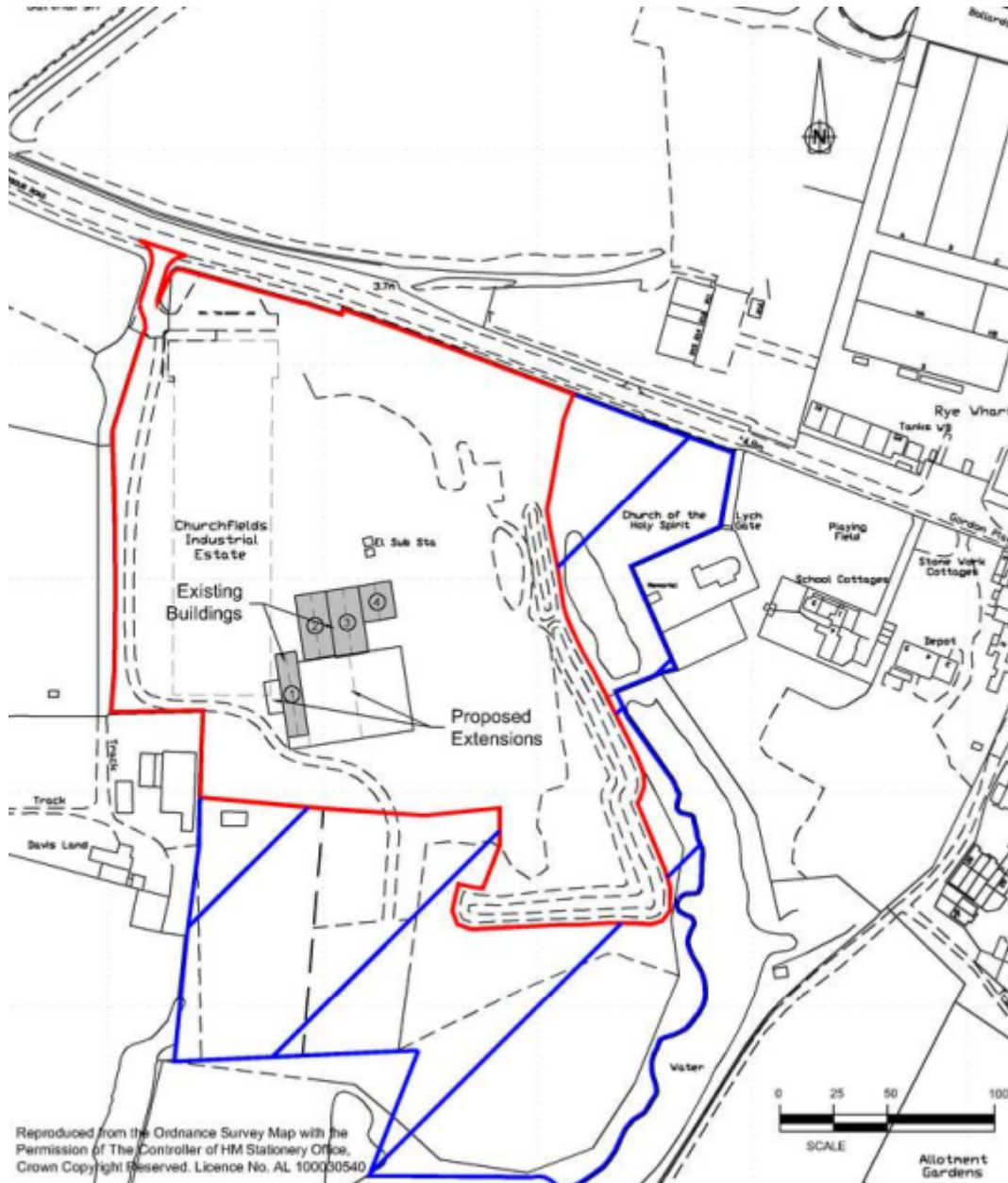


SITE PLAN

ICKLESHAM

RR/2020/1044/P

Churchfields Industrial Estate  
Long Rake Spar Storage Lane  
Rye Harbour Road  
Icklesham



## Rother District Council

Report to - Planning Committee  
Date - 16 November 2023  
Report of the - Director – Place and Climate Change  
Subject - Application RR/2020/1044/P  
Address - Churchfields Industrial Estate, Long Rake Spar Storage  
Land, Rye Harbour Road, Rye Harbour  
ICKLESHAM  
Proposal - Variation of Conditions 2, 7, 8, 9 & 10 imposed on  
RR/2017/2541/P to alter the external materials and ridge  
orientation, extend operating times within the building,  
increase number of shipments, alter landscaping details  
and install external floodlighting.

