

**A01**

**PA/TH/22/0132**

PROPOSAL: Application for prior approval for the installation of a 119m long berth following the removal of existing berth 4/5 under Part 18 Class A of Town Country Planning (General Permitted Development) Order 2015.

LOCATION:

Berth 4 And 5 Port Of Ramsgate Royal Harbour Approach  
Ramsgate Kent

WARD: Central Harbour

APPLICANT: Thanet District Council

RECOMMENDATION: Approve and adopt the Appropriate Assessment at Annex 1.

Subject to the following conditions:

1 The development hereby approved shall be carried out in accordance with the submitted drawings numbered 3611\_502A and 3611\_503A received 28 January 2022.

**GROUND;**

To secure the proper development of the area.

2 The development hereby approved shall be carried out in accordance with the submitted Construction Environment Management Plan (Appendix 2.5) received 28 January 2022.

**GROUND;**

In order to protect the environment and safeguard protected species, in accordance with advice as contained within the NPPF.

3 No piling works in the construction of the development hereby approved shall be completed during the bird overwintering period (September to March inclusive).

**GROUND;**

In order to safeguard protected species that may be present, in accordance with advice as contained within the NPPF.

4 Soft start piling shall be used in accordance with the details included within the Construction Environmental Management Plan received 28 January 2022.

**GROUND;**

In order to protect the environment and safeguard protected species, in accordance with advice as contained within the NPPF.

5 Prior to works commencing on site a pre-commencement breeding bird survey must be carried out within the port and harbour area. If any breeding birds are present and will be disturbed by the construction work, all works must cease until all young have fledged.

**GROUND;**

In order to safeguard protected species, in accordance with advice as contained within the NPPF.

6 A Marine Mammal Observer shall oversee the development in accordance with the details included within the Construction Environmental Management Plan received 28 January 2022.

**GROUND;**

In order to safeguard protected species, in accordance with advice as contained within the NPPF.

**INFORMATIVES**

Please be aware that your project may also require a separate application for Building Control. Information can be found at:  
<https://www.thanet.gov.uk/services/building-control/> or contact the Building Control team on 01843 577522 for advice.

For any subsequent application submitted to Kent County Council as Waste and Mineral Authority in regard to any physical structure to facilitate the transportation of minerals, the comments of the Council's Environmental Health officer received 20 April 2022 shall be taken into account by the applicant.

Please note that a Marine Licence is also required from the Marine Management Organisation (MMO) for the offshore elements of the Proposed Development. This licence will be required prior to the construction of the berth to comply with separate legislation.

**SITE, LOCATION AND DESCRIPTION**

The site is located on the eastern side of Ramsgate Port and to the south of the existing roll-on roll-off berth three.

The previous berth was installed in 1998 and upgraded in 2006. The berth was fitted with an automated aggregate conveyer for transporting aggregate from vessels to the quayside. The previous berth has been removed.

## RELEVANT PLANNING HISTORY

PA/TH/20/1092 - Application for prior approval for the installation of a 119m long berth following the removal of existing berth 4/5 under Part 18 Class A of Town Country Planning (General Permitted Development) Order 2015. Withdrawn 15 February 2022

F/TH/98/0397 - Construction of a floating mooring/reception pontoon incorporating four driven piles, incorporating a temporary aggregate discharge facility. Granted 30 June 1998.

## PROPOSED DEVELOPMENT

This report concerns an application for prior approval for the installation of a 119m long berth following the removal of existing berth 4/5 under Part 18 Class A of Town Country Planning (General Permitted Development) Order 2015. This berth will replace the previous berth used by vessels discharging aggregate removed in 2021.

## NOTIFICATIONS

There is no requirement for public consultation under this prior approval procedure, however a consultation has been completed under the Environmental Impact Assessment Regulations (EIA). Site notices were posted around the site and an advert was posted in the local paper. Letters were sent to interested parties who commented on the withdrawn prior approval application. A second advert was placed in the paper and letters were sent to all parties that had submitted representations during the initial consultation following the submission of additional information.

32 letters of objection have been received raising the following concerns:

- Development would result in an increase in aggregate imports
- Affect local ecology
- General dislike of proposal
- Increase of pollution
- Information missing from plans
- Not enough info given on application
- Out of keeping with character of area
- Over development
- Development is not a 'like for like' replacement
- No business plan has been provided
- No justification for development
- The Council is subsidising Bretts
- No benefits to the economy
- No benefits to tax payers
- Close to adjoining properties
- Conflict with local plan
- Relationship between Bretts and the Council
- Barges in the harbour
- Cost of development to the Council
- Bretts are not contributing to the development
- Future plans for the port
- Alternative development should be considered for the port

- Other issues in the port should be addressed prior to redevelopment
- Potentially contaminated land
- No EIA was completed prior to the installation of the existing berth
- Impacts upon the nature reserves
- Impacts upon the Conservation Area
- Noise nuisance
- Traffic or Highways
- Impacts upon biodiversity
- Water quality
- Air quality
- Development is proposed during peak tourism months
- More consultation is required
- Increased flood risk
- Development would limit other opportunities in the port
- Noise and disturbance during construction
- More consultation required
- Increase in traffic
- A full planning application should be submitted
- An Environmental Impact Assessment is required
- Schedule 1 development cannot benefit from permitted development rights
- A Marine Licence from the MMO is required
- Concrete batching plant has been erected without planning permission
- Development would result in an increased capacity
- Human Health has been scoped out of the EIA
- No dust monitoring near the site
- Impact upon listed buildings and conservation areas
- Aggregate can be discharged without the need for a berth
- Habitat Regulation Assessment is required
- Development is too high
- TDC should not determine the application as they are applicants
- No further need for aggregates in Kent
- Existing structure was smaller than stated in the application
- Climate change
- Lease on the site is being breached
- Delivery vehicles do not follow the speed limit
- Impact upon marine safety
- Port should not be designated as industrial
- Failure to consider alternatives
- Impact upon marine environment
- Waste disposal
- Impacts upon neighbouring business
- Impacts upon phone masts
- Pollution on the beaches

**Cllr Austin** - As one of the ward Councillors for Central Harbour ward which covers Ramsgate Port, I'm speaking both for myself and for many residents who have asked me to express their concerns about this development.

The reasons I've highlighted in the list above show potential concerns such as noise and pollution, which are almost inevitable from the construction phase, but may be short-lived. Whether they will remain concerns thereafter we have no way of knowing, as even as a ward Councillor I have next to no information about what is planned here, and local residents have none at all.

We were advised that the previous berths 4/5 were deemed unsafe and had to be removed. We are also advised that Bretts, who pay an extraordinarily modest rent for their facility on the port, had not asked for any replacement or increase in the facility.

Yet we are apparently proposing to replace the old berths with something 313% bigger. We are also simultaneously maintaining that this is a 'like for like replacement' and at the same time that we expect to be increasing not only the berth's size (which might perhaps be justified on safety grounds) but also its conveyer capacity by a factor of 7.5.

When this was discussed at Council last year, the previous Leader insisted that the then administration had no plans to increase or diversify the use of these berths. If this remains the case, the increase in size, disruption and potential negative impact on residents and the neighbouring SSSI cannot be justified. If on the other hand this does not remain the case, the matter should clearly be brought back to Council for full discussion and proper democratic decision.

Whatever the situation, members and residents need to be properly informed in order to be able to comment appropriately on this application. To request comments with so little information on the table is insulting to those who take the time to respond, and frankly a waste of everyone's time.

**Cllr Wing** - Stance: Concerns in relation to the following areas:

- Potential effects on protected marine environment
- Potential increase of pollution
- A failure to assess potential existing and potential dust pollution on those living/working in close proximity
- Lack of clarity and/or information in key areas of the application/plans
- Out of keeping with character of area
- Over development
- Failure to address potential effects of climate change given the location
- Failure to consult stakeholders living/working close by: residents and other port users
- Failure to consider alternatives
- Concerns that the planning application approach fails to safeguard those living/working in close proximity to the development, given this is both an EIA and Schedule 1 Development

It is clear that the EIA has involved a comprehensive and thorough assessment of the proposed 'EIA Development' at berths 4/5 in the Port of Ramsgate, in relation to the following Planning Application; PA/TH/22/0132. However, I would like to make the following comments and seek further clarification and/or information concerning a number of important issues:

Covering Letter

1. In the covering letter the development is described as a 'similar floating berth facility' when in fact it will be different in a number of critical features. The new berth will be 317% larger and with a longer 46m connecting gangway will have an overall increased total length of 119m. In addition, TDC have indicated this berth will be capable of housing a 3000 tonne per hour conveyer, in previous documentation, representing a very significant difference in terms of capacity and potential function, given the previous capacity was 400 tonnes per hour. It is reassuring that in this application TDC states that 'the function will not change and that there will be a single operator' the existing leaseholder but again this is at odds with what is stated in previous documentation which mentions 'bulk cargo and wood pellets' being possible imports via this new berth and so further clarification is needed?

