

- a) **DOV/16/00524 - Erection of a 305-metre high/2.5-metre wide guyed communication mast (with 5 no. 9-metre wide anti-twist frames at intervals above 140 metres) with 6 no. 3.7-metre diameter dish antenna, 206-square metre base compound enclosing associated equipment cabins and electric meter cabinets up to 2.5-metres in height (4.2 metres above ground level), 9 no. guy stay compounds, stone access track, hard and soft landscaping and associated works - Land to the North of Kings End Farm, Richborough, 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 C05 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/16/00201 – Scoping opinion (issued 04/04/16) under the Environmental Impact Assessment Regulations 2011 (as amended) for the erection of a 305m high communications mast.

Surrounding area

- i. 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 on land at Richborough, Ramsgate Road, Sandwich, CT13 9NL. 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 – now under construction.
- v. F/TH/15/1245 Wind Turbine (67m tall) at the former Richborough Power Station – approved.
- vi. DOV/13/00794 Creation of a solar farm and associated works. Permitted (24/01/14), not implemented.
- vii. DOV/13/00701 Estover CHP Biomass Plant at Discovery Park – combined heat and power plant and associated fuel storage – approved – now under construction.
- viii. 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.

- ix. DOV/15/00430 & DOV/13/00783 Industrial units at Discovery Park – B2 use industrial unit and foodstore – both approved.

e) **Consultee and Third Party Responses**

Sandwich Town Council

At the meeting on 23/05/2016 the Council resolved to raise no objections but strongly advocate only one 300m + mast be approved for development; the associated businesses must be encouraged to work together.

Reconsultation:
Any comments awaited.

Ash Parish Council

Objection on the following grounds:

- the cumulative effects on local amenities of this second application in conjunction with the other application already submitted and the third that is expected to be submitted;
- the precedent created for this type of mast and the incremental detriment of all objections;
- the level of exposure to the local community to the potential health risks given the scientific uncertainty around these types of microwaves especially at ground level;
- the negative impact on residential amenity on the homes within the immediate radius of the site in the parish of Ash;
- the adverse effects on the Ash levels, the surrounding unspoilt marshland habitat and ecology in which the Mast is due to be sited;
- the adverse visual impact on the Richborough Fort national heritage site, on the views from and of the iconic steeple of St Nicholas Church, Ash, on the view from the majority of the 100 miles of public rights of way within the parish of Ash - noting that the mast is situated on an area that is higher than much of the land that surrounds it;
- the negative impact the construction traffic will have on Sandwich and Ash due to roads from which the site is to be accessed; and
- the constraints on aviation and in particular on the potential future of Manston airport.

It was felt evidence provided by the applicant to support safety claims was not sufficiently compelling to ease concerns of some parishioners. Information provided by a parishioner who had been in contact directly with and received communications from Ofcom and W.H.O was at odds with some claims.

It was noted that the applicant was offering to enter into discussions with local stakeholders about the substantial and lasting benefits to the local community they say will be a consequence of this application being granted. Should this happen, the Parish Council would want to be present at any such discussions.

Re-consultation: Ash Parish Council at its meeting on 14th November 2016 considered the additional Environment Statement. The Council agreed that the visual impact assessments show the extent to which the mast would affect negatively the visual amenity of the surrounding areas. The additional information does not change the reasons that the Council had objected to this application.

Woodnesborough Parish Council

Strongly object to the proposal on the grounds that the mast will overshadow the ancient monument at Richborough, it brings no direct benefit to the local communities and it may have a detrimental impact on the re-opening of Manston Airport.

Re-consultation:

Woodnesborough Parish Council still object to this application. They feel that the negative impact on the historic buildings at Richborough and the constraints on aviation and the possible impact on the future of Manston airport are unacceptable.

Staple Parish Council

Recommend refusal. It was felt that the negative impact on the local environment of this proposal far outweighs the proposed gain for the local community.

Minster Parish Council

Minster Parish Council support this application.

Reconsultation response:

No further comments received.

Cliffsend Parish Council

The Parish Council object to this application. The additional environment statement which shows the visual impact has been considered by CPC, and members are still of the opinions that the mast would have a negative impact on Cliffsend and the surrounding areas.

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 harm to the ability to appreciate the heritage significance of the Richborough Fort scheduled monument. This would not amount to substantial harm in the terms of the Framework; however any harm or loss should require clear and convincing justification. 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 application is the second one in this area this year. In our view, the cumulative effect of two masts should be taken into account in assessing this application. The construction of two similar facilities providing similar services in the same area seems likely to be unnecessarily harmful. Consideration should be given to rationalising the two proposed developments.

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

Natural England concurs with the view of the HRA assessment that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.

Given the habitat and distance of the Site from the SPA, it is unlikely that turnstones or little terns would be affected by the application. The application includes the use of deflectors fitted to the guys to reduce the risk of bird collisions, which is considered necessary to reduce the risk to golden plovers or other species.

Subject to the fitting of bird deflectors, there are unlikely to be implications for 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 you 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

No comments received.