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED** to **GRANT (FULL PLANNING) SUBJECT TO VARIED CONDITIONS**

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**Director: Ben Hook**

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**Applicant:** Long Rake Spar  
**Agent:** A & M Architectural Partnership  
**Case Officer:** Mrs Sarah Shepherd  
(Email: [sarah.shepherd@rother.gov.uk](mailto:sarah.shepherd@rother.gov.uk))

**Parish:** ICKLESHAM  
**Ward Members:** Councillors L. Hacking and P.N. Osborne

**Reason for Committee consideration:** Referred by Councillor to consider the neighbour impacts/complaints.

**Statutory 13 week date: 28 August 2020**  
**Extension of time agreed to: 20 November 2023**

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### 1.0 SUMMARY

1.1 This application seeks to vary previous approved plans and conditions with regard to the buildings, landscaping and operations at the Long Rake Spar site in Rye Harbour Road. High levels of objection were initially received following an unauthorised and temporary use of a concrete crusher at the site, not related to the application. The application details have taken a long time to amend and finalise and follow close involvement with both Natural England and Environmental Health.

- 1.2 A Transport Assessment, noise reports, Shadow Habitats Regulation Assessment and amended plans for the building elevations, lighting and landscaping have all now been submitted. As now presented, and subject to varied and additional conditions, the proposals are considered to be acceptable as they do not represent harm to residential amenity, the important local habitats and Sites of Special Scientific Interest (SSSI) or the highway network. The proposals will retain and improve the commercial use at the site, continue to support use of Rye Wharf and thereby maintain local employment and the local economy.
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## **2.0 SITE**

- 2.1 Churchfields is a long-standing industrial site and allocated for industrial uses in the local plan. It contains some buildings and a large area of hardstanding formerly occupied by a furniture manufacturer, the building of which burnt down in 2008. The site has been used by Long Rake Spar since 2015.
- 2.2 The site is currently quite open with palisade fencing and hedges to the roadside and a large area of scrubland, some part of the SSSI to the east. This separates the site from the church and School Cottages, which are Grade II listed buildings, the closest residential properties some 200m away. The main village is slightly further to the east on the eastern side of the wharf entrance, which lies on the opposite northern side of the road. The church and school cottages are listed buildings. There are trees along the boundary with the church and play area.
- 2.3 To the south lies a natural area of scrub, trees and water with more open marshes to the west. The site is surrounded on three sides by the Dungeness, Romney Marsh and Rye Bay SSSI and the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA).
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## **3.0 PROPOSAL**

- 3.1 This application was originally submitted during the COVID-19 pandemic in 2020. It seeks changes to conditions including alterations to the approved plans and operating times. It has been the subject of much discussion and negotiation, with various amendments and additional reports submitted during the preceding three years. The amendments and reports have been required not only by planning officers but also by officers from Natural England and Environmental Health.
- 3.2 Amendments have been made as requested with regard to the building finishes, limited external lighting, landscaping and the Dust Management Plan and additional details have been provided with regard to a Shadow Habitats Assessment. Variations to specific conditions are proposed as follows:
- Condition 2 – amendments to building elevations including cladding and change in orientation of ridge, change to rooflights and addition of PV solar. Exhaust vent relocated from east to west elevation.
  - Condition 6 – applied to vary but wording not changed - amendments to landscaping to increase bund height and associated planting.

- Condition 7 – variation to operating hours sought for the internal aggregate drying plant and weekday extension for unloading ships.
- Condition 8 – increase to cover ship unloading days.
- Condition 9 – revised lighting details.
- Condition 10 – variation required as an updated Dust Management Plan was required and has been submitted.

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## 4.0 HISTORY

- 4.1 The site has been in industrial use for many years, pre-dating the current planning system from the 1940's. The area is to be retained for employment/industrial use in accordance with the Rother Local Plan Core Strategy.
- 4.2 Part of the site to the rear previously benefitted from permission for the storage of inert hardcore and concrete and crushing plant. That permission was subject to several conditions which equally applied to the original Long Rake Spar proposal, particularly with regard to hours of operation, lighting and dust control. (County matter).
- 4.3 RR/2015/1798/P Change of use for the bagging, storage and distribution of decorative aggregates. APPROVED CONDITIONAL. This relates to the existing use of much of the site.
- 4.4 RR/2017/2541/P Extension to existing industrial buildings, relocation of boundary fence, new landscaping and retention of bunding. APPROVED CONDITIONAL.
- 4.5 RR/2022/2580/P Retrospective application for the erection of concrete boundary wall and aggregate storage bins, permeable tarmac surfacing and associated water surface drainage with improvement of external lighting. TO BE DETERMINED.

