

Committee: **Regulatory  
Planning Committee**

Date: **25 July 2018**

Report by: **Director of Communities, Economy and Transport**

Proposal: **The construction and use of plant, namely aggregate processing plant, aggregate bagging plant, concrete batching plant and buildings, ancillary offices and stores for processing and utilising aggregates landed at Newhaven Port and distribution of the products by road and rail together with access to the public highway and the extension of an existing rail siding.**

Site Address: **Fisher's Wharf, Newhaven Port, Newhaven**

Applicant: **Brett Aggregates Ltd.**

Application No. **LW/799/CM(EIA)**

Key Issues:           (i)     **Principle of minerals development at the Port**  
                          (ii)     **Economy (including Enterprise Zone status)**  
                          (iii)    **Road transport capacity**  
                          (iv)     **Air quality**  
                          (v)      **Noise**  
                          (vi)     **Landscape and visual effects**  
                          (vii)    **Effect on nature conservation interests**  
                          (viii)  **Flood risk and drainage**

Contact Officer: **Jeremy Patterson – Tel: 01273 481626**

Local Member: **Councillor Darren Grover**

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## **SUMMARY OF RECOMMENDATIONS**

**The Committee is recommended:**

**1. That the application be approved and the Director of Communities, Economy and Transport be authorised to grant planning permission subject to the conditions set out in paragraph 8.3 of the report and the following matters:**

**(i) The Secretary of State for Housing, Communities and Local Government having confirmed that the application will not be called-in; and**

**(ii) A s.106 Town and Country Planning Act Planning Obligation securing a contribution of £20,000 towards the Sussex Local Wildlife Sites Initiative and a contribution of £15,000 towards initiatives in the Newhaven Air Quality Action Plan having been completed.**

**2. That should the Planning Obligation referred to in 1. (ii) above not be completed by 31 March 2019, then the application will be referred back to Committee for determination.**

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## **CONSIDERATION BY DIRECTOR OF COMMUNITIES, ECONOMY AND TRANSPORT:**

### **1. The Site and Surroundings**

1.1 The application site comprises an area of approximately 3.5 hectares, although the overall development area, including land which benefits from permitted development rights, comprises about 4 hectares. Material would be discharged from ship on the River Ouse at Fisher's Wharf at East Quay and the proposed use and development area would extend eastwards into the Port's existing operating area. The site extends from the edge of the River Ouse through a quadrant bounded on its southern side by rail sidings which are not currently in use to a rectangular plot extending from Mill Creek in the north to the existing boundary fence line in the south. The site is approached from the A259 via Railway Road, Clifton Road, Beach Road and the gated internal port access road.

1.2 The existing operating areas within the site are surfaced with either concrete or asphalt and laid to fall to facilitate a purpose built drainage system. An existing building is present within the site (proposed to be used for bagging aggregates), measuring 73.7 metres by 45.6 metres and occupying some 3360 square metres in area, and standing 8 metres in height. An area to the north of the building is currently used for boat repairs and would remain in that use. An access road is present, together with long established lighting towers located mainly along the boundaries of the site, which would be retained. The application site boundaries are generally secured by 1.8 metres high galvanised steel palisade fencing, which would also be retained.

1.3 East Quay is currently used by a metal recycling company and Rampion Offshore Wind (ROW) in connection with the maintenance of an offshore wind farm in the English Channel. Part of the development site is currently occupied by ROW for industrial, office and car parking purposes. The land between the quay and the southern part of the site is generally open and unoccupied, save for the Port office. To the north of the site is a tidal waterbody known as Mill Creek, which separates the site from the Newhaven East Marine Wastewater Treatment Works and the Brighton to Seaford railway line.

1.4 The open area of the beach and the Tide Mills Site of Nature Conservation Importance, or Local Wildlife Site, lie adjacent to the site to the south and east and East Pier extends into the sea at the mouth of the Port just to the south-west. The South Downs National Park boundary lies to the east and north-east, some 200 metres and 400 metres away, respectively. The Port is within the Brighton and Lewes Downs UNESCO World Biosphere Region. Public footpath Newhaven 7b runs directly along the eastern boundary of the site, which connects via a footbridge to a long distance footpath, the Vanguard Way/Sussex Ouse Valley Way, alongside Mill Creek. A second public footpath, Newhaven 40a, currently tracks east/west along the southern boundary of the site, although is subject to a confirmed Footpath Diversion Order. The nearest residential properties to the east of the River Ouse are located alongside Railway Road, Clifton Road and Beach Road with the nearest estates on the outskirts of Seaford about 1 kilometre to the east and at Denton in Newhaven, some 1.5 kilometres to the north. The application site lies on the fringes of Flood Zones 1 and 2 (a low to medium probability of river or sea flooding).

1.5 To the west of the River Ouse, the area is more densely populated than in the east. Residential properties, some of which are multi-storey apartment blocks, stand close to the river and the closest properties are on Fort Road near The Hope Inn, some 250 metres from the site. Newhaven Marina is within the river some 200 metres north of The Hope Inn and is accessed from the west bank. North of the marina, towards the A259, the Port's fishing vessels operate. About 400 metres south-west of the site on land overlooking the Port is Newhaven Fort, a Scheduled Ancient Monument. An Air Quality Management Area (AQMA) is present about 1 kilometre to the north-west of the site.

## **2. The Proposal**

2.1 The applicant is part of a construction and building materials group of businesses (the Brett Group), which is the largest independent company in the sector in the UK. The supply of aggregates and ready mixed concrete are core businesses. The applicant supplies products from quarries and wharves by road, rail and water and has interests in extracting aggregates from the marine environment, which is undertaken under licence.

2.2 The proposal is for the construction and use of an aggregate processing plant, aggregate bagging plant, concrete batching plant and buildings, ancillary offices and stores for processing and using aggregates landed at Newhaven Port and for distribution of the products by road and rail, together with access to the public highway and the extension of an existing rail siding. The proposal would use only land that has already been developed for Port related purposes and is anticipated to generate 31 jobs.

2.3 Whereas the proposal had originally included the development of a concrete block making plant as the fourth of four stages of development, this stage was withdrawn by the applicant in February 2018. Stages 1-3 remain unchanged and the applicant anticipates construction would take place

between 2018 and 2020 if planning permission is granted. These Stages, which comprise the proposed development, are as follows:

2.4 Stage 1 development would involve the importation of unprocessed marine dredged sand and gravel, its off-loading and processing to produce construction aggregates, their distribution by road and rail and their bagging and distribution by road. The proposed infrastructure would include: water holding tanks and silt recovery; an aggregate processing plant equipped with feed hopper, conveyors, and washing, screening, crushing and sand dewatering plant, which would stand up to 18.5 metres high; aggregate storage bays formed from precast concrete wall segments secured to the ground; a series of feed hoppers, conveyors, weighing, bagging and palletising equipment mainly sited within an existing building; and a weighbridge, office and welfare facilities.

2.5 It is estimated that about 100,000 tonnes of aggregates would be exported by road annually: 50,000 tonnes in bags and 50,000 tonnes in bulk. Loading of material in bulk would be by loading shovel into tippers whilst bagged materials would be either in small bags on pallets, or in single reusable bulk bags. At this stage, a daily average of 17 lorry loads (34 movements) would be exported by road with no more than 8 movements per hour. There would be self-imposed restrictions employed along the existing access road to the Port to minimise potential conflict with nursery drop-off times.

2.6 It is estimated that 100,000 tonnes of aggregates would be exported in bulk by rail annually. Stored products or products taken directly from the processing plant would first be loaded by loading shovel and transported by dump truck and stored alongside the rail track. The temporary stockpile, which would be the equivalent of a trainload, would be loaded into the waiting train by hydraulic excavator or high lift loading shovel. The use of rail for distribution of aggregates in bulk would be maximised, although it is not envisaged that more than two trains would arrive and leave in any one day.

2.7 The total aggregate processed during Stage 1 would be about 200,000 tonnes annually.

2.8 Stage 2 development would be little changed from the Stage 1 development. The extension of the available land, following the relocation of development associated with Rampion Offshore Wind, would improve the efficiency of ship discharging and train loading, as well as making more space available for aggregate storage.

2.9 Additional infrastructure would involve: a feed hopper sited on the quay and a rising conveyor with a tipper discharge attached, which would stand up to 12 metres in height; additional storage bays to accommodate dredged sand and gravel and imported crushed rock, mainly sub-base material; additional product storage bays in the south of the application site; and an extension of the rail track.

2.10 In the main, the dredgers used to transport the sand and gravel to the quay would be self discharge vessels which would transfer the aggregate direct to storage bays via a feed hopper on the quay and a tipper conveyor. Crushed rock probably imported in vessels which are not self discharging would be re-handled before being placed in the feed hopper and transported by the tipper conveyor to the stockpile. The extension of the rail track into the application site would enable wagons to be loaded by high lift loading shovel direct from the storage bays.

