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1 February 2006

Dear Sirs,

## **TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78**

### **LAND AT AND IN THE VICINITY OF LANDGUARD TERMINAL, PORT OF FELIXSTOWE, SUFFOLK IP11 3SY**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, Michael Ellison MA(Oxon), assisted by Roland Punshon BSc(Hons), MRTPI, who held a public inquiry from 26 October to 2 December 2004 into your client's appeal against Suffolk Coastal District Council's failure to determine within the prescribed period an application for full planning permission. The development proposed is redevelopment and realignment of the Landguard Terminal and adjacent areas to provide additional deep water berths and container handling capacity at Felixstowe South.
2. Concurrently with the inquiry into the appeal against non-determination of the application for planning permission, the Inspector held a public inquiry into your client's related applications under the Harbours Act 1964, the Transport and Works Act 1992, and the Coast Protection Act 1949. A separate decision letter on those applications is today being issued on behalf of the Secretary of State for Transport.

#### Inspector's Recommendation

3. The Inspector, whose conclusions are reproduced as an annex to this letter, recommended that the appeal be allowed, and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and with his recommendation that the appeal be allowed. All references to paragraph numbers, unless otherwise stated, are to the Inspector's report (IR).

## Procedural Matters

### *Environmental Statement*

4. For the reasons given in IR 8.264-8.270, the Secretary of State agrees with the Inspector that the Environmental Statement submitted is adequate to comply with the requirements of the relevant Regulations, and that the procedural requirements in relation to the inquiry generally were properly followed.

## Policy Considerations

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the Development Plan comprises the Suffolk Coastal District Council Local Plan (adopted 2001), the Suffolk Structure Plan (adopted 2001), and Regional Planning Guidance 6 for East Anglia (now the Regional Spatial Strategy). Suffolk Coastal District Council have begun preparing a Local Development Framework (LDF), but as this is at an early stage little weight has been attached to this. Regional Planning Guidance 6 is also to be replaced by the Regional Spatial Strategy for the East of England. This document is currently going through an Examination in Public, and consequently, is afforded little weight at this stage.
7. Material considerations which the Secretary of State has taken into account include PPS1 *Delivering Sustainable Development*, PPG3 *Housing*, PPG4 *Industrial, Commercial Development and Small Firms*, PPS7 *Sustainable Development in Rural Areas*, PPS9 *Biodiversity and Geological Conservation*, PPS11 *Regional Spatial Strategies*, PPS12 *Local Development Frameworks*, PPG13 *Transport*, PPG15 *Planning and the Historic Environment*, PPG16 *Archaeology and Planning*, PPG20 *Coastal Planning*, PPG21 *Tourism*, PPS23 *Planning and Pollution Control*, PPG24 *Planning and Noise*, and PPG25 *Development and Flood Risk*.
8. The Secretary of State notes that PPG1 *General Policies and Principles*, PPG7 *The Countryside, Environmental Quality and Economic and Social Development*, PPG11 *Regional Planning*, PPG12 *Development Plans*, and PPG23 *Planning and Pollution Control* were before the inquiry, together with draft versions of PPS1, PPS7, PPS12 and PPS23. He does not consider that the publication of PPS1, PPS7, PPS11, PPS12 and PPS23 and cancellations of PPG1, PPG7, PPG11, PPG12 and PPG23 raise any new issues that would affect either his decision or require him to refer back to parties for further representations before he proceeds to a decision on this appeal. The Secretary of State also considers that the publication of Circular 05/05 *Planning Obligations*, and the cancellation of Circular 1/97 raises no new issues which need to be referred back to parties or would affect his decision.
9. Since the close of the inquiry, PPS9 *Biodiversity and Geological Conservation* and an accompanying Circular 06/05, also titled *Biodiversity and Geological Conservation* have been published and PPG9 *Nature Conservation* cancelled. PPS9 was not before the inquiry. For the reasons given in paragraph 19 of this letter, the Secretary of State does not consider that the publication of PPS9 and cancellation of PPG9 raise

any new issues which need to be referred back to parties before he proceeds to a decision.

### Main Issues and Consideration

10. The Secretary of State considers the main issues in deciding these proposals are:

- The extent to which the proposal accords with the policies and proposals in the adopted development plan;
- The need for the development;
- The effect of the proposed development on existing amenities and infrastructure in the area;
- The effect of the proposed development on safety and the free flow of traffic and its consistency with national transport planning policies;
- Industrial and commercial development and small firms;
- Countryside issues;
- Impact on ecology and conservation;
- Impact on the amenities of local residents and businesses;
- Impact of the proposed development on the built heritage;
- Effect on the character and appearance of conservation areas;
- Impact on coastal protection, erosion, flood risk and surface drainage; and,
- The adequacy of conditions as recommended by the Inspector, and the executed Section 106 agreement.