#### Environmental Statement Document

2. It is very disappointing and concerning that both Climate Change as well as Materials and Waste have been scoped out of the ES. Regarding Climate Change, rises in sea level and more frequent storms are well evidenced, indeed, new sea defences have been built on behind the main sands and locals have images of water at exceptional hightides and in adverse weather encroaching the port in the location of the new pontoon and towards the Cement Batching Plant and its exposed stores of minerals/gravel. In addition, in heavy rain the large port area seems to lack the required drainage system to reduce surface flooding and the leaching of possible polluting minerals/gravel from the site is therefore increased. Indeed, point 2.3.16 actually states the area is 'vulnerable to wider environmental changes due to climate change', which conflicts with the option to 'scope out'. It is therefore felt that this does need to be considered and over the lifespan of the proposed development which is 30 years.

#### Alternative Considerations (4.1)

3. The consideration of alternatives is limited in scope given the discharge of sand/gravel is to be the single reason for the proposed development. Presently the ship DC Vanleerden visits Ramsgate Port and discharges sand and possible gravel from a position in the location of berth 4/5. This ship is a suction dredger with the capacity to discharge both sand and gravel clearly without the use of a pontoon. The DCGoup Company also has a number of other 'sisters ships' including the DC Ostend which visit Dover to discharge sand and/or gravel. Given the cost of the proposed development and the fact it is all via public funding, has this option which could be significantly cheaper, given the development would not be necessary, been considered and discussed with the existing company involved?

#### Dredging (4.1.2)

5. Prior to construction a capital dredge will be needed to a depth of -4.5cd, achieved with a split-hopper grab dredging barge, which if all permissions are given will begin in May 2022. It is expected that 15,000m<sup>3</sup> will be extracted and removed using the existing drop sites at: a) Pegwell (TH140) with a capacity of 99,000 wet tonnes & b) Dover (DV101) with a capacity of 137,000 wet tonnes. This will use the present Marine License: (L/2016/00086) mentioned at point (5.4.2) which is valid until March 2026. Given there has been little, if any substantial dredging, over the last 2 years, there are real concerns that the amount extracted and dropped at these sites, over a short period of time will create problems. There also seems to be no clarification from the MMO that this has been consider or clarification concerning

whether the existing Marine License has been approved. In addition, there is no indication of exactly how much will be dropped at each site and given the Pegwell site is much closer, the fear is this will be used for all or if not most of the sediment dropped. It is also not clear whether the amounts allowed at each site are amounts allowed annually or for an alternative length of time or until the allowed 'wet weight' is reached? Some clarification here is needed.

6. Five tonnes of cement is also to be removed from the site but there is not specific indication of where this will go?

#### Ship Traffic

7. Point 5.3.4 states that the previous pontoon and the proposed pontoon will be used by a single vessel: Neptune (IMO 9030474;151DWT). This is simply not true as evidenced by TDC own records of aggregate imports, which indicates the following vessels were regulars: Pluto (IMO 8518340 2386 tonnes), Neptune (formerly Islay Trader) (IMO 9030474 1512 tonnes) and DC Vlaanderen (IMO 9250373 2744 tonnes). Clearly, all exceed the 1350 tonne threshold for a Schedule 1 Development & TDC records show, for example: a) Pluto discharged 2140 tonnes on 14.06.17 & 25.08.17 b) Neptune discharged 2100 tonnes on 26.01.18, 29.01.18 & 24.03.18 c) DC Vlaanderen discharged 3585 tonnes on 17.01.18, 3477 tonnes on 05.03.18 & discharged aggregate on 14.10.20 (tonnage unknown), which continues to discharge marine aggregate at the port and from the same berth site. These details need to be amended to reflect the true picture.

Marine Ecology 8. Point 6.2.6 & 6.9.8 details the significant risk to our marine mammals: Grey, Common and Harbour Seals, during piling and it appears appropriate mitigations will be put in place, including a Marine Mammal Observer who will monitor a 500m radius around the piling sites and the use of a less noisy method. This is a welcome intervention but where will the Marine Mammal Observer be located and how will they monitor the designated area? Will they also record any sightings of seal's, how will they ensure these seal 'leave the area' and at what point will work stop? I understand piling will cease as soon as a seal is spotted in the area and once the seal has left the area there will be a further 20-minute wait to restart piling. Will records of all sightings and actions be sent to Kent Wildlife Trust and NE?

#### Marine Water and Sediments

9. This document looks at the benthic survey of 3 sites within the proposed development and potential pollution in the sediment to be extracted. Again, this is very detailed but would benefit from further interpretation to enable the 'layperson' to better understand what is stated. For example, what does the baseline data demonstrate; what does below AL1, above AL1, below AL2 and above AL2 represent in terms of pollution levels?

10. In addition, given the dredging will be to a depth of -4.5cd and that the area around the proposed site is extensively silted up to such an extent that a large area of silt is exposed at low tide, should the sampling have been at depths greater than 2.5m, given dredging in these locations is likely to be much deeper than this?

#### Ornithology

11. Wintering birds have been scoped out of this application given the time scale for the work is between May and July 2022. However, given there have already been significant delays, surely it would have been prudent to undertake this analysis, and what will happen if the works are delayed extending into the winter months?

12. The document states that there are 'no notable species or assemblages of birds' but there are starlings roosting close by and on the port during murmuration's, as well as Fulmar's nesting on/in the chalk cliff close by. At low tide birds are often seen on the silt bank which has built up where the breakwater meets the port just to the south of the proposed development, an area which may also be dredged. These birds and locations appear to have been missed in this analysis which is very worrying.

#### Inter-Project Effects (11.5)

13. The only scoping tool used here was a 'search of the TDC planning portal', which resulted in the following statement; 'there are no big developments close by'. Inter-project effects and cumulative impact were therefore not considered. This is simply not true. Given the proposed development is to serve the existing Cement Batcher and Aggregate plant, I fail to see how this statement could have been made, especially because, this is an application by TDC to TDC's planning department, so TDC must be aware of the various 'big developments' close by the proposed site. There are in fact a number of 'big developments' in addition to the 2 mentioned previously including: 2 Windfarms, 2 approved planning applications for mobile phone masts, one being 15m high and a number of other small businesses. None of these stakeholders or more importantly workers/staff, have been considered in any of the analysis that could identify possible negative impacts upon them. For example; noise and airborne pollution, which is extremely worrying given their close proximity. This clearly needs to be addressed.

#### Consultation (2.27)

13. The document does evidence that consultation was undertaken with a number of important organisations: MMO, NE, TDC Environmental Health, HE, KCC Ecology but there is no mention of KCC in terms of the KCC KMWLP. This designates berth 4/5 as a 'safeguarded wharf' and as such consultation with KCC should happen. There is no indication this has happened and no mention of the berth being 'safeguarded', again this needs to be addressed in light of the KMWLP.

#### Assumptions and Limitations

14. Here it is made clear that 'any future development of the site beyond the proposed development of which this ES relates, will be determined through a separate a planning application and is not assessed within this ES'. This finally gives some clarity over all future developments at the port, whatever they are, and also confirms that the conveyer will need its own planning application, EIA and MLA and to the appropriate planning authority; KCC as confirmed by Sharon Thompson at KCC.

#### Air Quality

15. 10.4.5 Clearly indicates that data from existing Diffusion Tube monitoring Stations were used, the closest is at Boundary Road 1.25 miles away. The report also indicated that there



is NO dust monitoring at the port by TDC or in relation to the Cement Batching and Gravel businesses. This is confirmed in Point 10.5.14 which states 'Brett does no monitoring for PM10 or PM25 and suggests PM75 does not travel that far'. It fails to say how far and how this was assessed. This is very worrying given the number of people living and working within 1km of the site, some as close as a few metres and the nearest residential properties 300m away. There is clearly a real need to address this situation now and in the future. Noise monitoring equipment was brought in and used as part of this assessment so it is strange that dust monitoring equipment was not! Dust is regularly seen in and around the large exposed piles of minerals on the site during windy weather which is common and while vehicles visit the cement batching and aggregate businesses. There is no dampening down of these piles and no wheel washing before vehicles leave the site. Given the process of making cement involves various minerals some of which are harmful to humans and wildlife, using a dust monitoring station 1.25 miles away is simply not good enough.

### Environmental Statement

16. Point 1.3.8 makes it clear that this development is an 'EIA Development'. Point 1.4.1 mentions the 'requirements for EIA' quoting at point 1.4.1 'the proposed development falls under classification of schedule 1 8(2) of the Town & Country Planning (EIA) Act Regs 2017 (the EIA Regs) as follows:

(2) Trading Ports, Piers for loading & unloading connected to land & outside ports (excluding ferry ports) which take vessels over 1,350 tonnes'.

