
DEVELOPMENT CONTROL COMMITTEE

6 JANUARY 2011

Present:- Councillors Chapman (Vice-Chairman in the Chair), Bragg, Candy, Casey, Fawcett, G V Guglielmi, Johnson, J King, McLeod, Mitchell, Powell, Rutson, G G I Scott, Skeels, Watson, Whitson.

Substitute Member:- Councillor V E Guglielmi (for Councillor Heaney).

Also Present:- Councillor Hughes.

In Attendance:- Interim Head of Planning, Executive Manager (Planning Management and Control), Planning Consultant, Principal Planning Officer (MF), Legal Agreements Manager, Principal Solicitor, Democratic Services Officer.

Also in Attendance:- Jo Lilliott – Holmes and Hills Solicitors.

(7.00 p.m. – 7.40 p.m.)
and following an adjournment
(7.45 p.m. – 8.15 p.m.)

99. VICE-CHAIRMAN IN THE CHAIR

In the absence of the Chairman, Councillor Heaney, the Vice-Chairman, Councillor Chapman, occupied the Chair for the meeting.

100. CHAIRMAN'S ANNOUNCEMENT

The Chairman welcomed those present in the public area, introduced herself, indicated who were members of the Committee and the officers present, gave a brief outline of procedure, announced the name of the Member present in the public area, for the record, and wished everyone a Happy New Year.

101. APOLOGIES FOR ABSENCE

Apologies for absence were submitted from Councillors Brown and Heaney.

102. MINUTES

The minutes of the meeting of the Committee held on 8 December 2010 were approved as a correct record and signed by the Chairman.

103. PLANNING APPEALS AND DECISIONS

The Committee noted the contents of a report (submitted for information only) advising them of the details of current planning appeals and decisions.

104. APPLICATIONS 10/00202/FUL, 10/00203/FUL AND 10/00204/LBC
– BATHSIDE BAY, STOUR ROAD, HARWICH

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees,

written representations received and a recommendation of approval and a full list of recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Ms J Meredith, a local resident representing Friends of the Earth, spoke against the applications.

Mr A Harston, on behalf of the applicant, spoke in support of the applications.

It was moved by Councillor McLeod, seconded by Councillor Johnson and:-

RESOLVED - That in respect of applications 10/00202/FUL, 10/00203/FUL and 10/00204/LBC the Interim Head of Planning (or equivalent authorised officer) be authorised to grant planning permission and listed building consent for the developments subject to:-

(a) Within 6 months of the date of the Committee's resolution to approve, completion of a legal agreement or agreements under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (and any further terms and conditions as the Interim Head of Planning (or the equivalent authorised officer) and/or the Head of Legal Services and Monitoring Officer in his or her discretion consider appropriate):

- Monitoring fees
- Accretion land;
- Small Boat Harbour;
- Little Oakley Managed Realignment;
- Travel Plan;
- Air Quality/Noise Monitoring;
- Local Employment;
- Sound Insulation Grants;
- Wetland Zone;
- Tree Planting;
- Listed Building Maintenance and Conservation Area contribution;
- Cycling and Pedestrian Improvements;
- Harwich International Port (HIP) Lighting;
- Legal Fees; and
- Remote Railway works.

and

(b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Interim Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate.

(i) Those conditions attached to Planning permissions 03/00600/FUL, 03/00601/FUL and 03/00602/LBC with the exception of revised time limit to 2021 (from 2016) as set out in Appendix A to the officer report, which is copied below:-

Otherwise:

(c) The Interim Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission and listed building consent in the event that such legal agreement or agreements are not completed within the period of six months, contrary to Policy QL12.

The Committee were advised that as the Council had resolved to approve the applications, GO-East had requested the opportunity to consider whether these applications should be determined by the Secretary of State rather than Tendring District Council.

APPENDIX A

10/00202/FUL - Bathside Bay Container Terminal

1. The development shall be commenced before the expiration of ten years from the date of this permission.
2. The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

H1001/01	Application Boundary
H1001/02 (Rev A)	Master Plan (RTG Operational Layout)
H1001/03 (Rev A)	RTG Layout Sections X-X
H1001/04	Existing and Proposed Flood Defences
H1001/05 Sheet 1	Existing Topographic Survey
H1001/05 Sheet 2	Existing Topographic Survey
H1001/05 Sheet 3	Existing Topographic Survey
H1001/05 Sheet 4	Existing Topographic Survey
H1001/05 Sheet 5	Existing Topographic Survey
H1001/05 Sheet 6	Existing Topographic Survey
H1001/05 Sheet 7	Existing Topographic Survey
H1001/06	Terminal Office GA Plans
H1001/07	Terminal Office Elevations and Sections
H1001/08	Terminal Control Gate GA
H1001/09	Logistics Facility GA Plans
H1001/10	Logistics Facility Elevations Drivers Facilities Building GA Plan
H1001/11	Elevations
H1001/12	Mess/Amenity Block GA Plan
H1001/13	Mess/Amenity Block Sections
H1001/14	Customs Control & BIP GA Plans Customs Control & BIP Elevations
H1001/15	Sections
H1001/16	Workshop Facility GA Plans
H1001/17	Workshop Facility Elevations
H1001/18	Lighting Layout Structural Landscaping Works and Planting

1514LO/52	Proposals
1514LO/53	Illustrative Planting Insets and Sections
1514LO/54	Landscape Masterplan
1514LO/55	Terminal Office Landscape Proposals Planning and Design Statement dated April 2003.

3. No development permitted hereby shall commence until a scheme of phasing substantially in accordance with Application Drawing H1001/02/A has been submitted to and approved in writing by the local planning authority. The scheme shall provide (inter alia) for:

(a) the construction of the quay wall comprised in the development to begin at the western end of the area marked Phase 1 on Plan H1001/02/A and proceed thereafter in an easterly direction;

(b) the timing of implementation of the landscaping scheme in accordance with condition 5 below; and

(c) the notification of commencement and completion of construction of each phase.

The development shall be implemented in accordance with the approved scheme of phasing.

4. The development shall be carried out in accordance with the Planning and Design Statement dated April 2003 identified in condition 2 above save insofar as otherwise provided in any condition attached to this permission.

5. No part of the development hereby permitted shall be commenced until a landscaping scheme, including a programme for its implementation according with the indicative scheme shown in the application drawings, including details of screen mounding and tree planting, has been submitted to and approved in writing by the local planning authority. The landscaping scheme as approved shall be implemented during the first planting season following completion of topsoil dressing works at the development site. Any tree or shrub dying or becoming seriously diseased within five years of completion of the relevant phase of the development shall be replaced with a suitable specimen of similar species in accordance with the approved scheme.

6. No phase of the development shall commence operation until a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas of that phase of the development, has been submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

7. No phase of the development shall commence until details of the design and external appearance of the buildings and hardstanding areas to be constructed within that phase of the development according with the Planning

and Design Statement dated April 2003 have been submitted to and approved in writing by the local planning authority. The details shall include dark block paving for the container stacking area and quayside comprised in the development. The development shall be carried out in accordance with the details as approved.

8. Except with the prior written agreement of the local planning authority and local highway authority, top soiling of the buffer land surrounding the operational areas of the development is not to be undertaken using material from any source other than from the managed realignment site at Little Oakley approved under planning permission 03/01200/FUL, which material shall not be delivered from the said site at Little Oakley to the site of the development other than by sea.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development shall commence until a scheme showing full details of fences, walls, gates and other means of enclosure has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.
10. No part of the development hereby permitted shall be commenced until drawings showing both foul and surface water drainage (including the provision of all oil and diesel interceptors) incorporating a Sustainable Drainage System (SuDS) connected with the development have been submitted to and approved in writing by the local planning authority and thereafter any works in relation to the development shall be undertaken in accordance with the approved drawings.
11. No part of the development hereby permitted shall begin until a scheme for the design of the proposed 'wetland area' comprised in the development has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the scheme as approved.
12. No part of the development (including ground works) hereby permitted shall commence until a programme of archaeological work (including marine archaeology) for the site (including any works that might be necessary and practicable to preserve the remains in situ) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved programme.
13. No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to the Highways Agency has been submitted to the local planning authority and local highway authority and approved by each of them in writing. The CMP shall include details of management during the construction phase of the development of the

matters contained in conditions 14 to 20 inclusive (construction noise and vibration), a construction traffic management plan in accordance with the Bathside Bay Construction Traffic Management Plan produced by ERM and dated 7th June 2004, conditions 25-27 (construction lighting) and conditions 29-33 (construction dust management) of this permission. The development hereby permitted shall be carried out in accordance with the approved CMP.