### The extent to which the proposal accords with the policies and proposals in the adopted development plan

11. For the reasons given in IR 8.8-8.17, the Secretary of State agrees with the Inspector that the proposal is generally in line with the policies of the development plan, and that there are policies within the SSP and the SCLP which specifically support expansion of the Port. However, in relation to the impact of the proposed development upon the Landguard Fort, the Secretary of State agrees with the Inspector that there would be conflict with SSP Policy ENV22, SCLP Policy AP7, and policies 37 and 40 of RPG6. He therefore agrees with the Inspector that the proposal is not in accordance with the development plan considered as a whole. He further agrees with the Inspector that only where other material considerations indicate that a decision should not be in accord with those policies would the proposal be acceptable.

### The need for the development

12. The Secretary of State agrees with the Inspector, for the reasons given in IR8.18 to 8.36, that there is a pressing and increasing need for additional deep water container handling facilities in the UK to meet the national need, and that Felixstowe would be well placed to play a part in meeting that need, due to its existing capabilities and location in relation to the major container routes.

## The effect of the proposed development on existing amenities and infrastructure in the area

13. For the reasons given by the Inspector, the Secretary of State agrees with the Inspector's conclusions in respect of the effect of the proposal on visual amenities (IR 8.37 – 8.54) the impact on the dock viewing area (IR 8.55 – 56) the impact on the foot ferry (IR 8.57 – 58), the impact on movement of vessels in the Haven (IR 8.59), the impact on services (IR 8.60) and the impact on water supply and aquifers (IR 8.61). He therefore agrees with the Inspector's conclusion in IR 8.62 that with the mitigation to which the Promoters would be committed, the proposed development would have no significant adverse impact on the existing amenities and infrastructure of the area.

## The effect of the proposed development on safety and the free flow of traffic and its consistency with national transport planning policies

### *Impact on safety and the free flow of traffic*

14. The Secretary of State agrees with the Inspector, for the reasons given in IR8.63-8.73, that the agreed improvements to the Dock Spur Roundabout and the Copdock Interchange, and the Freight Quality Partnership and the Freight Traffic Management Plan to be implemented under the Section 106 Agreement and the agreed conditions, would ensure that the capacity of the A14 between the proposed development site and the Copdock Interchange would be no worse with the reconfiguration scheme than without it. He concludes that the proposed improvements would enable the junctions to operate in a satisfactory manner and to accommodate the anticipated growth in traffic with improved safety, and would successfully mitigate the impact of the additional traffic which would be generated by the development proposal.

### *Rail Traffic*

15. For the reasons given in IR8.74-8.77, the Secretary of State agrees with the Inspector that the local and the remote rail works would be sufficient to ensure that the rail mode share target is met, and that the additional capacity which would be provided by the development of the New Northern Rail Terminal would be sufficient. He considers the issues of trains at Trimley St Mary, and the proposed track dualling between Trimley and Nacton at paragraphs 24 to 26 of this letter.

## Industrial and commercial development and small firms

16. The Secretary of State agrees with the Inspector, for the reasons given in IR8.78-8.83, that the proposed development would provide both investment and jobs, and would make better use of the existing area of the Port. He concludes that subject to it having an acceptable environmental impact, the proposed development would accord with the policy requirements of PPG4, and with local and regional policies.

## Countryside issues

17. For the reasons given in IR8.84-8.88, the Secretary of State agrees with the Inspector that there would not be a significant impact on the landscape or scenic beauty of the Suffolk Coast and Heaths AONB.

18. The Secretary of State agrees with the Inspector, for the reasons given in IR8.89-8.94, that there would not be a significant impact on the landscape or scenic beauty of the AONB on the Shotley Peninsula, nor on the locally designated SLA. As the proposals would not permanently affect any footpath or bridleway, and would not result in any direct loss of countryside, he concludes that the proposals would comply with local and regional policies, and with national guidance as expressed in PPS7.

#### Impact on ecology and conservation

19. The Secretary of State notes that none of the nature conservation designations around the Stour and Orwell estuaries extends to land actually within the red line boundary of the planning application site or within the footprint of the proposed reclamation and capital dredging (IR 8.95). The Stour and Orwell Estuaries Special Protection Area (SPA) is a wetland of major international importance and a Ramsar site. However, he notes that English Nature and the RSPB share the view that the effects of the proposed reconfiguration would not give rise to an adverse impact on the integrity of the SPA (IR 8.98). Following the publication of PPS9 and Circular 06/05 in August 2005, the Secretary of State sought the views of English Nature as to whether the publication of those documents altered the evidence they gave at the inquiry. They have confirmed that their evidence remains unaltered.

20. The Secretary of State agrees with the Inspector that the proposed reconfiguration would have a minor adverse impact on land adjacent to the Landguard Common SSSI, but that a programme of mitigation measures would be developed in conjunction with English Nature to minimise that impact so far as possible. He further agrees with the Inspector that there would be limited impacts on the benthos and the fishery and at one of the proposed disposal sites for the arisings from dredging, there being the prospect of a minor beneficial impact at the other proposed disposal site (IR 8.102).