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## 5.0 POLICIES

- 5.1 The following policies of the [Rother Local Plan Core Strategy 2014](#) are relevant to the proposal:
- RY1: Policy framework for Rye and Rye Harbour, including promotion of employment floorspace at Rye Harbour having particular regard to protecting internationally designated habitats
  - EC3: Existing employment sites
  - OSS4: General development considerations
  - EN2: Stewardship of the Historic Built Environment
  - TR3: Access and new development
  - EN5: Biodiversity and green space
- 5.3 The following policies of the [Development and Site Allocations Local Plan \(DaSA\)](#) are relevant to the proposal:
- DEC3: Existing employment sites and premises, retention of
  - DEN4: Biodiversity and green space

- DEN5: Sustainable drainage
- DEN7: Environmental pollution
- RHA2: Harbour Road employment area

5.4 The National Planning Policy Framework and Planning Practice Guidance are also material considerations particularly with regard to retention of employment and biodiversity.

5.5 In addition regard should be had to the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 66 sets out the statutory duty of local planning authorities when considering whether to grant planning permission, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.

## 6.0 CONSULTATIONS

### 6.1 Natural England – **NO OBJECTION**

6.1.1 Initially objected on the basis of a lack of information. Following lots of discussion and updated submissions have now advised that they have “no objection, subject to appropriate mitigation being secured”.

### 6.2 Environmental Health – **NO OBJECTION**

6.2.1 Originally raised concerns following receipt of a noise complaint in June 2020 regarding the use of a temporary mobile concrete crusher (unrelated to this application). As a result they pursued further information with regards to noise, dust and lighting and have been working with the Applicant to ensure that they have all requirements in place including an Environmental Permit. It is noted that *“The permit and the site operations will be subject to a routine annual compliance inspection by environmental health, can be varied or revoked if there are any material changes to the process or there is repeated ongoing non-compliance with conditions and will take precedent over any planning consent that may be granted with regard to emissions to air.”*

### 6.3 ESCC Highways – **NO OBJECTION**

6.3.1 Note that *Only the variation of Condition 8 is likely to impact directly on the highway. This condition refers to the Transport Statement and a variation is requested is to extend the operating hours in order to allow an increased number of ships to unload materials. No additional HGV traffic is anticipated for the delivery or collection of goods over these extended hours. More imports by ship is also likely to reduce the number of traffic movements on the wider highway network. With this in mind, I have no major concerns regarding the variation of this condition and therefore do not wish to object.*

### 6.4 National Highways – **NO OBJECTION**

6.4.1 Initially requested more information. Subsequently advised offer “no objection\* *\*on the basis that we are satisfied that the proposals will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and MHCLG*

*National Planning Policy Framework, particularly paragraph 109), in this location and its vicinity;”*

6.5 ESCC Lead Local Flood Authority – **NO OBJECTION**

6.5.1 Do not consider that the variations of the planning conditions will have a significant impact on surface water flood risk or the management of surface water runoff. Therefore, we have no further comments to make at this stage.

6.6 ESCC Minerals & Waste Disposal – **NO OBJECTION**

6.6.1 Comments that *Policy WMP15 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan (2013) safeguards wharves and their capacity in order to contribute towards meeting local and regional supply for aggregates and other minerals as well as supporting modal shift in the transport of minerals. The Council supports the continued use of the port of Rye for the importation of aggregates and the increased usage of the wharf at Rastrum’s in Rye Harbour as proposed in the variation of Condition 8. The reduction in vehicle movements on the wider highway network as a result of more imports by ship is also supported.*

6.7 Environment Agency – **NO COMMENTS TO MAKE**

6.8 Planning Notice

6.8.1 Initially attracted a high number of objections, some 200, from local and non-local people, including petitions of objection in 2020. 44 renewed objections have been received following the re-consultations in respect of additional documents in 2021 and eight objections received following the submissions in 2022. None received this year. These figures include several repeat objections/objectors and objection from the Rye Nature Reserve (Sussex Wildlife Trust) and Rye Conservation Society. The concerns raised are summarised as follows:

- Dangerous road with lots of vehicles.
- High noise levels.
- Accept provides work but should not extend working hours to early or through the night.
- Breaches of conditions.
- Lack of thought, morals and ethics with regard to residents.
- Light pollution.
- Increase in lorry traffic and fumes.
- Impacts to nature reserve and SSSI and the wildlife.
- Impacts to public enjoyment of the nature reserve.
- Noise impact assessment related to nearer residential properties and not the nature reserve.
- Lack of information to support increased wharf use.
- Should plant more trees.
- Increase in dust.
- Rocks dropped in road.
- Building higher than should be.
- Need traffic calming on the road.
- Impacts to adjacent church.
- Impacts on local tourism.

- Dust plan insufficient.
- They have spoiled the village.

