitor's experience of the site, would detract from the monumental character of the fort's walls and would break the sense of enclosure that the masonry walls currently provide.

For these reasons, on the basis of present information, the construction of the proposed mast would be harmful to the significance of the Grade I Listed Building and Scheduled Monument at Richborough.

The construction of two masts, serving such similar purposes, in such close proximity to each other would seem be unnecessarily harmful to the significance of the important Roman site of Richborough.

The applicant has put forward proposed mitigation measures in response to the scheme's direct impacts on remains of geo-archaeological and archaeological interest which comprises a combination of purposeful geo-archaeological boreholes to investigate deeply buried sedimentary sequences and archaeological monitoring of shallower construction works. The proposed mitigation measures appear reasonable. Such a programme of archaeological work could be secured by an appropriately worded planning condition.

KCC Public Rights of Way and Access Service (PROWAS)

The easternmost anchor point will directly impact on public right of way EE42, which forms part of the Saxon Shore Way. However, it is noted that the route walked on the ground is not the definitive route.

Following discussions with the applicant, there is no objection (confirmed letter dated 4 July 2016) to the diversion of footpath EE42, subject to that being regularised pursuant to the Highways Act 1980, the Town and Country Planning Act 1990, or Growth and Infrastructure Act 2013 Section 12.

KCC Landscape

An assessment of the landscape and visual impacts of the Proposed Development and a review of the planning application has been provided by a landscape architect on behalf of KCC.

There would be a number of receptors experiencing adverse visual effects, many of which would be highly significant. In particular, walkers on a large stretch of the Saxon Shore Way and visitors to Richborough Castle would experience highly significant adverse effects. There would also be lesser adverse effects on other

public footpaths but spread over a significant geographical range. Quex Park Cottages and Castle Cottages off Richborough Road are highly sensitive residential receptors and the magnitude of adverse impact would be high, I conclude that this would result in a highly significant adverse effect. Further afield the view over Pegwell Bay from Ramsgate Esplanade would also be significantly adversely affected. The landscape character of Pegwell Bay, Ash Levels and Richborough Castle would be significantly adversely affected.

Cumulative impacts would increase the severity and geographical extent of the adverse impacts identified.

DDC Environmental Protection Officer

Ground conditions: no objection subject to standard contaminated land conditions.

Hours of work to be agreed by condition.

The applicant has provided an ICNIRP declaration, which is acceptable for this application.

DDC Ecology Officer

The Site comprises grazed grassland intersected by ditches and is part of the wider Ash Level and South Richborough Pasture Local Wildlife Site (DO21). To the north are the ash lagoons associated with the earlier Richborough Power Station, while to the south is further grazing land.

The ditches retain importance through their assemblage of plants. Species of interest on the site are Curlew (non-breeding) and *Haliplus variegatus*, a nationally rare water beetle.

Natural England does not object to the application. Kent Wildlife Trust maintains an objection based on site selection and construction details.

The ES identifies that the ditches provide suitable habitat for Water Vole (*Arvicola amphibius*) – a species protected under the Wildlife and Countryside Act 1981 and a UK Priority Species (Natural Environment and Rural Communities Act 2006). There is concern that not all the ditches within the Site have been subject to specific biodiversity assessment

Whilst it is usual to ensure that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted (ODPM Circular 06/2005), given that any effects on Water Vole are bound to be limited, by virtue of the small amount of ditch habitat involved, and then only during the construction and decommissioning periods, it is considered proportionate in this instance to condition a detailed survey and mitigation scheme.

The invasive species of *Crassula helmsii* occurs on the Site, close to the eastern support guys. It is an offence to plant or otherwise cause this species to grow in the wild. A construction and decommissioning ecological management plan should demonstrate how the spread of *Crassula helmsii* will be prevented.

The size of the application Site has significantly increased from its original 0.5675 ha to the amended 2.6456 ha. The original ecological report (21 January 2016) covers

the Site and a large area around it, including a large proportion of the land for the access route. However, it does not include a Phase 1 survey of the southern section of the access route, across the ex-landfill site. As a matter of completeness this should be addressed.

Habitat Regulations Assessment

The Global Vigilant mast proposal lies within an SSSI Impact Risk Zone which is concerned with likely impacts on European and Ramsar sites, as well as SSSI.

The Conservation of Habitats and Species Regulations 2010 (as amended) requires that the Local Planning Authority, as the competent authority, assesses proposed developments in respect of their implication for European sites. UK Government policy extends that protection offered to European sites to Ramsar sites.

In accordance with Habitats Regulation 61 (2) the applicant has supplied information to inform the HRA as Appendix C of the Environmental Statement. This is considered to be a comprehensive and thorough report.

The initial stage of the HRA is to screen potential likely significant effects. The one SPA and Ramsar cited species that is known to use the Ash Level, the golden plover (*Pluvialis apricaria*) has been considered and the applicant concludes that there would be no likely significant effect on this species. The other SPA cited species – little tern (*Sterna albifrons*) and ruddy turnstone (*Arenaria interpres*) are not known to use the Ash Level.

Natural England has been consulted on the application and concurs with the finding of the applicant.

Therefore, it is concluded that the collision risk to little terns, ruddy turnstone and golden plover is low, that the installation of bird deflector spirals would lessen this risk still further, and, consequently, there is no likelihood of a significant effect and no further assessment is necessary.

Natural England does, however, request that bird collision monitoring is put in place. The Local Planning Authority concurs with this and a condition requiring such monitoring for 5 years post-construction is recommended.

DDC Heritage Officer

Impact on the setting of the grade I listed St Peter's Church: The Framework defines setting as 'the surroundings in which a heritage asset is experienced'. Further guidance on assessing setting is contained within the Historic England GPA3: the setting of heritage assets (GPA). Setting is not a defined boundary and the contribution to the significance of the heritage asset is often described as views of or from it. With specific reference to churches in the district, the Dover District Heritage Strategy defines churches as being of outstanding significance and notes that rural religious buildings have value in their contribution to the aesthetics of the historic landscape and wider rural environment; it states 'the spires of rural churches can often be seen over long-distances and are recognised and valued local landmarks'.

St Peter's Church in Sandwich has recently opened up access to the tower with a platform allowing a 360 degree view of the surrounding landscape, providing far reaching views on a clear day including Richborough Fort being visible in the mid-distance. An appreciation of how Sandwich and St Peter's sit within the landscape

can now be gained from this vantage point. In particular, there are often visual links between churches within different parishes, and on looking north the spire of the Church of St Mary in Minster-in-Themet is clearly visible on the ridge. Despite the distance, in my view the Proposed Development would be visible within this viewpoint, set against and extending significantly above the ridge, and will potentially draw the eye and detract from the inter-relationship between St Peter's and St Mary. However, this relationship is only able to be appreciated visually from the St Peter's platform (as long range views of St Peter's from the ridge are generally obscured) and can be said to have a more significant impact on the setting of St Mary's.

Impact on conservation areas: the highly dense urban grain of the Sandwich Walled Town Conservation Area precludes views out into the surrounding landscape except when on routes out of the town or on the town wall. Even in these circumstances the views of the landscape are discrete and the relationship of the town to the surrounding rural landscape has been affected by modern development. Notwithstanding the view of the conservation area within the wider landscape that is now afforded by the viewing platform at St Peter's church discussed above, whilst there is no doubt that the height of the masts will have potential to make them visible at points within the conservation area, in my view the no harm would be caused due to the distance of the masts from the conservation area. This is also the case with St Bart's Conservation Area, which has been enclosed on the NW with extensive modern development.

Impact on grade II listed buildings: the setting of several grade II listed buildings has potential to be affected by the masts. In general, the impact is limited due to the listed buildings having limited interaction with the surrounding landscape, and consequently being capable of appreciation at close quarters rather than long distance views. The buildings on which the masts will have the greatest impact are Guston Court, Kings End Farm, Richborough Farm Cottage and Castle Farm. The latter three buildings are located close to each other and have or had a functional relationship with the surrounding land. However, they are set within well treed/vegetated landscapes and with the exception of Castle Farm have limited presence in the public realm and no clear visual inter-connection with the landscape. Whilst the masts will be visible they will not be viewed within the context of these listed buildings and there is consequently no harm to their setting in my view.