21. The Secretary of State agrees with the Inspector that the proposals would give rise to an impact on waterfowl only in combination with the effect of the Bathside Bay scheme. These impacts could be addressed by the mitigation proposed for the Bathside Bay scheme. Were that scheme not to proceed, the Secretary of State considers that the impacts of the Felixstowe proposals alone would not be of sufficient weight to justify the refusal of the scheme. He also notes the position of the Suffolk Wildlife Trust and the Essex Wildlife Trust that the reconfiguration scheme proposals are consistent with national ports policy, and that the environmental impacts arising from this proposed development would be significantly lower than the impacts of other UK port developments currently under consideration (IR 8.102).

22. Having regard to the information in the Environmental Statement and the views expressed by English Nature and the RSPB which form the basis of the Inspector's conclusions in IR 8.98 – 8.103, the Secretary of State agrees with his assessment of the impacts of the proposal. He therefore concludes that there are no significant adverse environmental impacts of the proposal, and he agrees with the Inspector that the impact of the proposed development on ecology and conservation would not justify the refusal of the appeal (IR 8.104).

## Impact on the amenities of local residents and businesses

23. For the reasons given by the Inspector, the Secretary of State agrees with the Inspector's conclusions in respect of the effect of the proposal in terms of noise and vibration (IR8.105-8.108), air quality and pollution risks (IR8.116-8.120). He also agrees with the Inspector's conclusions regarding lighting (8.121), television reception (8.122), the impact on residents in Felixstowe West Ward (8.123-8.126), the impact on residents in Woolverstone (8.127-8.128) and the impact on businesses (8.129-8.130). The Secretary of State notes that provision is made in the Section 106 Agreement for noise attenuation barriers to be set up along the A14 in defined locations at Trimley St Mary and Trimley St Martin, although the Inspector does not consider that a need for them arises from the development proposal. The Secretary of State agrees with this view, and has not taken account of this provision in reaching his conclusion on the executed S106 agreement at paragraph 33 of this letter.
24. The Secretary of State agrees with the Inspector, for the reasons given in IR8.109-8.112, that prior to the development of the North Rail Terminal and / or the dualling of the Felixstowe Branch Line between Trimley and Nacton, it is unlikely that the Promoters would be significantly more successful than they have been in the past in avoiding trains standing close to the properties in Chatsworth Crescent. He also agrees with the Inspector that the harm resulting from the proposed development needs to be viewed in the light of the fact that the number of trains currently using the line could increase and, in these circumstances, the incidence of trains waiting at the signals could also increase. He further agrees that there is no plan for the improvement of the line at present, apart from that put forward as part of the reconfiguration scheme, and as noted in paragraph 26 of this letter.
25. At the Inquiry, the Applicant stated its proposal to double track on the Felixstowe Branch Line between Trimley and Nacton in order to secure the operation of the Branch Line to its maximum practical capacity (IR3.165). The Inspector acknowledged that, while this proposal would remove the need for container trains to wait in the vicinity of Chatsworth Crescent, it gave rise to amenity concerns on the part of residents of properties adjacent to the stretch of railway along which dualling was proposed (IR8.110, 8.113). The Secretary of State notes the Inspector's reasons for thinking that the impact of such dualling on residential amenity would be likely to be limited (IR8.114-8.115).
26. Since the close of the inquiry, the Applicant has applied to the Secretary of State for Transport, on 13 December 2005, for an Order under the Transport and Works Act 1992 ("TWA") to authorise its proposals to dual part of the Felixstowe branch line and to increase capacity in the Ipswich Marshalling Yard, together with various ancillary works and requisite land acquisition powers. That application was accompanied by a request for deemed planning permission for the development provided for in the Order. The Secretary of State for Transport will have regard to the environmental impact (including its impact upon residential amenity) of the TWA scheme when considering the merits of the submitted TWA application (which is subject to a separate Environmental Impact Assessment). Nevertheless, the making of the TWA application does not cause the Secretary of State to alter his judgement of the overall impact of the proposed development on amenity in paragraph 27 of this letter.

27. Overall, the Secretary of State agrees with the Inspector's conclusions in IR8.131-8.132 that while the proposals would inevitably have an impact on the amenity of local residents and businesses, wherever possible, mitigation has been proposed to minimise those impacts, and every effort has been made to secure acceptable alternative accommodation for businesses which would be displaced by the proposals. He further agrees with the Inspector that the long-term impact of the proposed development on amenity would be minimal, and not such as to call into question the acceptability of the proposal.

#### Impact of the proposed development on the built heritage

##### *The Landguard Fort*

28. For the reasons given in IR8.133-8.140, the Secretary of State agrees with the Inspector that the proposal would have both beneficial and harmful effects on the setting of the Fort. He further agrees that while the beneficial effects on the main approach to the Scheduled Ancient Monument are considerable, they are outweighed by the harmful effects on the estuary and peninsular settings, contrary to local and regional policies.

