2 MC2004/1998

Date Received: 1 September 2004

Location: Land to the east of the London to Dover Railway Line between the railway line bridge crossing the River Medway and Doust Way and partly fronting Corporation Street, Rochester, Kent

Proposal: Preliminary infrastructure works comprising a new flood wall, land remediation and land raising

Applicant: South East England Development Agency and Medway Council C/o the Agent

Agent: Halcrow Group Ltd Shortlands London W6 8DA

Ward: River and Rochester West

Recommendation – Approval with Conditions

(as amended by the "Addendum to the Environmental Statement" (October 2004) and the volume of "Further Information" (May 2005) submitted in support of the Environmental Impact Assessment)

1 The development hereby permitted must be begun not later than the expiration of 5 years from the date of this permission.

2 The development hereby permitted shall be carried out substantially in accordance with the principles set out in the "Planning Application Statement - August 2004" and its supporting documentation submitted with this planning application.

3 The works hereby permitted shall not be commenced until full details for the establishment of any saltmarsh habitat or any other inter-tidal habitat including the creeks associated within the proposed development have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

a) The geographical extent of the habitat to be created.
b) The design of any structures (gabions, retaining walls etc) required to facilitate the formation of the habitat. The submitted details shall include a specification for the exterior treatment of the structures and the method of construction.
c) Hard and soft landscaping works planting works associated with the formation of the new habitat. The submitted soft landscaping details shall include a specification for the plant species, sizes and planting densities to be used.
d) The timetable for the establishment of the new habitat.
e) A management strategy to secure the retention of the new habitat in perpetuity.

4 The works hereby permitted shall not be commenced until full details of a monitoring strategy to test the success of the establishment of any habitat to be created pursuant to the requirements of Condition 3 have been submitted to and approved in writing by the Local Planning Authority. The monitoring strategy shall be implemented in accordance with the approved details unless any variation is otherwise first approved in writing by the Local Planning Authority. The monitoring strategy shall include:

a) Details of the monitoring programme, including the duration for this activity.
b) Criteria against which it can be determined as to whether the saltmarsh habitat or other inter-tidal habitat within the creeks is successfully becoming established in these locations.
c) The actions to be taken if the saltmarsh habitat or other inter-tidal habitat within the creeks to be created pursuant to the provisions of Condition 3 is as a consequence of the monitoring found not to be successful.

5 Prior to the commencement of the works hereby permitted details specifying the phasing for the construction of the flood wall and land raising shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the works shall be undertaken in accordance with the approved phasing scheme.

6 Prior to the commencement of the flood defence works hereby permitted details of a maintenance plan for the flood defence works shall be submitted to and approved in writing by the Local Planning Authority. The flood defence works shall thereafter be maintained in accordance with the approved scheme of details.

7 The flood wall hereby permitted shall be constructed to a height of 5.8 metres Above Ordnance Datum (Newlyn).

8 The flood wall shall be constructed strictly in accordance with the alignment shown on the plans herein approved unless any variation is otherwise first appproved in writing by the Local Planning Authority.

9 Prior to the installation of any part the river wall hereby permitted details of the extent of the exterior face of the wall to be clad in timber shall be submitted to and approved in writing by the Local Planning Authority. The flood wall shall be constructed strictly in accordance with the details approved under the provisions of this Condition.

10 The landraising works hereby permitted shall be implemented to achieve the heights Above Ordnance Datum (Newlyn) shown on drawing number PSD/RDP/D151 RevP00, unless any variation is otherwise first approved in writing by the Local Planning Authority. Following the completion of the land raising works and subsequent to any period for settlement within an individual phase, a topographic survey plan for the area of the relevant phase shall be

submitted to the Local Planning Authority as confirmation of the finished ground level for that phase of the works. For the purposes of this Condition the identification of individual phases shall be as has been approved by the Local Planning Authority pursuant to the requirements of Condition 5 above.

11 Prior to the commencement of the works hereby permitted details of the arrangements for integrating the flood protection meausres within the application site with those on the immediately land shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the integration measures shall be implemented in accordance with the approved scheme of details.

12 The measures specified in Section 11.5.1 of the Environmental Impact Assessment (as amended) accompanying this Planning Application to avoid contamination of the water environment shall be implemented throughout the duration of the construction and engineering works hereby permitted .

13 The development hereby approved shall not be commenced until a Remediation Methods Statement detailing the remediation requirements for decontaminating the application site has been submitted to and approved in writing by the Local Planning Authority. The Remediation Methods Statement for the remediation of the site to be prepared pursuant to the requirements of this Condition shall be prepared using information obtained from the "Ground Investigation Interpretative Report - August 2004", prepared by Halcrow Group Limited (Document reference PSC/RRD/R/030). The remediation of the site shall thereafter be carried out in strict accordance with the provisions of the approved Remediation Method Statement.

14 The developer shall remediate any soil contamination, in accordance with current legislation and published guidance, to prevent the pollution of controlled waters and to eliminate any significant harm or possibility of significant harm to people, vegetation or buildings in accordance with a scheme of details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any ground remediation works hereby permitted.

15 Upon completion of the remediation detailed in the Remediation Methods Statement a completion report issued by a "competent person" shall be submitted to the Local Planning Authority verifying that the required works regarding the decontamination and remediation of the site have been carried out in accordance with the approved Method Statement. Post remediation sampling and monitoring results shall be included in the completion report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall be detailed in the completion report.

16 If during the course of the development, contamination not previously identified, is found to be present on the site then no further works (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for an addendum to the Contamination Method

Statement to be submitted pursuant to the requirements of Condition 13. This addendum to the Remediation Method Statement must detail how this unsuspected contamination shall be dealt with and from the date of approval the addendum(s) shall form part of the Remediation Method Statement.