DDC Landscape

The proposal is for a 324 m high telecommunications mast for the primary purpose of international high frequency trading. The proposed location is the northern section of the Richborough Marshes, that area of the Ash Level isolated by the mainline railway embankment and the River Stour.

Applications such as this are rare and the current best practice guidance, the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment 3rd edition (GLVIA3) can only provide limited assistance. It is noted, however, that whereas the GLVIA3 encourages a clearer use of terminology, the Landscape and Visual Impact Assessment (LVIA) as presented in the Environmental Statement (ES) is, perhaps, over-complicated by inclusion of heritage landscape assessment within the same chapter, which can involve a different set of considerations to landscape. There is also some variation in terminology within the ES.

Beneficially, the applicant has supplied photomontages to illustrate cumulative impacts with other proposals and authorised developments in the area.

The applicant has supplied further information, as requested, which has been valuable in assisting an understanding of the likely effects of the proposal, including those during night time.

A comprehensive review of the applicant's conclusions regarding both landscape character effects and visual effects has been undertaken and is appended. The review considers the Richborough Connection, this application, and the New Line Networks application, in turn. A short consideration of cumulative effects of the three applications is also given to highlight effects should two or more of the applications be granted planning permission.

Dover district benefits from a Landscape Character Assessment, dating from 2006, which forms a framework in which to consider the effects of the proposed mast. The Assessment draws up a number of Landscape Character Areas (LCAs) which have their own special qualities. Normally, it would be expected that any LVIA would base itself on such LCAs or, refine them further. However, in this case the applicant has enlarged the areas, and even, in the case of Richborough Castle LCA, disposed of them. To regain some order in the review and allow comparison with other applications, the effects have been interpreted in terms of the Dover Landscape Character Assessment.

The conclusions of the review are given below:

- there will be a significant adverse visual effect on Richborough Fort and Roman amphitheatre, a heritage site of national importance and tourist attraction of importance for east Kent, as well as Sandwich Bay and Pegwell Bay National Nature Reserve. The new section of the England Coast Path north of Sandwich will be significantly affected, as well as two regional trails, the Saxon Shore Way and the Stour Valley Walk. People using four other public rights of way and well as residents of up to 14 rural properties will experience a significant adverse visual effect. There will be a moderate, but significant, adverse visual effect on tourists using the church tower of St Peter's, Sandwich, for viewing the surrounds;
- four Dover Landscape Character Areas would be affected by the proposed development. For two LCAs, Richborough Castle and Sandwich Bay, the landscape effects will be adverse and significant. While the landscape effects on the Ash Level are considered not significant, there would be a significant adverse impact on the Richborough Marshes subset of the Ash Level; and
- there would be a major and significant adverse visual effect cumulatively with the proposed New Lines Network Mast.

Given the widespread and significant adverse effects on landscape and visual impact, it is considered that on landscape grounds, the proposed development should be refused.

DDC's agricultural consultant

The loss of agricultural land, or impact on agriculture, is unlikely to be significant factor in this case. The land is of not particularly high agricultural potential and on which a solar farm development has already been consented.

Kent Wildlife Trust

The application site lies wholly within the Ash Level & South Richborough Pasture Local Wildlife Site (LWS, DO21).

Kent Wildlife Trust accepts that the operation of the communications mast will have a negligible impact on terrestrial habitats and the wildlife it supports. But objection is raised on the grounds of (i) a lack of justification for the selection of this location, in comparison with alternative locations; (ii) the absence an evaluation of the extent of working areas for the construction of the mast compound, the mast foundations and the anchor point foundations; and (iii) the argued use of 'permitted development' for construction (and decommissioning) activities that the Council is not obliged to have regard to such environmental impacts.

Objection relating to decommissioning impacts only was subsequently withdrawn (letter of 3 March 2016).

Kent Downs AONB Unit

No comments received.

Public representations

122 representations have been received by the Council. Of these 100 representations raise objections to the mast, 21 are in favour and 1 provides comments.

The following is a summary of the objections raised that are material to the consideration of this application:

- visual Impacts;
- adverse impacts on visual outlook;
- detrimental impacts on the existing radio and communications signal due to line of sight
- loss of transmission;
- health and safety impacts;
- EMF Exposure and Radio Frequency Radiation;
- adverse effects on marshland;
- impacts on the operation of Manston airport;
- impacts on flight safety;
- lack of public benefits;
- the proposed masts will restrict the re-opening of Manston Airport;
- inconsistencies with the submitted information, in particular the INCRIP certificate
- lack of public consultation;
- impacts on Richborough Castle;
- impacts on neighbouring operations such as the solar farm as a result of shadowing;
- inappropriate development within the local environment;
- access and egress of the proposed site is through the Richborough Household Waste Facility;
- the proposed location can have severe impacts on the local micro-climate;
- interference and impacts on the nearby existing and proposed electricity pylons;
- no co-location opportunities sought;

- English Heritage does not support the proposal as the resulting harm is significant; and
- financial support to seek to offset the negative effects on the Roman fort is offered, but this does not address the harmful impacts.

Nathaniel Litchfield & Partners (NLP) on behalf of New Line Networks (NLN) have provided some comments towards this application and highlights that the application boundary appears to be incorrect as it does not incorporate access routes, pathways, links to the public highway for either the construction or the operational phase. The access routes could therefore currently be beyond the remit of this planning application and an amended site boundary plans should be submitted. The proposed construction phase access road and off-site construction compound should require a planning permission.

NLP highlight that there are inconsistencies and a significant range of constraints affecting this site and it is important that full details and the justification for the final design are provided. The application in its current form does not provide the extent of any physical encroachment onto PROW EE42 during the construction and operation phase of the proposal.

Given the location of the application site within the immediate vicinity of the Richborough Connection project, there is a significant overlap of the overhead line route(s) and the mast access route. In order for the implications of this to be adequately considered, robust technical evidence should be provided, demonstrating how the proposed mast can be implemented and operated without impacting on the delivery and future operation of the Richborough Connection project. Similarly, given the proximity to the South Eastern Ken Coast Railway, robust evidence should be provided which demonstrates how the proposed mast can be implemented and operated without impacting the safety, operation or integrity of the railway.

In summary, NLP consider that the further detail must be submitted in order to allow a full assessment of the application proposal.

Objection has been received on behalf of Riveroak Investment Corp, who have an interest or potential interest in Manston Airport. Their concerns are that the Proposed Development would represent a significant operational and safety risk for the future operation of the airport. These are considered in more detail further in this report.

Objection has been received on behalf of The National. The proposed mast is likely to have significant impacts on the quiet enjoyment of, and be visually intrusive to, on the quiet enjoyment of, and be visually intrusive to National Trust land at Pegwell Bay. The Pegwell Bay nature reserve and local area is designated at the highest level as RAMSAR site, Special Area of Conservation (SAC) and Special Protection Area (SPA), and as a National Nature Reserve (NNR) and SSSI of the highest sensitivity for nature conservation and consequently of significant landscape value.

The National Trust highlight that it is not apparent from the application what the public benefits of the mast will be, or what its contribution and function is. It is therefore very difficult for any assessment of the planning balance to be made in terms of any benefits of the mast, against the wide range of impacts on the environment, and on the very high status of the nature conservation designations at Pegwell Bay. In this case, a precautionary approach should be taken and any harm arising from the development should be assessed on a worst case scenario.

An objection has been received from CPRE Kent which highlights that the applicant has not demonstrated that other technologies are not available to meet communications needs. Establishing the need for the mast will be important during evaluation of the planning balance when determining the application. The least harmful site must be identified. The case has not been made. The search parameters did not include avoiding landscapes of historical, cultural or archaeological importance or avoiding impacts on habitats and species of principal importance, and designated habitats. The application documents do not demonstrate that there is a need for two masts of this scale. A mast of this height and in this location is not necessary to sustain the rural economy, nor meet the needs of the community.

