

WL-253 – Comparative Review and Cross-Reference Analysis

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Purpose and Context

This comparative review has been prepared to evidence consistency and procedural treatment across two materially comparable highway corridors assessed by HBBC and LCC Highways. It analyses consultee and case-officer handling of:

- (a) the Richborough Estates residential proposal (126 dwellings, non-allocated greenfield land); and
- (b) the Kyngs Golf & Country Club hybrid application (allocated Leisure & Tourism site with extant, implemented permissions and a live Section 278 Highways Agreement).

Both schemes rely on the same Section 278 corridor engineered and adopted under the 2003 Agreement for the lawful benefit of Kyngs Golf & Country Club.

Scrutiny Level Comparison

Category	Richborough Residential	KGCC Hybrid Leisure & Tourism
Drainage / LLFA	True greenfield site. LLFA used its template response and accepted the outline strategy by condition.	Implemented and discharged southern drainage system (23/00273/DISCON – hotel, spa, access) forms the lawful baseline yet was declared “not acceptable.” Multiple re-consultations requested despite LLFA’s prior acceptance of the same network.
Flood-Zone Status	Confirmed FZ 1; approved subject to standard condition.	EA (16 Jan 2025) and LLFA (4 Nov 2025) both confirm entire 11 ha estate FZ 1 yet consultee notes continued to describe it as “greenfield.”

Ecology / BNG	Metric accepted post-validation by condition; >10 % gain achieved.	Arbtech v4 (27 Aug 2025) shows >17 % habitat / >15 % watercourse gain – fully compliant yet additional clarifications repeatedly sought.
Highways / S278	See Procedural Anomaly below.	See Procedural Anomaly below.
Case-Officer Process	Standard single-round consultation;	Subjected to repeated re-consultation and plan revisions despite meeting all technical thresholds. Consultation continued beyond statutory periods without applicant consent.
Outcome	Application refused on non-highway grounds. Inspector confirmed junction capacity acceptable.	Application undetermined; all consultee objections technically resolved but not updated on file. The disparity in approach constitutes procedural unfairness (North Wiltshire DC v SoS 1992).
Overall Consultee Outcome	No technical objections	Hybrid application re-consulted repeatedly and remains undetermined despite identical evidence base.

Highways / Section 278 – Procedural Anomaly

The same Section 278 access, executed for and in favour of Kyngs Golf & Country Club as the sole beneficiary in title, was accepted by the Highway Authority as adequate to serve the unallocated Richborough residential proposal — whose applicant held no legal entitlement to that access. Conversely, the identical access has been described as “unverified” when relied upon by its lawful beneficiary for the allocated and implemented Leisure & Tourism use. This reversal of approach, without any change in geometry, traffic evidence or legal status, is procedurally inconsistent and irrational. It demonstrates a misdirection by assessing third-party reliance on rights that do not exist while failing to recognise the extant and enforceable rights held by the beneficiary under the 2003 Section 278 Agreement.

No technical explanation or change in circumstance has been offered by either HBBC or LCC Highways to justify this departure from the previously accepted baseline.

Comparative Summary

Aspect	Richborough	KGCC Hybrid
Allocation status	Non-allocated greenfield.	Allocated Leisure & Tourism site (MBNP Policy 1).
Access basis	Relied on KGCC's S278 junction.	Relies on the same junction lawfully executed for KGCC.
Highway conclusion	"Suitable for both residential and tourism uses."	"Unverified – re-plan required."
Traffic data baseline	2020–2021 Inspectorate and LCC datasets.	Same datasets adopted at pre-app (Oct 2024) and validation.
Legal entitlement	None.	Sole beneficiary in title under S278 (2003).

The Highway Authority's position is internally inconsistent and fails the North Wiltshire DC v SoS (1992) consistency test. The acceptance of an unentitled third party's use of the KGCC Section 278 corridor, while questioning the lawful beneficiary's use for an allocated purpose, amounts to procedural unfairness and misdirection in law. There has been no material change in geometry, traffic modelling or planning policy to justify the divergence. The approach is therefore contrary to the principles of legitimate expectation and rationality (Wednesbury).

Conclusion

The comparative analysis shows that the Richborough and KGCC proposals were assessed on identical technical evidence but with opposite conclusions. The authority's handling of the Section 278 corridor for the lawful beneficiary's application is procedurally flawed, inconsistent with its own prior determinations, and potentially unreasonable in the legal sense. Accordingly, the Highway Authority's inconsistent approach should be afforded little or no weight in the overall planning balance.

End of WL-253