6.8.2 Three letters of support. The comments are summarised as follows:

- This is an industrial area and those choosing to live here are aware of that. Access to the village is through the industrial estate. Subject to noise and light reducing measures it should be acceptable. With the recession we need all the employment possibilities we can.
- Rye Harbour is funded by vessels using Rye and cargo fees from commercial vehicles. Prior to the Applicants' use of the harbour, use had been in decline. Now it is thriving and proposals should seek to maximise the potential of the harbour asset for the local economy.
- Goods unload at the wharf and are unloaded into lorries for transport across the road to the site, using wharf equipment. This supports the viability of the wharf.
- The site is a large local employer.
- Lighting is shielded and the Applicant has resurfaced the site to reduce dust.
- Their vessels can only enter Rye on spring tides (twice a month) thus minimizing any disturbance and carbon footprint. This is usually no earlier than 6am, unless there is unusual and unpredictable weather condition change. There is no intention of unloading between 8pm and 6am which would be extremely unlikely and rare (only on rare occasions of unpredictable weather instances).
- Occasionally the wharf weighbridge is used as it is the closest to the site. This is open between 7am and 5pm Monday to Friday.
- Use of the wharf for the importation of goods considerable reduces the number of lorry movements via the road, as goods are only then exported via road.

6.8.3 Two letters of general comment. The comments are summarised as follows:

- Could the Applicant be required to undertake road maintenance?
- Could cladding help reduce noise?

## 6.9 Icklesham Parish Council – **OBJECTION**

6.9.1 Initially commented that "*Object on the basis of the impact extended hours will have on local residents, and the wider area, to increased levels of pollution from excessive noise, dust and light, along with the lack of a traffic assessment on the movement of additional heavy vehicles in Harbour Road and at the junction with the A259 into Rye.*"

6.9.2 Following the submission of additional noise and transport reports in 2021 questioned when and how the measurements were undertaken. Maintained their objection.

## 6.10 Rye Town Council – **GENERAL COMMENT**

6.10.1 Commented: *The increase HGV movements will have an adverse impact on the amenity of Rye residents living on/near the approach/departure routes - particularly during the night. The lighting proposed - and 24-hour working - will have a detrimental effect on wildlife and parishioners' enjoyment of the night sky. The junction of the A259 and Harbour Road is hazardous and needs to be improved in order to accommodate greater usage by HGVs.*

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## 7.0 LOCAL FINANCE CONSIDERATIONS

7.1 None applicable.

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## 8.0 APPRAISAL

8.1 The main issues for consideration include: Continued use of site for employment purposes; Impact on highway; Impacts on neighbours; Impact on biodiversity; Landscape impacts; Impact on heritage assets.

8.2 *Continued use of site for employment purposes*

8.2.1 The Long Rake Spar site is part of the Rye Harbour industrial area, and it is allocated as an employment site within the local plan and to be retained for employment purposes, in accordance with Policy DEC3 of the DaSA. Part (ii) of this policy also *permitting intensification, conversion, redevelopment and/or extension of existing sites and premises where they accord with other policies of the Plan*; While the area pre-dates the current planning system, the site has been used for concrete production and then later accommodated a large furniture business. The rear of the site was temporarily used as a waste transfer site prior to being purchased by the Applicants. It will also be noted from the consultation comments that Rye Wharf is allocated within the County Council Minerals and Waste Disposal Plan and its retention is seen as vital to the local economy not only of Rye but the wider county area and crossing also into Kent.

8.2.2 This application for variation of conditions does not propose to change the use of the site which would remain a commercial employment site. The variations in working hours are proposed to aid improvements in working practises at the site on weekdays. The existing pertinent conditions state:

*7. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site before 8.00am or after 6.00pm on weekdays; before 8.00am or after 1.00pm on Saturdays, or at any time on Sundays, Bank or Public Holidays.*

*Reason: To protect the residential amenities of the locality in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy and having regard to paragraph 123 of the National Planning Policy Framework.*

*8. In accordance with the Transport Statement, paragraphs 5.2.5 and 6.1.3, no more than 126 trips in total by HGV's shall occur at the application site on each of two days only in any calendar month. Those trips shall be undertaken by no more than 3 No. eight wheeler lorries running between the application site and Rye Wharf. No more than a total of 40 trips by other vehicles shall occur at the application site on those or any other working day.*

*Reason: To protect the residential amenities of the locality and having regard to the local highway situation, there being only one vehicular access route to the village of Rye Harbour, in accordance with Policies OSS4 (ii) and TR3 of the Rother Local Plan Core Strategy and having regard to paragraph 123 of the National Planning Policy Framework.*



8.2.3 The conditions were imposed having regard to the siting on the eastern edge of the industrial estate and closer proximity to the village and acknowledging the residential amenities and highway restrictions in that location. As such any variation of those conditions requires consideration of any potential impacts on the residential amenities of the area as well as in terms of highway, landscape and biodiversity issues, all of which are considered below.

### 8.3 *Impact on highway*

8.3.1 The changes to working hours do not propose any significant increase in vehicle movements to and from the site out towards Rye and the highway network. It is proposed to undertake 24-hour working within the building only for the washing/drying of the aggregates and not in relation to packaging and distribution.