The CPRE considers that the proposed mast would not protect or enhance the local and wider landscape character of this open and horizontal landscape. This harm to the character and appearance of the landscape is a significant impact. The proposed development is likely to have a significant effect on the setting of the Roman site at Richborough, a Scheduled Ancient Monument and Grade I listed Richborough Castle. The former Wantsum Channel is a heritage asset of value, which forms part of the setting of Richborough Fort. The impact would be substantial and harmful to its evidential, historic and aesthetic value and thereby its significance.

Lastly, the risk of bird impacts is a significant concern of CPRE and this issue should be discussed in detail with Natural England, Kent Wildlife Trust and RSPB.

No objection has been received from the Channel Gliding Club.

f) The Site and the Proposal

- 1.1 The application site comprises an area of agricultural grazing fields, which are predominantly flat with a number of ditches than run across them.
- 1.2 The location of the mast is some 0.5km to the west of Richborough Energy Park and approximately 1.5km from the coastline. The River Stour curves to the north and east; and the railway is to the west. The closest settlements are Cliffsend, Minster and Ramsgate to the north and Sandwich to the south. There are a number of isolated dwellings and hamlets to the south and west.
- 1.3 The Site includes a narrow strip of land to the south on which a temporary access track is proposed, connecting the proposed mast, via Baily Bridge over the River Stour, to the public highway (A256) to the south. The southern part of the Site crosses a former landfill site.
- 1.4 The location of the mast is approximately 3.5km to the south of the former Manston Airport (operations closed in 2014).
- 1.5 The Site is mainly in Flood Zone 2 and forms part of the 'Ash Level and South Richborough Pasture Local Wildlife Site' (LWS, DO21).
- 1.6 The Thanet Coast and Sandwich Special Area for Conservation, Special Protection Area and a RAMSAR, which is also a Site of Special Scientific Interest ("SSSI"), is some 2km to the east.
- 1.7 Sandwich and Pegwell Bay National Nature Reserve is located approximately 700m each of the Site.

- 1.8 Public right of way EE42 is to the east of the Site, which runs along the western bank of the River Stour.
- 1.9 Richborough Fort, a scheduled ancient monument and Grade I listed building is located approximately 1.5km to the south of the proposed position of the mast.

Proposed Development

- 1.10 Planning permission is sought for erection of a three-sided 3m wide, 322m tall guyed mast, which would be of a lattice-steel construction with an access ladder located within it.
- 1.11 On the mast, it is proposed to install:
- eight communication dishes for use by the applicant, with a respective diameter of between 2.4m and 3.7m, located at heights between 160m and 320m;
 - four communication antennae for VFast Internet, three of which have a height of 0.7m and the other a diameter of 0.43m, located at heights of 100m and 97m; and
 - an antenna for Dover Community Radio, 1.3m in size at a height of 235m.
- 1.12 The mast would be supported by guys that would spread out in three directions – 6 guys on each side, that connect to one of three concrete guys stays on each side.
- 1.13 The guys would have bird warning devices at 5m intervals up to 60m.
- 1.14 The mast would have seven aircraft warning lights, spread evenly at heights between 46m and 322m
- 1.15 At ground level, an operational compound would be provided, measuring some 32m by 15, with a 2.4m high green palisade fence around its perimeter. Within the compound there would be a single storey equipment building, some 15m wide by 2m deep, on a raised platform; and three rows of solar panels.

Temporary construction works

- 1.16 Planning permission is sought for an access track, approximately 1.5km in length, from Bailey Bridge to the position of the mast. The applicant notes that much of the route of this access track coincides with that which is proposed by National Grid as part of the Richborough Connection Project. However, to avoid dependency on the Richborough Connection Project, the full length of the access track forms part of this planning application.
- 1.17 There is an alternative access option: via a new bridge, to the east of the location of the proposed mast, over the River Stour, which forms part of the National Grid's Richborough Connection Project. This bridge would connect with a proposed section of access track on the western side of the river. In this option, subject to the applicant securing access rights, the longer access track south to Bailey Bridge would not be needed.
- 1.18 The track would have a width of approximately 4m with a 1m verge on either side. It would be made of crushed and compacted rock.
- 1.19 Other proposed temporary construction works include a construction laydown and assembly area, measuring 50m by 50m, to the north of the mast; and a temporary

construction compound, to house welfare facilities, to the east of the mast. Both these would be made of crushed and compacted rock.

- 1.20 Following the construction of the Proposed Development, these temporary works would be removed and the land reinstated.
- 1.21 Operational access would be via the existing Bailey Bridge and across the fields with a 4x4 vehicle, without the need for a formal access track.

2. Main Issues

- 2.1 The main issues in the consideration of this application are:

- principle of development
- landscape and visual impacts
- heritage impacts
- ecology and ornithological impacts
- highways and transport
- aviation
- flood risk and drainage
- other matters
 - public safety
 - noise
 - contamination
- purported benefits
- cumulative effects and mast sharing
- planning balance

Principle of Development

- 2.2 The primary purpose of the Proposed Development is to provide an optical line of sight connection to a corresponding mast in Belgium in order to improve a data link between financial markets in London and Frankfurt.
- 2.3 The applicant sets out that the Proposed Development will contribute to the provision of a high speed communications network, supporting the operation of the financial services sector in the UK. There is reference by the applicant to a government report ('FinTech: On the Cutting Edge' (2016; UK Treasury), noting that it is crucial that investment is made in the high speed telecoms market, to ensure the competitiveness of the UK and future economic growth potential. The applicant describes the speed that data can be transferred by such a private network as vital to the businesses which it serves, particularly so for financial data.
- 2.4 Paragraph 42 of the Framework recognises that advanced, high quality communications infrastructure is essential for sustainable economic growth. Other sections of the Framework also emphasise the government's commitment to securing sustainable economic growth. Paragraph 46 states that the Council should not seek to question the need for a telecommunications system; however, this does not prevent the application being properly considered and determined on planning grounds.
- 2.5 The purported economic benefits of the proposal are addressed later in this report. But consideration should first be given to the justification for the height and location of the mast.

- 2.6 Paragraph 43 and 45 of the Framework stress that new communications equipment should be located on existing masts, buildings and other structures, unless the need for a new site has been justified.
- 2.7 The applicant sets out a site selection process was based on its requirement for the communication route to be in a straight line between the corresponding site in Belgium and London (a data centre in Slough, approximately 25 miles to the west of London). This straight line passes over Richborough, which was considered by the applicant to have sufficient land and flexibility in the area for the mast to be located.
- 2.8 The applicant considers that the mast needs to be as close as possible to the Kent coast due to the technical requirements of obtaining line of sight communication. A location of the mast further inland would result in the need for a taller mast.
- 2.9 Accordingly, a narrow area of search was defined, very close to the path of the straight line, from the coast back inland for a distance of approximately 5km. It is noted that this approach is generally consistent with that for application DOV/16/00524.
- 2.10 Within this search area, the applicant considered a number of selection criteria including impact on agricultural land, flood risk, ecological impact, context of other development, impact on heritage assets, ability to not prejudice other development, ability to mitigate any unacceptable impact on Manston Airport and the presence of suitable transport infrastructure.
- 2.11 The applicant considers that the Site, falling within the search area, meets all of the specific selection criteria and has accordingly been progressed.
- 2.12 The applicant refers to other existing masts – the transmitter tower at Church Hougham, the Swingate Transmitting Station in Dover and an existing mast near Ramsgate – but considers that these would deviate too far from the direct line of communication and the Swingate and Ramsgate masts are of insufficient heights. The tower at Church Hougham is at the required height, but it would only achieve a marginal connection and would be unreliable. Officers have no evidence to dispute this.
- 2.13 Whilst the applicant's site selection justification is not without its weaknesses – particularly that the Richborough area was immediately considered as having sufficient land and flexibility before any more detailed assessment – it is considered, nevertheless, that it is reasonable within the technical and operational constraints provided.
- 2.14 The use of alternative technologies is considered by the applicant, such as fibre optics and cables, or other wireless technologies. Fibre optics are stated by the applicant to be 40% slower than microwaves and would require the laying of cables across a large area of land, which may lead to large scale environmental impacts and/or nuisance, whilst other wireless technology was discounted by the applicant on the basis of not being able to provide the required improvement in network data transfer speed.
- 2.15 Core Strategy Policy DM1 (Settlement Boundaries) seeks to restrict development outside existing settlement boundaries unless it functionally requires such a location. Core Strategy Policy DM15 seeks to protect the countryside from development that

would harm its character or appearance unless it is justified that it cannot be accommodated elsewhere (i.e. not within the countryside).