16 Prior the commencement of any works affecting the creeks within the application site a detailed photographic survey of the creeks shall be undertaken and the results from that survey shall be submitted to the Local Planning Authority.

17 No development shall be commenced until a mitigation strategy to safeguard the habitats for bats and reptiles has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the provisions of the approved mitigation strategy.

18 The development hereby permitted shall not be commenced the applicant, or their agents or successors in title, has secured the implementation of:

a) archaeological field evaluation works in accordance with a specification and written time table which has been submitted to and approved in writing by the Local Planning Authority; and
b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

19 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building, industrial archaeological and historic environment recording, including photographic recording, in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

20 Prior to the commencement of the land raising works hereby permitted full details of the type or types of material(s) to be used in association with these works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter only materials approved for this purpose pursuant to the requirements of this Condition shall be used in association with the land raising works hereby approved.

21 The engineering works hereby permitted shall not be commenced until a Code of Construction Practice has been submitted to and approved in writing by the Local Planning Authority. The Code shall include amongst other matters details of: hours of construction working; noise and vibration limitation and monitoring regimes; access points; screening/mitigation; wheel cleaning/chassis cleaning facilities; dust control measures; protection of surface and groundwater resources, including arrangements for the storage of oils, fuels or chemicals; pollution incident control; site illumination; and location of construction compound and offices. The engineering works hereby permitted shall thereafter

be carried out at all times in accordance with the approved Code of Construction Practice, unless any variations are otherwise first submiited to and approved in writing by the Local Planning Authority.

22 The translocation of the existing golden samphire from its current locations within the application to the inter-tidal terrace habitat to be created as part of the development shall be undertaken in accordance with the arrangements specified in the "Ecological Monitoring and Management Plan – May 2005", unless any variations to the arrangements specified in the aforementioned document is otherwise first approved in writing by the Local Planning Authority.

For the reasons for this recommendation for approval please see Planning Appraisal section and Conclusions at the end of this report.

Site Description

The application site is approximately 34 hectares (84 acres) in area and is located to the north east of Rochester city centre. The majority of the application site occupies a spur of land on the south bank of the River Medway that was a salt marsh with reclamation works having been initiated in the 1830s. The site has had a history of accommodating a mixture of industrial and warehouse/distribution uses and wharves, including an aggregates importation facility. The application site is now largely vacant following the exercising of a Compulsory Purchase Order. Former uses of the land have included railway sidings and waste transfer stations. The application site included large-scale industrial structures which have recently been demolished, various other industrial buildings and three gas holders. The site has a river frontage of approximately 1.6km (1 mile). The application site's river frontage comprises wharves, sheet piled retaining walls, timber and concrete retaining walls and mud flats.

Strood and Frindsbury lie opposite the application on the northern bank of the River Medway. The northern bank of the River forms the Chatham Ness Peninsula, which is largely occupied by the industrial area at Medway City Estate, other industrial uses and working wharves.

The main London Victoria to Dover railway forms the western boundary to the application site, and the land slopes gently in a north easterly direction from the railway lines to the River Medway. Corporation Street and the High Street all lie parallel to the railway to the south west. Rochester railway station lies adjacent to the lower south western application site boundary. These features physically separate the site from the historic core of the city centre.

The application site's existing ground levels are generally higher to the south of the site at around 4.5 to 5.0 metres Above Ordnance Datum (Newlyn) (AOD). The area to the north is generally at a level of about 2.5 to 3.5 metres AOD but the centre of the peninsula has been used for extensive tipping and the levels are currently between 4.5m to 5.0 metres AOD. The existing topography of the site slopes down to the north and joins the low lying areas near the gas holders, at a level of about 1.5 to 2.0 metres AOD. The land adjacent to the river frontage is also relatively high with

levels varying between 4.0 to 5.0 metres AOD. The Corporation Street and Doust Way areas of the site to the south are at 6.1 metres AOD.

Vehicular access to the section of the site that lies to the east of the railway line is currently available at two locations off Corporation Street namely, Gas House Road and Blue Boar Lane; at two points off Rochester High Street, namely Doust Way and Bath Hard Lane; and via Furrell's Road, which because of a one way system connects with Corporation Street, via Bardell Terrace and also the High Street. There is a pedestrian access from Corporation Street to Horsewash Lane at the northern end of the site. There is limited vehicular circulation within the northern area of the site with the existing access road terminating at Limehouse Wharf.

It is to be noted that the application site does not include: the Castle View Business Park, which lies at the southern end of Gas House Road and comprises approximately 20 small industrial and warehouse units; the Acorn Shipyard, which is at the northern end of the site just to the north west of the gas holders; and the land occupied by the PB Group (Brewsters Printers).

Proposal

This is a detailed planning application for preliminary infrastructure works as part of the Rochester Riverside Development, the redevelopment proposals are the subject of their own outline planning application (MC2004/2030) which is reported elsewhere on this agenda.

The scale of the proposed development is such that this engineering works application, along with the accompanying outline application, is accompanied by an Environmental Impact Assessment (otherwise referred to as an Environmental Statement [ES]), which amongst other things includes a Transport Assessment.

The proposed preliminary infrastructure works have been designed to provide for the future mixed-use redevelopment of the Rochester Riverside site. The proposed preliminary infrastructure works comprise the following elements:

- Reconstruction/augmentation of existing flood walls/defences along the banks of the River Medway, to provide a primary flood defence for the redeveloped site.

- Land filling to raise existing ground levels for flood defence purposes, in accordance with advice from the Environment Agency, having regard to the provisions of the Masterplan that has been prepared for the redevelopment of the site.

- Land decontamination/remediation to render the site suitable for its intended after uses.

- Works to modify, remove and/or add to services that accommodate the proposed development, i.e. the disconnection and removal/filling as necessary of redundant services and provision of drainage infrastructure

across the site, in accordance with the requirements of the utility companies, and the diversion of retained existing services on the site.