Environment Agency

The Environment Agency have no objection. It is noted that the most southern guy rope is at least 8m from the tow of the main river embankment (Richborough Stream) in order to ensure access is maintained.

It is noted that the Ground Investigation Report (dated 20/04/16) does not make any assessment of the risk to the groundwater environment; however, it is noted that very low concentrations of substances have been found across the site. The site also lies in a site of relatively low vulnerability in terms of groundwater protection. Hence, should the application be approved, an appropriate condition is recommended to address any unforeseen contamination.

Other conditions recommended are to cover piling or foundation design so to protect groundwater.

National Grid

National Grid has submitted a Development Consent Order (DCO) application to the Planning Inspectorate for a 400kV electricity transmission connection between Richborough and Canterbury to enable a connection to the new UK Belgium interconnector

National Grid notes the proposed use of an access track to connect the proposed development with Richborough Road. This access track is included within the Order limits of the Richborough Connection Project to facilitate access to construct and remove a temporary bridge over the River Stour, approximately 1km north of the application site, and for the maintenance of the overhead line.

On review of the application material and following discussions with New Line Networks, National Grid does not envisage that the proposed works and/or use of the access track by either party would prevent access during the construction and operational phases of either project. National Grid and New Line Networks have now come to an agreement in relation to this proposed access route.

National Grid has no objection to the planning application as currently proposed.

Network Rail

Network Rail has no objections or wishes to provide any further observations.

KCC Highways and Transportation

KCC Highways in their initial comments dated 26th May 2016 raised concerns about the submitted construction management plan, particularly in relation to the access from Richborough Road. Further information was sought from the applicant.

Further comments from KCC Highway (27 July 2016), in response to additional information submitted by the applicant (on 15 July 2016), confirm that the principles of the construction management proposals and marshalling of associated vehicles are acceptable, subject to a detailed construction traffic management plan being secured by condition.

KCC Archaeology

The proposed mast lies close to the Scheduled Roman site of Richborough, which is a Scheduled 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.

The applicant's conclusions about the degree of harm that the mast would cause to the heritage significance of Richborough are not agreed. The erection of the

proposed mast would affect people's experience of the site and would be harmful to the site's heritage significance. The Environmental Statement identifies a potential significant effect on tourists and visitors to Richborough Roman Fort. The harm to Roman Richborough is greater than the applicant suggests, whereas it would appear that many of the benefits put forward are not well-defined, guaranteed or secure and as such may not be delivered. The cumulative impacts 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.

This harm is not substantial in terms of paragraph 132 of the Framework, but nevertheless should be a major factor in determining the planning application. Such a conclusion of the degree of harm to the setting of the designated heritage asset does not necessarily equate to a less than substantial objection to the granting of planning permission. Great weight is placed in the Framework on the conservation of designated heritage assets and any harm or loss to an asset's significance should require clear and convincing justification. Furthermore Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 notes the statutory duty to give special regard to the desirability of preserving the setting of the Listed Building.

The construction of the proposed mast also has the potential to impact directly on non-designated buried archaeological remains. The applicant has put forward proposed measures – a programme of geo-archaeological work – that aim to mitigate these direct impacts. These mitigation measures appear appropriate and could be secured by condition.

KCC Public Rights of Way and Access Service (PROWAS)

PROWAS does not wish to provide any comments.

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.

The conclusions to this report are that 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. Houses on Ebbsfleet Lane and at Sevenscore would be highly significantly adversely affected. Further afield the view over Pegwell Bay from Ramsgate Esplanade would also be significantly adversely affected. The landscape character of Wantsum Channel/Ash Marshes/Richborough Fort and Pegwell Bay would be significantly adversely affected.

Cumulative effects for both masts would be very similar and together with the proposed Richborough Connection Project, it is concluded that cumulative effects would be high and adverse.

DDC Environmental Protection Officer

Ground conditions: No exceedances were recorded which may be considered to present a possibility of significant harm to human health in contact of the proposed end use.

Noise: Should permission be granted a separate noise management plan should be submitted minimise impacts from piling in accordance with BS:5228:2009 Code of Practice for noise and vibration control on construction and open sites.

The proposed mast accords with all requirements of the International Commission on Non Ionising Radiation ("ICNIRP"), and is safe to the surrounding community in respect of emissions where members of the public may be present. An ICNIRP declaration is submitted in support of the application.

No objection.

DDC Ecology Officer

The site comprises arable fields intersected by ditches and accessed by an existing track at Kings End Farm. The site is within the Ash Level and South Richborough Pasture Local Wildlife Site (DO21) which is primarily designated on account of the biodiversity of the ditches.

Neither Natural England nor Kent Wildlife Trust objects to the application.

A preliminary ecological appraisal (PEA) was undertaken in during 2015. The report is thorough, including survey work for bats and Water Vole.

It does not address the presence of the invasive non-native Water Fern (*Azolla filiculoides*), a species listed in the Wildlife and Countryside Act 1981, Schedule 9. However, a construction and decommissioning ecological management plan can be conditioned to ensure that this species is not spread.