8.3.2 Equally the change in times for use of the wharf is to allow the unloading of ships where on limited occasions the tide conditions precede 8am. The request is to be able to unload from 6am which may also increase the potential number of shipments. Any one shipment would not increase the HGV movements between the wharf and site, which would remain the same. While any increase in the number of shipments may increase the number of days on which movements take place, this would be limited local movements and not affect the wider highway network.

8.3.3 The associated Transport Statement indicates that with increased working hours there may be a potential at worse case, to increase HGV movements by 12 trips across an average working day, with six arrivals and departures, equating to around one additional movement in any direction every two hours. Neither the local Highway Authority or National Highways have an objection on this basis. The local Highway Authority further concludes that, *More imports by ship is also likely to reduce the number of traffic movements on the wider highway network.* A reduction in traffic movements on the wider highway network would be of benefit to other road users of the network as well as reducing potential carbon emissions.

8.3.4 As such there are no highway reasons to refuse the proposed variations.

### 8.4 *Impacts on neighbours*

8.4.1 It is noted that many of the initial objections and complaints to planning with regard to the site emanated from the temporary unauthorised use of a concrete crusher at the site in 2020, which generated significant noise and dust. This was ceased promptly. Since that time there have been some further complaints to planning regarding dust but none received this year.

8.4.2 In terms of complaints to Environmental Health, they advise that *there have been only two complaints made to environmental health since late 2021. One on 17 November 2021 and the second on 6 July 2022. Both of these from occupiers of the nearest residential properties in Harbour Road and relating to dust allegedly from the Long Rake Spar operations. No evidence to substantiate these complaints was ever obtained by officers witnessing, however the 2022 complainant did submit some video footage they had taken themselves from the site boundary indicating sporadic dust plumes from a loading shovel. It was unclear however as to when these videos were taken.*

*It is considered that the gradual improvement in the Dust Management Plan (DMP) and the implementation of both the practical and management dust control measures on the site have gone some way to reducing the level of complaint.* Environmental Health further comment on dust control measures and noise and shipments below.

#### 8.4.3 Dust Control Measures

These are identified and explained in detail in the 6th version of the Long Rake Spar DMP of July 2023. Very few of these measures were in place in the summer of 2020 when the majority of complaints about dust emissions arose. The physical measures include:

- Suppression of dust by the use of a tractor and water bowser and a forklift with spray bars on site roads and yards along with wet sweeping of Harbour Road during ship unloading.
- Water spray bars on the rinser/conveyor.
- Repair and re-surfacing of haul roads to prevent the accumulation of dust in ruts and potholes.
- The erection of a significant number of concrete walled storage bays for the storage of aggregate materials with a stockpile height marker at least 0.5 m from the top of the bay. This helps to limit the wind entrainment of dust. No longer are materials stockpiled for prolonged periods in the open and without protection from the wind.
- There are water spray bars fitted to the top of the bay walls so the stockpiles can be dampened down as and when they dry out or weather conditions dictate.
- A mobile mist unit has been provided to dampen down any problem areas as and when they arise.
- Continuous dust monitoring systems have been provided at the eastern site boundary and in the exhaust air discharge vents on the western side of the process building. These can be accessed for real time emission monitoring by appropriate staff who also receive warnings should specified set emission levels be approaching the predefined limits. The site boundary dust monitor system also incorporates weather station with wind speed monitoring and direction thus enabling corrective measures to be made to site activities if deemed necessary.
- Sheeting of loaded open trucks during ship unloading and bagging of finished and dried product in enclosed bulk bags.
- A range of management measures are also to be implemented including daily visual monitoring and reporting by site staff, changes in work practices should particularly dry and windy weather conditions prevail and damping down of stockpiles should they start to dry out.
- Employees are also now regularly health screened for lung capacity and by the use of personal dust dose monitoring devices.

The newly implemented dust control measures are outlined and will be included as operating conditions in the new environmental permit.

#### 8.4.4 Noise and Early Morning Ship

Unloading from discussions with LRS they would occasionally need the facility to be able to unload aggregate ships arriving at Rastrum outside of the “normal working day” e.g. 9 to 5. They advise that in a calendar year there may be approximately three occasions when it may be necessary to unload no earlier than 06:00. This is very much dependant on the tides and most unloading would take place between 07:00 and 20:00 at the latest.