29. The Secretary of State agrees with the Inspector, for the reasons given in IR8.141-8.151, that, while in other respects the proposals would make acceptable arrangements to deal with the built heritage (including marine and terrestrial archaeology), the proposals would be damaging to the setting of the Landguard Fort. PPG16 states that there is therefore a presumption against the development, unless other material considerations indicate that the proposals should be allowed.

#### Effect on the character and appearance of conservation areas

30. For the reasons given in IR8.152-8.155, the Secretary of State agrees with the Inspector that the proposals would not harm the character, appearance or setting of either the Harwich or the Felixstowe Conservation Areas.

#### Impact on coastal protection, erosion, flood risk and surface drainage

31. The Secretary of State notes that all the concerns originally identified by the Environment Agency and English Nature have been dealt with to the satisfaction of those bodies and have been withdrawn. He agrees with the Inspector, for the reasons given in IR8.156-8.160, that the proposed development would not give rise to any problem in connection with coastal protection, erosion, flood risk or surface drainage which would justify dismissal of the appeal, and would in fact improve coastal protection to an extent, and would reduce flood risk. The Secretary of State is satisfied that sufficient mitigation is offered where the proposal would give rise to erosion.

The adequacy of conditions as recommended by the Inspector and the executed Section 106 agreement.

*Conditions*

32. The Secretary of State has considered the conditions for this development, having regard to Circular 11/95 "The Use of Conditions in Planning Permissions". He agrees with the Inspector for the reasons given in IR 8.162 – 8.209 that all of the suggested conditions, as amended, are necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

*S106*

33. For the reasons given in IR 8.210 - 8.249, the Secretary of State agrees with the Inspector that the provisions of the Section 106 Agreement would deliver all of the mitigation measures promised by the Promoters, except for the short term relief of problems caused by trains stopping at the signals in Trimley St Mary. He further agrees with the Inspector that some elements of the Section 106 Agreement do not meet the test of necessity for planning obligations: provisions relating to Shed 22 (IR 8.227-8.228); noise attenuation measures on the A14 (IR 8.232); and air quality monitoring (IR 8.233). He has therefore not given any weight to these provisions in reaching his conclusion on whether or not the Section 106 Agreement is satisfactory.

Conclusions

34. The Secretary of State agrees with the Inspector, for the reasons given in IR 8.275-8.279, that the development proposals in this case are generally in line with the development plan, and indeed are offered specific support in some cases. However, overall he considers that the proposals would not be in accordance with the development plan, due to their impact on the Landguard Fort, although he agrees with the Inspector in IR8.296 that those impacts can be effectively mitigated. The Secretary of State has therefore gone on to consider whether there are material considerations which indicate that his decision should not be in accordance with the development plan.

35. For the reasons given in IR 8.280-8.292, the Secretary of State agrees with the Inspector that the proposal would make a contribution to meeting a recognised and urgent national need, while achieving improved safety on the roads and increasing the share of goods carried by rail. He further agrees that the development would also create a significant number of new jobs, with very limited effects on the countryside, nature conservation, the amenities of local residents and businesses, and with a strongly positive impact on coast protection and flood avoidance. He accepts that there would be the potential for problems in the short term for some residents of Trimley St Mary, and it would damage the setting of a Scheduled Ancient Monument.

36. The Secretary of State agrees with the Inspector, for the reasons given in IR 8.293-8.295, that the benefits to the Scheduled Ancient Monument, together with the overall benefits which would be provided by the scheme to the Landguard Peninsula, are sufficient to mitigate the damage to the setting of the Scheduled Ancient Monument which the development would cause. He further agrees with the Inspector that the

short term problem of trains standing at Trimley St Mary has to be set against the benefits which could flow from a major development of potential importance to the country's economy. He considers that the benefits are sufficient to outweigh this objection to the scheme, particularly given that the number of trains currently using the line could increase, and that there is no plan for the improvement of the line at present, apart from that put forward as part of the reconfiguration scheme, and as noted at paragraph 26 of this letter.

37. Having weighed up the arguments for and against the proposal, the Secretary of State has, like the Inspector, concluded that there are material considerations providing substantial positive support for the appeal (IR 8.292). He agrees the proposals would make a contribution to meeting the national need for additional deep water container handling facilities which together with the other benefits he has identified in paragraph 35 above are material considerations that strongly indicate that the appeal should be allowed particularly when the only policy conflict relates to the adverse effect on the setting of the Scheduled Ancient Monument and this can be effectively mitigated. (IR 8.296).

#### Formal Decision

38. For the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby allows the appeal against non determination and grants planning permission for redevelopment and realignment of the Landguard Terminal and adjacent areas to provide additional deep water berths and container handling capacity at Felixstowe South, subject to the conditions set out in Annex A to this letter.