14. No part of the development hereby permitted shall be commenced until details relating to the control of noise and vibration from the construction of the development have been submitted to and approved in writing by the local planning authority. These details shall include the following:
- (a) definitions of roles and responsibilities;
 - (b) the adoption of best practice for the specification and procurement of quiet plant and equipment;
 - (c) consultation and reporting processes for noise and vibration;
 - (d) noise and vibration monitoring procedures including recording measures and the location of measuring instruments for each phase of the development;
 - (e) action to be taken in the event of non-compliance with (b) to (d) above;
 - (f) a record of the occasions on which percussive piling operations take place;
 - (g) complaint response procedures;
 - (h) requirements to provide environmental noise awareness training to operatives; and
 - (i) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods.

The development hereby permitted shall be carried out in accordance with the approved details.

15. All plant, machinery and vehicles used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current British Standards applicable thereto. No such plant shall be left running when not being operated.
16. Where any vehicle or plant is required to be fitted with a reverse warning system, such vehicles or plant shall not be installed or used prior to the approval in writing by the local planning authority of such a system. In operating such vehicles or plant the approved system shall be used.

17. No percussive piling operation for any phase of the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the local planning authority. The said programme shall provide that:
- a. no percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months; and
 - b. except with the prior written approval of the local planning authority no more than three hours of percussive piling of tubular piles for the main quay wall shall take place on any day.
18. Except with the prior written agreement of the local planning authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:
- (a) 08:00 to 18:00 Monday to Friday; and
 - (b) 09:00 to 13:00 on Saturday;
- or at any time on Sundays or Bank or Public Holidays provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours if:
- (i) in the case of emergency; or
 - (ii) where piling is required on the grounds of safety or environmental protection; and
 - (iii) in either case the situation would otherwise be dangerous to life or limb.
- The local planning authority shall be promptly notified in writing of any event of this type and the reason why percussive piling took place outside the permitted hours.
19. The noise from construction activities in relation to any phase of the development shall not exceed the following daytime free-field equivalent sound pressure levels, as measured at a height of 1.5 m above ground level at the nearest residential property to the relevant phase of development:
- (a) 67dB LAeq 12H and 85dBLA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;
 - (b) 55dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays;

- (c) 67dB LAeq 6hr and 85dB LA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 13:00 on Saturdays; and
 - (d) 50dB LAeq 1hr at all other times.
20. Vibration levels from piling or other construction activities in relation to any phase of the development, as measured immediately adjacent to the nearest residential or vibration sensitive structure for that phase shall not exceed a peak particle velocity of 5mm/s.
21. No part of the development hereby permitted shall be operated until an operational noise and vibration management and monitoring plan (NVP), relating to the control of noise and vibration from the operation of the development has been submitted to and approved in writing by the local planning authority. The NVP shall include the following:
- (a) definitions of roles and responsibilities in relation to the obligations contained in the NVP;
 - (b) requirements for the adoption of best practice for the specification and procurement of quiet plant and equipment;
 - (c) consultation and reporting processes in relation to noise and vibration;
 - (d) noise and vibration monitoring and recording procedures;
 - (e) action to be taken in the event of non-compliance;
 - (f) complaint response procedures; and
 - (g) a requirement to provide environmental noise awareness training to operatives.

The development hereby permitted shall be carried out in accordance with the approved NVP.

22. Noise from the operation of the development and emanating from the site shall not exceed a free-field sound pressure level of 55dB LAeq 1hr at any residential property existing at the date of this permission measured at a height of 4 m above local ground level between the hours of 23:00 to 07:00.
23. No stack or stacks of containers on any part of the development hereby permitted shall exceed five containers in height save that nothing in this condition shall preclude the lifting of containers above any stack of five containers.

24. There shall be no stacking of containers (other than containers on HGV trailers) more than one high on land south of the rail terminal comprised in the development.
25. No phase of the development hereby permitted shall be begun until a written scheme of construction lighting for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:
- (a) definitions of roles and responsibilities;
 - (b) design including locations of the construction lighting in accordance with conditions 26 and 27 to this permission;
 - (c) installation of the construction lighting;
 - (d) management of the construction lighting; and
 - (e) construction lighting monitoring procedures and action to be taken in the event of non-compliance.

The development hereby permitted shall be carried out in accordance with the approved scheme.

26. The height of fixed lighting installations used in the construction of the development shall not exceed twelve metres above ground level.
27. No phase of the development shall commence until details of the luminaires to be mounted on lighting columns on site in connection with the construction of the development have been submitted to and approved in writing by the local planning authority. The details shall include:
- (a) use of luminaires with high quality optical systems of flat glass construction, where appropriate;
 - (b) limits upon the aiming angle of the peak intensity of the luminaire to maintain the light from the luminaire generally within 75 degrees from the downward vertical; and
 - (c) use of the most appropriate photometry reflectors available at the date of this permission.

The development shall be carried out in accordance with the approved details.

28. The development permitted by this planning permission shall not be commenced until a scheme for the provision and control of operational lighting (including high mast lighting and column lighting) on the site has

been submitted to and approved by the local planning authority. The operational lighting scheme shall include the following:

- (a) use of luminaires with high quality optical systems of flat glass construction for high mast lighting;
- (b) use of full cut-off luminaires which do not produce upward spread of light near to or above the horizontal;
- (c) a restriction on the luminaire tilt angle to maximum of 8 degrees above the maximum peak of intensity angle of luminaire;
- (d) the direction of high mast lighting so as to minimise direct light into windows or properties in the proximity of the development site;
- (e) a reduction of the heights of high mast towers and columns towards the boundary of the site;
- (f) automatic extinguishment of ship to shore gantry crane boom arm floodlighting and maintenance access walkway lighting on the raising of a crane boom arm 10 degrees from the horizontal operation position;
- (g) access and safety luminaires on access walkways and ladders shall be fitted with diffusers;
- (h) the working lighting of the ship to shore gantry cranes shall be switched off when not in use for any extended period of time, retaining only access, safety and security lighting;
- (i) ship to shore gantry crane boom arm floodlighting luminaires located beyond the riverside edge of berthed vessels shall be manually turned off when not in use;
- (j) working lighting of rubber tyre gantry cranes shall be switched off when not in use for an extended period of time, retaining only access, safety and security lighting; and
- (k) operational lighting monitoring procedures and action to be taken in the event of non-compliance.

The lighting scheme hereby permitted shall be carried out and maintained in accordance with the approved scheme.

29. No part of the development hereby permitted shall be commenced until a construction dust management plan has been submitted to and approved in writing by the local planning authority. The construction dust management plan shall include details of the following:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;
- (d) dust monitoring procedures;
- (e) action to be taken in the event of non-compliance; and
- (f) complaint response procedures.

The development hereby permitted shall be carried out in accordance with the approved plan.

30. No part of the development hereby permitted shall be commenced until details of the cleaning and maintenance programme for the site roads to be used during construction have been submitted to and approved in writing by the local planning authority. The programme shall include details of:
- (a) the use of water bowsers and sprays for damping down of hard surface site roads;
 - (b) sweeping of hard surface site roads; and
 - (c) grading and maintenance of loose aggregate surface site roads.

The development shall be operated in accordance with the approved programme.

31. All vehicles used to transport materials to or from the site during construction shall be sheeted so as not to deposit materials on the highway
32. No part of the development hereby permitted shall be commenced until written details of a wheel wash facility and its location have been submitted to and approved in writing by the local planning authority and local highway authority. The development hereby permitted during construction shall be carried out so as to ensure that vehicles leaving the development site first pass through the approved wheel wash facility.
33. No part of the development hereby permitted shall be commenced until a plan for the handling of materials and stockpiling of new construction materials on site (using physical containment, partial shielding where available and water misting/sprays where appropriate) has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved plan.

34. No part of the development hereby permitted shall be commenced until an ambient dust monitoring strategy has been submitted to and approved in writing, by the local planning authority. The ambient dust monitoring strategy shall include details of the following:
- (a) three months' 'baseline' data;
 - (b) the numbers and locations of deposit gauge units;
 - (c) monthly sampling requirements;
 - (d) wind direction monitoring requirements;
 - (e) assessment criteria;
 - (f) reporting processes; and
 - (g) action to be taken in the event of non-compliance with the approved assessment criteria.