- 2.16 As such, with regard to the justification of the siting of the Proposed Development, it is considered that the impacts of the mast should be considered on its merits, including landscape and heritage impacts and (with regard to the similar mast development proposed under application DOV/16/00524) whether or not the number of masts has been kept to a minimum.
- 2.17 Core Strategy Policy CP6 relates to the provision of infrastructure, but it is a policy to ensure that infrastructure is provided in a timely manner to support other development coming forwards (such as residential and retail growth). It is considered to be not applicable to the Proposed Development.
- 2.18 The Proposed Development, taking account of the compound, access track and guys, would result in the loss of an area of agricultural grazing land. Advice has been received by the Council's rural planning consultant that the Site and surrounding area is generally more suitable for grazing with more limited potential for crops. The advice concludes that the loss of agricultural land or impact on agriculture is not significant in this instance. Regard is also had to the recent planning permission for a solar farm on the Site.

Landscape and Visual Impacts

- 2.19 The applicant has submitted a Heritage, Landscape and Visual Impact Assessment with the application as part of the Environmental Statement.
- 2.20 The applicant has assessed the impacts of the Proposed Development on particular landscape character areas (receptors):
- i. The Wantsum Channel (including Minster Marshes, Ash Level and Stour Marshes);
 - ii. Wantsum North Shore;
 - iii. Thanet Plateau;
 - iv. Coastal Conurbation;
 - v. Pegwell and Sandwich Bays;
 - vi. Sandwich Corridor;
 - vii. Preston and Ash Horticultural Belt;
 - viii. Sandwich;
 - ix. Lydden Valley
 - x. Eastry Arable; and
 - xi. Deal.
- 2.21 The applicant considers that the greatest significance of landscape effect would be moderate adverse on the landscape character areas of Wantsum North Shore and Pegwell and Sandwich Bays, with minor effects on the areas of Wantsum Channel (including Minster Marshes, Ash Level and Stour Marshes), and Preston and Ash Horticultural Belt.
- 2.22 In response, landscape advice from the Council and KCC is that the significance of the landscape effects has been underestimated by the applicant. In particular, there would be significant impacts on the landscape areas of Richborough Marshes, Richborough Castle and Sandwich Bay, as well on Pegwell Bay although falling outside of Dover District

- 2.23 Visual impacts of the Proposed Development are also considered by the applicant, through an assessment of 29 representative viewpoints (VP) and receptor groups including residential properties, walkers, tourists/visitors to heritage assets and other activities (including cycling, golf and bird watching).
- 2.24 The representative VPs the applicant considers would be most affected, with a moderate adverse significance of effect, are those at Saxon Shore Way, near Richborough Energy Park (VP1); Richborough Fort (VP3); the base of the Old Pipe Bridge adjacent to the PRow (VP12); from inside Richborough Fort (VP13); and adjacent to the west of Richborough Fort (VP14).
- 2.25 For receptor groups of walkers and visitors to Richborough Fort, the applicant also considers that there would also be moderate adverse effects. Other receptor groups of residential, cyclists, golfers and other general recreational pastimes, are considered by the applicant to have a lesser minor adverse effect.
- 2.26 However, advice from KCC disagrees with the applicant: the applicant's Environmental Statement understates the dominance of the Proposed Development. Highly significant adverse effects are identified from:
- Saxon Shore Way, near Richborough Energy Park (VP1) because of the mast's very close proximity and its much larger scale than existing structures, and because of the high sensitivity of the receptor;
 - Richborough Fort (VP3) – the mast would be intrusive and dominating from such a sensitive location (Grade I listed building and scheduled monument);
 - Royal Esplanade, Ramsgate (VP8) and Pegwell Conservation Area (VP21) – the broad panorama looking over Pegwell Bay and Sandwich Bay, which is a notable view for tourists and set within a conservation area. The Seascope Assessment for the Dover Strait notes the 'wide, simple and unrestricted views along the coastline including to Pegwell Bay to the south, from high points such as West Cliff'. The Thanet Local Plan comments on the area (para. 10.95): 'The Thanet coastline and the sea also considerably enhance the value of the District's landscape, and this enhanced value is recognised by its partial designation as part of the Pegwell Bay Special Landscape Area and the former Wantsum Channel Landscape Character Area';
 - Old Pipe Bridge (VP12), where the mast would be very prominent for highly sensitive walkers using the Saxon Shore Way;
 - in and around Richborough Fort (VP13, VP14 and VP15) – the mast would be clearly visible as a backdrop to the monument, contrast with the flat landscape setting, and be a new and very tall element in the centre of the view and of much greater height than other detractors;
 - residential properties on Ebbsfleet Lane and at Sevenscore some 1km from the Proposed Development; and
 - public rights of way within 3km of the Site, reducing to moderate adverse significance at distances up to 6k. This would affect an approximately 5km length of the Saxon Shore Way.
- 2.27 Advice is also received from the Council's landscape officer who identifies moderate adverse and significant impacts from Saxon Shore Way, near Richborough Energy Park (VP1); Richborough Fort (VP3); Old Pipe Bridge (VP12); in and around Richborough Fort (VP13 & VP14); and from the viewing platform at St Peters Church, Sandwich.

- 2.28 Core Strategy Policy DM16 seeks to protect the character of the landscape. Development that would harm the landscape character should only be permitted if it is in accordance with a specific development plan allocation (which the Proposed Development is not); or if design mitigation measures can be taken to reduce impacts to an acceptable level.
- 2.29 Given the significant adverse landscape and visual effects of the mast, which cannot be acceptably reduced or mitigated through design measures, it is considered that the Proposed Development is contrary to Policy DM16 and the Framework including paragraphs 109, 113 and 114 as well as its core planning principles at paragraph 17.

Heritage Impacts

- 2.30 The application is accompanied by an assessment of heritage impact. It identifies that although there are no heritage assets within the Site, the Proposed Development will affect the setting of several heritage assets, most notably the Scheduled Monument and Grade I listed building of Richborough Fort/Castle.
- 2.31 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory requirement that the Council as local planning authority pays special regard to the desirability of preserving the setting of a listed building. This duty has been clarified in recent case law – namely *Barnwell Manor Wind Energy Ltd v East Northants District Council & Ors* [2014]; and *Forge Field Society & Ors R v Sevenoaks DC* [2014]. It was found in both rulings that the duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 had not been discharged correctly, in that ‘special regard’ to the desirability to preserving the setting of listed buildings had not been given.
- 2.32 In respect of the current application, Members’ attention is drawn to this statutory presumption in favour of preservation of listed buildings and their settings, and that ‘considerable weight and importance’ must be given to the desirability of this. As a result, the Committee needs to consider any predicted harm to designated heritage assets and needs to give any such harm considerable weight in any subsequent planning balance.
- 2.33 Heritage assets that the applicant has scoped into its assessment are all Grade I and Grade II* listed assets, conservation areas, Scheduled Monuments and Registered Parks and Gardens within 10km of the Site. For assets of medium value, including Grade II listed assets and Scheduled Monuments without upstanding remains, only those within 5km have been scoped in.
- 2.34 These assets include the Scheduled Monument and Grade I listed building of Richborough Fort and Castle, some 1.4km to the south; numerous listed buildings in the countryside within 5km surrounding the Site; many listed buildings, Scheduled Monuments, Registered Park and Garden and conservation area at Sandwich; other clusters of listed buildings and some Scheduled Monuments within Marshborough, Monkton, Minster, Cliffs End and Ramsgate; and conservation areas at Sandwich, Stone Cross, Minster, Monkton, Pegwell Bay and Ramsgate.
- 2.35 The Framework (paragraph 132) requires the impact of the Proposed Development on the significance of designated heritage assets to be considered. Great weight should be given to an asset’s conservation: the more important the asset, the greater the weight should be. Significance can be harmed or lost through development within its setting.