#### Right to Challenge the Decision

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

40. A copy of this letter has been sent to Suffolk Coastal District Council and to all interested parties.

Yours faithfully,

Andrew Lynch  
Authorised by the First Secretary of State to sign in that behalf

## ANNEX A - LIST OF CONDITIONS

1. The development shall be commenced before the expiration of 5 years from the date of this permission.
  
2. The development hereby permitted shall be implemented in accordance with the following plans, drawings and documents hereby approved:

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>
F1000/100	Red Line (Context) Plan	1:15000
F1000/101	Application Boundary - Terminal & Landguard Car Park - Sheet 1 of 3	1:2500
F1000/102	Application Boundary - Sheet 2 of 3	1:2500
F1000/103	Application Boundary - New North Rail Terminal - Sheet 3 of 3	1:2500
F 1000/ 104 Rev D	Felixstowe South Masterplan	1:2500
F1000/105 Rev A	Rail Terminal General Arrangement and Typical Section	1:200 & 1:2000
F1000/106 (Sheet 1/4)	Existing Topographic Survey	1:1250
F1000/106 (Sheet 2/4)	Existing Topographic Survey	1:1250
F1000/106 (Sheet 3/4)	Existing Topographic Survey	1:1250
F1000/106 (Sheet 4/4)	Existing Topographic Survey	1:1250
F1000/107 Rev A	Demolition Plan - Structures to be Demolished	1:2500
F1000/108 Rev A	Workshop Facility General Arrangement	1:100
F1000/109 Rev A	Workshop Facility Elevations	1:100
F1000/110 Rev C	Dock Tower General Arrangement and Section	1:100
F1000/111 Rev B	Dock Tower Elevations	1:100
F1000/112	In-Gate Proposed General Arrangement	1:200
F 1000/ 113 Rev A	RTG Layout Section X-X	1:500
F1000/114	Typical Lighting Tower Details	1:20 & 1:50
F1000/115	Existing Lighting Layout - Isolux Contours 1 of 2	1:2500
F1000/115	Existing Lighting Layout - Illuminance Values 2 of 2	1:2500
F 1000/116	Proposed Lighting Layout - Isolux Contours 1 of 2	1:2500
F1000/116	Proposed Lighting Layout - Illuminance Values 2 of 2	1:2500

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>
F1000/117	Lighting - Panorama Visualisations	NTS
F1000/122 Rev B (Sheet 1/2)	Landguard Peninsula Detailed Layout Plan	1:250
F1000/122 Rev B (Sheet 2/2)	Landguard Peninsula Detailed Layout Plan	1:250
F1000/123 Rev A	Landguard Peninsula Typical Section - Bund & Car Park	1:50 & 1:250
F1000/125 Rev B	Acoustic Barrier Details	1:100 & 1:1000
F1000/126 Sheet 1 Rev A	NNRT Proposed Lighting Scheme	1:200 & 1:2000
F1000/126 Sheet 2	NNRT Lighting - Calculux Levels Lighting Results Site Overlay	1:100
F1000/203 Rev A	(Landguard) Flood Defence Tie-in to Old Sea Wall General Arrangement	1:500
F1000/204	(Landguard) Section through View Point Car Park	1:20, 250 & 1000
F1000/205	(Landguard) Section through Flood Wall Defence	1:20, 250 & 1000
F1000/206	Landguard Materials Palette	NTS
F1000/207	Landguard Materials Palette	NTS
HSL00610/010 Rev B	View Point Road Detailed Layout Plan (Sheet 1/2)	1:500
HSL00610/011 Rev B	View Point Road Detailed Layout Plan (Sheet 2/2)	1:500
	Planning and Design Statement, November 2003	

3. No development permitted hereby shall commence until a scheme of phasing substantially in accordance with Drawing F1000/197 Rev B has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing.
4. The development shall be carried out in accordance with the Planning and Design Statement dated November 2003 identified in condition 2 above save insofar as otherwise provided in any condition attached to this permission.
5. The landscaping scheme and grassing as approved hereby shall be implemented during the first planting season following completion of the improvements to View Point Road required under condition 37 below within the site and any grass or other planting which dies or becomes diseased within five years of planting shall be replaced with grass or other planting of the same or similar variety.

6. No phase of the development shall commence until details of the design and external appearance of the buildings and hard standing areas to be constructed within that phase of the development in accordance with the Planning and Design Statement dated November 2003 have been submitted to and approved in writing by the local planning authority. The details shall include dark grey block paving for the container stacking area and charcoal block paving to the operational quayside area comprised in the development. The development shall be carried out in accordance with the details as approved.
7. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development shall commence until a scheme showing full details of fences, walls, gates or other means of enclosure together with a programme for the erection of such means of enclosure has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details and programme.
8. No phase of the development hereby permitted shall be commenced until details including layout drawings showing both foul and surface water drainage (including the provision of all oil and diesel interceptors) for that phase of the development have been submitted to and approved in writing by the local planning authority and thereafter any such works in relation to the development shall be undertaken in accordance with the approved drawings and retained thereafter and maintained so as to perform the function for which they are provided.
9. No part of the development (including ground works) hereby permitted shall commence until a programme and scheme of archaeological work (including marine archaeology) for the site (including any works that might be necessary and practicable to preserve the remains in situ) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved programme and scheme.
10. No part of the development hereby permitted shall be commenced until a written Construction Management Plan (CMP) together with a certificate that the same has been submitted in that form to the Highways Agency and the local highway authority has been submitted to the local planning authority and approved in writing. The CMP shall include details of management during the construction phase of the development of the matters contained in conditions 11 to 17 inclusive (construction noise and vibration), a construction traffic management plan in accordance with the FSR Traffic Management Plan produced by ERM and included in a statement of common ground dated 10<sup>th</sup> September 2004 and addressing the effect of constructing the development on the wider highway network, condition 22 (construction lighting) and conditions 24 to 28 (construction dust management) of this permission. The development hereby permitted shall be carried out in accordance with the approved CMP.