The proposed river wall works will result in inter-tidal habitat loss and the submitted proposals therefore include works to provide replacement habitat.

The detailed design of the infrastructure works has been based on and is consistent with the indicative mixed use masterplan that has been prepared for the site.

This detailed planning application focuses on the site specific requirements of flood management and land remediation and is an essential pre-requisite to the regeneration of the application site.

The individual elements of the proposed works are considered in turn below:

River Wall Works

The development project planned for the site requires a design life of 75 years and a level of flood alleviation equivalent to the 0.5% annual probability event (i.e. 1 in 200 year return period event). The existing river structures do not provide flood alleviation up to a level that could support new residential development, with some parts of the existing wall being in a deteriorating state of repair. The entire river frontage for the Rochester Riverside redevelopment therefore requires replacement.

It is proposed that the replacement wall will have a height of 5.8 metres AOD, with a 65 year design life. The wall has been designed to maximise the land available for redevelopment behind it.

The new wall will be built using three main construction methods. The primary method involves a Standard Sheet Pile Installation System (primarily for the area between Bridge Wharf and Acorn Wharf and around Blue Boar Wharf). The construction sequence being:

1. Excavate material behind existing river frontage wall (assume 3 metres to 4 metres deep and 10 metres back from wall).
2. Cut and remove existing tie rods from river frontage.
3. Remove existing frontage structure to the same level as excavated level (i.e. retain lower section of old frontage to retain working platform)
4. Prepare excavated level for piling rig access
5. Install new sheet piles directly behind existing frontage structure, with the top level at new flood defence level (ie 5.8 metres AOD).
6. Install new tie rods and deadman structure (anchor structure for tie rods).
7. Backfill excavation with granular material.
8. Remove the lower section of the existing river wall.
9. Place capping beam on top of piles.
10. Clad new piles in timber where required.

This standard construction sequence will be varied selectively where site conditions require it. For example, a combination pile wall installation system will be employed

where existing vertical walls heights are too great for a standard sheet pile wall (ie Limehouse Wharf south section).

A further variation on the combination pile installation system will be adopted where there are existing wharf structures (e.g. Limehouse Wharf north section, Cory's Wharf). For this method of construction the following sequence will be employed:

1. Install temporary props between vertical retaining wall and wharf structure
2. Remove concrete slab from top of wharf
3. Excavate material behind set back retaining wall. Remove props.
4. Remove existing vertical wall to the same level as excavated level.
5. Remove wharf piles.
6. Cut and remove existing tie rods from wall.
7. Prepare excavated level for piling rig access
8. Install new combination pile wall directly behind riverside line of structure, with top level at new flood defence level.
9. Install new tie rods and deadman structure.
10. Backfill excavation with granular material.
11. Remove the lower section of river frontage wall.
12. Place capping beam on top of piles.
13. Clad new piles in timber where required.

It is to be noted that a proportion of the river wall will be clad with timber to assist with habitat creation.

Land Raising

Land raising is required to mitigate against the risk of flooding and to enhance the ground conditions to facilitate new development. To bring the land level of the site up to the required flood defence level, whereby buildings at ground floor level will have finished floor levels of 6.1 metres AOD to satisfy the Environment Agency's requirements, land levels will be increased by between 1 and 4 metres, given the variation in levels across the site, to a create a development platform of 5.8 metres AOD. To allow for settlement following the placement of the fill material, it is proposed that there will be surcharging (ie over filling) of in the region of 0.8 of a metre above the required post settlement levels. Following the settlement period, if it is found that the land level is above the required level for flood defence purposes then excess material will be removed from the newly created development prior to the commencement of building works.

To complete the land raising works it is estimated that 455,000 m^3 of fill material will be required.

It is recognised that land raising could exert loads on existing structures and buildings that could undermine their stability. Accordingly it is proposed that the land raising will be off set from the railway embankment, the boundary to the Castle View Business Centre and the river wall by 2, 10 and between 1 and 10 metres respectively.

It is expected that the fill material will largely be marine dredgings, which will be imported to the site by river transport, thus avoiding the need to bring large volumes of material to the site by road. The fill material will be pumped ashore and then placed hydraulically minimising the need to use earthmoving plant. Hydraulic placement also reduces the need to use mechanical compaction techniques. The fill material will be moistened as necessary as it is placed to reduce dust arisings, however to avoid dust being generated as the material dries out sand will be used to stabalise the surface and straw will then be added, using a Dutch technique, to maintain the fill materials free draining properties. The newly infilled areas will appear to have a covering of straw stubble and the straw then degrades over a 2 to 3 year period.

The land raising works will be undertaken in phases, starting at the southern end of the site and then moving northward. Allowing for periods of settlement by working sequentially from south to north it will be possible for new buildings to be constructed on parts of the site while land raising occurs elsewhere. It is expected that the placement of fill material will take just over one calendar year, with the consolidation of this material taking place over periods of varying duration.

Remediation

The various historic uses of the site have resulted in it being subject to varying degrees of contamination. Ground investigations have confirmed the presence of elevated levels of potentially hazardous metals, hydrocarbons and ground gases within the made ground and ground water across the site. The site in its current form currently represents a risk to controlled waters and, to a lesser extent, site users.