2.11 When this stage is in operation, distribution by road would remain the same as in Stage 1 but it is predicted that aggregates exported by train could increase by an annual 50,000 tonnes. So, the total aggregate processed during Stage 2 could rise to 250,000 tonnes annually.

2.12 Stage 3 development comprises the additional manufacture of ready-mixed concrete from the processed sand and gravel, cement, cement substitute and additives. The proposed infrastructure involves: a surface mounted feed hopper with an inclined radial conveyor designed to be fed by loading shovel, standing 12.5 metres high; aggregate storage bays; cement and cement substitute silos, standing at 18.5 metres high; water storage tanks; aggregate and cement weigh hoppers; a control cabin; a water recycling system; welfare facilities; and a storage area for consumables including space for cycles.

2.13 The basic operation of a concrete batching plant is the controlled discharge of measured quantities of sand, stone, cement (and cement substitute), any admixtures and water into a mixing unit with the mixed material, loaded in batches into a truck mixer waiting beneath. Annual output of ready-mixed concrete would be about 25,000 cubic metres requiring 50,000 tonnes of aggregates.

2.14 Stage 3 operations would commence only when the Newhaven Port Access Road is open to traffic. This would, according to the applicant, allow for the constraints on vehicle movements to be lifted enabling the overall business to grow. It is estimated that annual distribution of bulk aggregates by road would increase to 150,000 tonnes and bagged aggregates to 70,000 tonnes. From this time, all traffic associated with the proposed development would use the Port Access Road. The total tonnage of aggregates managed at the site would be 420,000: 150,000 in bulk by road, 150,000 in bulk by rail, 70,000 in bags by road and 50,000 as part of ready-mixed concrete by road.

2.15 The proposed hours of working are between 07.00 and 18.00 Mondays to Fridays inclusive and between 07.00 and 13.00 on Saturdays, except for train loading, which is proposed to take place between the hours of 06.00 to 20.00 Mondays to Saturdays inclusive. There would be no workings on Sundays or Bank and Public Holidays.

2.16 The application is supported by an Environmental Statement, following the undertaking of an Environmental Impact Assessment. In December 2017, the County Council advertised the application as not according with Saved

Policy NH20 of the Lewes Local Plan, which allocates land at East Quay and East Beach for the upgrading and expansion of the Port, and Core Policy 4 (7) of the Lewes District Local Plan Core Strategy which supports the continued use of the Port for freight and passengers, including plans for expansion and modernisation of the Port, as identified in the Port Authority's Port Masterplan. However, as already noted above, Stage 4 no longer forms part of the proposals and it is now considered that the proposed development accords with the aforementioned policies in providing appropriate port related development.

2.17 As a result of some confusion regarding the Brett proposal and the Lewes District Council planning permission for the expansion of the port, including a deep water berth (see paragraph 3.3 below, ref. LW/15/0034), it needs to be made clear here that the current proposal does not include any development that would fall within the areas of the East Pier, the East Beach, any public footpath, or any part of the Tide Mills which is not already developed.

### **3. Site History**

3.1 Lewes District Council (LDC) granted planning permission in 2014 (ref. LW/13/0731) for works to the existing warehouse, extension to roof and erection of a new warehouse on land within the application site. The existing and new buildings were proposed to be used for boat building and port related storage.

3.2 The following planning permissions have also been granted on land adjacent to the application site, which are of relevance to the current application:

3.3 Planning permission was granted by LDC in 2016 (ref. LW/15/0034) on land to the south and south-west of the site for the: Refurbishment of the existing multi-purpose berth at East Quay including the construction of a new multi-purpose berth and slipway at the southern end of the East Quay; Levelling the backshore area to the east of the new multi-purpose berth to create a new Land Development Area (LDA) and establishment of a 3.5ha nature reserve above mean high water springs to the east of the LDA. Capital dredging of the existing approach channel (deepening and localised widening and extension); Demolition of part of the East Pier structure; Use of dredged material, where possible, as fill for levelling the LDA. Material not suitable for use as fill or for an alternative use would be disposed of at Newhaven Port and Properties Limited's existing licensed offshore disposal ground.

3.4 Planning permission was also granted by LDC on land to the west of the site for 'onshore operations and a maintenance facility for the Rampion offshore wind farm, with parking, storage and small vessel loading and unloading facilities'. The development includes a 10 metres high building with 2,300 square metres of floor space.

3.5 In 1996, the County Council granted permission (ref. LW/1751/CC) for the construction of a new road between the A259 Drove Road roundabout and the port area south of the Newhaven to Seaford railway and creek, including an environmental buffer and landscaping. This road is known as the Newhaven Port Access Road (NPAR). In 2002, this permission was renewed (ref. LW/2061/CC). In 2007, a variation to Condition 3 of permission LW/2061/CC was granted (ref. LW/2565/CC), which sought the submission and approval of details relating to the proposed bridge, which would span the railway and Mill Creek, before the construction of Stage 2 of the road. At the time of writing, the submission of these details remains outstanding. The first section of the road has been constructed and work to complete the remaining section is expected to commence in autumn 2018, subject to the approval of details relating to the bridge and to the confirmation of Government funding, with an anticipated completion in early 2020.

#### **4. Consultations and Representations**

4.1 Copies of the consultee responses and public representations have been made available to the Planning Committee members and are also available to view on the Council's website. Many of these are substantial in length and have not been included in their entirety in this report and so summaries are set out below. Many of the representations were made prior to the withdrawal of Stage 4, or have implied that this stage still forms part of the proposed development.

4.2 Lewes District Council raises objections, following the withdrawal of Stage 4 of the proposal, for the following reasons: (1) There is no over-riding need for the development; (2) The application would be contrary to Lewes DC's Joint Core Strategy Policy CP4 (Encouraging Economic Development and Regeneration); (3) The character of the development would be general industrial and would not accord with the aims of providing 'clean, green' enterprises at the Port. The proposal would hinder the regeneration of Newhaven by discouraging more appropriate non-polluting uses and would constitute an unattractive and inappropriate development at the entrance to Newhaven Port, which is the 'gateway' to the National Park from the Continent; (4) The application would generate relatively few jobs; (5) The general industrial character of the development would be a deterrent to investment in appropriate planned developments in Newhaven; (6) The development would generate undue noise and dust in the locality adversely affecting the ambience of the area, including the beach, Tide Mills and existing housing on the opposite side of the river; and (7) Lorry traffic generated by the development would worsen air quality in Newhaven, which already suffers relatively high pollution levels, which would conflict with Policy CP9 of the Joint Core Strategy.

4.3 Newhaven Town Council raises objections on matters relating to health and well being, transport, visual impacts, coastal impacts, footpath and leisure use, safeguarding sites for minerals, environmental impact on fauna and flora, employment generation and impact on the regeneration of Newhaven. The Town Council also commissioned an independent report looking at highway,

noise and air quality matters. The representation sets out, on a without prejudice basis, various controls it considers should be included if planning permission is granted.

4.4 South Highton Parish Council considers that the development would have a significant detrimental impact on the amenities, health and well-being and quality of life on local residents and objects on the following grounds: (1) The proposed development is in a totally inappropriate location; (2) No attempt has been given to mitigate the buildings; (3) No landscaping measures have been included; (4) No indication of the development's impact on the long term plans for the Port to use the improved deep water berth; (5) The number of jobs generated is low and would not complement economic initiatives; (6) Use of rail would cause further disruption; (7) Increase in HGVs along A26 through the Parish would have a catastrophic effect on the local road infrastructure; and (8) This type of development is notorious for air and dust pollution and noise.

4.5 Seaford Town Council raises objections, following the withdrawal of Stage 4 of the proposal, on the following grounds: The detrimental impact on views of Newhaven and the Harbour from Seaford which could affect the town's tourist economy; Interference with the use of adjacent beaches and footpaths; The detrimental impact on the local environment, in particular Tide Mills and the National Park, through noise, dust and increased heavy traffic; And, it is contrary to the 'clean green' aims for new industrial activities at the Harbour as specified in the Lewes Local Plan.

4.6 The Environment Agency (EA) has submitted comments only in relation to flood risk. As such, it raises no objections to the proposal subject to the inclusion of a condition on any permission for appropriate flood risk management measures to be carried out.

4.7 The Highway Authority notes that supplementary information has been provided on traffic modelling, which has overcome an initial objection. Consequently, no objections are raised, subject to the inclusion of relevant conditions.

4.8 Natural England raises no objections regarding any effects to statutory nature conservation sites.

4.9 South Downs National Park Authority raises an objection due to the landscape and visual impact, with particular focus on the National Park, its purposes and special qualities. The Park Authority was also consulted directly on the withdrawal of Stage 4 but did not wish to comment further.

4.10 Highways England has not submitted any observations.

4.11 Newhaven Port & Properties (NPP) supports the proposed development as it will help secure the long term viability of the Port, as well as generate 30+ jobs. New projects such as the Brett proposal are considered critical in being able to deliver long term financial viability. The importance of

the Port to the economy of the Newhaven area is recognised in Local and County policy. Additional benefits will include the reopening of rail access to the Port and minerals supply to East Sussex.