The Bird Impact Assessment (March 2016) is thorough in the undertaking of winter survey and analysis of other recent survey work, including that carried out for the Vigilant Global proposal and the Richborough Connection. It concludes that there would be negligible likely effect from disturbance on existing bird populations at the site.

Collision risk is also considered and the report recommends the use of line marking devices on the guy wires, preferably those that produce a wind noise, to assist avoidance by birds at night; the use of steady red lighting, rather than slow-burning or pulsating lights; and the avoidance of night-time lighting the of the base of the mast. Controls on bird diverters and lighting can be conditioned.

The ES chapter on Ecology and Nature Conservation describes mitigation measures that should render residual effects as negligible. These should be conditioned as a construction and decommissioning ecological management plan.

Habitat Regulations Assessment

The New Line Networks 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.

The applicant has supplied an HRA report as Appendix E3 of the Environmental Statement. The format of the report is slightly erroneous in that it is for the Local

Planning Authority to determine any likely significant effect under Regulation 61, rather than the applicant. The Natural England response to the application correctly highlights this error. However, setting aside the conclusions given in the report, it is otherwise considered to be comprehensive, thorough and sufficient to be in accordance with the Habitats Regulation 61 (2) requirement that the applicant supply information to inform the HRA.

The initial stage of the HRA is to screen potential likely significant effects.

For this application, an identified impact pathway is the potential use of the proposed development by the bird interest of the Thanet Coast and Sandwich Bay SPA and Ramsar sites:

- golden plover (*Pluvialis apricaria*)
- little tern (*Sterna albifrons*)
- ruddy turnstone (*Arenaria interpres*)

Of these, only golden plover is known to use the Ash Level. An over-wintering bird survey found the species did not frequent the 500m radial buffer around the proposal site. 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 this finding.

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.

The Local Planning Authority considers that further assurance of no likely significant effect may be established through monitoring of bird collision 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-Thanet 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 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 305 m high telecommunications mast for the primary purpose of international high frequency trading. The proposed location is the eastern section of the Ash Level, west of the Richborough Marshes and some 1.5 km north-west of Richborough Fort.

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. The LVIA in this Environmental Statement is clear and complies closely with the thrust of GLVIA3 in terms of ease of understanding.

A comprehensive review of the applicant's conclusions regarding both landscape character effects and visual effects has been undertaken. The review considers the Richborough Connection, the Vigilant Global application, and this 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. The applicant has considered these in the LVIA and that has enabled a review based on a common baseline.

The conclusions of the review are that:

- five Dover Landscape Character Areas will be affected by the mast. Of these, there will be significant adverse landscape effects on the Ash Level LCA and the Richborough Castle LCA;
- there will be significant adverse visual effects on Richborough Fort and Roman Amphitheatre, a heritage asset of national importance that is an important visitor attraction for east Kent;
- there will be a moderate, but significant, adverse visual effect on tourists using the church tower at St Peter's Church for viewing the surrounds;
- there will be a widespread and adverse significant visual effect on the Ash Level, both in day and night, diminishing its sense of remoteness and affecting over 35 rural properties. Two regional trails, the Saxon Shore Way and the Stour Valley Walk will be adversely affected; and
- there would be a major and significant adverse visual effect cumulatively with the proposed Vigilant Global 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.

Kent Wildlife Trust

No objections.

Kent Downs AONB Unit

Does not make any comments on the proposal.

Public representations

202 representations have been received by the Council. Of these 183 representations raise objections to the mast, 14 are in support and 5 are considered to be neutral.

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 the Manston airport;
- impacts on flight safety;
- lack of public benefits;
- lack of information on EMR health and safety finds for the proposal;

- the proposed masts will restrict the re-opening of Manston Airport;
- impacts on Richborough Fort;
- inappropriate development within the local environment; and
- no co-location opportunities sought as there are several within the area (with Vigilant Global's proposed Mast which is taller – 322m height).

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, which are considered in more detail further in this report.

Montagu Evans on behalf of Vigilant Global Limited who is the applicant for current planning application 16/00044 have provided some comments towards this application dated 23 June 2016 and 2 December 2016:

- the site selection process should have taken into account constraints posed by Grade II* and II heritage assets;
- the site selection process should not have discounted that which relates to application DOV/16/00044, which is suitable for such development;
- the submitted scheme imagery does not include proposed guy lines or the anti-twist bars which form an integral part of the proposals and have the potential to be seen in views;
- in respect of the AVRs, these look only at a 5km radius as opposed to a 10km; there are no close up views; and no grid references are provided;
- views from Richborough Fort do not include the fort and so does not accurately reflect any impact;
- a cumulative view from the viewing platform from St. Peter's Church is not provided; neither have night-time views;
- whilst the ability to mast share has been mooted, this should be a condition of its development, secured via a s106 agreement;
- the submitted cumulative impact assessment is considered to be inadequate;
- the socioeconomic effects statement sets out some benefits, but it is unclear how these could be secured. It is also unclear how the proposed scheme would serve the local communities;
- the application is not supported with a mast collapse report to demonstrate that, in the unlikely event of a failure, the mast's failure would not pose a safety hazard;

An objection has been received from CPRE Kent:

- 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.
- 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.
- it has not been demonstrated 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 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.
- 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 Site comprises land at Kings End Farm, an area of flat agricultural land located approximately 1km to the north of Richborough and 1km south of the River Stour. The Site is located approximately 3km to the west of the coastline with the nearest settlements being Ash to the south west and Sandwich to south east. To the north are settlements of Minster and Cliffsend and the coastal town of Ramsgate.
- 1.2 Closer to the site to the east are two open sided livestock sheds and silos. The Site and its surrounding area are predominantly grazed and arable fields with other farm buildings/structures.
- 1.3 The Site is located approximately 4.5km to the south of the former Manston Airport (operations closed in 2014).
- 1.4 The Site is in Flood Zone 2 and forms part of the 'Ash Level and South Richborough Pasture Local Wildlife Site (LWS, DO21).
- 1.5 The Thanet Coast and Sandwich Bay Special Area for Conservation (SAC), Special Protection Area (SPA) and a RAMSAR, which is also a Site of Special Scientific Interest ("SSSI"), is some 2km to the east.
- 1.6 The Site is currently accessed via Whitehouse Drive which is an existing farm track off Richborough Road. Key strategic road networks within the area are the A256 that bypasses Sandwich and the A257 that provides east-west links. The railway line passes to the east.
- 1.7 Richborough Fort, a scheduled ancient monument and Grade I listed building is located approximately 1km to the south of the Site.

Proposed Development

- 1.8 Planning permission is sought for erection of a three-sided 2.5m wide, 305m tall guyed mast. This would be of a lattice-steel construction with an access ladder located within it.
- 1.9 On the mast, it is proposed to install a total of six dish antennas at various heights (from 184m to 301.4m) and orientation. Each antenna would measure 3.7m in diameter and 1.8m in depth.
- 1.10 The mast would be supported by guys which would spread out in three directions (at 75, 195 and 315 degree angles), with lengths of between 70m to 359.4m. The guys

will be anchored at nine stay blocks at ground level located at 60m, 150m and 210m distance from the mast base.

- 1.11 The guys would have bird diverters, comprising of wire attachments, affixed at regular intervals.
- 1.12 The mast would have two static red aviation lights affixed at 51m height intervals – six levels and 12 lights in total.
- 1.13 Various other works and equipment at ground level in form part of the Proposed Development, including:
 - a concrete slab for the mast;
 - three electric meter cabinets on raised plinths;
 - two equipment cabinets on a concrete base, each measuring 2.7m wide by 2.7m by deep by 4.2m high
 - an overhead cable tray between the equipment cabinet and mast; and
 - a caged enclosure, measuring 4m by 5.5m by 4.2m high, in which a generator is positioned on a raised concrete base.
- 1.14 The mast and associated equipment of the Proposed Development would be located within a secured 15.8m x 13m compound area. The new compound will be secured by means of a 2.4m high palisade security fence and 3m high vehicular access gates. A 1.2m high timber post and rail stock proof fence, would be erected around the perimeter of the palisade fencing.
- 1.15 Access to the compound would be via Whitehouse Drove and a new crushed aggregate access track (approximately 200m in length) connecting to the compound. A vehicle turning bay would be provided at the compound end of the access track.
- 1.16 Some landscape planting would be provided, primarily located between the new compound and the stock proof fence.
- 1.17 Each concrete stay would measure 4m by 5m by 0.9m tall, positioned in respective compounds surrounded by a 1m high post and rail fence.

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 purpose of the Proposed Development is to establish an optical direct line of sight to a corresponding mast in Belgium, which would relay data between financial markets in London and Frankfurt.
- 2.3 The applicant seeks to justify the principle of the development in two accounts: (i) that there is a need to invest in infrastructure to support the UK economy, to support the operation of finance businesses in the UK and beyond, as well as delivering benefits to the local economy; and (ii) to realise these benefits, the proposed development needs to be located in this area of Kent.
- 2.4 The applicant states that the Proposed Development is part of the infrastructure supporting the growth in capital markets and other finance fields in the UK, which rely on high-speed data connections to Europe. It is asserted that the Proposed Development would provide significant support in the operations of the applicant and the wider finance sector which delivers benefits for the wider UK economy. Firms are said by the applicant to need access to data of sufficient quality to compete in a globalised financial market.
- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 The applicant sets out that the Site was selected with regard to particular parameters, which are influenced by the requirements of the technology and the operational requirements of the mast within the wider communications network.
- 2.9 The search area for a suitable site has focussed on a linear area concentrated along the established geodesic straight line between London and Frankfurt, in order to maximise the effectiveness of the development. This geodesic line runs from Sandwich, to the north of Canterbury, towards Seasalter and Whitstable. The search area had a 1km variance from the geodesic line
- 2.10 The applicant considers that it is beneficial for the mast to be located as close as possible to corresponding mast in Belgium for reason of technical effectiveness and efficiency and to minimise the height of the mast. The optimum location in operational terms is where the geodesic line intersects the coast line.
- 2.11 Alternative locations have been considered by the applicant, which include the existing transmitter at Church Hougham; the Swingate Transmitting Station in Dover; a lattice tower at BT Archers Court in Dover; and three existing lattice towers to the east of Ramsgate. The applicant states that all these locations are too far from the geodesic line as well as lacking sufficient height. The site of an existing mast to the

north of the 'Banana-Land' is claimed by the applicant to be too small to accommodate the proposed mast (including guys), even if the existing structures were removed. Officers have no evidence to dispute this.