As a consequence of the size of the site, it has been divided into seven zones for remediation purposes, based upon previous land uses. The zones are as follows:

- Zone 1 - Acorn Wharf
- Zone 2 - Limehouse Wharf
- Zone 3 - Castle View Business Park
- Zone 4 - Former Railway Land
- Zone 5 - Cory's Wharf and Blue Boar Wharf
- Zone 6 - Bath Hard Wharf, Stanley Wharf
- Zone 7 - Gas Land

The approach to the remediation adopts the Source-Pathway-Receptor principle, i.e. all three elements are required to create a "pollutant linkage" and therefore a risk. An effective remediation strategy therefore seeks to ensure that there are no pathways between a source of contamination and a possible receptor. The risk assessment process has taken into account the end use for the site and the planned land raising to mitigate flood risks. The risk assessment is based upon remediation works that will make the site suitable for reuse for a range of land uses. The land raising and ground gas protection measures proposed under the remediation strategy will separate end users from the sources of contamination in the existing ground therefore reducing the risk to an acceptable level for the intended redevelopment of the site. As a result, the proposed remediation strategy is driven by the need to

protect controlled waters. The risks to controlled waters have been assessed using the Environment Agency's recognised methodology.

The assessment shows that Zones 2 and 7 are the most contaminated. Contaminants include oils, tars, benzene and, to a lesser extent, metals such as lead and arsenic. Liquid oils and tars have been recorded in several locations in Zone 2, including within the Chalk/gravel. The assessment concludes that the River Medway is potentially at risk from concentrations of contaminants, mainly tars and oils, in the groundwater. Remediation is therefore recommended for groundwater bodies present in the made ground/alluvium and the Chalk/gravel.

A key element of the remediation strategy is the raising of the land, which will separate end users from the underlying contamination. Where possible at least 1 metre of clean land raise material will be applied across the site to act as a cap. There will be some areas of the site where this will not be the case and the material will either be less than 1 metre, be absent or ground levels reduced. If the end use requires hardstanding then this is considered to be a sufficient barrier to protect end users. For areas where hardstanding is not required, it is considered that a 1 metre layer of existing ground should be removed and replaced. In some areas this may not be practical, for example close to site boundaries. It is therefore considered in these cases that intensive sampling is undertaken and any hotspots of contamination removed.

It is envisaged that liquid hydrocarbons will be removed using a system of wells of varying depths (the depth being determined by the underlying ground conditions) and pumps.

It is anticipated that wherever possible, and subject to gaining an exemption to Waste Management Licensing Regulations 1994, contaminated arisings will be re-used on site using treatments including e-clays to immobilise contaminants, soil washing and/or bioremediation and re-use at depths greater than one metre as part of the land raising activity.

When it is not possible to reuse contaminated arisings they will be disposed of off site in an appropriate manner.

In areas of the site subject to ground gases recognised building techniques will be used to mitigate against any future problems, eg the use of suspended floor slabs, installation of waterproof membranes and passive venting etc.

Inter-tidal areas

The inter-tidal areas of the site will be affected by the construction of the new flood wall. This will particularly be the case where there are overhanging wharfs and quays where the new wall is built hard up against jetties resulting in the loss of the mudflats beneath them. The ecological implications of this impact have been fully evaluated in the ES. To compensate for the lost inter-tidal habitat it is proposed to provide replacement habitat within what will be the new inter-tidal zone. The new inter-tidal zone will feature a variety of habitats including exposed mudflats, saltmarsh and inlet creeks. The aim is to replace the area of habitat lost on a like for like basis and then

to provide a further 10% of new habitat. The net additional inter-tidal habitat will have a total area of 4000m^2.

The stretch of the River Medway adjacent to the application site presents one of very few opportunities for saltmarsh to develop, due to extensive use of vertical flood defences. Currently the existing creeks on the site are very constrained due to previous filling activities. It is proposed to widen these and make them a feature of the development, both ecologically and aesthetically.

Previous studies for saltmarsh and mudflat creation schemes have found that the provision of creek systems stabilises the whole of inter-tidal systems. Providing brackish water habitats and saltmarsh, in conjunction with mudflats, will accommodate the needs of locally important species such as spawning fish, roosting wading birds and a range of invertebrates that use the River Medway as a feeding habitat and movement corridor.

A saltmarsh terrace system is considered an important part of the flood defences. It will allow for a more sensitive treatment than steel piling and results in no net loss of inter-tidal habitat. It would also set a precedent for further 'graduated' flood defences elsewhere along the Medway, which could have a long term cumulative improvement in the ecological functioning of the Medway Estuary in more urban locations.
The habitat creation works will involve planting appropriate species that will then colonise the newly created inter-tidal area.

Drainage

The site was a formerly a salt marsh with a system of creeks. However, subsequent industrial development has altered the salt marsh by infilling or culverting the creeks. The culverted creeks now form part of the surface drainage network.

The existing network of pipes run across much of the site and their position is likely to have a large impact on future development. It is however proposed that the existing surface water drainage from Acorn Wharf, Castle View Business Centre and the railway viaduct will be retained or replaced with new pipe systems to suit the new development layout. During land raising, temporary concrete relieving slabs will be placed above the existing pipes to prevent damage from excessive loading. The existing pipe network will be retained for this period and in the long term it is proposed to replace the existing pipe network with new pipes and outfalls to integrate them into the system for the new development.

It is envisaged that the initial remediation and flood defence works will take approximately two years to complete. In is predicted during this period of activity, assuming most of the infill material is brought to the site by river transport, that the daily average number of two way traffic movements on the A2 will be in the order of 57. Of these 57 two way movements, eight are expected to be undertaken by HGVs. The level of construction traffic activity will vary over the period of the works and a maximum of 200 daily two way traffic movements is predicted. During this period of maximum activity the applicants have submitted it is likely that the bulk of the traffic generation will occur outside the peak hours for traffic generation and that the overall

volumes of traffic associated with the works will be lower than those generated when the site was occupied by the users that have recently vacated it.

Relevant Planning History

The site has been subject to a variety of planning applications in the past 10 years (over 100 applications for various forms of industrial/wharfage development, waste transfer activities and residential), the large majority of which have been approved.