4.12 Flood Risk Management ESCC raises no objections, although recommends that a survey of the existing private sewer network should be undertaken and any problems rectified.

4.13 Network Rail welcomes the investment by Brett in the reactivation of long moribund rail freight infrastructure at Newhaven Marine. This approach accords with the Department of Transport's policy on encouraging modal shift whereby each train load would displace some 50+ HGV movements.

4.14 Coast to Capital Local Enterprise Partnership (LEP) has not submitted any observations.

4.15 Marine Management Organisation sets out what its functions and responsibilities are as the Marine Planning Authority for England. However, no specific comments are made in relation to the planning application.

4.16 ESCC Public Health Department does not consider that a Health Impact Assessment is required as part of the application as the application is accompanied by an Environmental Impact Assessment which considers matters such as air quality, noise and dust.

4.17 Open Spaces Society objects as it considers that Footpath 40 would be obstructed by the development and that access to the beach would be lost.

4.18 Southern Water Services Ltd raises no objections, although recommends that a condition is included, which requires the proposed means of foul and surface water sewerage disposal to be submitted for approval.

4.19 Representations:

Nearly 1100 (1070) representations have been received from members of the public objecting to the proposal. One letter of support has been received. In summary, these objections refer to the following matters:

- The visual effect of the development on views from people entering the Port, on Seaford Bay and the general area of the Port and from the National Park.
- The impact of the development on the environment of the Tide Mills, including its wildlife and habitats and the archaeological resource and the loss of recreational space.
- The increase in dust and emissions, the affect on air quality and the resulting pollution that will occur as a result of the development. The increase in noise and the general environmental damage.

- The increase in traffic, particularly by HGVs, will cause congestion, damage to roads, increased bridge openings and pollution.
- The development is contrary to policy. It is industrial development which does not fit in with the regeneration aims of Newhaven and does not provide many jobs. There is a lack of infrastructure to cope with the development.
- The negative impact on tourism and loss of beach.
- The negative effect on general health and well-being.

Other issues include: destruction of the coastline, water quality/pollution, light pollution, odour, effect on marine habitats and angling, effects on residential amenity, effects on Newhaven Fort, Seaford Head and the UNESCO Biosphere area, effects on footpaths and open space, design of building, hours of operation and the effect on the economy and house prices.

An online petition has also been submitted to 'Save the Western End of Seaford Bay and Tide Mills from inappropriate development to object in the strongest possible terms to the application by Brett Aggregates, Planning Application LW/799/CM (EIA)'. This has attracted approximately 3300 (3268) signatures.

The letter of support notes that the development would bring benefits to Newhaven and the surrounding area, including through job creation, the re-use of the rail sidings, improving the appearance of the site and helping other companies through knock-on effects.

4.20 Keith Taylor, Green MEP for the South East, objects to the proposal on the grounds that: (1) the site is not identified in the Waste and Minerals Plan; (2) the effects of air quality from vehicle emissions in the locality and on health; (3) the negative visual effect along the coastline, particularly from the National Park, Newhaven Fort and Seaford Head and effects on amenity through dust and fumes; (4) the effects of an increase in heavy traffic on the local infrastructure especially at peak times; (5) the effects on vegetated shingle and biodiversity in the area including on the 'Living Coast' UNESCO Biosphere area; (6) concrete manufacture is notoriously dirty and a contributor to global warming; (7) harmful to the setting of the National Park; (8) effects on the existing public right of way; and (9) although employment generation is welcomed, but not for industry that increases pollution.

Several organisations have also made representations, as follows:

4.21 The Friends of Tide Mills object on the grounds that the Tide Mills is an increasingly valuable asset locally and beyond and that the proposal would affect it in relation to tranquillity, safe bathing, ecology, history and tourism. The development will change the western Tide Mills environment regarding loss of open space, wildlife diversity, increased noise levels, vehicular traffic and increase in pollution. The type of development proposed is at total

variance with the Newhaven Port Masterplan and will result in increased congestion and air pollution.

4.22 The Sussex Wildlife Trust objects, as it considers that the level of development proposed for the area and the interdependent nature of the various applications requires the developments to be looked at holistically with a robust assessment of cumulative impacts. It also objects on the grounds that the development would compromise resources that have been designated for their biodiversity value and that insufficient information has been provided. Various controls are sought if planning permission is granted.

4.23 The Sussex Ornithological Society objects, as it considers the development would result in detrimental effects on the Tide Mills Local Wildlife Site due to, *inter alia*, dust, noise and water pollution, effects on East Pier, failure to implement previously agreed mitigation measures and links to the Port Access Road.

4.24 The Angling Trust, Sussex Marine Region, raises concerns as it considers that the development would adversely affect the Tide Mills and East Beach and that there would be contamination of the water column into the River Ouse.

4.25 The Access in Seaford and Newhaven Committee considers that the sweeping view of Seaford Bay should not be ruined.

4.26 Community Action Newhaven objects on the following grounds: (1) Incompatibility with local policies, plans and strategies for the area; (2) Incompatibility with approved development for the Port expansion under LDC permission LW/15/0034; (3) Incompatibility with policies on traffic, pollution and air quality; (4) Inadequate use of railway and railhead; (5) Impacts on health and well-being; (6) Cumulative impact of other development including housing; (7) Incompatibility with Enterprise Zone Plans and other policies for employment; (8) Visual impact; and (9) Damage to wildlife, habitats and species loss.

4.27 Newhaven Chamber of Commerce objects and considers that the proposal will have a detrimental effect on the regeneration of Newhaven. The Chamber works closely with businesses but considers that it is essential that new business fits in with the 'clean, green and marine' outlook necessary to attract the construction of new hotels, retail outlets and leisure facilities. The visual and environmental effects of this business will deter companies from all these sectors from investing in the area. The running of the plant would not create many jobs and the road system will be further congested and there will be more pollution. The Chamber is keen to promote the leisure use of the marina in association with the management of wildlife along the coast.

4.28 The South Downs Society objects as the proposed concrete plant would be too overwhelming for this attractive part of the Sussex coast that is enjoyed by many people. Thousands of people from the local area use the beach and adjoining areas for recreation. The natural beauty of the area

improves the quality of life of the local community and encourages tourism with benefits to local businesses. The preservation of a natural coastal area and beaches should be a high priority for local government. The development would also be visible from the National Park.

4.29 A representative for Surfers Against Sewage, a national coastal and environmental charity, notes that permission should not be granted until the impacts on the Tide Mills surf break and beach access in general have been assessed. The proposed link road should also be assessed as a cumulative effect in relation to the application.

## **5. The main Development Plan and other policies of most relevance to this decision are:**

5.1 East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013: Policies: WMP4 (Sustainable provision and use of minerals in the Plan Area); WMP15 (Safeguarding railheads and wharves); WMP18 (Transport – Road, rail and water); WMP20 (Community involvement and benefits); WMP23a (Design principles for built and minerals waste facilities); WMP23b (Operation of sites); WMP25 (General amenity); WMP26 (Traffic impacts); WMP27 (Environment and environmental enhancement); WMP28a (Flood risk).

5.2 East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan 2017: No specific policies relate to the application site.

5.3 Lewes District Local Plan Part 1, Joint Core Strategy 2010-2030, 2016: Core Policies: 4 (Encouraging economic development and regeneration) 9 (Air quality); 10 (Natural environment and landscape character); 12 (Flood risk and sustainable drainage).

5.4 Lewes District Local Plan 1998: Saved Policies: ST3 (Design, form and setting of development); ST30 (Protection of air and land quality); NH20 (Upgrading and expansion of the Port); NH22 (Rail transport links to the Port).

Lewes District Council undertook a review of its Saved Local Plan Policies to determine their consistency with the NPPF and produced a table indicating the extent to which the policies are fully consistent, partly consistent or not consistent. The above Saved Policies are considered by the District Council to be fully consistent with the NPPF and remain part of the Development Plan post adoption of the Core Strategy.

## 5.5 National Planning Policy Framework (NPPF) 2012

The NPPF does not change the status of the Development Plan as the starting point for decision making and constitutes national policy as a material consideration in determining planning applications. Parts 1 (Building a strong competitive economy), 4 (Promoting sustainable transport), 10 (Meeting the challenge of climate change, flooding and coastal change), 11 (Conserving

and enhancing the natural environment) and 13 (Facilitating the sustainable use of minerals) are particularly relevant in this case.

#### 5.6 Marine Planning Authority (Marine Management Organisation)

There is currently no adopted South Marine Plan (a draft was published for consultation in November 2016) and so the policy guidance on development affecting the marine environment is taken from the UK Marine Policy Statement (MPS) 2011, by the Department of Environment, Farming and Rural Affairs (DEFRA). The MPS is the framework for preparing marine plans and taking decisions affecting the marine environment and the chapters on ports and shipping and marine aggregates are relevant to this application.