The development hereby permitted shall be carried out in accordance with the approved ambient dust monitoring strategy.

35. No part of the development hereby permitted shall be commenced until details of measures to mitigate gas migration and accumulation, in accordance with the recommendations contained in the Bathside Bay Development Project Landfill Gas Investigation Report Ref E6702/1991/OCT/L6 have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.
36. No part of the development hereby permitted shall be commenced until a flood evacuation plan has been submitted to and approved in writing by the local planning authority and the local highway authority. The development hereby permitted shall be carried out and operated in accordance with the approved plan.
37. All buildings constructed as part of the development shall have a minimum ground floor level of at least 4.6 m AODN with the provision of dry access at the same or higher levels to all such buildings.
38. No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling works has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- (a) monitoring procedures; and
 - (b) remedial action works to be undertaken in the event of spillage.

The development hereby permitted shall be carried out in accordance with the scheme as so approved.

39. No part of the development hereby permitted shall be commenced until a scheme for pollution control has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.
40. No site clearance for any phase of the development hereby permitted shall be commenced until a scheme for the translocation of reptiles, invertebrates and coastal vegetation within the part of the site relevant to the phase of the development has been submitted to and approved by the local planning authority. The scheme shall include the following;
- (a) exclusion fencing to be erected around the site;
 - (b) tinning to be carried out over a minimum of 60, 70 or 90 suitable days for a low, medium or high population level respectively, between 1st March and 30th September;
 - (c) relocation of the reptiles and invertebrates found to areas of suitable habitat outside the exclusion fencing.

Site clearance of each phase shall be carried out in accordance with the approved scheme.

41. No part of the development hereby permitted shall be commenced until such time as details of works for the improvement of the A12(T)/A120(T)/A1232 Ardleigh Crown Interchange in such form as the Highways Agency and local highway authority may approve in writing, have been submitted to and approved in writing by the local planning authority. The details of the said works shall:
- (a) be to a standard at least capable of ensuring
 - (i) that conditions at the interchange are no worse during and at the expiration of a period of 10 years from the anticipated date of commencement of operation of the development; and
 - (ii) the safety of all road users including pedestrians and cyclists using the junction; and
 - (b) include drawings to a scale of not less than 1:500

Whether or not requiring the land of third parties.

42. No part of the development hereby permitted shall be commenced until such time as the details of a scheme for the improvement of the A120(T)/Parkeston Road/Station Road/Europa Way roundabout, in such form

as the Highways Agency and local highway authority may approve in writing, have been submitted to and approved in writing by the local planning authority. The details of the said works shall:

- (a) be to a standard at least capable of ensuring
 - (i) that all traffic related to the development is accommodated during and at the end of a period 10 years from the anticipated date of commencement of operation of the development;
 - (ii) the safety of all road users including pedestrians and cyclists using the junction; and
- (b) include drawings to a scale of not less than 1:500

Whether or not requiring the land of third parties.

43. No part of the development hereby permitted shall be operated until the works referred to in Conditions 41 and 42 have been implemented and/or opened to traffic as the case may be.

44. No part of the development hereby permitted shall be commenced unless:

- (i) the Secretary of State for Transport has announced a preferred route for the improvement of the route of the A120(T) (including from Ramsey Bridge roundabout to Parkeston) together with consequential and ancillary improvements thereto and to the A120 and any side roads and access between and in the vicinity of:

- (a) the A120 (T)/A133 Interchange at Hare Green and Horsley Cross Roundabout to no less a standard than a two lane dual carriageway; and

- (b) from Horsley Cross Roundabout to Ramsey Bridge Roundabout to no less a standard than a wide single carriageway

or in each case such other terminal points for such route improvements as the Secretary of State may announce;

- (ii) the local highway authority has announced proposals relating to the local highway network including the A120 from Parkeston roundabout to Morrisons roundabout required as a result of the proposals referred to at (i) above;

- (iii) an agreement or agreements have been concluded pursuant to section 278 Highways Act 1980 to secure funding of such route improvement works together with all consequential and ancillary improvements to the A120 (T), A 120 and any side roads in such form and upon such route as may thereafter be authorised pursuant to

orders under the Highways Act 1980 and associated instruments made therewith;

- (iv) the necessary powers and consents to implement the works referred to at paragraphs (i) and (ii) above have been secured; and
 - (v) such improvement works have been begun by or on behalf of the Secretary of State for Transport and/or Essex County Council by the carrying out of a material operation in respect thereof as the same is defined in section 56 of the Town and Country Planning Act 1990.
45. That part of the development hereby permitted as shown by magenta and green colouring on the drawing H1001/02 Rev A shall not be paved or equipped with ship to shore gantry cranes or used for any purpose that generates road traffic until the improvements to the A120 (T) referred to in condition 44 above have been completed and opened to traffic so that for the avoidance of doubt no more than six cranes shall be provided at the development until such time as the said improvements have been completed.
46. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting the Order with or without modification), unless and until the improvements referred to in Condition 44 above have been completed, the areas referred to in condition 45 above shall not be used for any purpose unless the same relates to the construction of the development or would not result in the arrival or departure of traffic to or from the development by road.
47. Except where the works referred to in Condition 44 above have been opened to traffic, when this condition shall cease to have effect, the development shall not be operated except in accordance with a scheme (accompanied by a certificate that the same has been supplied to and approved by the local highway authority and the Highways Agency) approved by the local planning authority providing for traffic management and safety measures to remain in place until the works referred to in Condition 44 have been opened for traffic.
48. No part of the development hereby permitted shall be commenced until such time as details of the means of vehicular access to the site from the A120 have been submitted to and approved in writing by the local planning authority and the local highway authority. The development shall not be operated until the vehicular access has been constructed in accordance with the approved details and opened to traffic.
49. No phase of the development hereby permitted shall be commenced until a scheme and layout of hard standing for lorries and cars including a requirement that no charge be levied for HGV's delivering or collecting goods from the development and reasonable and proper provision for disabled people in accordance with the plans hereby approved has been submitted to and approved in writing by the local planning authority and local highway

authority. The development shall be implemented in accordance with the approved scheme and layout which shall be retained thereafter.

50. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending or revoking and re-enacting that Order with or without modification) no linkspan (or other structure to permit the use of the development hereby permitted (or any part thereof) by RoRo type vehicles (here including vehicles referred to at paragraph (iii) below) shall be constructed pursuant to this planning permission or otherwise and no part of the development shall be used :
- (a) for the import or export of RoRo vehicles or goods carried by RoRo vehicles (at the time of import or export); or
 - (b) for the storage or handling of RoRo vehicles; or
 - (c) for the loading or unloading of RoRo vehicles from any vessel; or
 - (d) For the collection or deposition of passengers arriving or departing as passengers by sea on vessels capable of carrying over 50 passengers.

In this condition;

“RoRo vehicle” means a wheeled vehicle capable of being used upon the public highway for the carriage of passengers or freight whether capable of moving under its own power or otherwise (e.g. trailer) including motorcycles, cars, buses and HGV’s (in each case including any trailer) but does not include:

- (i) vehicles in use for the conveyance of goods, persons or containers to, from or within the development where the vehicle so used is not imported or exported with the goods, persons or containers;
 - i. vehicles contained within containers;
 - ii. specialist vehicles used for the conveyance of awkward unusually large or bulky or unusual loads including solid wheel flat bed “MAPI” trailers (or similar); or
 - iii. vehicles delivered to the development for the use in its construction or operation
51. No part of the development hereby permitted shall be operated until a written emergency port closure scheme setting out:
- (i) procedures for the evacuation and/or closure of the development in the event of an emergency;

- (ii) procedures to be followed in the event of the closure of the development to sea traffic;
- (iii) the areas of HGV parking within the development to be used in the event of the closure of the development to sea traffic;
- (iv) procedures for notification and liaison with emergency services and highway authorities; and
- (v) procedures to be followed in the event of closure to or restrictions upon the use of the A120 and/or A120(T) by HGV's,

together with a certificate that the same has been submitted in that form to the Highways Agency has been submitted to and approved in writing by the local planning authority and local highway authority. The scheme shall be implemented as so approved.