Two applications for residential development, on part if the site in the vicinity of Furrells Road, were refused planning permission in the mid 1990's. Subsequently in 1997, following the granting of outline planning permission for mixed use development, the former Rochester upon Medway City Council initiated compulsory purchase proceedings to assemble the site for redevelopment. The Compulsory Purchase Order was confirmed by the Secretary of State in 1998 and in December 2003 Medway Council and the South East England Development Agency (SEEDA) signed a collaboration and grant agreement to regenerate the site.

Representations

Extensive publicity and consultations have been carried out in connection with the development proposals. Consultations have been undertaken in connection with the originally submitted application documentation as well as in response to the submission of the additional or amending submissions of information.

The application has been advertised in the local press and on site as: A Departure from Local Plan Policy; Major Development; an application accompanied by an Environmental Impact Assessment; and development affecting the setting of a Scheduled Ancient Monument and a Listed Building.

Consultations have been undertaken with the owners and occupiers of numerous properties adjoining the application site, including on the opposite side of the Medway, and a wide range of statutory and non-statutory consultees.

The representations made in response to this consultation exercise are summarised below, with the responses being grouped together by type of respondent. Representations made in response to additional or amending information are shown in italic text to differentiate them from the initial response made by the relevant party.

Statutory and Non-Statutory Organisations' responses

<u>Environment Agency</u>

Raise no objection to the proposals in principle and have requested that a number of planning conditions are imposed to ensure appropriate decontamination practices are followed, the flood defences are provided to the necessary standard and the nature conservation interest of the saltmarsh and other inter-tidal habitats at the site's transition with the river are safeguarded and replacement is created as mitigation for areas lost in association with the proposed works.

Monitoring in relation to the establishment of the newly created habitats should be for 5 years rather than 3 years as stated in the ES.

The use of timber cladding along the face of the river wall for habitat creation purpose is welcomed but more detailed monitoring of the effectiveness of the cladding as a habitat should be undertaken following its establishment. Surveying points should be incorporated into the cladding, which would also be useful in assessing the structural integrity of the wall. It is recommended that as a minimum 8 access points of 0.25m^2 or 4 sampling points of 1m^2 are included in the design of the timber cladding for the river wall.

English Nature

Due to the importance of the Medway Estuary foreshore for wintering birds, it is recommended that measures should be adopted during the construction phase for the development and incorporated into the design of riverside wildlife habitat and amenity areas to minimise disturbance to birds using the mudflats.

English Nature has further commented that it is unclear from the ES whether the development will result in the loss of mudflats, which are a priority habitat under the UK Biodiversity Action Plan. The creation of new inter-tidal habitat is welcomed, but it is recommended that like-for-like compensatory habitat should be where mudflats will be lost and that new salt marsh habitat should be created where there will be no resultant loss of existing mudflat.

Planning conditions should be attached to any forthcoming permission to ensure measures outlined in the ES to avoid contamination of the water environment are implemented.

English Nature welcomes the submission of the Ecological Monitoring and Management Plan. The provision of fencing along the riverwalk will minimise disturbance to birds using the adjacent mud flats once the development is complete. If during monitoring, the newly created habitats are not successfully becoming established, it is recommended that alternative arrangements for habitat creation are secured. .

However no specific measures are proposed to minimise disturbance to wintering birds during the construction phase. It is accepted that screening of landside construction activities from the river will be impractical and that these activities are unlikely to cause significant disturbance to birds using the mudflats. There are however concerns that the river wall works have the potential to cause disturbance to birds particularly during the over wintering period. It is therefore recommended in relation to the construction of the river wall that mitigation measures, such as work site screening and the timing of works around tides, are employed.

The ES indicates that bird populations in the study area for the proposed development are likely to be functionally linked to those that make up the interest of the Medway Estuary and Marshes Special Protection Area (SPA) which means that the proposed development requires consideration under the Conservation (Natural Habitats, etc) Regulations 1994. Under the provisions of the Habitat Regulations Medway Council as the "competent authority" will need to decide whether the

development is likely to have a significant affect on the SPA or the Ramsar site. The determination of the effect should be take account of the other significant developments taking place or proposed in close proximity to the river.

In the absence of information about the duration of the river wall construction works or the methods that it will be used it is difficult to determine whether the constructions works alone are likely to have a significant affect upon the SPA or Ramsar site. In order to establish whether or not the river wall works will have an adverse affect, it is recommended that the Council obtains further information about the duration of the works and the proposed methodology.

A further letter received by English Nature on 10 June 2005, advises that their concerns about the proposal and its potential impacts on designated sites have now been addressed. English Nature's advice is that the proposals outlined in the this planning application (and the engineering works application MC2004/1998, also found on this agenda), with the proposed mitigation measures, are not likely to have a significant effect on Medway Estuary and Marshes SPA and Ramsar Site and therefore an appropriate assessment under the Habitats Regulations is not necessary. On the same basis, English Nature can also advise that the proposals should not affect the special interest of Medway Estuary and Marshes SSSI.

The Royal Society for the protection of Birds (RSPB)

Saltmarsh and mudflat are both priority habitats, the RSPB strongly advocates replacing any lost habitat with equal or greater areas of the same habitat.

It is suggested that if permission is granted planning conditions are imposed to ensure pollution control measures to maintain water quality are implemented.

To prevent disturbance to birds using the foreshore the RSPB strongly advocate the imposition of a planning condition requiring the provision of screening for the river walk.

To retain and enhance the breeding terrestrial bird population, the RSPB supports the commitment in the ES to provide a range of nest boxes, but this action should be taken in combination with the provision of scrub and rough grassland areas to provide feeding and breeding areas.

Kent Wildlife Trust

No objection in principle to the application and commend the aim of achieving no net loss of inter-tidal habitat and welcome the proposed 10% increase in inter-tidal associated with the proposed works.