#### 5.7 Newhaven Draft Neighbourhood Plan 2017-2030 Pre-submission and Publicity, 2017

The Neighbourhood Plan is currently under preparation and has yet to be formally submitted to Lewes District Council under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. In light of this, it is considered that the draft Plan prepared under Regulation 14 of the aforementioned regulations can be afforded very little weight in the determination of this application. This is in accordance with paragraph 206 of the NPPF and the associated Planning Practice Guidance. The Plan does not include land owned by NPP and excludes the application site.

## **6. Considerations**

### **Principle of minerals development at the Port**

6.1 National policies require Mineral Planning Authorities (MPAs) to assess the need for existing, planned and potential wharf and rail facilities to be safeguarded and to encourage and promote the use of sustainable transport modes for the movement of minerals. Sustaining imports of marine aggregates through local wharves is particularly important in the Waste and Minerals Local Plan (WMLP) because of the scarcity of land based mineral resources in this area. Policy WMP15 in the WMLP safeguards existing, planned and potential railheads and minerals wharf facilities, including rail sidings, and their consequent capacity in order to contribute towards meeting local and regional supply of aggregates and other minerals as well as supporting modal shift in the transport of minerals. The capacity for landing, processing and handling and the associated storage of minerals at wharves in Newhaven will be safeguarded. The co-location of railheads and minerals wharves with processing capacity is supported.

6.2 Although minerals (and waste) related transport activity comprises a very small proportion of total traffic in the plan area, the Waste and Minerals Plan seeks to minimise its environmental and amenity impacts. As such,

Policy WMP18 of the Plan seeks to maximise the use of railheads and rail links and proposals which will enable minerals to be carried on the rail network or by water will be permitted, subject to other relevant policies of the Plan.

6.3 Due to the nature of the development, the UK Marine Policy Statement should also be considered. This is the framework for preparing marine plans and taking decisions affecting the marine environment and sets out the planning objectives for the key activities, including ports and shipping and extracting marine aggregates. Ports and shipping play an important role in the activities taking place within the marine environment and are an essential part of the UK economy, providing the major channel for the country's imports and exports. Such imports include marine aggregates, of which the UK has some of the best material in the world and marine sand and gravel makes a crucial contribution to meeting the nation's demand for construction aggregate materials. Land-based and marine-based construction aggregate resources are unevenly distributed and many regions are heavily dependent on supplies from other areas. Consequently, marine imported aggregates contribute to the diversity of mineral supply and can deliver high quality aggregates into the centre of areas of high demand with minimum disruption.

6.4 This proposal is a significant minerals development in the plan area, with approximately 420,000 tonnes per annum of aggregates being processed and transported from the site. With low production and remote resources of sand and gravel in the plan area and currently little contribution from rail imports, the plan area must continue to rely heavily on the contribution of marine imported aggregates in order to meet the commitment of ensuring an adequate and steady supply of aggregates is being made.

6.5 The County Council, as MPA, is required to plan for a steady and adequate supply of aggregates and this principle is incorporated into the WMLP. While the application site is not specifically identified in the WMLP for safeguarding, any proposal which assists in meeting the supply needs of construction aggregates is supported in principle. Moreover, given the volume of material identified for this proposal, its implementation would make a very significant contribution to the aggregate needs of the plan area, particularly as most aggregate consumed in the area is imported from outside.

6.6 The Lewes District Joint Core Strategy recognises Newhaven Port as a strategic asset for the District and beyond, which is vital for the regeneration of Newhaven and the surrounding area. The applicant also considers the Port, specifically Fisher's Wharf at East Quay, to be of strategic importance. This is because it benefits from deep water berth facilities which allow some of the largest dredgers operating in UK waters, including those available to the applicant, to land aggregates and represents the only rail-connected deep water port on the south coast east of Southampton. Consequently, this facility is a significant asset for Newhaven and the surrounding area and its use for importing marine aggregates would be supported by the UK Marine Policy Statement.

6.7 The WMLP at Policy WMP18 seeks to minimise the environmental and amenity effects of the transport of minerals by promoting rail and water transport as an alternative to road transport and maximising the use of existing railheads and rail links. This policy also states that proposals which enable minerals to be carried on the rail network or by water will be permitted, subject to other policies. The proposal seeks to do this and is therefore strongly supported, particularly as the existing, currently unused, railhead would be extended for use. Saved Policy NH22 of the Lewes Local Plan requires development at the Port to provide for links to the rail network for freight and passengers.

6.8 Saved Policy NH20 of the Lewes Local Plan allocates land at East Quay and East Beach for the upgrading and expansion of the Port and Core Policy 4 (7) of the Lewes District Local Plan Core Strategy supports the continued use of the Port for freight and passengers including plans for expansion and modernisation of the Port, as identified in the Port Authority's Port Masterplan. The Port Masterplan has been developed by NPP to form a strategic framework from which the Port will develop over the next 20 to 30 years. While the Plan identifies East Quay as being suitable for clean technology and renewable energy businesses (Rampion Offshore Wind is now located there), it also recognises that this part of the Port is important for trade, with a principal focus on aggregates and metal recycling. Indeed, the Port is seeking to increase the volume of trade as part of its strategic objectives and there is no suggestion in the Plan that the importation of aggregates would not feature as part of that process.

6.9 Despite this, the District and Town Councils and a number of other third parties, have raised objections to the proposal on the grounds that it conflicts with the vision for the Port and town's regeneration in providing businesses associated with 'clean, green and marine' technologies and jars with the vision of the Newhaven Draft Neighbourhood Plan. While it is recognised that the Neighbourhood Plan is an emerging document, it does not include the application site (except for the northern part of the access leading from Beach Road into the Port) and most of East Quay and so the Plan's influence in this part of Newhaven is very limited. Moreover, Neighbourhood Plan preparation is at a relatively early stage. Public consultation closed in July 2017 and a draft plan has yet to be formally submitted to the District Council, so very little weight can be attached to the policies within it, even if the application site was within its plan area. Notwithstanding this, the adopted District Council's Joint Core Strategy does not mention the 'clean, green and marine' approach, and focusses instead on supporting the continued use of the Port for freight and passengers as part of the Port's expansion and modernisation.

### **Economy (including Enterprise Zone status)**

6.10 It is recognised that the application site falls within the package of sites designated as the Newhaven Enterprise Zone (EZ). Enterprise Zones form part of the Government's wider Industrial Strategy and are primarily established to support businesses through tax relief and simplified planning

procedures. Reference has been made to the Newhaven EZ by a number of third parties who have commented on the application. Whilst this is the case, as with any planning application, it is for the determining planning authority to consider the proposals against the relevant policies in the Development Plan. The main existing Development Plan policies of relevance to this site and proposal were adopted prior to the Enterprise Zone designation coming into place. Hence the references made by representations to the EZ are not currently articulated in Development Plan policy and it would be inappropriate to give them undue weight when set against Development Plan policies.

6.11 Concerns have also been raised by a number of respondents, including Lewes District Council, that the proposal will create relatively few jobs (approximately 30). Whilst it is acknowledged that this is a relatively low number of jobs for the size of the site, it is a level that would be expected by the type of development being proposed. In addition, the site is not allocated in the Development Plan for a use that would be expected to deliver a higher jobs to floor space ratio (e.g. an office use) and therefore this proposal would not undermine the Development Plan targets for employment land and the provision of jobs.

6.12 Nevertheless, the proposal would still result in the creation of 30 employment opportunities and therefore make a contribution to the employment growth targets for the Enterprise Zone.

### **Road transport capacity**

6.13 In terms of traffic impacts, Policy WMP26 of the Waste and Minerals Local Plan requires that access arrangements are appropriate or could be made suitable and that no unacceptable safety hazards for other road users would be generated. The level of traffic generated should not exceed the capacity of the local road network and no unacceptable adverse impact upon existing highway conditions in terms of traffic congestion should arise. Suitable arrangements for on site vehicle manoeuvring, parking and loading/unloading areas should be made. Saved Policy ST3(e) of the Lewes Local Plan also requires that there are suitable access and parking arrangements within development. The NPPF requires all developments that generate significant traffic movements should be supported by a Transport assessment. Decisions should provide safe and suitable access and should only be refused on transport grounds where the residual cumulative impacts are severe.

6.14 Due to the nature of the proposed development, a Transport Assessment (TA) has been included to inform the application and provide an overview of vehicle movements and access in terms of the existing operations in the vicinity of East Quay. Both HGV and other types of vehicles (light goods vehicles and cars) have been looked at as part of the overall assessment. The TA has demonstrated that the local highway network has a good provision of pedestrian facilities with street-lit footways on the surrounding roads providing excellent pedestrian connectivity between the site and throughout Newhaven. Due to the proximity of the site to the A26 Trunk Road and the existing

environmental weight restrictions to the west at Peacehaven, all HGVs would route to and from the site via the A26 (except for access). For Stages 1 and 2 of the development, the HGV route would be via Beach Road, Clifton Road and Railway Road, the B2109 Drove Road and the A26. For Stage 3, all vehicular traffic would use the Port Access Road onto the A259 or B2109 Drove Road before accessing the A26.