11. No part of the development hereby permitted shall be commenced until a scheme relating to the control of noise and vibration from the construction of the development that accords with British Standard BS5228 has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- (a) definitions of roles and responsibilities;
  - (b) consultation and reporting processes for noise and vibration;
  - (c) predicted noise levels for different phases of the construction programme;
  - (d) noise and vibration monitoring procedures including recording measures and the location of measuring instruments for each phase of the development;
  - (e) action to be taken in the event of non-compliance with (b) to (d) above;
  - (f) a record of the occasions on which percussive piling operations take place;
  - (g) complaint response procedures;
  - (h) construction methods for percussive piling designed to minimise the noise generated by such operations through practical methods such as shrouding or other appropriate alternative methods; and
  - (i) the requirement to implement measures for the purpose of notifying the public when percussive piling operations for quay wall construction are to take place.

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

12. All plant, machinery and vehicles used on site in constructing the development shall be fitted with effective silencers at all times which shall be maintained in accordance with the manufacturers' recommendations and current British Standards applicable thereto. No such plant, machinery or vehicles shall be left running when not being operated.
13. No percussive piling operation for any phase of the development shall be carried out except in accordance with a programme for that phase which shall first have been approved in writing by the local planning authority. The said programme shall provide that when piling is taking place within 300m of Felixstowe Museum a quietened method of tubular piling shall be employed, which may include the use of a shrouded piling rig, alternative construction methods or other relevant techniques.

14. Except with the prior written agreement of the local planning authority, no percussive piling operations shall be undertaken in relation to the construction of any part of the development outside the hours of:
- (a) 08:00 to 18:00 Monday to Friday; and
  - (b) 09:00 to 13:00 on Saturday;
- or at any time on Sundays or Bank or Public Holidays provided that percussive piling operations may be undertaken in relation to the construction of the development outside the permitted hours:
- (i) in the case of an emergency; or
  - (ii) where piling is required on the grounds of safety or environmental protection; and
  - (iii) in either case the situation would otherwise be dangerous to life or limb.

The local planning authority shall be notified in writing within 48 hours of any event of this type and the reason why percussive piling took place outside the permitted hours.

15. The noise from construction activities in relation to any phase of the development shall not exceed the following daytime free-field equivalent sound pressure levels, as measured at a height of 1.5 m above ground level immediately adjacent to the nearest residential property to the relevant phase of the development or such other location as may have been approved in accordance with condition 11 above:
- (a) 70 dB LAeq 1hr during the hours of 07:00 to 19:00 on Mondays to Fridays, excluding Bank Holidays;
  - (b) 55 dB LAeq 1hr during the hours of 19:00 to 23:00 on Mondays to Fridays, excluding Bank Holidays;
  - (c) 70 dB LAeq 1hr during the hours of 07:00 to 13:00 on Saturdays; and
  - (d) 50 dB LAeq 1hr at all other times.
16. Vibration levels from piling or other construction activities in relation to any phase of the development shall not exceed a peak particle velocity of 2 mm/s as measured immediately adjacent to the nearest residential property or vibration sensitive structure for that phase or such other location as may have been approved in accordance with condition 11 above and 12 mm/s measured immediately adjacent to Landguard Fort, Felixstowe Museum and all flood banks.

17. No percussive piling operations shall be undertaken in relation to the construction of the development during more than thirteen weekends in any six months and except with the prior written approval of the local planning authority no more than five hours of percussive piling of tubular piles for the main quay wall shall take place on any day.
18. No part of the development hereby permitted shall be commenced until details relating to the control of operational noise have been submitted to and approved in writing by the local planning authority. These details shall include the following:
  - (a) definitions of roles and responsibilities;
  - (b) the adoption of best practice for the specification and procurement of quiet plant and equipment;
  - (c) predicted operational noise levels;
  - (d) consultation and reporting processes for noise and vibration;
  - (e) noise monitoring procedures;
  - (f) action to be taken in the event of non-compliance with (b) to (e) above;
  - (g) complaint response procedures; and
  - (h) requirements to provide environmental noise awareness training to operatives.