Welcome the proposals to deal with protected species on site according to best practice guidelines but are disappointed that no explanation is given to show how this will be achieved. Believe the applicant should follow the precautionary principle and proceed on the assumption that protected species are present.

The Environmental Statement mentions an Ecological Monitoring and Management Plan, which incorporates measures to avoid mortality of protected species during the construction phase of the development, it is considered that this should have been submitted with the application. The plan should set out how these species will be protected from harm during demolition of existing buildings and site clearance.

The Trust has further commented that its concerns would be overcome if following issues are addressed:

- the submission of a mitigation strategy to deal with bats and reptiles; and
- the submission of an ecological monitoring and management to be implemented during the construction phase.

Planning Conditions should be imposed to ensure the mitigation measures set out in the Environmental Statement in respect of: the retention and replanting of the golden samphire plants on the new river wall; and minimisation of bird disturbance, are implemented.

A substantial element of green roofs should also be provided within the scheme to mitigate the net loss of semi-natural habitat.

Kent County Council (Archaeological Officer)

No objection is raised to the principle of the construction of the river wall and the land raising works. A number of conditions are recommended to address the application site's archaeology.

Adjoining businesses and landowners responses

The occupiers of The Castle View Business Centre

The land raising by 1.8 metres within the vicinity of premises within the business centre could cause damage to those properties and a loss of amenity for the occupiers of these premises.

Policy BNE1 of the Local Plan requires the design of development to be appropriate in relation to the character, appearance and function of the built environment. The proposed development involving land raising will look disproportionately odd within the general area and the Castle View Centre will look like a hole in the midst of all this activity.

The proposal will adversely affect the scale, appearance and location of building spaces and the visual amenity in the surrounding area.

Application on the face of it would permit potential damage to properties within Castle View and therefore is contrary to BNE2.

The proposal could result in flooding problems, because inevitably when land is raised above the mean level of neighbouring land, surface water and other such waters flow off into the neighbouring land.

The proposed works could result in the movement of contamination in to the Castle View business centre because there will be inevitable leaching of contaminants, particularly when propelled by surface water draining off the site and the proposals are therefore contrary to Policy BNE2 of the Local Plan.

Development Plan Policies

Kent Structure Plan 1996

Policy S1	(Sustainable Development)
Policy S2	(Conservation and Enhancement of the Environment)
Policy S5	(Thames Gateway)
Policy NK2	(Medway Towns)
Policy ENV2	(Nature Conservation)
Policy ENV5	(Nature Conservation Sites - SSSI, Ramsar and SPA)
Policy ENV11	(River Corridors)
Policy ENV15	(Built Environment)
Policy ENV16	(Urban Open Space)
Policy ENV18	(Archaeology)
Policy NR3	(Groundwater Reserves)
Policy NR4	(Surface Water Quality)
Policy NR5	(Flood Risk Areas)
Policy T18	(Transport Implications of New Development)
Policy T19	(Access to Primary Road Network)
Policy T20	(Transport Improvements)
Policy SR4	(Water Recreation)

Medway Local Plan 2003

Policy S1	(Development Strategy)
Policy S2	(Strategic Principles)
Policy S3	(River Medway)
Policy S6	(Planning Obligations)
Policy S7	(Rochester Riverside Action Area)
Policy BNE1	(General Principles for Built Development)
Policy BNE2	(Amenity Protection)
Policy BNE3	(Noise Standards)
Policy BNE12	(Conservation Areas)
Policy BNE14	(Development in Conservation Areas)
Policy BNE18	(Setting of Listed Buildings)
Policy BNE20	(Scheduled Ancient Monuments)
Policy BNE21	(Archaeological Sites)
Policy BNE22	(Environmental Enhancement)
Policy BNE23	(Contaminated Land)
Policy BNE37	(Wildlife Habitats)
Policy BNE38	(Wildlife Corridors and Stepping Stones)
Policy BNE39	(Protected Species)
Policy CF12	(Water Supply)
Policy CF13	(Tidal Flood Areas)

Policy ED1	(Existing Employment Uses)
Policy L11	(Riverside Path and Cycleway)
Policy T1	(Impact of Development)
Policy T2	(Access to the Highway)

Kent Waste Local Plan 1998

Policy W7	(Suitable Locations for Category A Waste Reuse)
Policy W8	(Reuse of Construction Spoil)
Policy W8A	(Disposal of Dredged Material)
Policy W9	(Suitable Locations for Waste Transfer and Separation)

Kent and Medway Structure Plan (Deposit Version) 2003

Policy SP1	(Kent's Environment)
Policy SS1/SS2	(Spatial Strategy)
Policy SS3	(Sequential Approach and Previously Used Land)
Policy NK2	(Medway)
Policy E12	(River Corridors)
Policy TP2	(Location of New Development)
Policy TP11	(Access to the Primary Road Network)
Policy NR9/NR10	(Flood Risk/Protection)
Policy HP3	(Previously Developed Land)

Planning Appraisal

In considering the application account has to be taken of the available environmental information including the Environmental Impact Assessment (ES), the national, regional and the Development Plan (local planning policy) framework, the documentation accompanying the application and all material representations made including the views of statutory and non-statutory consultees.

This application raises the following main issues for consideration:

1. matters of planning policy and principle;

2. impact upon amenity for the occupiers of adjoining properties, including construction activity;

3. nature conservation issues;

4. highway implications;

5. flood risk issues;

6. contamination; and

7. archaeology.

Issues 1 and 3 have been fully assessed in the Planning Appraisal section of the report concerning the related outline application MC2004/2030 (which appears elsewhere on this agenda) for the proposed mixed use development on this site and it is considered that the conclusions drawn in that report are equally applicable to the proposals the subject of the current application. Accordingly with respect to issues 1, and 3 Members are requested to refer the relevant sub-sections of the Planning Appraisal section for application MC2004/2030 for guidance on these matters.