6.15 The TA has described the proposed stages of development in traffic terms. For Stages 1 and 2, it is predicted that there would be a total of 9,524 HGV movements per annum (over 275 working days), amounting to 34 movements per day (17 in, 17 out) over an 11 hours working day, resulting in an average of 3 movements per hour. Stage 3 operations would only commence once the NPAR is in use and total HGV movements for the three stages would be 29,866 per annum, amounting to 109 movements per day resulting in an average of 10 movements per hour. The TA has assessed the impact of traffic flows using 2017 Traffic Survey Data. Overall, the daily peak hour threshold analysis demonstrates that the net increases in flows associated with the stages of development are low and would not have a material impact on the local highway network.

6.16 The Highway Authority has evaluated the findings of the TA, following the requirement of additional information on junction modelling, in order to be able to fully understand the effects of each stage of the development. The modelling, which has been included to 2025, looks in detail at the effects of Stages 1 and 2 on the B2109 Drove Road / Railway Road junction; at Stages 1-3 of the proposal at the B2109 Drove Road / A26 New Road roundabout junction; and at Stages 1-3 at the B2109 Drove Road / A259 The Drove / Retail Park (including the NPAR) roundabout junction. Traffic assessments have been carried out to inform the modelling and approved developments in the locality have been included to inform baseline data.

6.17 For Stages 1 and 2 at the B2109 Drove Road / Railway Road junction, the AM peak is unaffected (as the applicant would not run HGVs from 08.00 – 09.00 to avoid conflict with peak drop off times at the Noah's Ark Nursery in Railway Road) and the PM peak is shown to operate with spare capacity. Modelling to 2025 does not raise any significant issues for capacity. For Stages 1 and 2 at the B2109 Drove Road / A26 New Road roundabout junction, the peak period operates with spare capacity in both the morning and afternoon. Modelling to 2025 maintains an acceptable level of capacity at this junction.

6.18 For the A259 The Drove / B2109 Drove Road / Retail Park (including the NPAR) junction, this would be unaffected by Stages 1 and 2, while Stage 3 would only be implemented when the NPAR is in use. When considering the 2025 baseline modelling, this suggests that there are capacity issues at this junction before the proposed development traffic is included. Despite that, the inclusion of the proposed traffic in the AM peak results in only very minor growth, which does not materially change how the junction operates. In the PM peak, the model predicts that up to 5 vehicles would join the queue on the

B2109 arm but this would not result in a measurable difference when added to the overall highway network.

6.19 The Highway Authority considers that the applicant's modelling has been applied robustly. The results demonstrate that the predicted 109 daily HGV movements spread over the course of a working day will not affect the operation of the critical junctions within peak times, as the projected difference is negligible. Moreover, although there would be a corresponding increase in the numbers of HGVs using the A26 as the primary route to the A27, this would amount to an average of only 10-11 movements per hour as a worst case (i.e. all predicted 109 movements using this road and not any diverting to the A259 for access purposes) during a working day. Highways England has not provided any observations on the application but the numbers involved are relatively small and are not considered to raise any capacity issues for a Trunk Road.

6.20 Therefore, from a highway capacity view, the proposal is considered to be acceptable and accords with relevant Development Plan policies and the provisions of the NPPF. The proposed development does not result in transport effects which are considered to be 'severe' and therefore a recommendation for refusal of these grounds cannot be justified. However, conditions are recommended to reduce the overall effects of traffic, which should cover matters regarding a staff travel plan, a transportation strategy, securing on site parking and turning areas and the submission of a construction traffic management plan.

### **Air quality**

6.21 Policy WMP25 of the Waste and Minerals Local Plan requires that all proposals should ensure that there is no unacceptable effect on the standard of amenity appropriate to the land uses of the local and host communities likely to be affected by the development; there is no significant adverse impact on air quality; there is adequate means of controlling dust, litter, odours and other emissions, including those arising from traffic generated by the development are secured and there is no unacceptable effect on the recreational or tourist use of an area.

6.22 Policy 9 of the Lewes Local Plan Core Strategy seeks to improve air quality with applications that could impact on an Air Quality Management Area (AQMA) required to have regard to any relevant Air Quality Action Plan (AQAP) and seek improvements to air quality through implementation of measures in the AQAP and provide mitigation where development and/or associated traffic would adversely affect an AQMA. Saved Policy ST30 of the Lewes Local Plan states that in considering applications for potentially polluting development the location needs to be appropriate in terms of surrounding land uses and that development will have an acceptable impact on its surroundings in terms of effects on health, natural environment or general amenity and will not adversely affect other land uses.

6.23 Paragraph 109 of the NPPF states that the planning system should prevent new development from contributing to or being adversely affected by unacceptable levels of air pollution. Paragraph 124 advises that planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of AQMAs and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in AQMAs is consistent with the local air quality action plan. There is a long standing European and UK legislative framework underpinning a national strategy aimed at improving air quality and protecting human health from the effects of pollution. One consequence of this has been designating an AQMA around Newhaven Town Centre and the swing bridge because of recorded levels of Nitrogen Dioxide (NO<sub>2</sub>).

6.24 Due to the nature and scale of the proposed development, including traffic generation, the applicant has undertaken an Air Quality Assessment (AQA) to inform the application. The AQA considers the acceptability of the land use for the proposed development by considering the operational impact of the development, incorporating appropriate controls and mitigation, on surrounding users of the land. The AQA also sets out the methodology for assessing dust and traffic pollution, including the use of meteorological data, and discusses the element of uncertainty that is associated with such methods. However, the potential effects on air quality during construction appear not to have been addressed.

6.25 The applicant identifies the potential key air pollutants resulting from the proposed development being from road traffic and dust. From road traffic, the main impacts are NO<sub>2</sub> and particulate matter, specifically PM<sub>10</sub> (particle size less than or equal to 10 microns diameter where 1 micron is equal to one millionth of a metre or 0.001 of a millimetre), although finer particulates have also been considered. The applicant has a rolling replacement programme of all its plant and vehicles and its HGVs would have the latest Euro 6 model engines fitted (which are mandatory in the ultra low emission zone in London). The main potential sources of dust would be from the movement of vehicles and plant and the handling and transfer of aggregates.

6.26 In terms of HGVs entering the AQMA, it is currently unknown what numbers would be involved. However, such vehicles would only travel west from the site if access is required to facilitate local development with such events being confined to temporary time periods. Modelling has been used to predict air quality impacts from changes in traffic on the local road network in the years 2018, 2019 and 2020. The results indicate that with the development, the predicted NO<sub>2</sub>, PM<sub>10</sub> and finer particle concentrations are below the relevant short-term and long-term National Air Quality Strategy objectives.

6.27 Assessments have also been undertaken on the potential sources of dust, the controls proposed to be used and the extent of residual emissions. The main potential sources of dust involve the offloading and storage of aggregates, sand and gravel processing, aggregate bagging and distribution

by road and rail. Taking account of the proposed mitigation, such as drop heights being minimised, the imposition of speed limits for vehicles and the damping down of surfaces, as well as inherent suppression through material being wet from initial transfer from ship and the containment of bagging operations within the existing building, the overall assessment of residual dust emissions for the site is considered to be small.

6.28 The proposed development also includes the installation and use of a concrete batching plant, which has the potential to result in dust emissions if not properly operated. However, this plant will be subject to control through a 'Part B' Environmental Permit from Lewes District Council and is therefore subject to separate operational regulation.

6.29 The AQA has been assessed independently, which has resulted in the applicant submitting further information to clarify certain matters. One of these matters relates to the use of meteorological data from the Herstmonceux Meteorological Station, rather than from the Shoreham Station. The applicant has noted that the former was used as it provided the most recent data and shows the prevailing wind to be similar to that of Shoreham in terms of south-westerly winds. The main difference is the contribution of winds from the north at Shoreham, which is considered unlikely to change the conclusions of the dust assessment in Newhaven.

6.30 A number of representations have been received which refer to air quality and the potential effects of dust and emissions from the proposed development. It is important that any dust and emissions are kept to a minimum. Therefore, conditions are recommended for controlling emissions during construction works and operations. Moreover, in recognition of the wider air quality issues in Newhaven with particular reference to the AQMA, the applicant has agreed to contribute £15,000 towards improving air quality via the Newhaven Air Quality Action Plan, which should be secured by legal agreement. This is to provide appropriate mitigation to offset the movement of vehicles through the AQMA that are generated from this proposal. Such an approach is considered to accord with Policy 9 of the Lewes Local Plan Core Strategy.

6.31 Subject to that contribution and the implementation of measures set out in the conditions seeking to control dust and emissions, the proposal is considered acceptable in terms of the effects on air quality, and does not conflict with relevant Development Plan policies.

## **Noise**

6.32 Policy WMP25 of the Waste and Minerals Local Plan requires that all proposals should ensure there is no unacceptable effect on the standard of amenity appropriate to land uses likely to be affected by the development, there is no significant adverse impact on the local acoustic environment, adequate means of controlling noise are secured and there is no unacceptable effect on the recreational or tourist use of an area. Saved Policy ST3 of the Lewes Local Plan expects development not to be detrimental to

the character or amenities of the area through noise levels and paragraph 123 of the NPPF states that planning policies and decisions on new development should aim to avoid noise giving rise to significant adverse impacts on health and quality of life. The use of conditions should be used to minimise any adverse effects.