Serious questions and consideration need therefore to be made concerning the validity of TDC use of 'General Permitted Developments Rights', which were possibly an option if the MMO had not assessed an EIA was required and that the ES had not designated the development a schedule 1. As a result, the following Planning Legislation Applies:

Town & Country Planning (General Permitted Development) (England) Order 2015

Permitted Development:

(10) Subject to paragraph (12), Schedule 1 development or Schedule 2 development within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011(2) ("the EIA Regulations") is not permitted by this Order unless—

(a) the local planning authority has adopted a screening opinion under regulation 5 of those Regulations that the development is not EIA development(3);

(b) the Secretary of State has made a screening direction under regulation 4(7) or 6(4) of those Regulations that the development is not EIA development; or

(c) the Secretary of State has given a direction under regulation 4(4) of those Regulations that the development is exempted from the application of those Regulations.

**Ramsgate Heritage and Design Forum** - The Ramsgate Heritage and Design Forum objects to this development on the grounds that there is no economic or business justification for this very substantial use of public funds into the perennially loss making port operation. There is an unacceptable lack of transparency that cannot be excused by

sheltering behind spurious claims of 'Commercial Confidentiality.' The only beneficiary would be Bretts, a wholly private company yet again subsidised by public funds.

**Ramsgate Town Council** - RESOLUTION: i) In the light of the substantial amount of local concern; the amount of money being spent; and that TDC is the applicant and decision maker, RTC recommends that a full planning application is submitted. ii) A document of questions provided by Cllr R Wing, to be sent to TDC with RTC's comments. iii) RTC, due to the public perception of the role of TDC in this matter, recommends that TDC seeks another authority to consider the application.

**The Ramsgate Society** - The Ramsgate Society objects to TDC's Planning Application for alterations to Berth 4/5 for the following reasons:

1. TDC is mistaken in using the Prior Approval /Permitted Development approach (under the 2015 T&C Planning {Permitted Development} Order) because the vessel used by Brett's Aggregates is over the maximum size threshold (1,350 tonnes) meaning that the development is excluded from the permitted development concession (unless the Secretary of State has directed that the development is exempt from the T&C Planning {EIA} Regulations 2017, which as far as we are aware is not the case). This is fundamental: the application should fall at this first hurdle.

2. Under the Facilities Agreement between TDC and Brett, which requires TDC to undertake (and pay for) necessary repair and maintenance works on the Berth, any actual replacement of the Berth must be a straight replacement (i.e. "like for like") and not an upgrade. We believe that it is quite clear that what TDC are proposing is a significant upgrade in both capacity and actual throughput: the cost of the works has risen from £600,000 (reasonable for a like for like) to approximately £2.3 million, and the capacity of the new conveyer which Brett is proposing to use is about 15 times larger than the current conveyer (3,000tph as opposed to 210tph). This is also fundamental: the planning development application should fail because it does not respect the terms of the Facilities Agreement.

3. In the event of TDC going ahead with granting themselves planning permission, and spending £2.3 million of public money on a new berth, that benefit will go to Brett Aggregates, a private company, which is the sole user of that berth. This would raise serious questions of public interest propriety and Value for Money, which we would expect to be considered by the District Auditor, irrespective of the validity of the arguments in the two previous paragraphs. If Brett Aggregates believes that there is a good business case for expanding the Berth facility then the company should pay for it. It is the public duty of TDC to strongly resist, rather than acquiesce to, this dubious interpretation of the Facilities Agreement that requires TDC to dig deep into the public purse for the commercial benefit of this single private enterprise.

## CONSULTATIONS

**Environment Agency** - We have assessed this application as having a low environmental risk. We therefore have no comments to make.

**KCC Archaeology** - I note that the development comprises the placement of a floating pontoon berth with piled fixings in an area of the present harbour. I note that the proposal also includes a dredge of the location but that area has previously been subject to dredging.

Given the nature of the proposals I agree with the scoping that there is unlikely to be impact on archaeology. Any evidence for wreck material in this area would likely have been previously affected. I note that impacts on built heritage such as the Listed structures on the harbour has also been scoped out. Whether there is an impact on the setting of built heritage is a matter for your Conservation team and Historic England to advise on though I note they agreed that the aspect could be scoped out of the EIA.

**KCC Biodiversity** - We have reviewed the submitted information and we are satisfied that sufficient ecological information has been submitted to assess the ecological impact of the proposed development.

#### Designated Sites

##### SPA/SAC/Ramsar

A shadow HRA produced by the applicant has been submitted and a HRA has been produced by the MMO. Both documents details that due to the type of project, the location and timings of the works (outside the wintering bird season) that the proposal will not have a likely significant effect on the proposal. We have reviewed the documents and we advise that we are satisfied with the conclusions of the report and recommend that TDC adopt the HRA produced by the MMO.

We highlight that the information submitted with the planning application has detailed that the works will be carried out between April and August to avoid the over wintering period and impacting turnstones and golden plover. We advise that there is a need to ensure that those requirements are implemented, in particular the piling works, between April and August. If the works are not completed by the end of August there will be a need for the works to be delayed until 2023.

Noise and vibration due to the piling has been identified as a potential impact on the designated sites and the associated species (in particular Little Tern). To minimise the impact the HRA has detailed the following mitigation will be implemented:

'Vibratory piling techniques must be used in the first instance, should impact piling be required soft-start procedures must be used to ensure incremental increase in pile power over a set time period until full operational power is achieved. The soft-start duration must be a period of not less than 20 minutes. Should piling cease for a period greater than 10 minutes, then the soft start procedure must be repeated.'

We advise that there is a need to ensure that the methodology is implemented during the construction works.

##### SSSI

The HRA only considers SPA, SAC and Ramsar sites but as the SSSI has similar reasons for designations the conclusions of the HRA are also similar for the SSSI. In addition the SSSI has been designated for breeding ringed plover and oystercatcher however there is no suitable breeding habitat for those species within at least 300m of the development works therefore we are satisfied that the proposal is unlikely to result in disturbance of those species.

We are satisfied that the conclusions within the HRA are also valid for the SSSI.

### Breeding Bird

A breeding bird survey was not carried out as part of this application. As the works are to be carried out during the breeding bird season it would have been preferable if a breeding bird survey had been carried out to understand what (if any) birds were breeding within and surrounding the harbour.

However we acknowledge that the harbour is an active harbour and, with the exception of the black redstart, has limited suitable habitat for breeding birds therefore while the presence of breeding birds can not be ruled out we advise that the measures detailed above to avoid impacts from noise and vibration will also minimise disturbance on any breeding birds within the surrounding area. In addition we recommend that a pre commencement survey is carried out to ensure that no breeding birds are within the immediate vicinity which may be disturbed /abandon the nest when works commence.

The Black Redstart is a schedule 1 bird which lives at the heart of industrial and urban centres and therefore it is possible that it may nest within Ramsgate Harbour (we highlight that this was not considered within the submitted ES). As detailed above there is a need for a pre commencement survey to be carried out prior to works commencing to ensure that the proposal does not disturb nesting black redstarts.

We note that comments submitted as part of the consultation have highlighted the presence of a starling murmuration. Starling murmuration can start from September and therefore the construction works are unlikely to impact the murmuration.

**KCC Highways** - A historical 'worst-case' scenario of 116 HDV/HGV two-movements per day associated with Brett Aggregates can be extrapolated from the data presented in the ES Statement, Table 5.8. This represents an average of 1 every 6/7 minutes over an assumed 12 operational hours, although it should be noted that according to their own records this level of activity was only met once in the 10 years prior to decommissioning of the berth. Furthermore, this was activity associated with Brett operations generally, which did not directly correlate with offloading at the berth. The ES Statement posits that the 'worst case' scenario for HDV/HGV movements directly attributable to the berth numbered 80 two-way movements per day, or 1 every 9 minutes on average. Compared with historical levels of port traffic, I would not consider these movements to present a severe detriment to the operation of the A299.

Although we have no cause to question these assumptions made in the ES Statement regarding associated HDV/HGV movements both historically and projected, it does further raise the possibility that larger vessels may operate from a longer berth. Deliveries from larger vessels could present a material change in the 'worst-case' scenario. It is maintained in the Statement that there is no intention to increase movements as a result of this proposal, although it would seem prudent in the view of the Highway Authority to seek a way to monitor and regulate such, in the absence of additional traffic assessment of an increased peak demand created by a larger vessel at the berth, without which, we have no way of identifying impact on the A299 and its junctions, nor could we make a definitive statement regarding its severity.

We would therefore recommend that HDV/HGV movements, which are concerned with the removal of aggregate from the site, be recorded, and the formerly identified 116 two-way movements per day be considered an acceptable operational maximum. In our view, any permission should, in effect, be restricting movements, by any means considered enforceable within the available planning framework.