- 2.12 Within the line of deviation, options to locate the mast on higher ground further away from the coast have been considered by the applicant. Whilst there is benefit in a higher ground level, the applicant presents that this is outweighed by the increase in distance from the coast, which would require a taller structure that may be beyond that which is feasible to construct. On this basis, the search area is therefore restricted to within 5km of the coast.
- 2.13 The consideration of other constraints is detailed by the applicant, including ecological, environmental and heritage designations. The applicant also included, due to engineering complications during construction and to ensure clearance distance in the unlikely event of mast failure, selection criteria to avoid urban area, rivers, main roads, railway lines and the emerging National Grid pylon scheme.
- 2.14 Within these search parameters, three parcels of land were identified by the applicant, of which two were discounted because they were considered more constrained by the emerging National Grid pylon scheme, wildlife designations, accessibility to construction traffic, greater impacts on Richborough Roman Fort and numerous farmsteads.
- 2.15 Through this process, the applicant has progressed with the Proposed Development – a 305m high mast at Kings End Farm.
- 2.16 This justification of the selection of the site is considered by officers to be reasonable within the technical and operational constraints set out by the applicant.
- 2.17 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).
- 2.18 As such, with regard to the justification of the siting of the Proposed Development, 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/16/00044) whether or not the number of masts have been kept to a minimum.
- 2.19 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.
- 2.20 The Proposed Development, taking account of the compound, access track and guys, would result in the loss of an area of agricultural land, potentially affecting an area across four fields. Advice from the Council's rural planning consultant is that the Site and surrounding area is generally more suitable for grazing with more limited potential for crops – the loss of agricultural land or impact on agriculture is not significant in this instance.

Landscape and Visual Impacts

- 2.21 The applicant has submitted a Landscape and Visual Impact Assessment with the application as part of the Environmental Statement.
- 2.22 As a landscape assessment, the applicant has considered the impact of the Proposed Development on eight character areas:
- i. The Former Wantsum Channel North Shore;
 - ii. Pegwell Bay;
 - iii. Ash Levels;
 - iv. Preston and Ash Horticultural Belt;
 - v. Richborough Castle;
 - vi. The Sandwich Corridor;
 - vii. Sandwich Bay; and
 - viii. Sandwich Urban Area.
- 2.23 The applicant considers that the greatest landscape impact would be moderate adverse effects on the areas of Ash Level and Richborough Castle, with minor effects on the other areas (save for the Sandwich Corridor with a negligible effect).
- 2.24 In response, landscape advice from the Council and KCC is that the significance of the landscape effects has been under estimated by the applicant. In particular, there would be significant impacts on the landscape areas of Ash Level, Richborough Castle and Pegwell Bay, although it is recognised that the latter falls outside of Dover District.
- 2.25 Visual impacts of the Proposed Development are also considered by the applicant, through an assessment of 24 representative views and receptor groups including residential properties, walkers, and tourists/visitors to heritage assets.
- 2.26 The representative viewpoints (VP) the applicant considers would be most affected, with a moderate adverse significance of effect, are those from Richborough Fort (VP1); and public rights of way EE47 close to the south of the Site (VP2), TE40 to the east of Minster (VP5), TE32 near to Cliffsend (VP6), EE72 to the north of Ash (VP11), EE65 to the west of the Site close to Westmarsh (VP12) and TE29 to the north of Minster (VP13).
- 2.27 From the nearest residential properties, which have high sensitivity, the applicant considers that there would also be a moderate adverse effect. Likewise, a moderate adverse effect for users of public rights of way up to 4.5km from the Site and for visitors to Richborough Fort. For other recreational pastimes, visitors to the viewing platform of St Peter's Church, pleasure craft on the River Stour and motorists, a lesser minor adverse effect is assessed by the applicant.
- 2.28 However, advice from KCC disagrees with the applicant: from several locations, the effects from the Proposed Development are underestimated. Highly significant adverse visual effects are identified from:
- Richborough Fort (VP1), where the mast would be a major element on the skyline and very conspicuous in views north;
 - public right of way EE47, close to the south of the Site (VP2), from where the mast would be seen as an uncharacteristically tall man-made element;
 - Ramsgate Promenade, from where the mast would be at odds with the panoramic and sweeping views, as noted by the Seascape Assessment of the Dover Strait. 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’;
 - Castle Cottages off Richborough Road; 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 7km length of the Saxon Shore Way.
- 2.29 It is considered that moderate significant adverse visual effects would occur from:
 - public right of way, TE40 to the east of Minster (VP5);
 - public right of way EE72 to the north of Ash (VP11);
 - St. Peter’s Church, Sandwich viewing platform.
- 2.30 Advice is also received from the Council’s landscape officer who identifies moderate adverse and significant impacts from Richborough Fort (VP1); public right of way EE47, close to the south of the Site (VP2); intersection of public right of way EE72 and Cop Street, north of Ash (VP11); and national public right of way and national cycle route (VP12)
- 2.31 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.
- 2.32 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