6.33 The proposal has the potential to generate noise from construction works, the use of plant and equipment following construction, and through vehicle movements. Consequently, the applicant has submitted a Noise Assessment Report to accompany the application. This sets out the context for considering noise and development, referring to the Sussex Planning Noise Advice Document, relevant British Standards (BS) and the World Health Organisation guidelines. The Report also sets out the scope of the noise assessment, baseline noise surveys undertaken, calculated site noise levels and the noise assessment using BS 4142:2014 ('Methods for rating and assessing industrial and commercial sound').

6.34 The Noise Assessment Report identifies four receptor location sites near to the application site (The Hope Inn, Newhaven Marina, cycle paths to the east of the site adjacent to the A259 and Marine Drive), which were the subject of short-term attended survey work, and two receptor sites (Newhaven Marina and Marine Drive) for longer-term unattended survey work. The surveys took place in 2016. The applicant considered that the scope of the surveys was proportionate for the application, particularly when compared to other developments in the locality (for example, the Port expansion development under Lewes District reference LW/15/0034), which relied on less intensive survey work.

6.35 This report has been thoroughly assessed, leading to the undertaking of additional noise monitoring. This has culminated in extensive noise monitoring having been undertaken by two different acoustic consultancies, which broadly agree on the current background noise levels for the site. Subsequently, predicted noise levels from the proposed site activities have been calculated using the relevant British Standard which includes specific noise sources such as the aggregate crusher and screener. The calculations provide for the rating levels (that is, the specific sound level plus any adjustment for the characteristics of the sound) for the use of the site during both the day time and night time. The lower the rating level with respect to the background sound level, the less likely it is that the specific sound source will have an adverse impact. Where the rating level does not exceed the background sound level, it is indicative of the specific sound source having a low impact, depending on the context.

6.36 The rigorous monitoring has led to an extensive range of mitigation measures being put forward by the applicant, which is intended to ensure that the operational noise rating level (i.e. the noise from the site when it is in use) would not exceed the measured background level at the nearest noise sensitive receptors. To ensure this happens and the use of the site is managed appropriately, conditions for both the construction and use phases of the development are recommended. Despite this, it is important to place

the proposed development in the context of the site, which forms part of a working port and where permitted development activities generally are likely to be noisier than the proposed development.

6.37 As such and subject to the recommended conditions, it is considered that there would be no unacceptable adverse effect from noise in the locality and that the development would not conflict with relevant Development Plan policies or the NPPF.

### **Landscape and visual effects**

6.38 The NPPF requires development to be sustainable as well as contribute to and enhance the natural environment by protecting and enhancing valued landscapes, with particular weight given to nationally designated landscapes. The NPPF requires development to be of good design and respond to local character and distinctiveness. The Waste and Minerals Local Plan also requires that development should complement the built form of the area and take account of local landscape and distinctiveness (Policy WMP23a).

6.39 A Landscape and Visual Impact Assessment (LVIA) was undertaken as part of the EIA supporting the application and an Addendum to the LVIA was submitted following the withdrawal of Stage 4 of the development. Given the type and scale of the proposed development, a study area of about 3 kilometres from the site boundary was adopted which was considered to be a suitable distance to assess the baseline situation (i.e. landscape setting character and designations) and within which viewpoint locations were identified.

6.40 The LVIA provides a comprehensive review and considers landscape designations, landscape character, visual effects and landscape capacity in relation to the proposed development. A review of the published landscape character assessments (including the East Sussex Landscape Character Assessment), which relate to the site and the surrounding area, has also been undertaken. The individual stages of development were assessed separately in the evaluation of landscape character and visual effects and cumulative effects were reviewed taking account of the different stages of the development and other types of development nearby.

6.41 At a national level, the site is located on the edge of the South Downs National Character Area (NCA). However, the LVIA considers that the proposed development is not of a scale whereby it would notably modify any key characteristics of the NCA. Given the context of the development within the area of the Port, only limited views of the new structures would be available from the NCA and it is not considered that they would be harmful.

6.42 In relation to the East Sussex Landscape Character Assessment, the site is within the Newhaven Urban Landscape Character Area, which includes being a working port. With respect to direct effects on landscape character, the site has an industrial character and features existing buildings including

sheds and large areas of hardstanding. For Stages 1-3, given the type and scale of the development, the LVIA considers that there will be virtually no effect on the existing baseline situation in terms of landscape character and quality. Due to the low landscape sensitivity in this area, there would be a negligible magnitude of impact and significance of effect. A similar assessment applies to the indirect effects on the landscape character of the Firle Bishopstone Downs Landscape Character Area, which extends eastwards from Newhaven.

6.43 The withdrawal of Stage 4 has removed the element of the original proposal which was considered to have a potentially unacceptable impact on local landscape character and views due to the scale and height of the building in the open location. This Stage also resulted in a large number of objections to the proposal on the grounds of its visual effect on Seaford Bay and Tide Mills. Although Stages 1-3 of the proposed development include structures which stand relatively tall, for example, the aggregate processing facility and the cement silos at 18.5 metres high, their land take, or 'footprints', are relatively small, particularly when compared to nearby buildings. These structures are located centrally and at the western part of the site in the vicinity of other existing development. While they represent new plant, their industrial nature and scale is not considered to be out of keeping with other port related development at East Quay. Views of the larger structures from the west at ground level would either be largely obscured by existing development or be seen as a natural extension to development at East Quay, while at more elevated levels, the higher structures would be seen chiefly against rising land east of the A259. From the east, the development would be seen within the existing port area with the taller elements being viewed against a backdrop of rising ground comprising residential development, trees and grassland to the west of the river. Close views of the development from all directions would be likely to result in plant being seen against the sky, but that remains the case for existing buildings and structures within the Port.

6.44 The proposal will introduce new plant and structures which will be visible from various viewpoints, including the adjacent and nearby footpaths, both close to the site and further afield. However, these are not considered to cause harm or be unacceptable given the context of the Port and its existing activities. As such, the proposed development is considered to be acceptable in relation to landscape character and effects on views and to accord with relevant Development Plan policies and the provisions of the NPPF.

6.45 Given the location of the application site at the eastern side of the Port, with the open expanse of the beach and Tide Mills beyond, the use of artificial lighting has been considered by the applicant as a necessary part of the assessment of the proposal. The existing application site lighting consists of high mast lighting columns, about 30 metres in height, each complete with four high output floodlights, along with a small number of building/fence mounted floodlights. Adjacent to the site along Clifton Road and Beach Road, there are a number of industrial facilities that use a combination of column mounted (10 metres high) street type lights, and a small number of floodlights mounted on high mast columns (20-30 metres high) similar to those used

within the Port. The urban industrial area of the Port is a dominant source of light, particularly from more rural views both from the east and west.

6.46 The fundamental considerations for the lighting scheme both during construction and operations are to satisfy health and safety requirements and to minimise the potential impact on the surrounding area with regard to amenity and the environment. An advantage for the proposal is that the external lighting requirements for the site are generally already in place and therefore any proposed lighting will seek to complement the existing. The assessment of the proposed lighting effects has not identified any significant effects resulting from the use of lighting during either the construction or operational phases of the development. Despite this and to provide the most up to date information on the proposed lighting arrangements, it is recommended that a condition is included which requires relevant details for both the construction and operational phases.

### **Effect on nature conservation interests**

6.47 Policy WMP27 of the Waste and Minerals Local Plan seeks to conserve and enhance the local natural environment and permission will not be granted where the development would have a significant adverse effect on sites of national or local importance for nature conservation, including SNCIs. Policy 10 of the Lewes Core Strategy also seeks to conserve and enhance the natural environment in the district, including locally designated sites. Part 11 of the NPPF takes a similar line on development being required to minimise impacts on biodiversity.

6.48 The Tide Mills Site of Nature Conservation Importance (SNCI) or Local Wildlife Site (LWS) adjoins the application site to the north, south and east, although does actually cover land within the application site itself, specifically the existing building and land to the south of the building. This part of the application site is already developed and the area of the LWS designation requires the boundaries to be re-drawn to take account of this, and other anomalies, such as the inclusion of the waste water treatment works to the north of Mill Creek. A review of LWSs is currently taking place, which will provide an opportunity for the re-drafting of the site boundaries for Tide Mills.

6.49 The Tide Mills LWS is designated in part for its vegetated shingle habitat and associated plant and animal communities. The site also includes Mill Creek to the north of the application site, which is tidal and is an important area for wading birds.

6.50 An Ecological Impact Assessment (ECIA) was carried out as part of the EIA, which accompanies the application. Its findings included the identification of a small population of Common Lizard on land to the west of the application site within the former railway sidings. This area would be subject to redevelopment and a condition is recommended which requires appropriate measures to be taken to protect the reptiles prior to the commencement of development. The ECIA identified no other significant issues relating to the proposal.