It will be noted that with respect to the issue of nature conservation there are a number of mitigation measures that it is recommended should be secured by conditions attached to any forthcoming planning permission for the proposed engineering works the subject of this application.

Impact on amenity, including construction work implications

The application site to the east is largely screened from existing development to the east by the elevated railway line. The site is visible from adjoining properties to the south east on Doust Way or fronting Rochester High Street and from more distant vantage points in Chatham or from the opposite side of the Medway. In addition the Castle View Business Centre and Acorn Wharf are surrounded by the application site. Having regard to the application site's relationship with existing adjoining development it is considered that for the most part the proposed river wall and land raising works will not have an adverse affect upon the visual amenities of the occupiers of neighbouring properties.

Representations have been made raising concerns about land raising within the vicinity of the Castle View Business Centre having a detrimental affect upon the visual amenities enjoyed by the occupiers of the site as a consequence of it lying below the newly created land level. In this respect it should be noted that a 10 metre wide transitional margin, which is likely to be planted, is being provided around the application site's perimeter with the business centre and that the premises within the business centre are largely inward looking. It is therefore considered that the proposed land raising works will not materially detract from the visual amenities of the occupiers of the business centre.

Accordingly in visual impact terms the submitted proposals are considered as being in accordance with the provisions of Policies ENV15 of the Structure Plan, Policy BNE1 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

The large scale engineering works associated with the reconstruction of the river wall, land raising and site remediation have the potential to generate disturbance, particularly noise, vibration and dust that could cause disturbance to the occupiers of residential and non-residential accommodation within the vicinity of the application site.

As has been indicated above large parts of the application site lie behind the elevated railway embankment which will provide some acoustic screening for the occupiers of adjoining premises. The river wall works will inevitably involve piling, however the general distance of the river's edge from premises adjoining the site is such that it is considered that this activity will not result in an unacceptable level of

disturbance. In this respect it should be noted that in any one location the duration of the piling works will be relatively short lived, given the linear nature of the wall.

The land raising activity is not expected to be a particularly noisy, and thus disturbing activity, having regard to the fact that it is expected that marine dredgings are to be used as the primary fill material. The dredgings would be delivered to site via the river reducing the amount of noise that might otherwise be generated by lorries hauling fill material to the site by road. The placement process for the fill material, pumping ashore and hydraulic spreading will minimise the use of earth moving plant and thus the potential for noise generation.

It is considered that the proposed works can be undertaken in a manner that will not cause undue noise disturbance for the occupiers of premises adjoining the application site. However it is considered that the duration of construction working hours should be regulated and it is recommended that such a control should be secured by the imposition of a planning condition requiring the submission of a Code of Construction Practice (COCP) prior to the commencement of the works. The suggested COCP would cover a number of construction matters and is explained more detail below. It should also be noted that the piling and infilling works are also likely to be the subject of noise and vibration controls applied under the provisions of either Sections 60 or 61 of the Control of Pollution Act 1974 (legislation administered by the Council's Environmental Protection team).

The infilling has the potential to generate dust. However the likely use of marine dredgings will help to minimise any adverse affect because the fill material will be placed in a semi-wet state. However as this material dries out it becomes more susceptible to wind blow and in order to reduce the potential for any adverse dust generation to occur at this stage it is proposed that the surface of newly filled areas will be covered in a mixture of sand and straw to bind the upper surface. It is considered that this measure will act as an appropriate dust control measure. To further control dust arisings it is also considered that any haul roads within the site should be appropriately surfaced and dampened with water during dry conditions. It is considered that details of the full range dust control measures to be employed should be submitted as part of the recommended COCP.

It is recommended that the environmental protection measures necessary to regulate the proposed works in the interests of safeguarding the amenities of the occupiers of adjoining premises should be covered by a Code of Construction Practice (COCP). COCPs are increasingly being used in association with large scale construction and/or engineering projects and are designed to set out a strategy for addressing a range of potential adverse construction impacts that could otherwise be prejudicial to the amenities of the occupiers of adjacent properties. Codes frequently cover matters relating to: hours of construction working; noise and vibration limitation and monitoring regimes; access points; screening/mitigation; wheel cleaning/chassis cleaning facilities; dust emissions; protection of surface and groundwater resources, including arrangements for the storage of fuel oils; pollution incident control; site illumination; and location of construction compound and offices. COCPs will normally set out the broad principles for the mitigation measures to be employed and detailed controls are then put in place under the provisions of Sections 60 or 61 of the Control of Pollution Act 1974, which require contractors to identify the "best practicable

means" for undertaking the works while minimising the potential for disturbance to arise. Codes have effectively been used in Medway, most notably in association with the construction of the Channel Tunnel Rail Link and the new LNG pipeline at Grain.

Representations have also been received from the occupiers of Castle View Business Centre to the effect that the proposed land raising works will, as a consequence of their proximity to existing buildings, undermine the stability of existing buildings to the detriment of the amenities of the occupiers of these premises. The land raising works within the vicinity of the business centre have been specifically designed to avoid the adverse loading of the foundations of these existing buildings by incorporating a buffer/transitional off set zone of 10 metres. It is therefore considered that the proposed works will not adversely affect the stability of the buildings within the business centre.

With the imposition of the aforementioned conditions it is considered that the amenities of the occupiers of adjoining properties can be appropriately safeguarded and accordingly no objection is raised to the application in this respect under the provisions of Policies ENV15 of the Structure Plan, Policies BNE1, BNE2 and BNE3 of the adopted Local Plan and Policy QL1 of the emerging Structure Plan.