- 2.33 The application is accompanied by the applicant’s assessment of built heritage (for above ground heritage assets): although there are no heritage assets within the Site, the Proposed Development will affect the setting of assets in the surrounding area.
- 2.34 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.
- 2.35 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.
- 2.36 Heritage assets that the applicant identifies to have a visual relationship with the Site include the Scheduled Monument and Grade I listed building of Richborough Fort,

some 1km to the south east; numerous listed buildings in the countryside within 5km surrounding the Site; clusters of listed buildings within Sandwich, Marshborough, Monkton, Minster, Cliffs End and Ramsgate; and conservation areas at Sandwich, Stone Cross, Minster, Pegwell Bay and Ramsgate.

- 2.37 Listed buildings and the conservation area at Ash have been scoped out by the applicant because there is no clear intervisibility to the Site.
- 2.38 The Framework (paragraph 132) requires that the impact of the Proposed Development on the significance of designated heritage assets 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.
- 2.39 The applicant makes an assessment of the construction and operation phase impacts of the Proposed Development on the setting of the identified heritage assets. For each heritage asset, the applicant considers that there would be a negligible adverse impact to its significance.
- 2.40 In the cumulative scenario (taking account of other committed or proposed developments in the surrounding area), the applicant considers there would be a minor adverse effect on the significance of Richborough Fort.
- 2.41 Officers have received consultation advice from Historic England, the archaeology officer at KCC, and DDC's heritage officer.
- 2.42 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 it in views looking north. The mast would be a substantial new presence that is both nearer and much taller than other existing developments.
- 2.43 Historic England disagrees with the applicant's heritage assessment: the effects of the Proposed Development would be greater because the long views from Richborough Fort north towards the Thanet plateau, across the Wantsum marshes, promote understanding of the history of the Fort and the wider area. Such views would be harmed by the scale of the mast, which would be much taller and closer than existing structures. The Proposed Development would be difficult to ignore, would dominate northward views and would undermine the sense of isolation and enclosure provided by the walls of the Fort.
- 2.44 Historic England considers as well that the harm to the setting of the Fort would reduce visitors' understanding and appreciation of the heritage asset. The Proposed Development would cause some harm to public benefit.
- 2.45 The response from the archaeology officer provides some further archaeological background to Richborough Fort as well as a further assessment of its setting. The archaeology officer considers that views across the former Wantsum Channel from the Fort are important in understanding its context, in which the Proposed Development would be very conspicuous. The constant presence of the mast would be harmful to visitors' experience of the Fort.
- 2.46 To seek to mitigate the impacts of the Proposed Development, the applicant has offered English Heritage (who manage Richborough Fort) a financial contribution of £100,000 towards improved visitor facilities; camera surveillance of Richborough Fort

from the mast, to be used as a webcam feed and security; and video footage from a drone, which could be used for marketing. Although it is recognised that these could have some public benefit to them, questions remain over how the financial contribution would secure the delivery of improvements in a timely manner that is linked to the Proposed Development.

- 2.47 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, noting 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.
- 2.48 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.
- 2.49 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.
- 2.50 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.
- 2.51 The harm to Richborough Fort 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

- 2.52 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.
- 2.53 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.

- 2.54 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.
- 2.55 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.
- 2.56 The Site lies within the Ash Level & South Richborough Pasture Local Wildlife Site, which is a large complex of grazing marsh.
- 2.57 Comments from the Council's ecology officer have been received, who has considered any more localised ecological impacts of the Proposed Development. No concerns are raised in relation to the preliminary ecology appraisal carried out by the applicant.
- 2.58 With specific mitigation during the construction phase to avoid accidental pollution of the watercourses – measures that include fencing between the works and the ditches, SuDS measures to prevent discharge to watercourses or ditches, restrictive storage of oil and fuels, prevention of concrete residues – which can be secured by condition, the residual impacts of the Proposed Development would be negligible.
- 2.59 It is noted that the Kent Wildlife Trust has no objection.

Highways and Transport

- 2.60 The Site would be accessed via the existing farm access road off Whitehouse Drove, which is currently used by agricultural vehicles, and a new aggregate track. Whitehouse Drove joins the public highway at Richborough.
- 2.61 The highways officer at KCC raises no objections to the Proposed Development. Subject to a detailed construction traffic management plan, which can be secured by condition, the proposed access arrangements would be acceptable.
- 2.62 Post completion, the proposed development is anticipated to require occasional access for maintenance purposes only.
- 2.63 The proposed access is included within the Limits of Deviation Order of the Richborough Connection Project for maintenance of the overhead lines located 1km to the north of River Stour. National Grid has raised no objections to sharing the use of the track with the applicant.
- 2.64 The Proposed Development satisfies Core Strategy Policy DM12 (Road Hierarchy and Development).