- 8.4.5 A noise assessment undertaken by MRL acoustics in August 2020 identified that during a normal working day the unloading of ships would not unduly impact on those living nearest to the site. There remains the fact that a significant number of additional HGV movements at 06:00 could cause disturbance to the nearest residents. On this basis in order not to detrimentally affect the amenity of those living in the vicinity and to allow the company to conduct its ship unloading operations on a very few occasions in the early morning if the application is likely to be approved, I would recommend the imposition of a noise condition on the Churchfields site rather than refusing the requested variation to the ship unloading hours. A suggested condition is outlined below:

*At all times when the factory is operating the sound level rating from all site operations and activities (including the unloading of aggregate vessels) shall not exceed +5dB above background sound level (taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) during the hours of 06:00 and 23:00 and shall not exceed the background level ( taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) during the hours of 23:00 and 06:00*

*All measurements shall be taken in accordance with the methodology of BS 4142:2014 +A1:2019 – Methods for rating and assessing industrial and commercial sound (and/or its subsequent amendments)*

- 8.4.6 With regard to noise from the internal aggregate drying plant, relative to the request for 24-hour working of this, following relocation of the exhaust vents it is noted that at School Cottages (the closest residential properties), noise from the aggregate drying plant was not perceptible and consequently would not result in adverse effect on any residential amenity.
- 8.4.7 Having regard to the fact that this is a long standing and allocated industrial site, that the arrival of shipping prior to 8am would be on a very limited number of occasions and given the proposed conditions to restrict noise and still maintain limits on working hours in other respects, it is considered that an amendment and additional conditions could suitably mitigate the effects of any extension to the working hours. Similarly, a limited extension of the number of HGV movements would also not be considered significantly harmful to residents.
- 8.4.8 It is also noted that Environmental Health consider that compliance with the Environmental Permit would take precedent over any planning permission and as such they could take action regarding any non-compliance. Environmental Health have stated: *“The permit and the site operations will be subject to a routine annual compliance inspection by environmental health, can be varied or revoked if there are any material changes to the process or there is repeated ongoing non-compliance with conditions and will take precedent over any planning consent that may be granted with regard to emissions to air.”*

## 8.5 *Impact on biodiversity/habitats*

- 8.5.1 Natural England (NE) conclude that while the proposals could have an adverse effect on the integrity of Dungeness, Romney Marsh and Rye Bay Special Protection Area/Ramsar site (part of which is also designated as the Dungeness Special Area of Conservation (SAC)). And could damage or

destroy the interest features for which Dungeness, Romney Marsh and Rye Bay SSSI has been notified. In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured as part of any planning permission in relation to the proposal:

- The mitigation measures as outlined in the two submitted shadow Habitats Regulations Assessment which relate to this application and the application for the aggregate storage area within the same site, application RR/2022/2580/P.

8.5.2 NE comment that there are the following potential detrimental impacts from noise dust and lighting:

8.5.3 *Noise*

*Aggregate Tipping etc. and Drying Plant Operation: We welcome the inclusion of noise assessment points within the adjacent designated sites, as provided in the Noise Assessment report, Appendix A of the Aggregate storage area shadow HRA. The mitigation measures (including the 4m high wall along the western boundary with the SPA/Ramsar, and addition of fan exhaust noise attenuation) are also welcome.*

*Ship Unloading: It is also noted within the shadow HRA (J21108) that the ship unloading hours will be restricted to between 06.00 and 20.00 and that only the aggregate drying plant will be operating for 24 hours a day.*

8.5.4 *Dust*

*Airbourne and Surface Water Dust Pollution: The best practice construction methods, as detailed in sections 7.3.40 and 7.3.41 are welcome, as is the confirmation of mitigation measures that are in place and their assessment against the potential impact via these pathways, included within the shadow HRA (J21108).*

8.5.5 *Lighting*

*The mitigation measures as outlined in 7.3.32 and 7.3.33 are welcome, in particular, the confirmation that all lights will be downward pointing, cowed, warm white LEDs and that resulting lighting levels will be no greater than 1lux at the development site boundary.*

Such lighting design would ensure no light spill into the adjacent SSSI.

8.5.6 Having regard to the detailed assessments undertaken by NE the council has no reason to come to any other conclusions. Subject to a condition requiring compliance with the mitigation measures the proposals would not result in harm to the acknowledged importance of the protected habitats and local biodiversity.

8.6 *Landscape impacts*

8.6.1 The landscape and planting scheme is based on the approved scheme and utilises native species, with boundary planting to the roadside as well as the bund. The minor amendments include infilling of a gap in the bund on the eastern boundary following removal of a telegraph pole and at the southeast corner and rounding off the top of the bund with a slight increase to aid improvement of any noise and lighting matters. The reprofiling of the bund is

in accordance with Natural England advice to ensure that rainwater runs into the site and not to the neighbouring designated sites.

8.6.2 The bund and landscaping should now be completed and potentially this could be undertaken within the current planting season, to provide a positive and welcome enhancement to the site within the street scene and surrounding views.

8.6.3 With regards to the external amendments to the buildings, the cladding has been undertaken to obscure some unauthorised lighting panels on the elevations. The height of the building is as approved. Lighting and the position of the exhaust vent have been amended to reduce any impacts and in accordance with the noise and biodiversity mitigation requirements. These changes are required in order to mitigate the appearance of the buildings within longer views of the site and the potential effects on local biodiversity and habitats.