**KCC Minerals and Waste** - Kent will increasingly be reliant on imported aggregates into the future, as the availability of sustainable land-won resources in the County declines and marine wharves (together with rail aggregate depots) will play an ever-increasing role in enabling supply to meet the requirements of the National Planning Policy Framework (NPPF), namely ensuring a steady and adequate supply of these important materials. Maintaining the ability of marine aggregate wharves, such as that at the Port of Ramsgate, to import and distribute minerals is vital to this strategy. The site of the Brett Aggregate Limited (BAL) minerals operation at the Port of Ramsgate is safeguarded by Policy CSM 6: Safeguarded Wharves and Rail Depots of the adopted (and Early Partially Reviewed) Kent Minerals and Waste Local Plan 2013-30 and the associated BAL concrete batching plant is safeguarded by Policy CSM 7: Safeguarded Other Mineral Plant Infrastructure.

Wharves such as that at the Port of Ramsgate also facilitate the sustainable transport of minerals and assist in reducing the need for minerals to be transported by road in the County. In the absence of a mineral operation at the Port of Ramsgate, minerals would need to be transported further by road to reach the Thanet area (including to the BAL concrete batching plant and others in the area). Therefore, the new berth proposed would maintain and enhance the capacity of this facility and is entirely consistent with the sustainable mineral supply strategy of the adopted and Early Partially Reviewed Kent Minerals and Waste Local Plan 2013-30. If this development is acceptable in all other material considerations and is put in place it would benefit from the safeguarding provision of this plan's Policy CSM 6: Safeguarded Wharves and Rail Depots.

**Marine Maritime Organisation** - Thank you for your application for a marine licence from the Marine Management Organisation (MMO) in respect to the Port of Ramsgate Replacement Berth 4/5 Project. The MMO is required to consider such requests in accordance with the Marine Works (Environmental Impact Assessment) (EIA) Regulations 2007("the Regulations").

MMO Screening Opinion

The MMO has previously provided an EIA screening opinion on the 6th July 2021, EIA/2021/00004; in accordance with the Regulations.

On reviewing the information you supplied, the MMO is of the opinion that the proposed works would fall under Schedule A2, para 63 of the Regulations on the assessment of the effects of the project on the environment:

63. Construction of harbours and port installations including fishing harbours (unless included in Schedule A1).

Intent to Defer EIA Consent Decision

The MMO are of the opinion that the proposed works fall under Schedule A2, para 63 of the Regulations.

Article 10(1)(b)(i and ii) of the Regulations provides an appropriate authority (the MMO) the ability to determine that an EIA is not required in relation to a regulated (marine licensable) activity if it is satisfied that assessment of the effects on the environment of the project in question has already been, is being, or is to be carried out by another appropriate authority and such assessment are (or will be) sufficient to meet the requirements of EIA in relation to that project.

The MMO confirms its intent to defer an EIA consent decision under the Regulations, by virtue of article 10(1)(b)(i and ii) of the Regulations, on the basis that assessment of the effects of the project has been/will be carried out by the appropriate authority for this case, Thanet District Council under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Any decision to defer is subject to the MMO being satisfied that the decision is sufficient to meet requirements of EIA in relation to the project.

#### **Natural England - Updated comments received 03 May 2022**

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but instead by the Marine Management Organisation. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the basis that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The appropriate assessment concludes that it possible to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured as part of any permission given.

Having reviewed the information provided, Natural England has no further comments to make on this application – other than those already cited under Regulation 76 – on the assumption that the proposal shall be undertaken as indicated.

Initial comments received 14 April 2022

#### **Natural England's Opinion under Regulation 76**

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant (Volume Four, Environmental Statement – Information to Support a Habitats Regulations Assessment). As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Within the HRA, it has been concluded that any impacts to the Thanet Coast and Sandwich Bay Special Protection Area (SPA)<sup>1</sup> and Ramsar site, can be screened out from further

stages of assessment because significant effects are unlikely to occur, either alone or in combination.

It is Natural England's understanding that this conclusion has been drawn having regard for the measures built into the proposal that seek to avoid all potential impacts, namely the timings of the proposed works. Previous advice from Natural England (our ref: 328380, 23rd October 2020 – appended to the HRA) indicates that should the works coincide with the over-wintering bird period, then potential noise impacts should also be considered, and where necessary, appropriate mitigation implemented; whilst this advice primarily applied to overwintering Turnstones that could be found in close proximity to the application site, we also advised that a consideration should be given to potential impacts upon Golden plover too.

Paragraph 3.3.1. of the HRA states that “the comments provided by NE on 23rd October 2020 (Appendix 1) have been taken into account as part of this revised proposal ensuring that works are timed to avoid the winter period”.

On the basis of information provided, Natural England's advice is that this proposed development may contain (or require) measures intended to avoid or reduce the likely harmful effects on a European site(s). These measures cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment (following the People Over Wind ruling by the Court of Justice of the European Union).

For this reason, we advise that on the basis of the information supplied that the application may have a likely significant effect on the site(s). These measures therefore need to be formally checked and confirmed by your authority, as the competent authority, via an appropriate assessment, in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). These measures, and any additional measures that can avoid or reduce any likely harmful effects, can be considered as part of the appropriate assessment, to determine whether a plan or project will have an adverse effect on the integrity of the European site.

Natural England advises that it is a matter for your authority to decide whether an appropriate assessment of this proposal is necessary in light of the People Over Wind ruling. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your authority may decide to make.

With regard to the Thanet Coast Special Area of Conservation, it is noted that the appropriate assessment concludes that it is possible to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

We have no comment to make on other prior approval matters included in the consultation. We recommend that should your authority give its prior approval to the proposed permitted development, the following paragraphs are included on the decision notice as advisory notes to the applicant;

## Site of Special Scientific Interest

Should prior approval be given, and before a landowner commences a permitted development within a Site of Special Scientific Interest (SSSI), they must give written notice to Natural England and await its consent.

Should prior approval be given, and before a public body, statutory undertaker or other body commences a permitted development within or might affect a Site of Special Scientific Interest (SSSI), it must give written notice to Natural England and await its assent or, in some cases, its advice. See here for further details.

## Protected Species

In addition to the advice in this letter, there may be impacts on protected species and a mitigation licence may be required from Natural England.

**TDC Environmental Health** - Both Chapter 9 - Noise and Chapter 10 - Air Quality have been reviewed. All relevant guidance has been considered: baseline levels, predicted impacts and effects have been assessed using the appropriate guidance and recommended methodology.

Comments here relate to impacts and effects on human health and not to marine ecology or the natural environment.

## Chapter 9: Noise (Appendix 9.1)

This chapter of the ES considers noise impacts on human receptors only; other chapters are concerned with noise impacts on ecological receptors and should be referred to the Natural England and the Marine Management Organisation for consideration.

Temple Group Ltd are a competent acoustic consultancy who have registered membership with the Association of Noise Consultants; and the technical lead for Chapter 9 is a Member of the Institute of Acoustics.

## Operational Noise - Conveyer

The ES has assessed mechanical plant noise associated with the conveyer, which although not part of the application before us is a consideration for when this is brought before the relevant planning authority and the following comments are recommended to be attached as an informative.

Conveyer noise was assessed in accordance with BS4142:2014 'Method for Rating Industrial and Commercial Sound' using typical levels set out in BS5228. The conveyer is the noisiest part of the operational process. It is noted that a 15 min reference period has been used for daytime and night-time periods and is welcomed as a precautionary approach. For receptors R4&5 during the daytime, excess over background is -10dB and at night time 0dB; for receptors R1,2,3&6 it is -4dB and 3dB respectively and at R6 daytime is excess over background is -6dB and no night time level has been given. The assessment does not include any penalties stating:

'It should be noted that the above assessment assumes no correction for tonality, impulsivity, other distinctive acoustic character, or intermittency. Consequently, all sources should be



controlled so that these issues are not present at noise sensitive locations or else corrections will need to be applied.' Table 15 Appendix 9.1.

While the daytime assessment has taken a precautionary approach and at -10dB to -4dB allows a good degree of scope for penalties should they arise this is not the case for noise at night and so a condition that restricts the use of the conveyer at night between 11pm and 7am is recommended.

Table 19 states that while vessels using the berth are potentially operational 24/7, Brett Aggregates operations are Monday – Friday 07:30 – 16:00hrs and vehicles load aggregates from stockpiles. So a condition restricting use of the conveyer at night is not unreasonable.

It is also recommended a follow up BS4142 assessment of the mechanical plant once operational is carried out to ensure the predictions and assumptions were correct and mitigation reviewed.

#### Operational Noise - Vehicles

It is accepted that changes in operational traffic will lead to an almost imperceptible change in noise levels.