Aviation

- 2.65 The applicant has submitted an Aeronautical Assessment with the application, which states that there are no Civil Aviation Authority (CAA) aerodromes within a 15km catchment radius from the Site. The Assessment identifies that the nearest licenced aerodrome is Lydd Airport (approximately 47.2km away) and the nearest officially safeguarded aerodrome is London Southend Airport (some 53km away).

- 2.66 The Aeronautical Assessment considers whether the physical characteristics of the Proposed Development (its height) would penetrate the Obstacle Limitation Surfaces (OLS) – an area designed to ensure that obstacles do not prevent normal airport operations – for any operating aerodrome. It concludes that the Proposed Development would not be located near any of the OLS for operational airports.
- 2.67 Although the Site is located approximately 4.3km to the south of Manston Airport, the applicant notes that it closed in 2014 and no longer holds a CAA licence.
- 2.68 The Aeronautical Assessment states that the CAA has confirmed that a safeguarding area applicable to Manston Airport is not currently in effect.
- 2.69 If Manston Airport were to reopen and be licensed with the CAA, the Proposed Development would penetrate the OLS. The Aeronautical Assessment asserts that operations at Manston Airport would need to account for the known obstacles, which would be the responsibility of the airport operator and CAA: procedures would need to ensure safe operation with the obstacle in situ.
- 2.70 The Aeronautical Assessment considers, because of the location of the Proposed Development, in parallel to the runway rather than on the take-off or approach surfaces, and within the outer OLS area, that future flight procedures could be adapted to take account of the mast.
- 2.71 If Manston Airport were to reopen and operate in a manner that does not require a licence, the Aeronautical Assessment details that the Proposed Development should be conspicuously marked, as is proposed with lighting, and that (as under other guidance) information to raise awareness of the mast should be provided at the aerodrome.
- 2.72 The applicant concludes that (i) the Proposed Development complies with all applicable aviation guidance and regulation and (ii) should Manston Airport reopen, future flight procedures could be adopted to take account of the mast if it is deemed to be an obstacle.
- 2.73 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.
- 2.74 Riveroak have assessed the potential impact of the Proposed Development (should Manston reopen and be licensed) and raise objection.
- 2.75 Key conclusions of these representations are that:
- 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 or objection;

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)

- Visual Flight Rules operations would need to be 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.
- 2.76 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.
- 2.77 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.
- 2.78 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.
- 2.79 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.
- 2.80 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.
- 2.81 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.
- 2.82 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
- 2.83 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.

- 2.84 The applicant has suggested a deconstruction obligation for the mast that would be triggered in specific circumstances where the mast prevented the airport from operating under a CAA license. Mindful of Riveroak's representations and Dover District Council's position, such an obligation in principle is supported by officers.
- 2.85 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

- 2.86 The Site is located within Flood Zone 2, with a probability of river flooding of between 1% and 0.1% and a probability of tidal flooding between 0.5% and 0.1% in any year.
- 2.87 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.
- 2.88 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.
- 2.89 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
- 2.90 Whether or not the Proposed Development '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. 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.
- 2.91 The applicant identified that the highest flood level from either event is 1.93m AOD. Therefore, the base of the compound is proposed at a level of 2.05m AOD, with other specific equipment at higher levels; and the access track would be constructed at 2m AOD. The Proposed Development would not be vulnerable in a flood event.
- 2.92 A sustainable drainage system could be secured as part of the Proposed Development by condition.

Other Matters

- 2.93 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 piling can be minimised in line with best practice.
- 2.94 The Council's ecology officer suggests that bird deflects 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.

- 2.95 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. The Framework (paragraph 46) is clear that where such equipment meets these standards, public health is safeguarded.
- 2.96 A report on the collapse risk of the mast has been submitted by the applicant. Such risk is extremely small. Within the maximum possible fall radius of the mast, the infrastructure of any kind is the private track of Whitehouse Drove and a pair of uninhabited barns. The risk to public infrastructure or disruption to public services is nil. It is noted that the design of the mast would comply with the relevant British Standard 8100.
- 2.97 In terms of ground conditions following soil sampling, the Council's environmental protection officer notes the Ground Investigation report submitted by the applicant, which concludes that no exceedances were recorded which may be considered to present a possibility of significant harm to human health in context of the proposed end use

Purported Benefits

- 2.98 The purpose of the Proposed Development is to support the financial service sector in the UK. The applicant contends that a substantial share of the socio-economic effects will be across the UK as a whole. The financial services sector in London is anticipated by the applicant to capture the greatest effects as a result of the Proposed Development.
- 2.99 It is set out in the Environmental Statement that the financial services sector accounts of 10% of the gross domestic product (GDP) in the UK., which employs a significant number of people and provides a significant tax return each year. Financial technology is said by the applicant to be a significant part of this sector; and investment in such technology will help the its global competitiveness.
- 2.100 The applicant considers that the economic benefits of the Proposed Development is to help the UK remain competitive in financial technology, which will help support its position as a pre-eminent financial destination.
- 2.101 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. 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 economic benefit to be minor and not significant.
- 2.102 During construction, there would be some direct employment. However, this would be limited to relatively short period of 24 weeks and would be reliant on special construction firms who are likely to want to use workers experienced in this type of construction, rather than recruiting widely within Dover District.
- 2.103 Whilst there would be some multiplier effect and spending in the local area, this again would be temporary.