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

19. No stack or stacks of containers on any part of the development hereby permitted shall exceed five containers in height save that nothing in this condition shall preclude the lifting of containers above any stack of five containers.
20. There shall be no stacking of containers more than four high on land comprised in the development and shown coloured orange on drawing 1911LO/33 save that nothing in this condition shall preclude the lifting of containers above any stack of four containers in this area.
21. No stacking of containers shall take place on the area shown hatched on drawing F1000/197 Rev B.
22. No phase of the development hereby permitted shall be commenced until a written scheme of construction lighting for that phase has been

submitted to and approved in writing by the local planning authority. The scheme shall include details of:

- (a) definitions of roles and responsibilities;
- (b) design including locations and heights (which shall, so far as reasonably possible having regard to the nature of construction activities, not exceed twelve metres above ground level) of construction lighting, including details of the fixed lighting installations used in the construction of the development;
- (c) installation of the construction lighting;
- (d) management of the construction lighting;
- (e) construction lighting monitoring procedures and action to be taken in the event of non-compliance;
- (f) use of luminaires with high quality optical systems of flat glass construction where appropriate;
- (g) limits upon the aiming angle of the peak intensity of the luminaire to maintain the light from the luminaire generally within 75 degrees from the downward vertical; and
- (h) use of the most appropriate photometry reflectors available at the date of this permission.

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

23. The lighting scheme for the development hereby permitted shall be constructed, retained and maintained in accordance with the lighting scheme shown in approved drawing numbers F1000/114, F1000/116, F1000/117, F1000/126 Sheet 1 Rev A and F1000/126 Sheet 2 listed in condition 2 to this permission and in accordance with details setting out types and specifications of luminaires, reflectors and aiming angles which have been submitted to and approved by the local planning authority before any part of the development is commenced. The submitted details shall include details of the re-orientation of existing lighting units within the port designed to minimise light pollution.
24. No part of the development hereby permitted shall be commenced until a construction dust management plan has been submitted to and approved in writing by the local planning authority. The construction dust management plan shall include details of the following:
- (a) definitions of roles and responsibilities;

- (b) the adoption of best practice for the specification of plant and equipment;
- (c) the consultation and reporting processes;
- (d) dust monitoring procedures and strategy and assessment criteria;
- (e) action to be taken in the event of non-compliance with the dust monitoring criteria specified at (d) above; and
- (f) complaint response procedures.

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

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

- (a) the use of water bowsers and sprays for damping down of site roads;
- (b) sweeping of hard surface site roads; and
- (c) grading and maintenance of loose aggregate surface site roads.

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

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

29. No part of the development hereby permitted shall be commenced until a scheme for concrete pouring and filling works has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- (a) monitoring procedures; and
  - (b) remedial action works to be undertaken in the event of a spillage.

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

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

31. No part of the development hereby permitted shall be operated unless and until the following works have been carried out in accordance with plan HSL00610/100A:

- (a) a signal controlled crossing in place of the existing dropped crossing on Central Road within Dock Gate 2;
- (b) a segregated footway/cycleway on the north side of Dyke Road and Coldstore Road along the existing grass verge; and
- (c) improved pedestrian/ cyclist crossing facilities to Centenary House and Logistic House.

32. No part of the development hereby permitted shall be commenced unless and until details of works for the improvement of Dock Spur roundabout prepared in accordance with the Department for Transport Design Manual for Roads and Bridges and which are:

- (i) substantially in the same form and have no less effect in terms of highway safety and capacity as the works shown on drawing HSL00610/Fig B Rev A (whether or not requiring the land of third parties); or
- (ii) in such form as the Highways Agency and the local highway authority may approve in writing

have been submitted to and approved in writing by the local planning authority, in consultation with the Highways Agency and the local highway authority.

33. Following implementation of the development hereby permitted and the commencement of operation of Phase 1 A or Phase 1 B shown on drawing F 1000/197 Rev B notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as the same may be amended or re-enacted from time to time) no part of the area within Phase 2A or Phase 2B on drawing F1000/197 Rev B (whether part of the existing Landguard Terminal or not) shall be used for any purpose capable of generating road traffic related to or arising from the operation of the Port of Felixstowe on the public highway until the works which are the subject of condition 32 are completed and open to traffic.
34. No part of the development hereby permitted shall be commenced unless and until details of works for improvement of Copdock Interchange prepared in accordance with the Department for Transport Design Manual for Roads and Bridges and which are:
- (i) substantially in the same form and have no less effect in terms of highway safety and capacity as the works shown on drawing HSL00610/11 Rev B (whether or not requiring the land of third parties); or
  - (ii) in such form as the Highways Agency and the local highway authority may approve in writing
- have been submitted to and approved in writing by the local planning authority, in consultation with the Highways Agency, the local highway authority and Babergh District Council.
35. Following implementation of the development hereby permitted and the commencement of operation of Phase 1A or Phase 1B shown on drawing F1000/197 Rev B notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as the same may be amended or re-enacted from time to time) no part of the area within Phase 2A or Phase 2B on drawing F1000/197 Rev B (whether part of the existing Landguard Terminal or not) shall be used for any purpose capable of generating road traffic related to or arising from the operation of the Port of Felixstowe on the public highway until the works which are the subject of condition 34 are completed and open to traffic.
36. No part of the development hereby permitted shall be implemented until a written scheme providing for the operation of the development in accordance with measures designed to secure controls on activities likely to adversely affect air quality has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (a) a strategy for the procurement of plant, machinery and vehicles to be used in operating the development complying with Government and other appropriate EU vehicle emission standards in force from time to time;