In conditions 46-48:

“HGV” means a heavy goods vehicle of COBA Vehicle Category OGV1 and/or OGV2 as defined in the Design Manual for Roads and Bridges, Volume 13, Section 1 (May 2002).

52. No part of the development hereby permitted shall be implemented until a scheme providing for the operation of the development in accordance with measures designed to secure controls on activities likely to adversely affect air quality has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (i) a strategy for the procurement of plant, machinery and vehicles to be used in operating the development complying with Government air quality objectives from time to time for control of emissions including (where appropriate) the fitting and use of catalytic converters;
 - (ii) a requirement that the development should be capable of being retrofitted with apparatus for the purpose of the supply of electricity from land to vessels berthed alongside;
 - (iii) procedures for liaison and review in relation to the prospects of securing improvements to emissions from the development and the adoption of reasonable measures identified as being necessary as a result of such liaison and review; and
 - (iv) a requirement upon the terminal operator to request that the Harwich Haven Authority imposes reductions in vessel speeds in order to limit emissions.

The development shall be operated in accordance with the scheme so approved.

53. No part of the development hereby permitted shall be commenced until a scheme for the provision of noise attenuation measures designed to mitigate the impact of traffic noise arising from the operation of the development on residential and/or noise sensitive properties at or in the vicinity of Wix Road, Ramsey has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out prior to the commencement of the operation of the development.
54. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the hereby permitted container terminal shall not be extended to include land within the existing Harwich International Port without the submission of a planning application and the prior written permission of the local planning authority or the Secretary of State.

10/00202/FUL - Small Boat Harbour

1. The development shall be commenced before the expiration of 10 years from the date of this consent.
2. the development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

H1002/01		Application Boundary
H1002/02	(Rev B)	Small Boat Harbour Master Plan
H1002/03		Existing Topographic Survey
H1002/07		Lighting Layout
H1002/08		Fisherman's Store Location Plan
H1002/09		Fisherman's Store GA
H1002/10		Fisherman's Store Sections and Elevations
H1002/11		Fisherman's Store East Elevation
H1002/12	(Rev A)	Division Wall Sections
H1002/13		Train Ferry Pier Termination Details
1514LO/50		Landscape Proposals
1514LO/51		Detail of Quayside (Landscape)
1514LO/52		Structural Landscaping Works
1514LO/53		Illustrative Planting Insets & Sections

Planning and Design Statement dated April 2003.

3. No part of the development hereby permitted shall be begun until a landscaping scheme including a programme in accordance with the indicative scheme shown in application drawings 1514LO/50, 1514LO/52 and 1514LO/53, including details of screen mounding and tree planting, has been submitted to and approved in writing by the local planning authority. The scheme as so approved shall be implemented during the first planting season following completion of topsoil dressing works at the development site. Any tree or shrub dying or becoming

seriously diseased within five years of planting shall be replaced by a specimen of the same or similar species in accordance with the approved scheme.

4. The small boat harbour hereby permitted shall not be brought into use as such unless and until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, has been submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as so approved.

5. The development shall be carried out in accordance with the Planning and Design Statement dated April 2003 identified in condition 2 above except insofar as otherwise provided for in any condition attached to this permission.

6. No phase of the development shall begin until details of the design and external appearance including materials of the buildings, structures and areas of hardstanding to be constructed within the development according with the Planning and Design Statement dated April 2003 and identified in condition 2 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as so approved.

7. Except with the prior written agreement of the local planning authority and local highway authority, top soiling comprised in the development is not to be undertaken using material from any source other than from the managed realignment site at Little Oakley approved under planning permission 03/01200/FUL, which material shall not be delivered from the said site at Little Oakley other than by sea.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development shall begin until a written scheme showing full details of fences, walls, gates or other means of enclosure has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the details as so approved.

9. Development pursuant to this planning permission shall not begin until drawings showing both foul and surface water drainage (including the provision of all oil and diesel interceptors) connected with the development have been submitted to and approved in writing by the local planning authority and thereafter any works in relation to the development shall be undertaken in accordance with the drawings as so approved except as otherwise first agreed in writing by the local planning authority.

10. No part of the development (including ground works) hereby permitted shall commence until a programme of archaeological work to the site (including marine archaeology and any works which might be necessary and practicable to preserve any archaeological remains in situ) has been submitted to and approved in writing

by the local planning authority. The development shall be carried out in accordance with the approved programme.

11. No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to the Highways Agency has been submitted to and approved in writing by the local planning authority and local highway authority. The CMP shall include details of the management during the construction phase of the development of the matters contained in conditions 12 to 18 inclusive (construction noise and vibration), a construction traffic management plan in accordance with the Bathside Bay Construction Traffic Management Plan produced by ERM and dated 7th June 2004, condition 19 (construction lighting) and condition 21 (construction dust management) of this permission. The development hereby permitted shall be carried out in accordance with the CMP as so approved.

12. No part of the development hereby permitted shall be commenced until details relating to the control of noise and vibration from the construction of the development have been submitted to and approved in writing by the local planning authority. These details shall include the following:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification and procurement of quiet plant and equipment;
- (c) consultation and reporting processes for noise and vibration;
- (d) noise and vibration monitoring procedures including recording measures and the location of measuring instruments;
- (e) action to be taken in the event of non-compliance with (b) to (d) above;
- (f) a record of the occasions on which percussive piling operations take place;
- (g) complaint response procedures;
- (h) a requirement to provide environmental noise awareness training to operatives; and
- (i) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods.

The development hereby permitted shall be carried out in accordance with the approved details.

13. All plant, machinery and vehicles used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current

British Standards applicable thereto. No such plant shall be left running when not being operated.

14. Where any vehicle or plant is required to be fitted with a reverse warning system, such vehicles or plant shall not be installed or used prior to the approval of such a system in writing by the local planning authority. In operating such vehicles or plant the approved system shall be used.

15. No percussive piling operation for the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the local planning authority. The said programme shall provide that:

(i) no percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months; and

(ii) except with the prior written approval of the local planning authority no more than three hours of percussive piling of tubular piles for the main quay wall shall take place on any day.

16. Except with the prior written agreement of the local planning authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:

(a) 08:00 to 18:00 Monday to Friday; and

(b) 09:00 to 13:00 on Saturday;

or at any time on Sundays or Bank or Public Holidays provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours:

(i) in the case of emergency; or

(ii) where piling is required on the grounds of safety or environmental protection; and

(iii) in either case the situation would otherwise be dangerous to life or limb.

The local planning authority shall be promptly notified in writing of any event of this type and the reason why percussive piling took place outside the permitted hours.

17. The noise from construction activities in relation to the development shall not exceed the following daytime free-field equivalent sound pressure levels, as measured at a height of 1.5 m above ground level at the nearest residential property to the development:

- (a) 67dB LAeq 12H and 85dBLA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;
- (b) 55dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays;
- (c) 67dB LAeq 6hr and 85dB LA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 13:00 on Saturdays; and
- (d) 50dB LAeq 1hr at all other times.

18. Vibration levels from piling or other construction activities in relation to the development, as measured immediately adjacent to the nearest residential or vibration sensitive structure for that phase shall not exceed a peak particle velocity of 5mm/s.

19. No part of the development hereby permitted shall be begun until a written scheme of construction lighting has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:

- (a) definitions of roles and responsibilities;
- (b) design including location s of the construction lighting;
- (c) installation of the construction lighting;
- (d) management of the construction lighting;
- (e) construction lighting monitoring procedures and action to be taken in the event of non-compliance.

The development hereby permitted shall be carried out in accordance with the approved scheme.

20. No part of the hereby permitted development shall be implemented until a scheme relating to the provision and control of operational lighting on the site has been submitted to and approved in writing by the local planning authority. The lighting scheme shall be carried out in accordance with the scheme so approved.

21. No part of the development hereby permitted shall begin until a construction dust management plan has been submitted to and approved in writing by the local planning authority. The construction dust management plan shall include details of:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;

- (d) dust monitoring procedures;
- (e) action to be taken in the event of non-compliance; and
- (f) complaint response procedures.

The development hereby permitted shall be carried out in accordance with the approved plan.

22. All vehicles used to transport materials to or from the site during construction shall be sheeted so as not to deposit materials on the highway

23. No part of the development hereby permitted shall be commenced until written details of a wheel wash facility and its location have been submitted to and approved in writing by the local planning authority and local highway authority. The development hereby permitted shall be carried out so as to ensure that vehicles leaving the development site during construction first pass through the approved wheel wash facility.