- 2.104 Socio-economic benefits during construction would be minor, although the effect would be limited to a temporary period.
- 2.105 Once operational, direct and indirect employment would be negligible.
- 2.106 The Environmental Statement refers to a field office to be established, which could provide a focus for local training initiatives. It is not clear how the field office is connected to the Proposed Development or could be secured.
- 2.107 The applicant also advise that it is in the process of securing partnership agreements with Sandwich Technology School and Education Business Partnership to provide educational workshops/visits; engineering challenges; computer equipment; and contributions to educational establishments.
- 2.108 These education and training contributions do not appear to be directly rated to the Proposed Development or necessary to make it acceptable in planning terms. Accordingly, they are noted but given no weight.
- 2.109 The applicant considers that the Proposed Development would provide an opportunity to enhance local mobile phone, broadband, satellite TV and radio services. The applicant details that discussions have been had with a range of third parties, including the Royal National Lifeboat Institute; Kent Public Service Network; Clear Picture (broadband provider); Call Flow Solutions (broadband provider); and Academy Radio (local community radio station), with some expressions of interest and support from them.
- 2.110 However, such facilities do not form part of the Proposed Development and no clear evidence has been provided to demonstrate a deficiency in these services or that any improvements would necessarily be delivered. These provisions are also not necessary to make the development acceptable in planning terms. This is noted by officers, but no weight is given.
- 2.111 The applicant identifies that tourism and recreation is a relatively significant employment sector in Dover District; and that Richborough Fort, Saxon Shore Way and the River Stour are significant assets, which help to stimulate expenditure and employment in the local area. The applicant considers that the Proposed Development would have an adverse impact of a negligible scale. However, this is based on their assessment of landscape, visual and heritage effects, which officers consider are underestimated. With such greater effects, it is considered that the impact on tourism and recreation would also be greater, increasing to adverse minor.
- 2.112 The applicant advises that they are setting up a Community Interest Company (CIC) with key stakeholders, including communities in Sandwich, Minster, Ash, Cliffsend, Worth and Woodneborough. The principle is that revenue generated by other facilities on the mast would be shared with them.
- 2.113 However, this CIC is not a material planning consideration and holds no weight in favour of the Proposed Development. The CIC would not meet the statutory tests of R122 of the Community Infrastructure Levy 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 what the fund would be spent on and how much it would be); 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 CIC into account in weighing the balance of whether or not planning permission should be granted.

Cumulative effects and mast sharing

- 2.115 The application 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 Richborough Communications Mast (DOV/16/00044) – a 324m high communications mast;
- 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 at the former Richborough Power Station (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; and
- ix. Industrial units at Discovery Park (DOV/15/00430 & DOV/13/00783) – B2 use industrial unit and foodstore.

- 2.116 The applicant's summary of the cumulative assessment is that the main effects remain as landscape, visual and heritage impacts, but these would increase to being significant adverse by virtue of the two masts.

- 2.117 No further additional mitigation is put forwards by the applicant in this scenario; and it is confirmed that there is limited scope for any design changes.

- 2.118 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 committed to using the proposed mast to serve the needs of multiple financial market participants. They have discussed with the other mast applicant options for a joint venture, as well as with other industry participants. The applicant's position is that the Proposed Development can meet the needs of all parties.

- 2.119 However, there remains two planning applications and two masts. Given (i) that the construction of two masts is shown by the applicant to have a significantly more harmful effect than a single mast and (ii) that the applicant states that there is no reason why a single mast could not be consistent with the operation of the network, 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

- 2.120 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.
- 2.121 Against this harm, which is less than substantial, the public benefits of the proposal, including its optimum viable use, must be considered.
- 2.122 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.
- 2.123 Local economic benefits once operation are negligible, with at best a minor temporary benefit during construction.
- 2.124 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.
- 2.125 Other incentives are offered by the applicant, including local training initiatives, contributions to local educational establishments, and opportunities to enhance local mobile phone, broadband, satellite TV and radio services. However, it is considered that 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 Likewise, the Community Interest Company (CIC), that the applicant is seeking to setup, is not necessary to make the Proposed Development acceptable; not directly related to the Proposed Development; and therefore is not fairly and reasonably related in scale and kind. It carries no weight in the planning balance.
- 2.127 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.
- 2.128 Weighing further against the Proposed Development are adverse and significant impacts identified including on the landscape character of the Ash Levels and Richborough Castle; and from representative viewpoints and receptor groups including Richborough Fort, public rights of way and residential properties. These effects are significant in the planning balance.
- 2.129 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.

2.130 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.

2.131 Accordingly, it 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 Levels and Richborough Castle; and from particular representative viewpoints and receptors, including Richborough Fort, residential properties and 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) Together, the proposed mast and that proposed under application DOV/16/00044, 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 and 2 above), the proposed mast is not acceptable in planning terms.

Case Officer

Andrew Somerville