- 2.36 The applicant makes an assessment of the construction and operation impacts of the Proposed Development on the setting the identified heritage assets. The Heritage Statement considers that the only material impact on the significance of any heritage asset is a moderate adverse impact on the setting of Richborough Fort. The applicant explains that although some 'minor adverse' effects are identified on other assets, this is as a result of the application of the EIA matrix, which makes it impossible for there to be less than a 'minor' effect for medium and high value assets, even if the magnitude of the effect is only negligible.
- 2.37 Officers have received consultation advice from Historic England and the archaeology officer at KCC.
- 2.38 Historic England focuses on the significance of Richborough Fort and the effects of the Proposed Development on it. The mast will be clearly visible from Richborough Fort and will be seen in conjunction with the heritage asset in views looking north. The mast would be a substantial new presence that is both nearer and much taller than other existing developments.
- 2.39 Historic England are particularly concerned that the Proposed Development would distract from views within the Fort, which would undermine the sense of enclosure and isolation that is presently created by the walls.
- 2.40 In long views from Richborough Fort north towards the Thanet plateau, across the Wantsum marshes, the Proposed Development would create a new and incongruous addition to the existing scene of open, flat fields. The existing sporadic other masts and groups of industrial and agricultural buildings rise little above the horizon. The Proposed Development would be difficult to ignore, dominating in northward views.
- 2.41 Historic England consider as well that the significant harm to the setting of the Fort would reduce the public benefit that it provides as a visitor attraction.
- 2.42 The response from the archaeology officer provides some further archaeological background to Richborough Fort and an assessment of its setting. It is considered that the Proposed Development has the potential to be very harmful to the setting of Richborough Fort and could affect the ability for visitors to understand its significance. Views across the former Wantsum Channel from the Fort are important in understanding its context; the Proposed Development will be very conspicuous in these views; and its constant presence would be harmful to the visitor's experience of the Fort.
- 2.43 Further comments from the archaeology officer, following further environmental information submitted by the applicant, disagree with the applicant's assessment that the "mast will be perceived as a structure in the distance, part of the larger group of manmade structures near the former power station site". The archaeology officer considers that at some 322m high the mast will be of a magnitude that far exceeds anything else in the local area and will be particularly conspicuous. Whilst there are sporadic masts, pylons and other industrial buildings within view from Richborough Fort, these are lower lying than the Proposed Development and generally protrude little above the horizon. Advice is that the Proposed Development would be harmful to the significance of the Grade I listed building and Scheduled Monument at Richborough.
- 2.44 In the cumulative scenario (taking account of other committed or proposed developments in the surrounding area), the applicant considers that the overall impact on Richborough Fort and other heritage assets will be minor. However, a

more detailed cumulative assessment has not been carried out by the applicant. Officers consider that the cumulative impact on the setting of Richborough Fort would be greater.

- 2.45 To seek to mitigate the impacts of the Proposed Development, the applicant would have offered to English Heritage (who manage Richborough Fort) a financial contribution of £100,000 towards the improvement of visitor facilities at the Fort. However, no detail is provided by the applicant as exactly what would be funded and how any improvements would be delivered in a timely manner that is linked to the Proposed Development.
- 2.46 The Council's heritage officer has considered in more detail the setting of St Peter's Church in Sandwich. It is identified that the Dover District Heritage Strategy defines churches as being of outstanding significance, and notes that such buildings have value in their contribution to the aesthetics of the historic landscape and wider rural environment; it states 'the spires of rural churches can often be seen over long-distances and are recognised and valued local landmarks'. From the viewing platform of St Peter's Church, there are far reaching views to the north towards the Church of Saint Mary in Minster. In this view the Proposed Development would draw the eye and detract from the inter-relationship between St Peter's and Saint Mary. As a result, there would be some harm, within the less than substantial range, to the significance of the setting of these churches.
- 2.47 With regard to the character of the Sandwich Walled Town Conservation Area and St Bart's Conservation Area, the heritage officer advises that the Proposed Development would not cause harm to their significance.
- 2.48 Consideration has also been given to any impact on the numerous grade II listed buildings. In general, the heritage officer advises that the impact is limited because the buildings have a more limited interaction with the surrounding landscape. Even with regard to those buildings on which the Proposed Development would have the greatest impact, although the mast would be visible, there would be no harm to the significance of their setting.
- 2.49 In relation to unidentified archaeological remains, the archaeology officer is satisfied, with a condition to secure the implementation of a programme of archaeology work, in accordance with a written scheme of investigation, that any potential impact can be mitigated.
- 2.50 The harm to Richborough Fort and Castle and the inter-relationship between the churches of St Peter's and Saint Mary must be weighed against the public benefits of the Proposed Development, as above and as identified elsewhere, as part of the balancing exercise required by Paragraph 134. That planning balance is carried out at the end of this report.

Ecology and Ornithological Impacts

- 2.51 Paragraph 109 of the Framework highlights that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible. Furthermore, Paragraph 118 seeks to conserve and enhance biodiversity by ensuring that the development does not result in the loss or deterioration of irreplaceable habitats, including ancient woodland and equally seek to protect wildlife sites.

- 2.52 The Site is in close proximity to the Thanet Coast to Sandwich Bay SPA and SAC, which is also listed as the Thanet Coast and Sandwich Bay Ramsar site and notified at a national level as the Sandwich Bay to Hacklinge Marshes SSSI.
- 2.53 In relation to these sites of international and national importance, Natural England advise, subject to the fitting of bird deflectors, that the Proposed Development is unlikely to significantly affect them. A monitoring strategy to ensure that the applicant's conclusions are realised is recommended by Natural England.
- 2.54 A Habitat Regulations Assessment carried out by the Council, under the Conservation of Habitats and Species Regulations 2010 (as amended) considers that there is no likelihood of a significant effect from the Proposed Development on European site above and that no further assessment is necessary.
- 2.55 The Site lies within the Ash Level & South Richborough Pasture Local Wildlife Site, which is a large complex of grazing marsh.
- 2.56 Comments from the Council's ecology officer have been received, who has considered any more localised ecological impacts of the Proposed Development. The original Environmental Statement assessed the impact of the mast and guys through a detailed ecological assessment. This concluded, subject to mitigation in the form of an invasive species management plan (in respect of *Crassula helmsii* that occurs on the Site), construction and demolition environmental management plans, protection of nesting birds, and future monitoring of birds and bats, that the Proposed Development will not result in any significant effects.
- 2.57 In the Environmental Statement addendum, which considers further the temporary construction activities and access route to the highway, the assessment identifies potential for Water Vole. As advised by the ecology officer, given that any effects on Water Vole are bound to be limited, by virtue of the small amount of ditch habitat involved, and then only during the construction and decommissioning periods, it is considered proportionate in this instance to condition a detailed survey and mitigation scheme (if necessary).
- 2.58 It is identified that the ecological assessment does not conclude a survey of the southern section of the access route across the ex-landfill site. Advice from the ecology officer is that this should be addressed for completeness; however, in the circumstances, it is considered that the matter could be dealt with by condition in the event that the Proposed Development was to be considered acceptable in all other respects.
- 2.59 Kent Wildlife Trust has objected to the Proposed Development on grounds that there is not justification for the use of the Site, that further assessment on the ditches across the Site are needed, and that previous arguments that part of the scheme is permitted development are unfounded. However, it is considered that these matters are adequately addressed by the applicant, including in the revised Environmental Statement addendum; and it is noted that Kent Wildlife Trust considers that the operation of the mast will have negligible impact.

Highways and Transport

- 2.60 The mast for construction purposes would be accessed from the highway either via an access from the A256, through a recycling centre, across Bailey Bridge and a

temporary length of track; or via a new bridge, to the east over the River Stour, which forms part of the National Grid's Richborough Connection Project (RCP).