#### Construction Noise

Construction noise has been appropriately assessed, it includes piling works and increased construction traffic in accordance with BS5228 and proposed mitigation incorporated into the Construction Environmental Management Plan (CEMP) set out in Appendix 2.5. The CEMP includes proposed working hours which are considered reasonable given the negligible impacts and embedded mitigation. However the following safeguarding condition I'd recommended:

**\*\*Condition - Dust and noise mitigation measures set out in the Construction Environmental Management Plan (CEMP) Appendix 2.5 of the ES shall be implemented and maintained.**

#### Chapter 10: Air Quality (Appendix 10.1 & Appendix 2.5)

The assessment considers the impact on Air Quality Objectives from the proposed replacement berth. It would have been helpful for the ES to have included a wider explanation on baseline conditions and a fuller explanation as to why monitoring is not currently required or necessary at the port. Therefore some background is given here.

A Thanet urban wide Air Quality Management Area (AQMA) was declared in 2013 for traffic pollutants. The extensive boundary was declared to incorporate two heavily trafficked pollution hotspots at The Square Birchington and High Street St Lawrence which both marginally exceeded the annual health objectives for traffic related nitrogen dioxide. Other junctions including, Boundary Rd Ramsgate and College Rd Margate were at that time approaching levels near to the objective. However, since 2017 pollution levels have been declining and no monitoring locations including known pollution hot spots in Thanet have exceeded air quality objectives. Defra has recommended that Thanet now revoke the AQMA.

It is important to note that fine particles are inhalable into the lungs when less than 10 microns in diameter or less (<PM10) and particles that are less than 2.5 microns in diameter (<PM2.5) and are often emitted from combustion processes e.g. car exhausts.

With regard to baseline levels used for the assessment, coarse aggregates such as sand and shingle do not penetrate deep into the lungs so monitoring is not a requirement, nor is it a requirement under the environmental permitting regulations for the cement batching installations because of negligible fugitive emissions from the process. Cement is delivered to the site in tankers and is discharged into storage silos via a closed hose system. When loading the concrete, water is added to the mix and is discharged into the vehicle via a rubber sleeve to prevent emissions. The installation is operated in accordance with the environmental permit requirements set out in PG3/1(12) as required by Defra. The powdered materials are transferred through a closed system of heavy duty hoses to storage silos, using compressed air as a carrier medium. Silos are vented to allow air to escape through filters, so minimising dust emissions to air. There are no combustion processes at the site from concrete block manufacture so no continuous monitoring of emissions is required. It may have been helpful to give more of an explanation in s10.5.14 regarding PM75 which is referring to the size of the visible particles and which do not travel far because of their size, they are not respirable unlike fine particles (<PM10) which can penetrate into lungs. Coarse sand and aggregates stockpiles are >PM75

### *Operational*

The EIA has discounted 2020 as a baseline year given the impacts of covid 19 likely to have decreased pollution levels and instead used baseline levels from between 2016 and 2019 which is an accepted precautionary approach. As well as local monitoring the ES has also considered Defra baseline maps. Given the minor increase in operational traffic generated by the development a detailed assessment was not triggered and has indicated a negligible impact; this is in accordance with relevant guidance EPUK – IAQM Planning for Air Quality. This is accepted.

### Construction

Construction works are expected to be undertaken over a two to three-month period, dust emissions have been assessed in accordance with the IAQM Guidance on the assessment of dust from demolition and construction given sensitive human receptors are within 350m of the site. Significance has been assessed and mitigation is set out in the CEMP in Appendix 2.5. This is a Best Practicable Means approach to controlling construction dust and in accordance with IAQM Construction Site Guidance has been set out and should be incorporated into the CEMP and conditioned.

### **\*\*Condition – Construction Environmental Management Plan**

Dust and noise mitigation measures set out in the Construction Environmental Management Plan (CEMP) Appendix 2.5 of the ES shall be implemented and maintained.

### Operational impacts - Conveyer

Although the conveyer does not form part of this application, it is recommended that the following comments are added as an informative for when the conveyer application is

considered by the relevant planning authority. The proposed new berth can accommodate larger ships carrying greater volumes of aggregates; a condition ensuring control techniques which minimise emissions of dust from the operation of moving aggregates is recommended from any application involving a proposed conveyer. Particularly that stockpiles are stored within bunds which prevent wind whipping and the new conveyer should ensure transfer of aggregates minimises free fall at discharge points by having a chute, or similar equipment, at the point of discharge from a conveyer reduces dust arising.

#### Aggregate Stockpiles

To control dust emissions from stockpiles, storage bays shall be used. Stock should not be piled higher than the external walls of the bay and should not be forward of the bay.

#### Conveyer

The conveyer shall be designed to reduce dust emissions. Details to be submitted and approved.

#### COMMENTS

The application is reported to members as the applicant is Thanet District Council.

#### **Application Process**

This determination is to be made in accordance with Schedule 2, Part 18, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, which provides permitted development rights for development authorised by an Act of Parliament.

Functions and undertakings in relation to the harbour were transferred by operation of the Ramsgate Corporation Act 1934 ("the 1934 Act"). The 1934 Act transfers the harbour and harbour undertaking from the Minister of Transport to the mayor, aldermen and burgesses of the borough of Ramsgate. By operation of the Local Government Act 1972 ("the 1972 Act") and by order of the Secretary of State, the administrative district of Thanet was formed from the administrative boroughs of Margate and Ramsgate, the urban districts of Broadstairs and St Peter's, the rural district of Eastry, and the parishes of Acol, Minster, Monkston, St. Nicholas at Wade and Sarre. The 1972 Act had the effect of causing any municipal corporation or corporation of a borough including in a rural district to cease to exist. Ramsgate was a municipal borough incorporated under the Municipal Corporations Act 1884. The Ramsgate Harbour Revision Order 1979 ("the 1979 Order") has the effect of extending the extent of harbour utilising powers under the Harbours Act 1964. In addition, the 1979 Order expressly states that the terms of the 1934 Order shall have effect in relation to that revised extent of harbour. The 1979 Order was not affected by the provisions of the 1972 Act and accordingly the terms of the 1934 Act are considered by the applicant to be preserved. In addition, to the extent that the 1934 Act relates to the role of statutory harbour undertaker, this is excluded from the provisions which cause local Acts to cease to have effect.

Officers are satisfied that the replacement of the berth within Ramsgate Port can be dealt with as a Prior Approval application under Part 18 of the GPDO, and do not require express planning permission, subject to the limitations set out in the GPDO.

Paragraph 3 (10) of the GPDO states; “*Subject to paragraph (12), Schedule 1 development or Schedule 2 development within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”) is not permitted by this Order unless—*

- (a) the local planning authority has adopted a screening opinion under of those Regulations that the development is not EIA development within the meaning of those Regulations;*
- (b) the Secretary of State has made a screening direction under regulation 5(3) of those Regulations that the development is not EIA development within the meaning of those Regulations; or*
- (c) the Secretary of State has given a direction under regulation 63(1) of those Regulations that the development is exempted from the application of those Regulations.”*

Paragraph (12(b)) states that; “*Paragraph (10) does not apply to— development for which permission is granted by Class E of Part 6, Class K of Part 7, Class B of Part 12, Class A(a) of Part 15, Class D, E or I of Part 17 or **Class A of Part 18 of Schedule 2;***”

Therefore whilst the proposed development does fall under schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which requires an Environmental Impact Assessment, it can be considered through Part 18 of the GPDO.

Part 18 of the GPDO requires Prior Approval of the detailed plans and specifications to be obtained from the Local Planning Authority. It details that only the following can be considered:

- Location, and
- Design or external appearance of a development.

The GPDO goes on to state that development is not to be refused, nor are conditions to be imposed unless: i. The development ought to be and could reasonably be carried out elsewhere on the land; and ii. The design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

It follows that unless the Local Planning Authority considers that the location of the development is wrong, or the appearance adversely affects the amenity of the neighbourhood, Prior Approval must be granted.

## **Principle**

The applicant has submitted a detailed statement and plans showing the proposed berth.

## *Siting*

The proposed berth would be located within the Port of Ramsgate immediately to the south of the previous berth 4/5.

The applicant has indicated that the new location of the berth is proposed to resolve operational issues caused by potential interaction between vessels using berth 3 and berth 4/5 at the same time.

Given the function of the development for the berthing of vessels and its location within the Port of Ramsgate it is considered that there is no reason why this development proposal ought to be or could reasonably be carried out elsewhere

On this basis, the application is considered acceptable in terms of siting.

### *Design and Appearance*

The proposed berth would be a floating pontoon structure with an access gangway secured in place by four piles, two supporting the gangway and two supporting a floating pontoon. The floating pontoon element of the proposed berth would be 76m long and 15m wide and would be accessed via a 46m long gangway giving a total distance from the edge of the quayside to the furthest point of the berth of 119m.