24. No part of the development hereby permitted shall be operated until a plan for the handling of materials and stockpiling of new construction materials on site (using physical containment, partial shielding where available and water misting/sprays where appropriate) has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved plan.

25. No part of the development hereby permitted shall be commenced until details of measures to mitigate gas migration and accumulation, in accordance with the recommendations contained in the Bathside Bay Development Project Landfill Gas Investigation Report Ref E6702/1991/OCT/L6, have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.

26. No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling works has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:

- (a) monitoring procedures; and
- (b) remedial action works to be undertaken in the event of spillage.

The development hereby permitted shall be carried out in accordance with the scheme as so approved.

27. No part of the development hereby permitted shall be commenced until a scheme for pollution control has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

28. No site clearance for the development hereby permitted shall be commenced until a scheme for the translocation of reptiles, invertebrates and coastal vegetation within the site has been submitted to and approved by the local planning authority. The scheme shall include the following;

- (a) exclusion fencing to be erected around the site;
- (b) tinning to be carried out over a minimum of 60, 70 or 90 suitable days for a low, medium or high population level respectively, between the months of March and September;
- (c) relocation of the reptiles found to areas of suitable habitat outside the exclusion fencing.

The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

29. Development shall not begin until details of the means of vehicular access to the site from the A120 have been submitted to and approved in writing by the local planning authority and the local highway authority. The development shall not be operated until the vehicular access has been constructed in accordance with the approved details and opened to traffic.

30. Development pursuant to this planning permission shall not begin until a scheme of provision to be made for disabled people to gain access to public areas forming part of the development shall have been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

31. Except with the agreement of the local planning authority, no dredging operations shall be undertaken in relation to the construction of the development outside the hours of :

- (a) 07:00 hours to 19:00 hours Monday to Fridays;
- (b) 07:00 hours to 13:00 hours Saturdays;

or at any time on Sundays or on bank or public holidays.

32. Before the development is begun written details of the layout, construction and surfacing of the internal roadways and hardstanding for cars comprised in the development shall be submitted to and approved in writing by the local planning authority and local highway authority. The development shall be implemented in accordance with the details so approved and retained hereafter.

10/00204/LBC – Train Ferry Gantry

01. The development shall be commenced before the expiration of 10 years from the date of this consent.

02. The works hereby authorised shall be implemented only in accordance with the following plans and drawings hereby approved:

H1002/04 Existing Train Ferry Pier Plans, sections & Details
H1002/05 Existing Train Ferry Pier Gantry & Adjustable Bridge Details
H1002/06 Train Ferry Pier Extents of Demolition

03. No part of the works hereby permitted shall commence until a scheme for the method and execution of the proposed demolition works has been submitted to and approved in writing by the local planning authority. The works hereby permitted shall be carried out in accordance with the approved scheme.

04. None of the works hereby permitted shall begin until details of any navigation marks or lights to be affixed to the new terminus of the Grade II Listed train ferry gantry long berthing arm have been submitted to and approved in writing by the local planning authority. The works hereby permitted shall be carried out in accordance with the details as so approved.

05. None of the works hereby permitted shall begin until a programme of repairs, painting works, lighting works and maintenance of the Grade II Listed train ferry gantry structure has been submitted to and approved in writing by the local planning authority. The works hereby permitted shall be carried out in accordance with the programme as so approved.

Reason for Approvals:

The Development Plan for the site comprises the East of England Plan 2008 and the Tendring District Local Plan 2007.

Consideration of the proposal has taken full account of the following:

- The Secretary of State's letter (in which he was minded to approve planning permission) dated 21 December 2005;
- The Secretary of State's decision letter dated 29 March 2006 that granted planning permission for : the reclamation of Bathside Bay and development to provide an operational container port; a small boat harbour; creation of an estuarine and coastal habitat through a managed realignment of coastal defences; and, partial demolition and works to the listed Train Ferry Gantry;
- The report of the Inspector, K.G. Smith BSc (Hons) MRTPI, to which reference is made in the Secretary of State's letters;
- The Section 106 Legal Agreement and Deed of Variation (dated 15 October 2004 and 23 March 2006 respectively) that included, amongst other things, the provision of the small boat harbour; the delivery of the managed realignment; and the approval and implementation of a package of works to widen the A120 Trunk Road;
- The documentation accompanying applications 03/00600/FUL; 03/00601/FUL 03/01200//FUL and 03/00602/FUL including the Environmental Statement dated April 2003

and Additional Information dated September 2003 provided under Regulation 19 of the Environmental Impact Assessment Regulations 1999;

- Harbour Revision Order dated 17 March 2010;
- The documentation accompanying applications 10/00201FUL; 10/00202FUL; 10/00203/FUL; and 10/00204/LBC including the Supplemental Environmental Statement dated 23 February 2010 and the Supplementary Traffic Assessment dated 23 February 2010;
- The current economic recession and reduction in global trade which has resulted in a temporary stagnation of demand for container traffic ; and
- The consultation responses from all statutory and non statutory consultees and all other representations made in relation to the proposal.

Appropriate weight has been given to protected species and biodiversity interests of the Special Protection Area (SPA), made up of the Stour Estuary SSSI and the Orwell Estuary SSSI, and the wider environment in accordance with the requirements of the Conservation of Habitats and Species Regulations 2010; PPS 9 Biodiversity and Geological Conservation (2005); and the relevant policies of the Development Plan, with which the proposals comply.

Full account has been given to the impact of the proposal on the highway network. Regard has been had to the transport information provided in the Environmental Statement dated April 2003 and the Supplementary Traffic Assessment dated 23 February 2010. In consultation with the Highways Agency and Essex County Council (as the local highway authority) it is considered that, subject to the imposition of controlling conditions to secure improvements to the network and the phasing of development, the A120 (T) will be protected as part of the national strategic road network and the requirements of road safety for the A120 and connecting side roads will be maintained.

An assessment has been made that the proposals would adversely affect the integrity of the SPA. However, it is concluded that there is an overriding need for a container port at Bathside Bay to meet the national need for container capacity in the UK (Draft National Statement for Ports 2009) and that the proposal would bring significant economic and regeneration benefits to an area that is recognised as a Priority Area for Economic Regeneration. There are no alternative solutions. Imperative Reasons of Overriding Public Interest exist. Adequate compensatory measures have been proposed.

For these reasons the development proposal is seen as fulfilling a national need which seeks to achieve improved economic performance whilst balancing social, transport, historic environment; and environmental considerations.

105. APPLICATION 10/00201/FUL – BATHSIDE BAY, STOUR ROAD, HARWICH APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO VARY CONDITIONS 3 (PHASING), 45 (HIGHWAYS), 46 (HIGHWAYS) AND 47 (HIGHWAYS) AND TO DELETE AND REPLACE CONDITIONS 41 (HIGHWAYS), 42 (HIGHWAYS), 43 (HIGHWAYS) AND 44 (HIGHWAYS) ATTACHED TO PLANNING PERMISSION 03/00600/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval and a full list of

recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Mr J Noble, a local resident representing Friends of the Earth, spoke against the application.

Mr A Harston, on behalf of the applicant, spoke in support of the application.

It was moved by Councillor McLeod, seconded by Councillor Johnson and:-

RESOLVED - That in respect of application 10/00201/FUL the Interim Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

(a) Within 6 months of the date of the Committee's resolution to approve, completion of a legal agreement or agreements under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (and any further terms and conditions as the Interim Head of Planning (or the equivalent authorised officer) and/or the Head of Legal Services and Monitoring Officer in his or her discretion consider appropriate):

- Monitoring fees
- Accretion land;
- Small Boat Harbour;
- Little Oakley Managed Realignment;
- Travel Plan;
- Air Quality/Noise Monitoring;
- Local Employment;
- Sound Insulation Grants;
- Wetland Zone;
- Tree Planting;
- Listed Building Maintenance and Conservation Area contribution;
- Cycling and Pedestrian Improvements;
- Harwich International Port (HIP) Lighting;
- Legal Fees; and
- Remote Railway works.

and

(b) Planning conditions in accordance with those set out in Appendix A below (but with such amendments and additions, if any, to the detailed wording thereof as the Interim Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate.