- 2.61 Operational access would be via the existing Bailey Bridge and across the fields with a 4x4 vehicle, without the need for a formal access track.
- 2.62 The highways officer at KCC raises no objections to the Proposed Development. The proposals generate very little traffic for operational purposes; and construction traffic can be managed through a Construction Management Plan, which can be secured by condition.
- 2.63 There is a holding objection from National Grid that the eastern guy anchor point would impact the access roads required for the construction of the RCP and the access route of the Proposed Development interferes with that for the RCP. Although National Grid advises that it is committed to ensure that both projects can be built and operated in parallel, until this matter is addressed by the applicant it recommended that objection for these reasons be raised by the Council.

Aviation

- 2.64 The Environmental Statement considers the potential impact of the Proposed Development on aerodromes. It concludes that no aerodrome is sufficiently close to the Site to be affected. This is with the position that Manston Airport is no longer an operational aerodrome.
- 2.65 Further assessment work on behalf of the applicant (Manston Airport Impact Assessment – Wind Business Support (April 2016)) considers the scenario of Manston Airport reopening as an aerodrome. With regard to previous operational procedures at Manston Airport, the applicant considers that these would have remained unaltered without modification with the Proposed Development. It remains possible to design procedures to deliberately avoid sectors of airspace for reasons including avoiding obstacles.
- 2.66 The application asserts that the constraint posed by the Proposed Development on potential manoeuvring (circling) procedures, would not affect the usability of Manston Airport or its licensing; and overall it would not constrain its future use by any potential users.
- 2.67 Detailed representations¹ has been received on behalf of Riveroak Investment Corp ("Riveroak"), who are in the process of drafting an application for Development Consent Order (DCO), which encompasses the compulsory purchase of the airport, to reopen Manston Airport as an international hub for air freight, passenger travel and aircraft engineering services. Riveroak are aiming to submit the DCO application in summer 2017.
- 2.68 Riveroak have assessed the potential impact of the Proposed Development (should Manston reopen and be licensed) and raise objection.
- 2.69 Key conclusions of the Riveroak's Manston Airport Safeguarding Assessment (April 2016) are that:

¹ Manston Airport Safeguarding Assessment – Effect of Proposed Communication Masts to Operations conducted at a reopened Manston Airport (April 2016)
Manston Airport Safeguarding Assessment – Review of Wind Business Support Report (September 2016)

- the masts could adversely impact plans for future licensed aerodrome status at Manson;
- if the airport was operational, the masts would raise safety concerns;
- there would be an impact on Instrument Flight Rules operations, although not in itself ground for objection;
- Visual Flight Rules operations would need to take account of the masts;
- if air space to the north of the runway had to be used, this is over more populated areas; and
- the impact of the mast on Instrument Flight Rules operations and Visual Flight Rules operations would undermine the case for an aerodrome traffic zone.

2.70 Further representations by Riveroak on the Manston Airport Impact Assessment – Wind Business Support (April 2016) include comments that:

- the obstacle limitation surface is established to ensure safe operations, the encroachment cannot be fully mitigated and could undermine a future CAA Licence. This would have commercial implications;
- Riveroak is fully committed to revive Manston Airport as a successful aviation hub – such interest is not speculative;
- comments from NATS En-route relate only to en-route aircraft and not to the airport level;
- a smaller existing mast closer to Manston has no relevance;
- the previous cooling towers do not set a relevant precedent;
- visual manoeuvring procedures would need to be restricted to flying on the north side of the airport, over more densely populated areas;
- circling can be part of training practice;
- lateral changes to visual circuit would introduce other safety issues;
- the view of an independent piolet is that should an aircraft fly into the mast, lives would be lost;
- the guy lines are even less visible; and
- the mast undermines the case for establishment of an aerodrome traffic zone.

2.71 Clearly there is variance between the position of the applicant and those of Riveroak. In considering this further, regard is had to the consultation response of the CAA, who considers that:

- should Manston seek to reopen, the assessment work would need to be made in the context of the current airspace environment and any changes that may have happened since Manston closed;
- it is likely that the masts will not have any impact on straight in procedures designed for arriving or departing aircraft;
- there is likely to be an impact on the design of circuit traffic patterns; and
- the masts may hinder or limit operations in some areas, but these could only be quantified by a future operator.

2.72 The CAA agree with Riveroak that there are a large number of relevant variables that would need to be balanced when considering the risks to aviation.

2.73 In conclusion, the CAA sum up that the masts will have a degree of impact of potential future operations; and the ability of the aerodrome operator to mitigate these impacts and safeguard operations is key. However, there is no current operator and the likely prospect of Manston Airport reopening is unknown.

2.74 Whilst Riveroak have set out their plans to submit a DCO to reopen the airport, officers are also aware of other plans for Manston Airport. There is a current

planning application (LO/TH/16/0550) being considered by Thanet District Council for a comprehensive mixed use redevelopment of the site, which does not include any operational aerodrome function, which DDC objected to.

- 2.75 The consultation response from Thanet District Council (dated 29 July 2016) is that the Proposed Development should not prejudice the ability for Thanet District Council to undertake a proper assessment of the airport's commercial potential. Thanet District Council's emerging Local Plan policy (SP05) for the former Manston Airport allocates it for a mixed use settlement of at least 3,000 new dwellings and up to 85,000sqm of employment and leisure floorspace.
- 2.76 However, a more recent report commissioned by Thanet District Council (Commercial Viability of Manston Airport (September 2016)) concludes that airport operations at Manston are very unlikely to be financially viable in the longer term, and almost certainly not possible in the period to 2031.
- 2.77 As such, given the current status of Manston airport, officers would not wish to object to the Proposed Development in connection with its impact upon potential future operations. Whilst it appears that the mast could have some impact on how a future airport may need to operate, such impacts appear to not render any future airport use impossible
- 2.78 Dover District Council's position on Manston Airport (under a motion passed at Full Council in July 2014) is noted: That it supports the campaign to retain Manston as an operational airport, recognising the role and place it can have in the UK aviation industry, making the better use of regional capacity in accordance with the views of the South East Local Enterprise Partnership, while making a significant contribution as one of the strategic priorities for regeneration of the East Kent area.
- 2.79 The applicant has suggested (letter dated 11/07/16) an obligation for the mast to be reduced in height to such a level that is required by the CAA in order to issue a future licence for Manston Airport. Mindful of Riveroak's representations and Dover District Council's position, such an obligation in principle is supported by officers.
- 2.80 However, the obligation is not considered necessary, for reasons above, to make the development acceptable in planning terms. Therefore such an obligation would hold no weight in the planning balance in the determination of the application and the absence of such an obligation does not comprise reason for refusal.

Flood Risk and Drainage

- 2.81 Most of the Site (some 90%) is located within Flood Zone 2, with a small area in Flood Zone 3. In Flood Zone 2 there is a probability of river flooding between 0.1% and 1% each year; within Flood Zone 3, there is a greater than 1% annual probability of river flooding. The Site is also at risk from tidal flooding from inundation from the River Stour.
- 2.82 Paragraph 100 of the Framework outlines that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (as informed by a sequential test), but where development is necessary, making it safe without increasing flood risk elsewhere.
- 2.83 Paragraph 103 of the NPPF recommends for developments in areas at risk of flooding to be informed by a site-specific flood risk assessment following the sequential test, and if required the exception test.

- 2.84 With regard to the detailed site selection process that the applicant has undertaken, as detailed in this report, it is considered that the sequential test is satisfied.
- 2.85 Whether or not the Proposed Development is 'essential infrastructure' is not agreed. But if it were to be treated as this for the purposes of a flood risk assessment, an exceptions test is not required.
- 2.86 If it were to be considered otherwise, it would need to be demonstrated that the development provides wider sustainability benefits that outweigh flood risk and it would be safe for its lifetime and not increase flood risk elsewhere. However, given that the Environment Agency confirms that the Proposed Development does not create or exacerbate flood risk on or off site, an exceptions test would be passed because there would be no flood risk to weigh against any benefit (no matter how small the benefit).
- 2.87 A sustainable drainage system could be secured as part of the Proposed Development by condition.