#### 8.7 *Impact on heritage assets*

8.7.1 The listed church and School Cottages to the east are separated by an area of the SSSI, which is fenced and unused. Existing trees separate the church from the boundary with the new bund extending the length of the east side boundary closer to the road. Once completed and planted this will further screen the site from these heritage assets. The setting in terms of the relationship of the listed buildings to the industrial estate would remain in principle unchanged but the enhanced landscaping would improve the visual setting. As such the proposals are considered to have a neutral impact and the variation to conditions would not have any significant harmful impacts on the heritage assets.

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## 9.0 **PLANNING BALANCE AND CONCLUSION**

9.1 The application site occupies a longstanding industrial site, that pre-dates the current planning system and is allocated for commercial and employment purposes within the local plan. Subject to other policy considerations, effective use and retention of employment sites is required by local Policy DEC3.

9.2 The proposed variations to the approved plans are supported both for the building elevations and the landscaping. The variations assist in mitigating impacts to the local area including both residential and in terms of habitats and biodiversity.

9.3 Following the submission of new and updated environmental reports, the proposed changes to working hours and ship unloading, subject to compliance with the mitigation detailed in the accompanying shadow Habitat Assessments, would not have negative impacts on the local sites of habitat importance. However, additional conditions are required to secure these.

9.4 The proposed changes to working hours and ship unloading, subject to additional conditions are not considered to result in harm to local residential amenity. In this regard, it is also noted that the site is now subject of an Environmental Permit and would be subject to *routine annual compliance inspection by Environmental Health*.

- 9.5 The proposed changes to working hours and ship unloading do not result in significant changes to vehicle movements and as such do not impact the wider highway network.
- 9.6 Having considered all aspects and obtained amendments and updated reports, the proposals subject to varied and additional conditions, are now considered to be policy compliant.

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**RECOMMENDATION: GRANT (FULL PLANNING)**

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**CONDITION 1 of planning permission RR/2017/2541/P has already been discharged with implementation of the development.**

**Condition 2 is varied as follows:**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Drawing No. 4330-220 Rev.B, Elevations, received 29/01/21

Drawing No. 4330-210 Rev.C, Landscape Plan, dated 12/01/2021

Drainage schedule

Shadow Habitats Regulations Assessment, Revision C, by Greenspace, dated June 2023

Transport Statement by DHA, dated November 2020

Noise Assessment Reports (2), by MRL Acoustics, dated August 2020

6th version of the Long Rake Spar Dust Management Plan of July 2023

Drawing No. LR/017/251, dated 07-12-17

Drawing No. C17002-010 rev. P1, dated 29-11-17

Drawing No. WM/146/502 rev.3, dated 19-03-18

Drawing No. LR/017/500 rev.2, dated 21-03-18

Landscape Statement by Lloydbore Ltd, dated 23/10/2017

Amended grass seed mix by Lloydbore Ltd, submitted with email 04-05-18

Surface Water Management Strategy by Rural Partners Limited, dated November 2017 (subject to the additional drainage details and compliance with conditions 4 and 5 below)

Tidax Drawing No. EMC-2018-006-01, dated 02/03/2018 (surface water drainage design)

Heritage Statement by ASE, version 2, dated September 2017

Planning Statement and Flood Risk Assessment by Rural Partners Limited, dated November 2017

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

**CONDITION 3 IS NO LONGER REQUIRED.**

**CONDITION 4 IS SUBJECT TO SEPARATE DISCHARGE AND REAPPLIED**

Prior to commencement of works to provide the surface water drainage system, a maintenance and management plan for the lifetime of the development, shall first be submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority.

Reason: To ensure the provision of a sustainable surface water drainage system and to prevent pollution of controlled waters and harm to the Site of Special Scientific Interest and avoid flood risk elsewhere, in accordance with the National Planning Policy Framework paragraph 167 and 174 and Policies OSS3 (viii), EN5 (ii) and EN7

of the Rother Local Plan Core Strategy and Policy DEN4 and DEN5 of the Development and Site Allocations Local Plan.

### **CONDITION 5 IS SUBJECT TO SEPARATE DISCHARGE AND REAPPLIED**

Prior to occupation of the extensions hereby approved, the surface water drainage design shown on Tidax Drawing No. EMC-2018-006-01, dated 02/03/2018, shall be implemented only in accordance with the approved drawing, unless any alternate details are first submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. Prior to occupation of the extensions, evidence (including photographs) of the construction of the drainage system to accord with the approved design details shall be submitted to the Local Planning Authority.

Reason: To ensure the provision of a sustainable surface water drainage system and to prevent pollution of controlled waters and harm to the Site of Special Scientific Interest and avoid flood risk elsewhere, in accordance with the National Planning Policy Framework paragraph 167 and 174 and Policies OSS3 (viii), EN5 (ii) and EN7 of the Rother Local Plan Core Strategy and Policies DEN4 and DEN5 of the Development and Site Allocations Local Plan.