The proposed berth would be longer and wider than the previous 70m long berth, however would have a similar appearance to a number of the remaining berths and structures currently visible within the port. The site is located approximately 300m from Ramsgate Harbour with its various listed structures and the Conservation area. The submitted elevation plan indicates that the berth would have a limited projection above the level of the port and would be viewed in the existing commercial and industrial context of the port.

Given this location and the existing context it is considered that this proposal is acceptable with regard to design, and would not injure the amenity of the area.

### **Environmental Impact Assessment (EIA)**

The process of Environmental Impact Assessment in the context of town and country planning in England is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. These regulations apply to development which is given planning permission under Part III of the Town and Country Planning Act 1990.

These regulations apply the amended EU directive “on the assessment of the effects of certain public and private projects on the environment” to the planning system in England. The regulations only apply to certain types of development and can apply to permitted development. They do not apply to development given consent under other regimes, these are subject to separate Environmental Impact Assessment regulations.

The aim of Environmental Impact Assessment is to protect the environment by ensuring that a local planning authority, when deciding whether to grant planning permission for a project which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process. The regulations set out a procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects.

### **Regulations**

This proposal is for the installation of a new berth that would replace a berth which has been removed from the site. This proposal would fall under Schedule 1, 8 (2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations') ((2) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.)

The Proposed Development exceeds those thresholds set out in Schedule 1 and is therefore considered to constitute an EIA development.

## **Environmental Statement**

### *Consultations*

A request for a EIA Scoping Opinion was submitted to TDC Planning on the 28th January 2021 and a Scoping Opinion was issued by TDC Planning on the 16th July 2021, following responses from Environment Agency, TDC Environmental Health, KCC Ecology, Historic England and Natural England, commenting on the proposed scope and methodology of the topics for assessment within the EIA.

Following the submission of the Environmental Statement an advert was placed in the local paper on the 9th February 2022 and site notices were posted close to the site. Consultation were also sent to the following parties; KCC Archaeology, KCC Biodiversity, KCC Highways, KCC Minerals and Waste, Natural England, Ramsgate Town Council, TDC Conservation Officer, TDC Environmental Health, The Environment Agency, The Marine Maritime Organisation, and The Secretary of State.

A second advert was placed in the local paper dated the 25th March, all consultees were reconsulted and letters were sent to all parties who had commented on the application following the submission of additional information

### *Details of works*

The development is described in the EIA as "the preparation and construction of a replacement floating berth to replicate the previous operation" with the extraction of six piles from the existing, the driving of 4 steel tubular piles, installation of the floating pontoon via tugs and fixing of guide frames, construction of landside concrete foundation to link to the berth with ancillary work. Dredging will be required to install the post berth. It states that "the condition of Berth 4/5, in particular the floating barges, was considered poor and to have reached the end of its design life and therefore in need of replacement to maintain operations. Due to the progressive deterioration of the barges and increased operational risk, the barges and gangway were removed in November 2020 in preparation for this replacement."

A Construction Environmental Management Plan (CEMP) has been proposed through the EIA, outlining the working hours, responsibilities of contractors, environmental incident planning, vehicle management, noise, vibration and air quality management amongst other matters.

### Marine Ecology

### *Benthic Habitats and Species*

The change resulting from removal of the existing piles and the installation of the proposed new piles is considered in the EIA to result in negligible loss of sedimentary habitat and artificial hard substrate therefore direct habitat loss on benthic habitats was not considered to be significant.

The total capital dredge volume is circa 15,000m<sup>3</sup> over an area of approximately 1,200m<sup>2</sup>. The report concludes that given that the sensitivity, vulnerability and importance of the subtidal habitat and associated benthic communities affected are considered to be low, the potential impact is insignificant and therefore the overall effect is assessed as not significant.

The report considers that deposition of sediment as a result of dredging will be highly localised and similar to background variability. Therefore the potential impact of deposition on benthic features is insignificant and the overall effect is assessed as not significant.

Dredged material would be disposed of at two sites. The Pegwell Bay site was considered to be generally well adapted to disturbed conditions with high recoverability rates, and the Dover site is located in a strongly dispersive, high energy environment which is subject to large amounts of dredging material with over 400,000 wet tonnes per annum disposed in some years. Given these conditions, the impact of the disposal has not been considered to be significant.

The volume to be dredged is similar to that undertaken as part of the existing maintenance dredging campaigns and therefore any suspended sediment plumes would be expected to be of a similar scale. Sediments are regularly disturbed due to storm events and any flows out of the harbour entrance would be dispersed quickly in the relatively strong coastal flows. The impact of suspended sediments is therefore not considered to be significant.

The overall level of contamination in the proposed dredge area is considered to be low and the extent of sediment dispersal as a result of the dredge is considered to be spatially limited and the impact was considered not significant.

Biosecurity measures will be included within the construction management plan and the developer is bound by legislation to prevent the introduction of, or control of, non-native species. The impact is therefore considered to be not significant.

### *Fish and Shellfish*

The EIA outlines that the dredge footprint is considered unlikely to provide important nursery or spawning functions for fish species as a result of the disturbed nature of this habitat, including existing vessel movements and ongoing maintenance dredging. Potential effects on prey resources for fish are expected to be of a small magnitude, localised and temporary. Fish are also mobile species and will easily be able to move away from the zone of influence and return. Therefore this impact is not considered to be significant.

Fish within the area are well adapted to living in an area with variable and sometimes relatively high suspended sediment loads. Their high mobility enables them to move freely to

avoid areas of adverse conditions and to use other food sources in the local area. Increases in Suspended Sediment Concentrations (SSC) will be brief and localised and there is not expected to be a significant reduction in dissolved oxygen. The overall level of contamination in the proposed dredge area is considered to be low and the extent of sediment dispersal as a result of the dredge is considered to be spatially limited.

During disposal, sediment will be rapidly dispersed in the water column. Therefore, the already low levels of contaminants in the dredged sediments will be dispersed further. The probability of changes in water quality occurring at the disposal site is considered to be low and the overall exposure to change is considered to be negligible. Therefore this impact is not considered to be significant.

A detailed underwater noise assessment has been undertaken for the proposed development. Given the mobility of fish, any individuals that might be present within these very localised areas from the piling would be expected to easily move away and avoid harm. Furthermore, the area within the harbour is not considered a key foraging, spawning or nursery habitat for fish and, therefore, this localised zone of injury is unlikely to result in any significant effects on fish. Behavioural reactions would be expected to occur within the Port of Ramsgate, this harbour system is largely enclosed. Underwater noise beyond this harbour (i.e. within the Thanet coast region), therefore, will be considerably attenuated and unlikely to result in any significant behavioural responses in fish in the wider area. Piling works would not be continuous and would be experienced against existing background noise such as vessel movements and dredging. Whilst fish are mobile and there are these existing conditions the overall effect of piling upon fish is assessed as significant. Underwater noise from dredging however is not considered to be significant due to the sounds levels produced by the grab dredging proposed.

### *Marine Mammals*

The temporary noise during construction upon marine mammals has been considered moderate adverse and the overall effect is assessed as significant during impact piling.

There is not considered to be any risk of injury or disturbance to marine mammals from the grab dredging that is proposed at the Port of Ramsgate. The probability of a change in underwater noise occurring during dredging and dredge disposal is considered to be high. However, hearing damage is unlikely to occur and the main effect that could be expected in the vicinity of the dredge vessels would be short term mild behavioural avoidance. In order to reduce the level of residual effects associated with underwater noise and vibration on fish and marine mammals as a result of construction, the following mitigation measures will be implemented during piling:

- Soft start piling
- Marine Mammal Observer

The report concludes that when taking into account the mitigation measures, the residual effects for underwater noise and vibration during construction on fish and marine mammals is assessed as minor adverse and therefore the residual effect has been assessed as not significant.



Following consultations with KCC Biodiversity, the MMO and Natural England, subject to the conditions outlined, this proposal is not considered to result in adverse impacts upon Marine Ecology.

The impacts upon Marine Ecology have also been considered through the Habitat Regulations Assessment process.

### Ornithology

The temporal scope of the ornithological assessment is taken to include the construction phase of the development only, which includes the removal of piles which previously retained the removed barges and the anticipated construction period for the development is from May to July 2022.

The Environmental Statement considered potential effects on designated sites within 15km, Offshore foraging birds, Shore-line foraging bird assemblage and Suburban garden and greenspace bird assemblage. Identified changes that were likely to generate effects included; Increased noise levels and visual disturbance through movements and temporary lighting.

The site itself is subject to high levels of disturbance and as such is unsuitable for most bird species to breed, offering very limited foraging value.

Following consultations with KCC Biodiversity, the MMO and Natural England, it is considered that mitigation is required during the construction phase of the development to avoid likely significant effects upon designated sites and breeding birds in general.