Other Matters

- 2.88 The Proposed Development would include fixed plant, which is considered to be a sufficient distance from residential properties any noise to not be a nuisance, as can be secured by condition. Noise from construction works can be minimised in line with best practice.
- 2.89 Under application DOV/16/00524, the Council's ecology officer suggests that bird deflectors that make a noise in the wind are preferred for ecology reasons. If these were to be used, future assessment, as secured by condition, would be needed. Otherwise a non-audible deflector should be used.
- 2.90 The Council's environmental protection officer has confirmed that the equipment to be installed on the mast would be considered safe according to International Commission on Non Ionising Radiation (ICNIRP) guidelines. An updated ICNIRP declaration was received on 7th July 2016 due to an administrative error on the first declaration. The Framework (paragraph 46) is clear that where such equipment meets these standards, public health is safeguarded.
- 2.91 A report on the collapse risk of the mast has been submitted by the applicant. A study of potential failure scenarios shows that the mast would collapse with an area of debris smaller than half its height, due to the position and tension of the guys. The applicant concludes that this would not impact either the railway line to the west or the route of the future planned power line of the Richborough Connection Project.
- 2.92 In terms of ground conditions, the Council's environmental protection officer notes the report submitted by the applicant and recommends that any risk of contamination can be addressed by condition. The risk of any unexploded ordnance can also be addressed through further surveys secured by condition.
- 2.93 The easternmost guy stay is on the path of the definitive line of public right of way EE42, which is objected to by the Public Rights of Way and Access Service (PROWAS) at KCC. However, the general route of users of the footpath is closer to the River Stour and would avoid the proposed stay. Nevertheless, it is necessary that the public right of way is formally diverted to that of its common route. This

would ensure, in the event that the legal route of the footpath was ever enforced, it would not be blocked by the Proposed Development.

- 2.94 PROWAS have no in principle objection to the proposed diversion, as suggested by the applicant. However, whilst the application is seeking such diversion outside of the planning process, it is considered that this process should be linked to the Proposed Development (either through condition or s.106 obligation) so that the unobstructed legal footpath route is secured before its commencement.

Purported Benefits

- 2.95 The Proposed Development is to contribute to the provision of a high speed communications network that supports the operation and growth of the technical and financial services industry. The applicant states that this industry accounts for approximately 10% of the UK's gross domestic product (GDP). Financial technology is said by the applicant to support 61,000 employees and has accounted for approximately £6.6 billion in revenue and £524 million in investment for the UK in 2015.
- 2.96 The applicant considers that to ensure the competitiveness of the UK and its future economic growth potential in this sector, it is crucial that investment is made to allow the UK to respond to competition from elsewhere and maintain its leading market position. The applicant considers that the Proposed Development would achieve this.
- 2.97 Reference is made by the applicant to the need to minimise economic uncertainties following the outcome of the European Union referendum; and to the recently announced National Productivity Investment Fund, which is to target digital communications (amongst other things).
- 2.98 However, despite these claims and questions by officers, when meeting the applicant, as to whether there is any further information, the applicant has not quantified the extent of any such benefit from the Proposed Development. No assessment of additional jobs across the UK or tax revenue is offered. Neither has the applicant set out whether or not there would be a negative effect without the Proposed Development. Indeed, the applicant themselves considers the regional and national economic benefit to be minor and not significant.
- 2.99 During construction, the Environmental Statement says there would be some direct employment or between five and ten jobs (although in a letter dated 02/12/16, the applicant claims this is up to 24 job). However, this would be limited to a relatively short period of eight to ten months. Some construction work would be reliant on specialist construction firms who are likely to want to use workers experienced in this type of construction, rather than recruiting widely within Dover District. Overall there would be a negligible economic impact.
- 2.100 Other construction benefits are that the applicant would offer students at the Sandwich Technology School opportunity, as part of their studies (the school's BTEC construction training programme), to observe how the mast is constructed and participate in some construction tasks. This would be interesting and useful for the students involved, but is temporary and limited in participation. It is therefore no more than a minor benefit.
- 2.101 Once operational, the applicant considers any benefits to the local economy to be negligible.

- 2.102 The Proposed Development includes equipment that would allow the delivery of wireless broadband. The applicant states, in theory, that this could be across an area shown by the Zone of Theoretical Visibility provided as part of the HLVA. However, it is noted that the broadband equipment would be installed at a height of approximately 100m, only a third of the way up its total height. No information has been provided to show a more detailed assessment of coverage; the number of households and businesses that could receive a signal; the extent to which these are dissatisfied with their existing internet provision; and the extent to which the new broadband provision would make a material difference. The potential to have more choice in the broadband market is noted, but without quantifying the extent of any coverage and benefit, by itself this carries little weight.
- 2.103 Regard is also had to comments from the Broadband Project Director at KCC: We are concerned that the application states that 'the proposed wireless technology will remove the requirement for traditional broadband to be delivered by a cable'. This is not the case. Whilst fixed wireless broadband services provide a valuable service in areas that are unable to receive a viable broadband service from a wired broadband network, wired, fibre-based technologies currently offer greater speeds and are not so affected by bad weather or capacity issues.
- 2.104 The Proposed Development would also include dedicated antennae for use by Dover Community Radio and Academy FM. This may increase the broadcast coverage of both stations, but further information as to what the extent of this would be and how many additional homes and business would receive coverage has not been provided.
- 2.105 Moreover, there is no means to guarantee that the broadband service and/or improved radio broadcast coverage would be delivered. The height of the mast and its principal function is not dependant on this. It would not be reasonable to require, either through condition or s.106 obligation, for the broadband and/or radio broadcasting to be provided and maintained because they are not necessary to make the mast acceptable in planning terms, with regard to R122 of the Community Infrastructure Levy Regulations 2010 (as amended) ("CIL Regulations").
- 2.106 There would be some private benefits to Vfast Internet Limited and the radio station, who would take advantage of the applicant's offer to pay for the equipment and provide space for free on the mast. However, for reasons above, any public benefits are unsubstantiated, cannot be secured and can only carry limited weight.
- 2.107 An offer to provide broadband internet at five identified community centres and halls, together with new computers, printers and IT training (including a permanent employee at Age Concern Sandwich to provide courses for older people) is made by the applicant.
- 2.108 Whilst this may be welcomed by the beneficiaries, it is unclear whether or not they already have broadband internet and access to computers and, therefore, as to the extent of benefit that would be realised. It is also considered that this would not be necessary to make the Proposed Development acceptable and therefore would fail this test of R122 of the CIL Regulations.
- 2.109 The applicant states that they would provide funding to two local school (Roger Manwood School and Sandwich Technology School) for new IT and media equipment, as well as a radio control centre and production suite to allow the pupils to broadcast their own programmes. An internet connection would be provided to Great Oaks School. Again, whilst such provision would be welcome by the

beneficiaries, it is neither necessary to make the Proposed Development, directly related to it nor reasonably related in scale and kind.

- 2.110 The applicant has officered a financial contribution to enhance the Saxon Shore Way through an updated guide book (£20,000), wayfinding signs (£5,000) and information boards (£5,000). Whilst these would be of some use to users of the footpath, any benefit is considered to be minor one.
- 2.111 The applicant considers that funding to Richborough Fort (£100,000) and funding and broadband provision to the Spitfire and Hurricane Museum (unspecified amount) would result in minor beneficial effect on tourism. However, notwithstanding that such contributions would not satisfy the CIL Regulations, the applicant does not balance this against the visual impacts of the Proposed Development in negatively effecting tourism in the area. When such visual impacts are considered, it is considered that the impact on tourism would be, at best, negligible adverse.
- 2.112 The applicant advises that they would set up an Employment, Community and Heritage Benefit Fund in association with the Proposed Development. The Fund, with a minimum annual guaranteed value of £100,000, would be distributed among local community organisations, halls and venues, education providers, and other centres, to include education and training projects. If rental income was generated by the mast from other equipment being located on it, this could be shared through an increase to the fund. The applicant proposes that this would be secured through a s.106 agreement, which would make provision for an administrative body to be set up.
- 2.113 However, this Benefit Fund is not a material planning consideration and holds no weight in favour of the Proposed Development. It would not meet the statutory tests of R122 of the CIL Regulations 2010 (as amended), in that it is not necessary to make the Proposed Development acceptable (it would not address the planning harm identified); not directly related to the Proposed Development (there is no way to know exactly what the fund would be spent on); and therefore is not fairly and reasonably related in scale and kind to the Proposed Development. In this, regard is also had, in so far as it is applicable, to 'Community Benefits from Onshore Wind Developments: Best Practice Guidance for England' (October 2014).
- 2.114 Members must not take the Benefit Fund into account in weighing the balance of whether or not planning permission should be granted.