Otherwise:

(c) The Interim Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission and listed building consent in the event that such legal agreement or agreements are not completed within the period of six months, contrary to Policy QL12.

The Committee were advised that as the Council had resolved to approve the application, GO-East had requested the opportunity to consider whether this application should be determined by the Secretary of State rather than Tendring District Council.

APPENDIX A

1. The development shall be commenced before 30 March 2016.
2. The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

H1001/01	Application Boundary
H1001/02 (Rev A)	Master Plan (RTG Operational Layout)
H1001/03 (Rev A)	RTG Layout Sections X-X
H1001/04	Existing and Proposed Flood Defences
H1001/05 Sheet 1	Existing Topographic Survey
H1001/05 Sheet 2	Existing Topographic Survey
H1001/05 Sheet 3	Existing Topographic Survey
H1001/05 Sheet 4	Existing Topographic Survey
H1001/05 Sheet 5	Existing Topographic Survey
H1001/05 Sheet 6	Existing Topographic Survey
H1001/05 Sheet 7	Existing Topographic Survey
H1001/06	Terminal Office GA Plans
H1001/07	Terminal Office Elevations and Sections
H1001/08	Terminal Control Gate GA
H1001/09	Logistics Facility GA Plans
H1001/10	Logistics Facility Elevations Drivers Facilities Building GA Plan
H1001/11	Elevations
H1001/12	Mess/Amenity Block GA Plan
H1001/13	Mess/Amenity Block Sections
H1001/14	Customs Control & BIP GA Plans Customs Control & BIP Elevations
H1001/15	Sections
H1001/16	Workshop Facility GA Plans
H1001/17	Workshop Facility Elevations
H1001/18	Lighting Layout Structural Landscaping Works and Planting
1514LO/52	Proposals
1514LO/53	Illustrative Planting Insets and Sections
1514LO/54	Landscape Masterplan
1514LO/55	Terminal Office Landscape Proposals Planning and Design Statement dated April 2003.

3. No development permitted hereby shall commence until a scheme of phasing substantially in accordance with Application Drawing H1001/02/A has been submitted to and approved in writing by the local planning authority. The scheme shall provide (inter alia) for:

- (a) the construction of the quay wall comprised in the development to begin at the western end of the area marked Phase 1 on Plan H1001/02/A and proceed thereafter in an easterly direction;
- (b) the timing of implementation of the landscaping scheme in accordance with condition 5 below; and
- (c) the notification of commencement and completion of construction of each phase.

The development shall be implemented in accordance with the approved scheme of phasing, which may provide for the construction of civil engineering works up to and including the paved surface of the terminal comprised in the development as a separate phase or phases prior to installation of craneage required to enable the development to function as a container terminal.

4. The development shall be carried out in accordance with the Planning and Design Statement dated April 2003 identified in condition 2 above save insofar as otherwise provided in any condition attached to this permission.

5. No part of the development hereby permitted shall be commenced until a landscaping scheme, including a programme for its implementation according with the indicative scheme shown in the application drawings, including details of screen mounding and tree planting, has been submitted to and approved in writing by the local planning authority. The landscaping scheme as approved shall be implemented during the first planting season following completion of topsoil dressing works at the development site. Any tree or shrub dying or becoming seriously diseased within five years of completion of the relevant phase of the development shall be replaced with a suitable specimen of similar species in accordance with the approved scheme.

6. No phase of the development shall commence operation until a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas of that phase of the development, has been submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

7. No phase of the development shall commence until details of the design and external appearance of the buildings and hardstanding areas to be constructed within that phase of the development according with the Planning and Design Statement dated April 2003 have been submitted to and approved in writing by the local planning authority. The details shall include dark block paving for the container stacking area and quayside comprised in the development. The development shall be carried out in accordance with the details as approved.

8. Except with the prior written agreement of the local planning authority and local highway authority, top soiling of the buffer land surrounding the operational areas of the development is not to be undertaken using material from any source other than from the managed realignment site at Little Oakley approved under planning permission 03/01200/FUL, which material shall not be delivered from the said site at Little Oakley to the site of the development other than by sea.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development shall commence until a scheme showing full details of fences, walls, gates and other means of enclosure has been

submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.

10. No part of the development hereby permitted shall be commenced until drawings showing both foul and surface water drainage (including the provision of all oil and diesel interceptors) incorporating a Sustainable Drainage System (SuDS) connected with the development have been submitted to and approved in writing by the local planning authority and thereafter any works in relation to the development shall be undertaken in accordance with the approved drawings.

11. No part of the development hereby permitted shall begin until a scheme for the design of the proposed 'wetland area' comprised in the development has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the scheme as approved.

12. No part of the development (including ground works) hereby permitted shall commence until a programme of archaeological work (including marine archaeology) for the site (including any works that might be necessary and practicable to preserve the remains in situ) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved programme.

13. No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to the Highways Agency has been submitted to the local planning authority and local highway authority and approved by each of them in writing. The CMP shall include details of management during the construction phase of the development of the matters contained in conditions 14 to 20 inclusive (construction noise and vibration), a construction traffic management plan in accordance with the Bathside Bay Construction Traffic Management Plan produced by ERM and dated 7th June 2004, conditions 25-27 (construction lighting) and conditions 29-33 (construction dust management) of this permission. The development hereby permitted shall be carried out in accordance with the approved CMP.

14. No part of the development hereby permitted shall be commenced until details relating to the control of noise and vibration from the construction of the development have been submitted to and approved in writing by the local planning authority. These details shall include the following:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification and procurement of quiet plant and equipment;
- (c) consultation and reporting processes for noise and vibration;
- (d) noise and vibration monitoring procedures including recording measures and the location of measuring instruments for each phase of the development;
- (e) action to be taken in the event of non-compliance with (b) to (d) above;
- (f) a record of the occasions on which percussive piling operations take place;
- (g) complaint response procedures;

- (h) requirements to provide environmental noise awareness training to operatives; and
- (i) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods.

The development hereby permitted shall be carried out in accordance with the approved details.

15. All plant, machinery and vehicles used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current British Standards applicable thereto. No such plant shall be left running when not being operated.

16. Where any vehicle or plant is required to be fitted with a reverse warning system, such vehicles or plant shall not be installed or used prior to the approval in writing by the local planning authority of such a system. In operating such vehicles or plant the approved system shall be used.

17. No percussive piling operation for any phase of the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the local planning authority. The said programme shall provide that:

- a. no percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months; and
- b. except with the prior written approval of the local planning authority no more than three hours of percussive piling of tubular piles for the main quay wall shall take place on any day.

18. Except with the prior written agreement of the local planning authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:

- (a) 08:00 to 18:00 Monday to Friday; and
- (b) 09:00 to 13:00 on Saturday;

or at any time on Sundays or Bank or Public Holidays provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours if:

- (i) in the case of emergency; or
- (ii) where piling is required on the grounds of safety or environmental protection; and
- (iii) in either case the situation would otherwise be dangerous to life or limb.

The local planning authority shall be promptly notified in writing of any event of this type and the reason why percussive piling took place outside the permitted hours.

19. The noise from construction activities in relation to any phase of the development shall not exceed the following daytime free-field equivalent sound pressure levels, as

measured at a height of 1.5 m above ground level at the nearest residential property to the relevant phase of development:

- (a) 67dB LAeq 12H and 85dBLA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;
- (b) 55dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays;
- (c) 67dB LAeq 6hr and 85dB LA1 5mins (in relation to percussive piling operations) during the hours of 07:00 to 13:00 on Saturdays; and
- (d) 50dB LAeq 1hr at all other times.

20. Vibration levels from piling or other construction activities in relation to any phase of the development, as measured immediately adjacent to the nearest residential or vibration sensitive structure for that phase shall not exceed a peak particle velocity of 5mm/s.

21. No part of the development hereby permitted shall be operated until an operational noise and vibration management and monitoring plan (NVP), relating to the control of noise and vibration from the operation of the development has been submitted to and approved in writing by the local planning authority. The NVP shall include the following:

- (a) definitions of roles and responsibilities in relation to the obligations contained in the NVP;
- (b) requirements for the adoption of best practice for the specification and procurement of quiet plant and equipment;
- (c) consultation and reporting processes in relation to noise and vibration;
- (d) noise and vibration monitoring and recording procedures;
- (e) action to be taken in the event of non-compliance;
- (f) complaint response procedures; and
- (g) a requirement to provide environmental noise awareness training to operatives.