Highway Implications

The daily vehicle generation associated with the works the subject of this planning application is expected to be quite limited and in the main associated with the movement of construction personnel to and from the site. This is largely because it is expected that the infilling material will be delivered to the site via the river. The anticipated vehicle generation associated with these enabling works will therefore be less than the historic levels generated by the site when it was occupied by its former uses.

Given these circumstances it is therefore considered that these proposals will have no adverse traffic generation implications.

Vehicular access to the works site will be derived via the various existing access points onto Corporation Street or the High Street and it is considered that these access arrangements are acceptable.

No highway objections are therefore raised to the application and it is therefore viewed as being in accordance with the provisions of Policy T18 of the Structure Plan, Policies T1 and T2, of the adopted Local Plan and TP2 of the emerging Structure Plan.

Flood Risk Issues

The Rochester Riverside redevelopment site has a direct frontage to the river and much of it is designated as river flood plain. The site is therefore at risk of surface water flooding and tidal flooding. To accord with the guidance contained within PPG25 "Development and Flood Risk" it has been necessary for the applicants to prepare a flood risk strategy for the site to minimise the risk of loss of life or property within the development arising from flooding.

The redevelopment site currently lies below indicative flood levels and therefore it is necessary to upgrade the site's flood defences if in flood risk terms it is to become an acceptable site for new development.

For development of the nature envisaged for this site to proceed, the site's defences need to achieve the 1:200 year flood level, plus a minimum 300mm allowance for freeboard conditions (wave action and other hydraulic uncertainties). In this case the required level is 5.8 metres AOD (including a 300mm freeboard allowance). The Environment Agency has advised that in addition to these levels, properties should have threshold levels (ie a ground floor levels) a further 300mm above the flood defence level. There are therefore requirements for the floodwall level and land levels within the redevelopment site to be raised to 5.8 metres AOD. By raising the site level it will then be possible to ensure threshold heights of 6.1 metres AOD are achieved.

The existing river wall is in a declining state of repair and in order to achieve the required flood defence level it is considered that the only viable option is to construct a new wall. It is also considered necessary to raise the land behind the newly constructed river wall to a height of 5.8 metres AOD to ensure that there is a consistent development platform level across the site.

It will be apparent that the redevelopment of this site on a comprehensive mixed use basis as envisaged by Policy S7 of the adopted Local Plan cannot be achieved without the river wall being upgraded and land raising works being undertaken across the site. Policy NR5 of the Structure Plan, CF13 of the adopted Local Plan and Policies NR9 and NR10 of the emerging Structure Plan and the guidance contained within PPG25 presume against permitting developments that would be susceptible to an unacceptable level of flood risk and/or would undermine existing flood defences. In recognition of the provisions of the foregoing flood protection policies the proposed flood defence measures contained within this planning application have been designed to ensure that an appropriate level of flood defence can be provided within Rochester Riverside redevelopment area, while ensuring that other flood defence measures within the vicinity of the application site are not undermined.

The flood defence measures contained within this application are therefore considered to be in accordance with the cited development plan policies relating to this issue. Various conditions are recommended to ensure that: the river wall is constructed along the alignment shown in the submitted application documentation; the land raising achieves the required height; and a cap on the final (post settlement) land level to ensure that it does not exceed the level identified in the submitted application documentation.

Ground Contamination

Results of the chemical testing that has been undertaken indicates the presence of elevated levels of potentially hazardous substances (such as metals, hydrocarbons, and ground gases) within the made ground and to an extent, the groundwater,

across parts of the site. The site currently represents a potential risk to controlled waters and to a lesser extent, site users.

Accordingly in order to make this site suitable for redevelopment for mixed use purposes in line with its allocation in the adopted local Plan, it is necessary to undertake remediation works to render it safe for this purpose.

The proposed contamination remediation scheme seeks either to remove ground contaminants or to leave them in-situ below a newly placed cap, in a manner which will mean that they will not be hazardous to future occupiers of the site. In either case the objectives are to minimise the risks to human health, to protect ground water and the wider natural environment.

The remediation proposals are considered to be an appropriate response to the contamination found on this site. It should also be borne in mind that if this site is not remediated it will not be capable of fulfilling its potential as a redevelopment site in the heart of the urban area.

The application documentation outlines a number of scenarios for undertaking the necessary remediation works and it is therefore considered that the final methodology should be agreed by the Local Planning Authority prior to the commencement of the works. To this end it is recommended that a condition is imposed upon any forthcoming planning permission for these works requiring the prior approval of the remediation methodology.

The proposal to decontaminate the site is considered to be in accordance with the provisions of Policy BNE23 of the adopted Local Plan and accordingly no objection is raised to this aspect of the proposed works.

Archaeology

The site has a significant history of industrial land uses associated for the most part with the river frontage itself.

The application site therefore has archaeological potential. It is therefore necessary for it to be surveyed and/or for excavation to be undertaken as necessary. To this end some archaeological investigation of the site has already been undertaken and conditions are recommended that require further investigations to be undertaken following the approval of the scope for such works.

Conclusion and reasons for approval

It is considered that the works proposed by this application are in accordance with relevant Development Plan policies and national, regional and sub regional guidance for the Thames Gateway. Without first preparing the site to ensure that flood management, drainage and contamination matters are addressed it will not be possible to redevelop the site on a comprehensive mixed use basis. The measures and works proposed to address these issues are considered acceptable.

The development has been assessed against the EIA Regulations, National Policy Guidance and Local Plan policies. The accompanying ES has detailed the likely environmental impacts and it is considered that these have been appropriately addressed by the applicants. It is further considered that with the imposition of the recommended conditions that the proposed development will have no material adverse affect upon: the amenities of the occupiers of adjoining premises; nature conservation; the operation of the local highway network; flood management within or adjacent to the application site; contamination management on or within the vicinity of the application site; and archaeology.

Accordingly no objection is raised to the proposed development and the application is recommended for approval.