6.51 The proposal involves no development on land which has not already been developed but concerns have been raised on the impacts of the development, for example, by the Sussex Ornithological Society, on the potential effects of dust on Tide Mills. The issue of potential dust emissions has been covered elsewhere in this report and conditions are recommended to require the submission of dust mitigation schemes during both the construction phase and throughout operations, while the use of the concrete batching plant would be subject to separate control under the Environmental Permitting Regulations. With appropriate mitigation, it is not anticipated that dust emissions would create conditions beyond the application site boundary which would have an adverse effect on the wildlife or habitats of Tide Mills. Consequently, there is no conflict with relevant Development Plan policies or the provisions of the NPPF in protecting nature conservation interests on adjoining land.

6.52 However, given the location of the proposal, there is an opportunity for the applicant to contribute to the Sussex Local Wildlife Site Initiative. The aim of this is to establish and maintain a functioning LWS system for Sussex, the purpose of which is to ensure LWSs can be accurately represented in Local Plans, given due consideration in the planning and development process, and receive targeted management advice, with the ultimate aim of conserving biodiversity. Being mindful of the proximity of the application site to Tide Mills LWS and the requirements of aforementioned Policy WMP27 and Policy 10 (in terms of the need to enhance the natural environment, including locally designated sites), the applicant has agreed to contribute £20,000 to the Initiative, which would be secured through a legal agreement.

6.53 Consideration has also been given to any potential impact on sites designated under the Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations). Sites in the region that are designated as such include the Lewes Downs Special Area of Conservation (SAC), Castle Hill SAC, the Pevensy Levels SAC and Ramsar site and the Ashdown Forest SAC and Special Protection Area. As the competent authority in this case, it is for the County Council to consider whether this proposal alone, or in combination with other plans or projects, is likely to have a significant effect on such sites.

6.54 Due to the nature of the proposal, and more importantly its location, it is not considered that it would be likely to give rise to significant effects on the interest features of the designated sites. This position is supported by the representation made by Natural England, which raises no objection in terms of potential impact on statutory nature conservation sites, which includes sites designated under the Habitats Regulations.

### **Flood risk and drainage**

6.55 Policy WMP28a of the Waste and Minerals Local Plan requires development to, *inter alia*, adequately provide for the implications of flood risk, have no significant adverse impact on the nature conservation and amenity

value of rivers and the marine environment and have appropriate measures in place to reduce surface water run-off, including the provision of sustainable drainage systems. Core Policy 12 of the Lewes Core Strategy also seeks to reduce the impact of flooding, including requiring the appropriate management of surface water run-off. The NPPF states that inappropriate development in areas at risk of development should be avoided by diverting development away from areas at highest risk but where development is necessary, making it safe without increasing flood risk elsewhere.

6.56 Mill Creek is adjacent to the northern boundary of the application site and the River Ouse is a short distance to the west. Both discharge into the English Channel and are classified as Main Rivers by the EA.

6.57 A Flood Risk Assessment (FRA) was carried out by the applicant to inform the application. This considers the risk of flooding to the site and its users as well as the potential for the proposed development to increase the risk of flooding off site and to third parties. The site is within Flood Zones 1 and 2, as defined in Planning Practice Guidance (PPG) to the NPPF, whereby Zone 1 has a low probability of river or sea flooding and Zone 2 has a medium probability of such flooding. With reference to the PPG, the proposal is considered to be 'water compatible development' and therefore represents an appropriate form of development in this location.

6.58 A detailed review of the potential sources of flood risk to the site has been considered, along with the potential effects of climate change, and tidal and river flooding is shown to present the greatest risk. The FRA proposes safeguards to ensure vulnerable site infrastructure is located above potential flood levels and that a site specific flood emergency plan is prepared, including subscribing to the EA flood warning service. Subject to these safeguards, the FRA concludes that flood risk can be appropriately managed.

6.59 The investigations at the site also looked at surface water drainage and two surface water sewers were identified to the west of the site which form part of the surface water sewer network serving the western and northern parts of East Quay. The investigations also appear to show that the surface water sewer serving the existing building on the site outfalls to Mill Creek. There are also a number of gullies and channels across the site which appear to drain in a northerly direction towards Mill Creek and a number of outfalls are present along the southern bank of the Creek which are likely to be associated with the drainage of the site. In the event of these outfalls becoming surcharged, surface water would be likely to flow overland to the Creek and would be unlikely to accumulate to significant depths across the site.

6.60 The EA has considered the FRA and raises no objections, subject to appropriate flood risk management measures being carried out in accordance with those set out in the FRA. Furthermore, the County Council, as Lead Local Flood Authority, and Southern Water also raise no objections, subject to the inclusion of a condition to require the submission of details on the proposed means of water disposal and drainage. Contingent on these

measures, the proposal is considered to be acceptable with regard to flood risk and surface water drainage and accords with Development Plan policies and the provisions of the NPPF.

## **7. Conclusion and reasons for approval**

7.1 In accordance with Section 38 of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the Development Plan unless material considerations indicate otherwise.

7.2 The proposal represents a significant development within Newhaven Port for the importation, processing and transfer of aggregates, including the production of ready mixed concrete, and relies on marine aggregates being offloaded from ship at Fisher's Wharf. This wharf is a deep water facility and is of strategic importance in the South East of England, as it enables aggregate importation by large dredgers into the Port. The importation of aggregates in this way is supported by the Waste and Minerals Local Plan. The proposal also involves the repair, re-use and extension of the existing dilapidated railway siding at East Quay, which would allow the transfer of aggregates by rail, a significant addition to the Port infrastructure and supported by Development Plan policies.

7.3 A proposal of this sort will inevitably result in concerns being raised regarding the potential for adverse effects. In this case, such effects include noise emissions, dust emissions and changes to air quality, an increase in lorry movements and changes to views within the locality. Consequently, it is important that any effects are mitigated as far as possible to minimise the potential for harm. The ES accompanying the planning application considers the potential effects, which have been assessed by other parties. Following this, a set of controls or conditions has been formulated which is considered to provide appropriate checks on the proposed development. Of particular note is that conditions regarding noise and dust emissions have been included for both the construction and operational phases of the development.

7.4 Taking all matters into account, it is considered that the development will contribute to and be of benefit to the Port and therefore, to Newhaven and the surrounding area more generally. Subject to the terms of the Recommendation, the proposal is considered to be acceptable and to accord with Policies WMP4, WMP15, WMP18, WMP23a and WMP23b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013, Core Policy 4 (7) of the Lewes District Local Plan Part 1, Joint Core Strategy 2010-2030, 2016, and Saved Policies NH20 and NH22 of the Lewes District Local Plan 1998, together with the provisions of Parts 1 and 13 of the National Planning Policy Framework 2012 and the relevant provisions of the Marine Policy Statement 2011. Moreover, it is not considered that the proposed development raises a conflict, which cannot be overcome by condition, with Policies WMP25, WMP26, WMP27 and WMP28a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013, Core Policies 9, 10 and 12 of the Lewes District Local Plan Part 1, Joint

Core Strategy 2010-2030, 2016, and Saved Policies ST3 and ST30 of the Lewes District Local Plan 1998, and the provisions of Parts 4, 10 and 11 of the National Planning Policy Framework 2012.

7.5 In determining this planning application, the County Council has worked with the applicant and agent in an appropriate manner. The Council has also sought views from consultees and neighbours and has considered these in preparing the recommendation. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, and as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

7.6 There are no other material considerations and the decision should be taken in accordance with the Development Plan.

## **8. Recommendation**

8.1 The Committee is recommended that

8.1.1 The application be approved and the Director of Communities, Economy and Transport be authorised to grant planning permission subject to the conditions set out in paragraph 8.3 of the report and the following matters:

(i) The Secretary of State for Housing, Communities and Local Government having confirmed that the application will not be called-in; and

(ii) A S.106 Town and Country Planning Act Planning Obligation securing a contribution of £20,000 towards the Sussex Local Wildlife Sites Initiative and a contribution of £15,000 towards initiatives in the Newhaven Air Quality Action Plan having been completed.

8.2 That should the Planning Obligation referred to in 1.(ii) above not be completed by 31 March 2019, then the application will be referred back to Committee for determination.