- (b) procedures for liaison and review in relation to the prospects of securing improvements to emissions from the development and the adoption of such measures as are identified as being necessary as a result of such liaison and review; and
- (c) a requirement that the development should be capable of being retrofitted with apparatus for the purposes of supplying electricity from the land to vessels berthed alongside.

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

37. No part of Phase 2B of the development shown edged blue on plan F1000/197 Rev B shall be operated until works for the improvement of View Point Road, as shown on drawings HSL00610/010/B and HSL00610/011B, have been implemented and opened to traffic.
38. No part of Phase 2B of the development hereby permitted shall be operated until a written emergency and port closure scheme setting out:
- (i) procedures for the evacuation and/or closure of the development in the event of an emergency;
  - (ii) procedures to be followed in the event of the closure of the development to sea traffic;
  - (iii) the areas of HGV parking within the development to be used in the event of the closure of the development to sea traffic;
  - (iv) procedures for notification and liaison with emergency services and highway authorities; and
  - (v) procedures to be followed in the event of closure to or restrictions upon the use of the A14(T) for access to the Port of Felixstowe by HGVs,

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

39. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order amending or revoking and re-enacting that Order with or without modification) no linkspan or other structure to permit the use of the development hereby permitted (or any part thereof) by RoRo vehicles shall be constructed pursuant to this planning permission or otherwise and no part of the development shall be used for the import or export of RoRo vehicles or goods carried by RoRo vehicles (at the time of import or export) or for the storage

or handling of RoRo vehicles or for the loading or unloading of the same from any vessel.

In this condition:

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

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

40. No works to View Point Road shall take place pursuant to this permission unless and until a scheme for the translocation of reptiles and protection of invertebrates has been submitted to and approved in writing by the local planning authority in consultation with English Nature. The scheme shall provide:

- (i) for pre-construction surveys for common lizards;
- (ii) a programme for the trapping and relocation of common lizards within/from areas likely to be affected by the development;
- (iii) so far as is reasonably practicable fencing of areas in which sensitive populations of invertebrates are likely to be present;
- (iv) establishment of site compounds in less sensitive areas and in no case on the eastern verge of View Point Road; and
- (v) procedures for reporting to and liaison with the local planning authority and English Nature.

The works to View Point Road and the scheme shall be carried out as approved.

41. No part of the development hereby permitted shall be commenced until a flood evacuation plan has been submitted to and approved in writing by the local planning authority and the local highway authority. The development hereby permitted shall be carried out and operated in accordance with the approved plan.
42. When not in use for the loading or unloading of vessels, ship to shore gantry cranes provided as part of the development hereby permitted shall not be positioned closer than 150m from the boundary of the Port of Felixstowe with Landguard Fort except to allow:
  - (a) the safe manoeuvring of vessels in the vicinity of the quay having regard to weather conditions, vessel characteristics and mechanical status provided that such cranes shall be returned to a position according with the first part of this condition upon the completion of such manoeuvre; or
  - (b) for works to the crane, quay or other quayside installation that require the crane to be immobilised during said works or otherwise require it to be positioned contrary to the requirement of the first part of this Condition.
43. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or the Felixstowe Dock and Railway Harbour Revision Order 2006 no building shall be constructed and no rubber tyred gantry shall be parked when not in use in the area shown shaded grey on plan F1000/197 provided that except where any other condition provides to the contrary this condition shall not apply to lighting towers, cranes, trolleys, gantries, jibs or booms required for the construction of the development or its operation.
44. Notwithstanding the terms of the Felixstowe Dock and Railway Harbour Revision Order 2006 as the same permits deviation in an upward direction, the quay constructed as part of the development hereby permitted shall be constructed at a level of not less than +4.6 metres AOD and no more than +4.7 metres AOD.
45. The following structures shown on Plan F1000/107A within the site shall not be demolished unless and until each has been recorded to the level specified in respect of each below, in each case in accordance with the description of each level set out in the Royal Commission on the Architectural Monuments of England's "Recording Historic Buildings: a descriptive specification" (second edition 1991):

22 Shed - Level 4;  
RAF Watchtower - Level 4;  
RAF Crew Accommodation - Level 4;  
RAF Urinal - Level 4;  
Admiralty Oil Tanks - Level 4;

Ro-Ro No.1 pontoon - Level 2;  
Ferry Centre Building and Associated Railings - Level 2;  
Marriages Mill, offices and silo - Level 2; and  
North and South dock walls - Level 2.