A construction management plan has been submitted which includes the scheduling of works to avoid impacts upon wintering birds, measures to minimise noise levels as a result of construction works, such as soft start piling, and to control lighting and avoid intrusion on ecological receptors.

A condition has also been requested by KCC Biodiversity for a pre commencement breeding bird survey to be completed within the port prior to the commencement of works to ensure that any breeding birds that may be present are not disturbed. This is considered sufficient to alleviate the concerns raised during the consultation period about the potential presence of other species, with the time restriction of piling works (to be completed by the end of August) ensuring that any starling murmuration would not be disrupted (potential to start in September).

Subject to the mitigation proposed within the construction management plan and the pre commencement survey, and given the existing movements on the site and distances to receptors, no resulting significant effects or residual effects are considered to result from this development upon Ornithology.

A Habitat Regulations Assessment has also been undertaken, which has assessed the effects of the Proposed Development on internationally important designated sites in more detail.

### Marine Water Environment

A sediment contamination survey of the proposed dredge area was undertaken in March 2021 to characterise the dredge material and to support the application to dispose of the dredge material at an existing licensed disposal site. The direct effects on water and sediment quality are those that may arise due to accidental releases during construction. Indirect effects are those that may arise due to sediment that is disturbed into the water column during the marine works resulting in changes in water quality through changes in the levels of dissolved oxygen or the release of sediment-bound contaminants.

Contaminant concentrations from the survey completed in March 2021 were generally low, and considered comparable to previous sampling programmes at the Port of Ramsgate.

Increases in SSC will be short-term and localised to the dredging and piling activities, predominantly remaining within the semi-enclosed harbour. Away from the direct vicinity of the dredging, increased SSC in Ramsgate Harbour would be expected to be in the range that can occur naturally (such as during storm conditions) or during the existing maintenance dredge campaigns. Any changes to the disposal sites would be localised and short-lived given the dynamic nature of the areas in proximity to these areas. The impacts upon SSCs and dissolved oxygen concentrations as a result of dredging and piling and therefore considered to be insignificant.

The potential to impact the marine environment as a result of any sediment-bound contaminants occurs when sediment that is released into the water column disperses. Sediment that is redistributed by grab dredging is expected to be deposited in the localised area of the dredge. The effects due to piling are likely to be highly localised and less than that associated with dredging as sediment compaction will occur rather than complete disturbance of sediment. Due to the highly dispersive nature of the disposal sites, and water depths, the deposits are unlikely to cause a measurable change in the levels of chemical contamination in the waters at or around the sites. Therefore any impact from contaminants is considered to be insignificant.

As the overall significance of effect is not significant, no additional mitigation measures were considered to be required. However, embedded mitigation will be implemented to manage commonly occurring environmental effects including measures to minimise accidental spillages during construction based on best practice procedures that will be included in the construction management plan.

No points of objection have been raised by Natural England or the MMO on the assessment of the impacts carried out. It is considered that the assessment is therefore sufficient to characterise the potential impacts and the conclusion that the development would not result in an adverse impact upon the marine water environment is agreed.

The impacts upon the marine water environment have also been considered through the Habitat Regulations process.

### Noise & Vibration

A noise survey was completed between the 17th and 14th September 2021 to establish the baseline conditions around the site. Existing noise sensitive receptors were also identified with the closest non-residential receptor being approximately 250m from the site and the closest residential receptor approximately 375m from the site.

The impact of noise and vibration during construction of the Proposed Development has been predicted and assessed in accordance with BS 5228, with noise and vibration management proposed through the submitted CEMP. Impacts from construction activities are predicted at the closest noise sensitive receptors to the works with negligible effects likely during standard weekday and Saturday working hours. Best practicable means measures have been put forward to minimise noise and vibration from the construction Site, including construction of hoarding, use of silencers, using non-audible warning systems, planning construction traffic around sensitive receptors etc, which when implemented are capable of ensuring that the impact of noise and vibration during the construction is not significant during these hours. A minor adverse effect is considered to result during the overlap of some works, however this is not considered to result in any significant residual effects by the EIA.

The Council's Environmental Health Department has reviewed the proposed development in terms of impacts upon human receptors and agrees that subject to the mitigation measures outlined in the CEMP, this proposal would have no significant effects either during construction or operation in terms of noise and vibration.

Whilst this section of the report includes an assessment of the potential impacts of a conveyer, the installation of a conveyer is not under consideration as part of this application. Noise from operational road traffic is considered to have a negligible long term impact.

### Air quality

The Environmental Statement identifies the primary pollutants as nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) as well as dust generated from construction related activities.

Earthworks associated with the development are primarily located below water level and are therefore unlikely to result in dry dust. Construction primarily involves the erection of a pontoon and supports which are expected to take place underwater or are prefabricated. All vehicle movements will take place on land over asphalt. Therefore, emissions from earthworks, construction and trackout are considered to be negligible.

Due to the short period of construction proposed the impact of construction traffic on air quality is not considered to result in a materially deleterious effect on air quality.

The operation of the development is not expected to exceed any of the screening criteria from the EPUK-IAQM guidance.

The Council's Environmental Health Officer has noted that Defra has recommended that Thanet now revoke the Air Quality Management Area due to improvements in air quality. In addition it is stated that monitoring is not required for coarse aggregates, which, whilst not related to this prior approval and in relation to separate operations within the Port, has been raised by representations. Subject to the measures set out within the CEMP, no objection is raised in terms of impacts upon air quality from the construction of the berth or the traffic using the berth.

Therefore, the impacts of the Proposed Development on human and ecological receptors would be negligible and not significant in terms of air quality, subject to safeguarding conditions.

The existing storage of aggregates in the port and the use of a conveyer to transport aggregates from ships to the quayside is not under consideration as part of this application.

### Highways

The applicant has indicated that there would be no significant change in the scale of the operations on the site. Previous operations included one vessel visiting the berth twice a month and approximately 42 vehicular movements per day.

This proposal increases the size of the berth within the port and the potential growth in vehicle movements has been considered within the environmental statement, with a worst case scenario considering the doubling of normal traffic flows from the use of the previous berth. KCC Highways have reviewed the application and do not consider these movements to present a severe detriment to the operation of the A299, although they have questioned the possibility that deliveries from larger vessels could present a material change in the 'worst-case' scenario. Therefore they have suggested that HDV/HGV movements, which are concerned with the removal of aggregate from the site, be recorded, and restricted to the identified 116 two-way movements per day.

The Bretts operation has continued on the site following the removal of the previous berth with aggregates brought in by road, which has resulted in the continuation of traffic movements to the port. It is understood that not all ship movement using the port berth results in vehicular traffic directly, with the previous usage for aggregates resulting in stockpiling on the land-based site for use in the processing at the adjacent Bretts site for the concrete batching plant. The operation of Bretts is not a matter for consideration in this prior approval, and a condition to restrict movement directly associated with the berth (rather than all other separate lawful activities operating on the Port) is considered to be not sufficiently precise or enforceable (identified movement directly from berth rather than from separate land based operations). In addition, an increase above the worse case scenario provided would not result in a significant impact on the highways network necessarily, given the capacity of the port to generate an increase in vehicular movements without needing planning permission, and the previous evidence submitted demonstrating a significant reduction in vehicles generated by the port since 2007.

Given the above, it is not considered that the development would result in an increase in vehicular movement to result in a significant adverse effect on the highway network and therefore the environment.

### Heritage

Heritage and archaeology were scoped out of the Environmental Statement due to the location of the site within a commercial port, the scale and form of the development and the distances from the boundary with the conservation area and listed buildings. This principle has been agreed with by KCC's Archaeology officer as the development is unlikely to result in impact on archaeology with any evidence for wreck material in this area would likely have been previously affected by operations in the Port.

Given the context of the site and the distances to the designated and non-designated heritage assets, there are not considered to be any significant effects upon heritage from this development.

### Cumulative Effects

Cumulative effects both in terms of intra project and inter project effects have been considered within the Environmental Statement.

The report considers that it is not expected that more than one pathway would affect Marine Ecology, Ornithology or Marine Water Environment receptors, beyond that which was assessed in Chapters 6 to 10. Human receptors were considered to potentially experience impacts on air quality both during construction and operation. However, as the residual affect reported by air quality is assessed as negligible for construction on these receptors and negligible for both air quality and noise and vibration during operation, it is concluded that there is no potential for a significant intra-project effect to arise.

No proposed or permitted developments within the 1km zone of influence which would result in significant inter-project effects are considered to be present and therefore no significant cumulative effects are expected to result.

### Mitigation measures required:

Two types of mitigation measures are proposed within the submission: Embedded Mitigation, which includes measures incorporated into the proposal and Additional Mitigation, which goes beyond the embedded mitigation to further prevent, reduce and where possible offset any anticipated significant effects on the environment.