8.3 The grant of planning permission shall be subject to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the drawings and documents listed in the Schedule of Approved Plans.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The site shall not be used for the development hereby permitted other than between the hours of 07.00 - 18.00 on Mondays to Fridays inclusive and 07.00 - 13.00 on Saturdays, except for the loading of train wagons with aggregate material, which shall take place between the hours of 06.00 - 20.00 on Mondays to Saturdays inclusive, excluding on Bank and Public Holidays. There shall be no activities outside these times except in an emergency or unless otherwise agreed in writing with the Director of Communities, Economy and Transport.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

4. The movement of vehicles associated with the use of the concrete batching plant hereby approved shall not take place except via the pending Newhaven port access road to the east of the site. No such vehicles shall use the existing port access via Railway Road, Clifton Road and Beach Road.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

5. Development of each stage of works (that is, Stages 1-3) as set out in the submitted Planning and Environmental Statement accompanying the planning application shall not commence until a Construction Management Plan has been submitted to the Director of Communities, Economy and Transport for written approval and such approval shall have been obtained. The construction details to be submitted for each stage shall include but not be restricted to:

- a) The phasing, duration and hours of works, including for piling;
- b) Measures to attenuate noise, dust and artificial light;
- c) Provision to manage any contaminated land;
- d) The anticipated number, frequency and types of vehicles to be used;
- e) The method of access and egress and routeing of vehicles;
- f) The parking of vehicles by staff and visitors;
- g) The storage of plant and materials;
- h) The installation and maintenance of any security fencing;
- i) The use of wheel washing facilities; and
- j) The measures to minimise the effects of the use of vehicles along Beach Road, Clifton Road and Railway Road.

For the duration of construction the Construction Management Plan shall be implemented in accordance with the approved details.

Reason: In the interests of the amenity of the locality to accord with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

6. During construction works, noise levels shall not exceed 65 dBLeq, 12 hour (freefield) at any time at the nearest noise sensitive receptors at The Hope Inn, Newhaven Marina and Marine Drive, as shown at Appendix B in the Noise Assessment Report (ref. 4598), dated 12 October 2017, by WBM Acoustic Consultants.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

7. Before the use of the site commences an Operational Travel Plan shall be submitted to the Director of Communities, Economy and Transport for written approval and the use of the site shall not commence until such written approval has been received. The Plan shall include measures to effectively minimise and manage the effects of the development on air quality in Newhaven. The Plan shall include details of:
  - a) A monitoring scheme to record and show the number of journeys using the A259 in the Air Quality Management Area;
  - b) The use of low emission vehicles, their maintenance, replacement programme and training of drivers; and
  - c) Rail freight timing schedules to be used for the transport of materials.

The Operational Travel Plan shall be carried out in accordance with the approved details.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP 25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

8. Before the use of the site commences a dust mitigation scheme shall be submitted to the Director of Communities, Economy and Transport for written approval and the use of the site shall not commence until such written approval has been received. The scheme shall include:
  - a) Measures for minimising dust at the site;
  - b) Provision to monitor the measures for dust mitigation to assess their effectiveness; and
  - c) Provision for reviewing the dust mitigation scheme.

The dust mitigation scheme shall be implemented in accordance with the approved details.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

9. No heavy goods vehicles associated with the use of Stages 1 and 2 of the development hereby permitted shall make deliveries to the site or transfer materials from the site within the hour of 08.00 and 09.00 on Mondays to Fridays inclusive.

Reason: In the interests of highway safety and amenity, with particular reference to the avoidance of the peak hour for drop off times for children at the Noah's Ark Nursery in Railway Road, in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

10. Before the use of the site commences an external lighting scheme shall be submitted to the Director of Communities, Economy and Transport for written approval and the use shall not commence until such written approval has been received. The approved scheme shall be implemented throughout the course of the development, unless otherwise agreed in writing with the Director.

Reason: To protect the general amenities of the area in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

11. The Flood Risk Management measures, including proposed mitigation, as set out in Section 8.0 of the submitted Water Environment and Flood Risk Assessment report by SLR Consulting Limited, dated October 2017, shall be carried out as part of the development. The measures shall be fully implemented prior to the commencement of the use hereby permitted and subsequently maintained throughout the duration of the development.

Reason: To ensure the risk of flooding is adequately managed and minimised in accordance with Policy WMP28a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

12. No development shall commence until details of the proposed means of foul water disposal and surface water drainage have been submitted to the Director of Communities, Economy and Transport for approval and such written approval shall have been given. The approved details shall be implemented in full, unless otherwise agreed in writing with the Director.

Reason: To provide for appropriate means of water disposal and to reduce the risk of flooding in accordance with Policy WMP28a of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

13. Prior to first use of the development hereby approved, a Noise Management Plan for the control and management of noise from the site operations and vehicle movements shall be submitted to the Director of Communities, Economy and Transport for written approval and such approval shall have been obtained. The Noise Management Plan must include the mitigation measures set out at Appendices 1 and 2 (Summary of Noise Mitigation Measures and Location and Height of Acoustic Barriers, respectively) in the Technical Note, dated 11 July 2018 (ref. 4598), by WBM Acoustic Consultants. The development shall

thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing with the Director.

Reason: In the interests of safeguarding amenity in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

14. The noise rating level from the site shall at all times not exceed the measured background noise level at the nearest noise sensitive receptors at The Hope Inn, Newhaven Marina and Marine Drive, as shown at Appendix B in the Noise Assessment Report (ref. 4598), dated 12 October 2017, by WBM Acoustic Consultants, as measured in accordance with BS 4142:2014.

Reason: In the interests of safeguarding the amenities of the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013.

15. Within three months of the first use of the site a noise survey shall be undertaken by the applicant in accordance with BS 4142:2014 and the results submitted forthwith in a report to the Director of Communities, Economy and Transport. The survey shall:
  - (a) Demonstrate whether the noise levels required by Condition 14 are being achieved;
  - (b) If the survey does not demonstrate such compliance then the report must include measures to reduce noise, which shall at first be agreed in writing with the Director, such that the noise levels required by Condition 14 will be met;
  - (c) These measures shall be implemented within a time period to be agreed with the Director and compliance shall be demonstrated by a follow-up noise survey, which must be submitted to and agreed in writing with the Director within two months of the measures being implemented; and
  - (d) This process shall continue until the approved noise criteria have been met.

Reason: In the interests of safeguarding amenity in the locality in accordance with Policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

16. Before the commencement of works within the area of the railway sidings, details for the protection of reptiles shall be submitted to the Director of Communities, Economy and Transport for written approval and such approval shall have been obtained. The details shall include proposed methods of trapping and provision for translocation. The approved details shall be carried out in full.

Reason: To protect reptiles in accordance with Policy WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

17. Before the commencement of the use of the site a Staff Travel Plan shall be submitted to the Director of Communities, Economy and Transport for written approval and such approval shall have been obtained. The Staff Travel Plan shall include measures for reducing the need for staff to use private motorised vehicles and provide for the monitoring of the effectiveness of these measures. The Staff Travel Plan shall be implemented in accordance with the approved details.

Reason: To reduce dependence on the car to accord with the provisions of Part 4 of the National Planning Policy Framework 2012.

18. No part of the development shall be occupied until the proposed car parking spaces have been constructed and provided in accordance with the approved drawings. The areas shall thereafter be retained for that use and shall not be used for any other use.

Reason: To secure appropriate parking arrangements in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

19. No part of the development shall be occupied until the vehicle turning and loading areas have been constructed within the site in accordance with the approved drawings. These areas shall be retained at all times for these uses and shall not be obstructed.

Reason: To secure appropriate turning and loading arrangements in accordance with Policy WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013.

### Informatives

1. The applicant will require an Environmental Permit from the Environment Agency for any flood risk activities proposed to be undertaken as part of the development and should contact that body accordingly.
2. The applicant is reminded of the requirements of Southern Water regarding the protection of sewer infrastructure. No development or tree planting should be located within 3 metres either side of the external edge of the public foul sewer and all existing infrastructure should be protected during the course of construction works. No new soakaways should be located within 5 metres of a public sewer.
3. A formal application for connection to the public sewerage system is required in order to service this development. The applicant should contact Southern Water in Otterbourne, Hampshire on 0330 303 0119, or via its website, to discuss the matter. The applicant should also contact Southern Water regarding the disposal of any trade effluent from the site.

4. The applicant will require a 'Part B' Environmental Permit from Lewes District Council to operate the concrete batching plant.

#### Schedule of Approved Plans

Figure 10 - Elevations of proposed aggregate bagging facility, Figure 11 - Elevations of the proposed office (excluding inset Location Plan), Figure 13 - Elevation of the discharge hopper and conveyors, Figure 1 Rev A - Location of the application site, Figure 2 Rev A - Local Planning Permissions, Figure 3 Rev A - Photographs of the application site, Figure 4 Rev A - Occupation of Newhaven Harbour, Figure 5 Rev A - Visualisation of the buildings on the LDA and the Rampion Land, Figure 6 Rev A - Landscape Features, Figure 7 Rev A - Nearby noise sensitive receptors, Figure 8 Rev A - Stage 1 Development, Figure 12 Rev A - Stage 2 Development, Figure 14 Rev A - Stage 3 Development, Figure 18 Rev A - Extract from LDC Proposals Map, Figure 9 - Elevations of proposed aggregate processing plant, Figure 15 - Elevations of proposed concrete batching plant (excluding inset Site Plan)

RUPERT CLUBB

Director of Communities, Economy and Transport  
17 July 2018

#### **BACKGROUND DOCUMENTS**

Application file LW/799/CM(EIA)

The Development Plan

National Planning Policy Framework 2012

Marine Policy Statement 2011