The development hereby permitted shall be carried out in accordance with the approved NVP.

22. Noise from the operation of the development and emanating from the site shall not exceed a free-field sound pressure level of 55dB LAeq 1hr at any residential property existing at the date of this permission measured at a height of 4 m above local ground level between the hours of 23:00 to 07:00.

23. No stack or stacks of containers on any part of the development hereby permitted shall exceed five containers in height save that nothing in this condition shall preclude the lifting of containers above any stack of five containers.

24. There shall be no stacking of containers (other than containers on HGV trailers) more than one high on land south of the rail terminal comprised in the development.

25. No phase of the development hereby permitted shall be begun until a written scheme of construction lighting for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:

- (a) definitions of roles and responsibilities;
- (b) design including locations of the construction lighting in accordance with conditions 26 and 27 to this permission;
- (c) installation of the construction lighting;
- (d) management of the construction lighting; and
- (e) construction lighting monitoring procedures and action to be taken in the event of non-compliance.

The development hereby permitted shall be carried out in accordance with the approved scheme.

26. The height of fixed lighting installations used in the construction of the development shall not exceed twelve metres above ground level.

27. No phase of the development shall commence until details of the luminaires to be mounted on lighting columns on site in connection with the construction of the development have been submitted to and approved in writing by the local planning authority. The details shall include:

- (a) use of luminaires with high quality optical systems of flat glass construction, where appropriate;
- (b) limits upon the aiming angle of the peak intensity of the luminaire to maintain the light from the luminaire generally within 75 degrees from the downward vertical; and
- (c) use of the most appropriate photometry reflectors available at the date of this permission.

The development shall be carried out in accordance with the approved details.

28. The development permitted by this planning permission shall not be commenced until a scheme for the provision and control of operational lighting (including high mast lighting and column lighting) on the site has been submitted to and approved by the local planning authority. The operational lighting scheme shall include the following:

- (a) use of luminaires with high quality optical systems of flat glass construction for high mast lighting;
- (b) use of full cut-off luminaires which do not produce upward spread of light near to or above the horizontal;
- (c) a restriction on the luminaire tilt angle to maximum of 8 degrees above the maximum peak of intensity angle of luminaire;
- (d) the direction of high mast lighting so as to minimise direct light into windows or properties in the proximity of the development site;

- (e) a reduction of the heights of high mast towers and columns towards the boundary of the site;
- (f) automatic extinguishment of ship to shore gantry crane boom arm floodlighting and maintenance access walkway lighting on the raising of a crane boom arm 10 degrees from the horizontal operation position;
- (g) access and safety luminaires on access walkways and ladders shall be fitted with diffusers;
- (h) the working lighting of the ship to shore gantry cranes shall be switched off when not in use for any extended period of time, retaining only access, safety and security lighting;
- (i) ship to shore gantry crane boom arm floodlighting luminaires located beyond the riverside edge of berthed vessels shall be manually turned off when not in use;
- (j) working lighting of rubber tyre gantry cranes shall be switched off when not in use for an extended period of time, retaining only access, safety and security lighting; and
- (k) operational lighting monitoring procedures and action to be taken in the event of non-compliance.

The lighting scheme hereby permitted shall be carried out and maintained in accordance with the approved scheme.

29. No part of the development hereby permitted shall be commenced until a construction dust management plan has been submitted to and approved in writing by the local planning authority. The construction dust management plan shall include details of the following:

- (a) definitions of roles and responsibilities;
- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;
- (d) dust monitoring procedures;
- (e) action to be taken in the event of non-compliance; and
- (f) complaint response procedures.

The development hereby permitted shall be carried out in accordance with the approved plan.

30. No part of the development hereby permitted shall be commenced until details of the cleaning and maintenance programme for the site roads to be used during construction have been submitted to and approved in writing by the local planning authority. The programme shall include details of:

- (a) the use of water bowsers and sprays for damping down of hard surface site roads;
- (b) sweeping of hard surface site roads; and

- (c) grading and maintenance of loose aggregate surface site roads.

The development shall be operated in accordance with the approved programme.

31. All vehicles used to transport materials to or from the site during construction shall be sheeted so as not to deposit materials on the highway

32. No part of the development hereby permitted shall be commenced until written details of a wheel wash facility and its location have been submitted to and approved in writing by the local planning authority and local highway authority. The development hereby permitted during construction shall be carried out so as to ensure that vehicles leaving the development site first pass through the approved wheel wash facility.

33. No part of the development hereby permitted shall be commenced until a plan for the handling of materials and stockpiling of new construction materials on site (using physical containment, partial shielding where available and water misting/sprays where appropriate) has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved plan.

34. No part of the development hereby permitted shall be commenced until an ambient dust monitoring strategy has been submitted to and approved in writing, by the local planning authority. The ambient dust monitoring strategy shall include details of the following:

- (a) three months' 'baseline' data;
- (b) the numbers and locations of deposit gauge units;
- (c) monthly sampling requirements;
- (d) wind direction monitoring requirements;
- (e) assessment criteria;
- (f) reporting processes; and
- (g) action to be taken in the event of non-compliance with the approved assessment criteria.

The development hereby permitted shall be carried out in accordance with the approved ambient dust monitoring strategy.

35. No part of the development hereby permitted shall be commenced until details of measures to mitigate gas migration and accumulation, in accordance with the recommendations contained in the Bathside Bay Development Project Landfill Gas Investigation Report Ref E6702/1991/OCT/L6 have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.

36. No part of the development hereby permitted shall be commenced until a flood evacuation plan has been submitted to and approved in writing by the local planning authority and the local highway authority. The development hereby permitted shall be carried out and operated in accordance with the approved plan.

37. All buildings constructed as part of the development shall have a minimum ground floor level of at least 4.6 m AODN with the provision of dry access at the same or higher levels to all such buildings.

38. No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling works has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:

- (a) monitoring procedures; and
- (b) remedial action works to be undertaken in the event of spillage.

The development hereby permitted shall be carried out in accordance with the scheme as so approved.

39. No part of the development hereby permitted shall be commenced until a scheme for pollution control has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out and operated in accordance with the scheme as so approved.

40. No site clearance for any phase of the development hereby permitted shall be commenced until a scheme for the translocation of reptiles, invertebrates and coastal vegetation within the part of the site relevant to the phase of the development has been submitted to and approved by the local planning authority. The scheme shall include the following;

- (a) exclusion fencing to be erected around the site;
- (b) tinning to be carried out over a minimum of 60, 70 or 90 suitable days for a low, medium or high population level respectively, between 1st March and 30th September;
- (c) relocation of the reptiles and invertebrates found to areas of suitable habitat outside the exclusion fencing.

Site clearance of each phase shall be carried out in accordance with the approved scheme.

41. No part of the development hereby permitted shall be operated until such time as the works listed below, (whether or not requiring the land of third parties), shall have been opened for traffic. The works are:

- (a) works for the improvement of the A12(T)/A120(T)/A1232 Ardleigh Crown Interchange, or such other works (by whomsoever and wherever provided) as in either case will achieve the relief of that junction in accordance with the principles (i) (ii) and (iii) set out below; and
- (b) works for the improvement of the A120(T)/Parkeston Road/Station Road/Europa Way Roundabout as will achieve the relief of that junction in accordance with the principles (i) (ii) and (iii) set out below.

The principles are that such highway works shall:

- (i) be in such form as the Highways Agency and local highway authority shall have approved in writing prior to the construction of those works; and

(ii) be of a standard at least capable of ensuring that conditions at the relevant junction are no worse during and at expiration of a period of 10 years from the anticipated date of commencement of the operation of the development; and

(iii) ensure the safety of all road users including pedestrians and cyclists using the junction in question.

42. Subject as Condition 43 otherwise permits and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting the Order with or without modification), until the works set out below have been opened for traffic, no part of the development hereby permitted that is shown by magenta and green colouring on drawing H1001/02/A, shall:

(a) be equipped with ship to shore gantry cranes; or

(b) be operated in any manner as a container terminal; or

(c) unless such use relates to the construction of the development, be used for any purpose that generates road traffic or would result in the arrival or departure of traffic to or from the development by road,

The works are:

(a) an improvement of the route of the A120(T) (including from Ramsey Bridge Roundabout to Parkeston) together with consequential and ancillary improvements thereto; and

(b) an improvement to the A120, and any side roads and access thereto, between and in the vicinity of :

(i) the A120 (T)/A133 Interchange at Hare Green to Horsley Cross Roundabout to no less a standard than a two lane dual carriageway; and

(ii) Horsley Cross Roundabout to Ramsey Bridge Roundabout to no less a standard than a wide single carriageway

or in either case such other terminal points for such route improvements as the Secretary of State may announce and

(c) improvements to the local highway network including the A120 from Parkeston Roundabout to Morrisons Roundabout required as a result of the proposals referred to at (a) above in such form as the Highways Agency and local highway authority shall have approved prior to the construction of those works.