Embedded mitigation measures include Vibro piling, the scheduling of works to avoid impacts on wintering birds and measures set out within the Construction Environment Management Plan (CEMP). Measures within the CEMP include; control of noise and vibration, dust emissions, light management and water quality. Procedures to minimise potential risk from accidents and spillages/leaks during construction, management of vehicle routing, access to Site, on-site management and vehicle movements and working hours.

Additional mitigation measures include the use of soft start piling, a pre-commencement breeding bird survey and the employment of a Marine Mammal Observer. Conditions would be imposed to secure these mitigation measures.

### **Habitat Regulations Assessment (HRA)**

The Habitats Regulations require the Competent Authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which is likely to have a significant effect on designated sites (either alone or in combination with other plans or projects) to make an Appropriate Assessment of the implications of the plan or project for potentially affected sites in view of those sites' conservation objectives. Thanet District Council are the competent authority for this purpose.

The proposal is initially screened to evaluate whether significant effects on the qualifying interest features and conservation objectives of designated sites are likely as a result of the Proposed Development. If likely significant effects are identified then an Appropriate Assessment (AA) must be completed to consider the impact of the plan on the integrity of the designed sites and mitigation measures can only be considered at this stage.

The applicant has submitted a HRA which has identified likely significant effects as a result of; sediment deposition during dredging and dredge disposal, Changes in water and sediment quality during dredging and dredge disposal: Elevated suspended sediment concentrations, Changes in water and sediment quality during dredging and dredge disposal: Release of contaminants and The potential introduction and spread of non-native species. As these potential Likely Significant Effects an Appropriate Assessment has also been completed by the applicant.

The deposition of sediment as a result of dredging is expected to be similar to background variability outside of the Port of Ramsgate entrance and at distances at which the SAC overlaps with the TH140 (Pegwell Bay) disposal site. The proposed dredge and disposal activity is therefore not expected to cause any adverse effect on the integrity (AEOI) of the designated sites in terms of changes to habitats and species.

Dredging and disposal will temporarily increase SSC, this is expected to rapidly dissipate to background concentrations away from the immediate vicinity of the dredge and disposal sites. Therefore no AEOI of the designated site is expected.

Low levels of contamination were found in the project specific sediment samples and there is no reason to believe the sediment will be unsuitable for disposal in the marine environment. On this basis, there is considered to be no potential for an AEOI in terms of release of contaminants.

Non-native species have the potential to be transported to the site by construction equipment. However due to current legislation and the inclusion of biosecurity measures in the CEMP the probability of the introduction and spread of non-native species from the construction phase is considered to be low and there is considered to be no potential for an AEOI.

Natural England reviewed the shadow HRA produced by the applicant and considered that this development may contain (or require) measures intended to avoid or reduce the likely harmful effects on a European site(s). These measures cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment. However Natural England did concur with the conclusions of the shadow AA subject to all mitigation measures being secured.

The Marine Maritime Organisation (MMO) has also completed a HRA and AA (included at Annex 1). This HRA identified likely significant effects upon Golden plover, Little tern, Turnstones through above water noise, and effects upon Little Terns through underwater noise changes. The changes in water and sediment quality during dredging and dredge disposal (including elevated suspended sediment concentrations, release of contaminants) and the potential introduction and spread of non-native species were not considered to result in Likely Significant Effects due to the port infrastructure creating a physical barrier, the distance to the designated sites and the rapid dispersion of sediment. In-combination effects were screened out due to the location and type of other projects identified.

The MMO Appropriate Assessment concludes that mitigation measures including using vibratory piling in the first instance and soft starts for impact piling when required would be required, as well as adherence to the CEMP, to ensure no adverse effect on the integrity of the designated sites.

Natural England have reviewed the HRA and AA produced by the MMO and agree with the conclusion, that subject to all mitigation measures being secured that this proposal would not result in adverse effects upon the integrity of the designated sites in question

Officers therefore recommend that the Planning Committee adopt the Appropriate Assessment at Annex 1 undertaken by the MMO to fulfil the Council's requirement as the Competent Authority under the Habitat Regulations, with the mitigation stated (and adherence to the CEMP) to form required safeguarding conditions attached to any grant of approval.

### **Conveyer**

A conveyer to transport aggregates from ships to the quayside has not been included on the plans for this application and is therefore not a material consideration in the determination of this application.

Should a conveyer be proposed it would facilitate a mineral operation and therefore Kent County Council as Minerals and Waste Authority would be the relevant authority to consider such a proposal. Comments from TDC Environmental Health in relation to the conveyer would be relevant to any subsequent application received by KCC, and will be included as an informative on any approval.

### **MMO process**

The applicant has also submitted a Marine Licence application to the Marine Management Organisation (MMO) for the offshore elements of the Proposed Development. This licence will be required prior to the construction of the berth to comply with separate legislation.

### **Other Matters**

Following the submission of the outstanding section of the EIA (Noise and Vibration) it is considered that sufficient information has been provided for the Council to determine this application.

The relationship between the Council and Bretts is not a material planning consideration and cannot be considered in the determination of this application.

The cost of the proposed development is not a material planning consideration.

The Thanet Local plan is not a material consideration in the determination of this application for prior approval under Part 18 of the General Permitted Development Order.

This application has been considered in the context of existing development that is proposed through planning applications in the area. Other proposals that may come forward in the future cannot be considered unless they have been submitted to the Council.

Concern has been raised regarding other development in the area that may not have Planning Permission. These developments have not been submitted for consideration as part of this application.

There is no requirement for the submission of a business plan and the impacts of the development upon the economy or neighbouring businesses are not material considerations in this type of application.

The proposed development is not considered to result in any significant impact upon phone masts in the area.

Concern has been raised regarding delivery vehicles not following the speed limits in the area. Speed limits are enforced by the Police and cannot be controlled through the Planning system.

The CEMP considers waste disposal and the developer would need to complete this in accordance with the relevant legislation.

The Council as Local Planning Authority must consider the acceptability of the submitted development and must either approve or refuse this proposal. Alternative developments cannot be prescribed through this application. Alternative developments were considered in the Environmental Statement in the context of environmental impacts.

The lack of an EIA for previous developments cannot be considered through this application.



Concern has been raised regarding the impact of the increased berth on marine safety. Marine safety would be covered by other legislation and given the similar location to the previous berth and the location within the port these impacts are considered to be limited.

Flood risk was scoped out of the EIA, however the applicant did complete a flood risk assessment. This report concludes that the only significant source of flooding which may affect the site is tidal flooding. Given that this development relates to a floating pontoon and is located within an existing port, the flood risk resulting from the development is not considered to be significant.

Pollution has been considered through the EIA and subject to the proposed mitigation measures is not considered to significantly increase as a result of this development.

There is no specific industrial designation to the port, however it is considered to have an industrial context and the extant development in the area reflects this.

Concern has been raised regarding the further need for aggregates in Kent. KCC Minerals and Waste have been consulted on the application and have indicated that the development is entirely consistent with the sustainable mineral supply strategy of the adopted and Early Partially Reviewed Kent Minerals and Waste Local Plan 2013-30, and if constructed would be safeguarded by Policy CSM 6 of the Plan.

Concern has been raised regarding the development being scheduled during the peak tourism months. As noted above the scheduling of the development is to avoid significant impacts upon overwintering birds. Whilst the development would be completed during the summer months the site is located within a commercial port and subject to the mitigation measures proposed is not considered to result in a significant impact upon tourism in the area.

Concern has been raised regarding the impact of the development upon Human Health and Climate Change being scoped out of the EIA. Climate change has been scoped out in terms of the vulnerability of the project to climate change and the impacts upon air quality and noise and vibration in terms of human health have been considered. This is considered adequate and no objection to the scope of the submitted EIA has been raised by either the Environment Agency or Natural England.

Concern has been raised regarding Thanet District Council determining this application as they are also the applicant. The application has been submitted to the planning department as the Local Planning Authority from Operational services section, and falls to be determined by the Planning Committee in accordance with the constitution of the Council when the applicant is the Council.

## **Conclusion**

The siting, and design and appearance of the proposed berth is considered to be appropriate for the port location, and subject to the mitigation measures set out within the Environmental Statement, Appropriate Assessment and as requested by consultees including KCC Biodiversity, this proposal is not considered to result in any significant impacts

upon the environment or adverse effects upon the integrity of the designated sites. Therefore it is recommended that the Planning Committee approve the application for prior approval and adopt the Appropriate Assessment at Annex 1.

List of Appendices

Annex 1: Appropriate Assessment

**Case Officer**

Duncan Fitt

TITLE: PA/TH/22/0132

Project Berth 4 And 5 Port Of Ramsgate Royal Harbour Approach Ramsgate Kent