Cumulative effects and mast sharing

- 2.115 The applicant has undertaken an assessment of the effects of the Proposed Development together with the following other proposed or committed developments as a cumulative development scenario:
- i. the proposed 305m high communications mast at Kings End Farm (DOV/16/00044);
 - ii. Richborough Connection Project - electricity transmission development including substations and pylons connection between Richborough and Canterbury;
 - iii. Nemo Interconnector – an underground high voltage cable, with above ground works including converter station building (max height 30.8m), substation building (max height 15m), outdoor plant (max height 12.7m), converter station (max height 11.8m) construction compound, security fencing, access road and hard landscaping.

- iv. Peaking plant facility at the former Richborough Power Station (DOV/12/01017) – electricity infrastructure plant;
- v. Solar Farm on the Site (DOV/13/00794) – solar panels and associated infrastructure;
- vi. Wind Turbine at the former Richborough Power Station (F/TH/15/1245) – 67m high windturbine;
- vii. Estover CHP Biomass Plant at Discovery Park (DOV/13/00701) – combined heat and power plant and associated fuel storage;
- viii. Redevelopment of Discovery Park (DOV/14/00058) – redevelopment and change of use for a mix of employment, energy, retail, hotel, non-residential institution and residential uses;
- ix. Industrial units at Discovery Park (DOV/15/00430 & DOV/13/00783) – B2 use industrial unit and foodstore; and
- x. DOV/15/00588: Land South of Stonar Cut, Ramsgate Road. Waste management for the sorting of skips

2.116 The applicant considers that the cumulative scheme would not change the significance of the predicted residual effects associated with the Proposed Development; and that no significant adverse cumulative effects have been identified. Officers disagree with the applicant on this. With the main effects being landscape, visual and heritage impacts, these would be materially greater and more adverse with the accumulation of the two masts.

2.117 The Framework (paragraph 43) is clear that the number of communication masts should be kept to a minimum consistent with the efficient operation of the network. The applicant, in response to the question of potential mast sharing, is supportive of the installation of additional data transfer equipment, including from other firms: there would be no need for other structures to be built in the area.

2.118 However, there remain two planning applications and two masts. Given that the construction of two masts is considered to be significantly more harmful than a single mast, it is considered that objection to both masts should be made on the basis that the number of masts has not been kept to a minimum. If the position of either applicant is correct, there should be the need for only one mast and one planning application.

Planning Balance

2.119 For reasons that are set out above, it is considered that there would be harm to the significance of designated heritage assets, namely the Scheduled Monument and Grade I listed building of Richborough Fort and Castle, and St Peter's Church in Sandwich and the Church of Saint Mary in Minster (both Grade I listed). It is established that any harm to the significance of a heritage asset should be given considerable importance and great weight. Under paragraph 132 of the Framework, the more important the asset, the greater the weight should be – in this instance the heritage assets are of the highest significance; and the harm to them must be clearly and convincingly justified.

2.120 Against this harm, which is less than substantial, the public benefits of the proposal, including its optimum viable use, must be considered.

2.121 The main purpose of the Proposed Development is to provide a high speed communications network within the context of the technical and financial services industry in the UK. Whilst the applicant has asserted some minor benefit to the

national economy, no specific public economic benefits, such as additional jobs or tax revenue, have been identified.

- 2.122 Local economic benefits are negligible.
- 2.123 Other local benefits, such as training/education opportunities that directly relate to the mast, and improvements to signage and information for the Saxon Shore Way (as a degree of mitigation) are again minor. A contribution to improve facilities at Richborough Fort is offered, but even if such improvements could be delivered in a timely manner, they would do little to balance against the greater harm of the Proposed Development.
- 2.124 The Proposed Development includes secondary functions of broadband and radio broadcast equipment, but because any public benefits from them are unsubstantiated and cannot be secured, they can only carry limited weight.
- 2.125 Although a range of other incentives are offered, including an Employment, Community and Heritage Benefit Fund, these do not satisfy the statutory tests of R122 of the CIL Regulations and therefore must carry no weight in the planning balance.
- 2.126 Insufficient public benefit has not been evidenced or justified that could overcome the Council's legal duty to have special regard to the desirability of preserving designated heritage assets, particularly bearing in mind the Grade I or scheduled monument status of them.
- 2.127 Weighing further against the Proposed Development are the highly significant adverse effects identified on the landscape character of Wantsum Channel/Ash Marshes/Richborough Fort and Sandwich Bay areas; and from representative viewpoints and receptor groups including Saxon Shore Way and Richborough Fort, residential properties and other public rights of way. These effects are significant in the planning balance.
- 2.128 For these reasons, and as set out in this report as a whole, the public benefits of the Proposed Development, on its own merits, even with significant weight attached to the applicant's asserted minor economic benefits, do not outweigh the harm to the heritage, landscape and appearance of the area.
- 2.129 Regard is had to the site selection process, as to whether the location of the mast represents its optimum viable position. But even if this were to be the case, this would not change the balance in favour of the scheme.
- 2.130 Accordingly, it is considered that planning permission should be refused for the reasons below.

g) Recommendation

- I. Planning permission be REFUSED for reasons of:
 - i) The proposed mast by reason of its height and general scale; located within the setting of Richborough Fort Scheduled Monument and Richborough Castle Grade I listed building; and its impact on the inter-relationship between St Peter's Church in Sandwich and the Church of Saint Mary in Minster (both Grade I listed); would be materially harmful to the significance of the setting of these heritage assets, which are of

the highest importance. In this, regard is had to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special regard is had to the desirability of preserving the setting of a listed building. The proposed development is contrary to Section 12 of the National Planning Policy Framework (2012), including paragraphs 131, 132 and 134. The harm in relation to these heritage assets is considered to be less than substantial with regard to paragraph 134 of the Framework, but this harm is not outweighed by the public benefits of the proposal.

- ii) The impact of the proposed mast would significantly adversely affect and be harmful to the landscape character including Ash Level, Richborough Marshes, Richborough Fort and Sandwich Bay; and from particular representative viewpoints and receptors, including Saxon Shore Way, Richborough Fort, residential properties and other public rights of way, there would be further significant adverse effects and harm. Accordingly, the proposed development is contrary to Policy DM16 of the Dover District Core Strategy (adopted February 2010); Saved Policy CO5 of the Dover District Local Plan (adopted 2002); and the National Planning Policy Framework (2012), including paragraphs 109, 113 and 114, as well as the core planning principles at paragraph 17.
- iii) In the absence of agreement from National Grid that the proposed mast would not unacceptably impact access routes required for the construction of the Richborough Connection Project (a proposed nationally important infrastructure development of overhead electricity lines), it cannot be concluded that the mast would not prejudice the delivery of that development. As such, the access arrangements of the mast development are contrary to Policy CP6 and DM12 of the Dover District Core Strategy (adopted February 2010) and paragraph 32 of the National Planning Policy Framework (2012).
- iv) Together, the proposed mast and that proposed under application DOV/16/00524, would result in materially greater adverse impacts on the heritage significance, landscape character and appearance of the area. Such a proliferation of structures, especially as each applicant considers that their mast is capable of accommodating the other's equipment, is contrary to paragraph 43 of the National Planning Policy Framework (2012) which requires that the number of telecommunications masts and the sites for such installations be kept to a minimum, as consistent with the operation of the network. However, when considered by itself, on its own merits (for the reasons set out at 1, 2 and 3 above), the proposed mast is not acceptable in planning terms.

Case Officer

Andrew Somerville