43. Except where the works referred to in Condition 42 above have been opened to traffic, when this condition shall cease to have effect, the development shall not be operated except in accordance with a scheme (accompanied by a certificate that the same has been supplied to and approved by the local highway authority and the Highways Agency) approved by the local planning authority providing for traffic management and safety measures to remain in place until the works referred to in Condition 42 have been opened for traffic.

44. No part of the development hereby permitted shall be commenced until such time as details of the means of vehicular access to the site from the A120 have been submitted to and approved in writing by the local planning authority and the local highway authority. The development shall not be operated until the vehicular access has been constructed in accordance with the approved details and opened to traffic.

45. No phase of the development hereby permitted shall be commenced until a scheme and layout of hard standing for lorries and cars including a requirement that no charge be levied for HGV's delivering or collecting goods from the development and reasonable and proper provision for disabled people in accordance with the plans hereby approved has been submitted to and approved in writing by the local planning authority and local highway authority. The development shall be implemented in accordance with the approved scheme and layout which shall be retained thereafter.

46. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending or revoking and re-enacting that Order with or without modification) no linkspan (or other structure to permit the use of the development hereby permitted (or any part thereof) by RoRo type vehicles (here including vehicles referred to at paragraph (iii) below) shall be constructed pursuant to this planning permission or otherwise and no part of the development shall be used :

- (a) for the import or export of RoRo vehicles or goods carried by RoRo vehicles (at the time of import or export); or
- (b) for the storage or handling of RoRo vehicles; or
- (c) for the loading or unloading of RoRo vehicles from any vessel; or
- (d) For the collection or deposition of passengers arriving or departing as passengers by sea on vessels capable of carrying over 50 passengers.

In this condition;

“RoRo vehicle” means a wheeled vehicle capable of being used upon the public highway for the carriage of passengers or freight whether capable of moving under its own power or otherwise (e.g. trailer) including motorcycles, cars, buses and HGV's (in each case including any trailer) but does not include:

- (i) vehicles in use for the conveyance of goods, persons or containers to, from or within the development where the vehicle so used is not imported or exported with the goods, persons or containers;
- (ii) vehicles contained within containers;
- (iii) specialist vehicles used for the conveyance of awkward unusually large or bulky or unusual loads including solid wheel flat bed “MAPI” trailers (or similar); or
- (iv) vehicles delivered to the development for the use in its construction or operation

47. No part of the development hereby permitted shall be operated until a written emergency port closure scheme setting out:

- (i) procedures for the evacuation and/or closure of the development in the event of an emergency;
- (ii) procedures to be followed in the event of the closure of the development to sea traffic;

(iii) the areas of HGV parking within the development to be used in the event of the closure of the development to sea traffic;

(iv) procedures for notification and liaison with emergency services and highway authorities; and

(v) procedures to be followed in the event of closure to or restrictions upon the use of the A120 and/or A120(T) by HGV's,

together with a certificate that the same has been submitted in that form to the Highways Agency has been submitted to and approved in writing by the local planning authority and local highway authority. The scheme shall be implemented as so approved.

In conditions 46-48:

“HGV” means a heavy goods vehicle of COBA Vehicle Category OGV1 and/or OGV2 as defined in the Design Manual for Roads and Bridges, Volume 13, Section 1 (May 2002).

48. No part of the development hereby permitted shall be implemented until a scheme providing for the operation of the development in accordance with measures designed to secure controls on activities likely to adversely affect air quality has been submitted to and approved in writing by the local planning authority. The scheme shall include:

(i) a strategy for the procurement of plant, machinery and vehicles to be used in operating the development complying with Government air quality objectives from time to time for control of emissions including (where appropriate) the fitting and use of catalytic converters;

(ii) a requirement that the development should be capable of being retrofitted with apparatus for the purpose of the supply of electricity from land to vessels berthed alongside;

(iii) procedures for liaison and review in relation to the prospects of securing improvements to emissions from the development and the adoption of reasonable measures identified as being necessary as a result of such liaison and review; and

(iv) a requirement upon the terminal operator to request that the Harwich Haven Authority imposes reductions in vessel speeds in order to limit emissions.

The development shall be operated in accordance with the scheme so approved.

49. No part of the development hereby permitted shall be commenced until a scheme for the provision of noise attenuation measures designed to mitigate the impact of traffic noise arising from the operation of the development on residential and/or noise sensitive properties at or in the vicinity of Wix Road, Ramsey has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out prior to the commencement of the operation of the development.

50. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the hereby permitted container terminal shall not be extended to include land within the existing Harwich International Port without the submission of a planning application and the prior written permission of the local planning authority or the Secretary of State.

Reason for Approval:

The Development Plan for the site comprises the East of England Plan 2008 and the Tendring District Local Plan 2007.

Consideration of the proposal has taken full account of the following:

- The Secretary of State's letter (in which he was minded to approve planning permission) dated 21 December 2005;
- The Secretary of State's decision letter dated 29 March 2006 that granted planning permission for : the reclamation of Bathside Bay and development to provide an operational container port; a small boat harbour; creation of an estuarine and coastal habitat through a managed realignment of coastal defences; and, partial demolition and works to the listed Train Ferry Gantry;
- The report of the Inspector, K.G. Smith BSc (Hons) MRTPI, to which reference is made in the Secretary of State's letters;
- The Section 106 Legal Agreement and Deed of Variation (dated 15 October 2004 and 23 March 2006 respectively) that included, amongst other things, the provision of the small boat harbour; the delivery of the managed realignment; and the approval and implementation of a package of works to widen the A120 Trunk Road;
- The documentation accompanying applications 03/00600/FUL; 03/00601/FUL 03/01200//FUL and 03/00602/FUL including the Environmental Statement dated April 2003 and Additional Information dated September 2003 provided under Regulation 19 of the Environmental Impact Assessment Regulations 1999;
- Harbour Revision Order dated 17 March 2010;
- The documentation accompanying applications 10/00201FUL; 10/00202FUL; 10/00203/FUL; and 10/00204/LBC including the Supplemental Environmental Statement dated 23 February 2010 and the Supplementary Traffic Assessment dated 23 February 2010;
- The current economic recession and reduction in global trade which has resulted in a temporary stagnation of demand for container traffic; and
- The consultation responses from all statutory and non statutory consultees and all other representations made in relation to the proposal.

Appropriate weight has been given to protected species and biodiversity interests of the Special Protection Area (SPA), made up of the Stour Estuary SSSI and the Orwell Estuary SSSI, and the wider environment in accordance with the requirements of the Conservation of Habitats and Species Regulations 2010; PPS 9 Biodiversity and Geological Conservation (2005); and the relevant policies of the Development Plan, with which the proposal complies.

Full account has been given to the impact of the proposal on the highway network. Regard has been had to the transport information provided in the Environmental Statement dated April 2003 and the Supplementary Traffic Assessment dated 23 February 2010. In consultation with the Highways Agency and Essex County Council (as the local highway

authority) it is considered that, subject to the imposition of controlling conditions to secure improvements to the network and the phasing of development, the A120 (T) will be protected as part of the national strategic road network and the requirements of road safety for the A120 and connecting side roads will be maintained.

An assessment has been made that the proposals would adversely affect the integrity of the SPA. However, it is concluded that there is an overriding need for a container port at Bathside Bay to meet the national need for container capacity in the UK (Draft National Statement for Ports 2009) and that the proposal would bring significant economic and regeneration benefits to an area that is recognised as a Priority Area for Economic Regeneration. There are no alternative solutions. Imperative Reasons of Overriding Public Interest exist. Adequate compensatory measures have been proposed.

For these reasons the development proposal is seen as fulfilling a national need which seeks to achieve improved economic performance whilst balancing social, transport, historic environment; and environmental considerations.

Chairman