

STOPKIG.org

The Campaign to **STOP** the Kent International Gateway Development

Dear Sir

6th February 2009

YOUR REF: APPU2235\A\09\2096565

Maidstone Borough Council

Application Number 07/2092

Location; Kent International Gateway, Land West of Junction 8, M20, Maidstone

The applicant under the above application has entered an appeal on the grounds that the Maidstone Borough Council has failed to determine its application within the prescribed time limit.

I understand you must now validate the appeal before it can proceed. As you will appreciate from our letterheading, we are opposed to this application, but regardless of whether or not people oppose or support it we believe there are a number of considerations which you should address in the validation process. These are;-

1. The Highways Agency made an Article 14 Direction lasting for six months and such Direction has been renewed twice, with the current Direction expiring in July of this year. Time will tell if the Highways Agency will renew it. If the appeal were heard now, surely logic dictates it must fail unless the Planning Inspectorate has power to overrule the Highways Agency. Does it?
2. Were you to validate the appeal now, the applicant would be able to continue 'negotiating' with the Highways Agency. Given the strict time limits for the appeal process, the applicant would be able to alter its evidence right up to the hearing and those objecting to the application could find they had no time at all to consider and answer the applicant's inevitable argument that the development, if permitted, would have no material adverse effect on the M20. We consider that were you to validate this appeal and start time running before the Highways Agency removes its Article 14 Direction (if it does) this would be a breach of fundamental principles of law which would justify putting the matter before the High Court of this Country and the European Court of Human Rights.
3. The papers will show you that the fault for non-determination does not lie with the Maidstone Borough Council. It lies with the applicant itself which has failed to provide adequate answers to requests for information from the Highways Agency and Maidstone Borough Council, as the Planning Authority. We believe the applicant has not satisfied the Kent County Council, a statutory consultee, in regard to its reasonable queries. This is an abuse of the process and the applicant has not entered this appeal with 'clean hands'. As before we, believe this would be grounds for an application to the High Court and ultimately the ECHR.

4. The planning process in this country operates on the principle that an applicant has to persuade the rest of us to grant him permission. By entering the appeal now, the applicant has declined to make its case before the people of Maidstone, the very people who will have to live with the consequences and who are being asked to sacrifice this piece of countryside. Further it has denied them the opportunity of answering the applicant at a hearing of the Planning Committee. It is no answer to say the process requires Maidstone Borough Council to come to a decision. It will have to take a position for the purposes of the appeal. Given the Article 14 Direction, it is prevented from making anything other than a negative decision. The opportunity for debate has been removed; the decision will just be a 'no' going through on the nod at a Planning Committee meeting. The applicant has nullified the democratic process. Whilst entering an appeal now is not unlawful, the morality is questionable, so there is another ground for consideration by the ECHR.

Regardless of whether one supports this application or not, we urge you not to validate it until all the statutory consultees, including the Highways Agency, KCC and Maidstone Borough Council have confirmed the applicant has given adequate answers to their questions. It is only then that it would be possible to give this application a fair hearing.

Yours faithfully

RICHARD HORTON
CHAIRMAN

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