### **CONDITION 6 REMAINS EXTANT**

The 'construction/maintenance methodology' agreed with Natural England including the planting details supplied by Lloydbore Ltd shall be adhered to with specific reference to the following matters:

- Prior to planting top of the existing bund, it is to be profiled as required so that any surface water run-off drains into the site, away from the adjoining Site of Special Scientific Interest.
- Planting of the face of the bund adjacent to the Site of Special Scientific Interest is to be timed so that soil conditions are suitable without the need for cultivation or watering.
- Landscape management, as with planting, is not to include irrigation.

Reason: To ensure the protection and preservation of the adjacent Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest and the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) and reduce any impacts on adjacent water levels, in accordance with Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocations Local Plan, the National Planning Policy Framework and the Habitat Regulations.

### **CONDITION 7 IS VARIED AS FOLLOWS**

With exception of the internally located aggregate drying plant, no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site before 6.00 or after 18.00hrs on weekdays; before 8.00 or after 13.00 on Saturdays, or at any time on Sundays, Bank or Public Holidays. In this regard for clarification it is noted that:

- Exceptionally, ONLY the aggregate drying plant within the building shall be operated for any 24-hour period
- Only deliveries from Rye Wharf and no other operations or deliveries, shall be taken at or dispatched from the site between the hours of 6.00 and 8.00 on weekdays.

Reason: To protect the residential amenities of the locality in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy, Policy DEN7 of the Development and Site Allocations Local Plan and having regard to paragraph 174 and 185 of the National Planning Policy Framework.

### **CONDITION 8 IS VARIED AS FOLLOWS**

In accordance with the Transport Statement, paragraphs 5.3.2 and 5.3.6, no more than 136 arrivals or departures in total by HGV's shall occur at the application site on any day that a shipment requires unloading from Rye Wharf, set to occur on no more than 18 days across any one calendar year. On all other days no more than 11 arrivals or departures in total by HGV's shall occur at the application site.

Reason: To protect the residential amenities of the locality and having regard to the local highway situation, there being only one vehicular access route to the village of Rye Harbour, in accordance with Policies OSS4 (ii) and TR3 of the Rother Local Plan Core Strategy and having regard to paragraph 110 of the National Planning Policy Framework.

### **CONDITION 9 IS VARIED AS FOLLOWS**

No floodlighting or other external means of illumination shall be provided, installed or operated at the site, except as hereby approved and in accordance with the shadow Habitat Regulations Assessment or in accordance with a detailed scheme which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise light spill and impacts on the river side and surrounding Site of Special Scientific Interest, thereby safeguard protected species and habitats and to safeguard the visual amenities of the locality in accordance with Policies OSS1 (iii) (e), OSS4 (iii) (iv), RY1 (ix) and EN5 (ii) of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocations Local Plan and chapter 15 of the National Planning Policy Framework.

### **CONDITION 10 IS VARIED AS FOLLOWS**

Bagging of aggregates shall only take place within buildings on the site with appropriate dust controls in place, in accordance with the 6th version of the Long Rake Spar Dust Management Plan of July 2023.

Reason: To protect the residential amenities of the locality and to prevent pollution of controlled waters and harm to the Site of Special Scientific Interest, in accordance with Policies OSS3 (viii), OSS4 (ii) and EN5 (ii) of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and Site Allocations Local Plan and the National Planning Policy Framework.

### **CONDITION 11 REMAINS EXTANT AND IS REAPPLIED**

The access, parking and turning arrangements for HGV's and staff cars shall be provided prior to occupation or use of the extensions hereby approved, as set out on approved Drawing No. WM/146/502 rev.3, dated 19-03-18 and shall hereafter be retained for those uses only.

Reason: To ensure that vehicles can enter and leave the site in a forward gear and park on-site, in the interests of the safety of persons and vehicles entering and leaving the access and proceeding along the highway, having regard to Policies TR3 and TR4 of the Rother Local Plan Core Strategy.

### **ADDITIONAL CONDITIONS ARE APPLIED**

12. At all times when the factory is operating the sound level rating from all site operations and activities (including the unloading of aggregate vessels) shall not exceed +5dB above background sound level (taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) during the hours of 06:00 and 23:00 and shall not exceed the background level (taken as a 15 minute LA90 at the boundary with the nearest noise sensitive premises) during the hours of 23:00 and 06:00



All measurements shall be taken in accordance with the methodology of BS 4142:2014 +A1:2019 – Methods for rating and assessing industrial and commercial sound (and/or its subsequent amendments)

Reason: To protect the residential amenities of the locality in accordance with Policy OSS4 (ii) of the Rother Local Plan Core Strategy, Policy DEN7 of the Development and Site Allocations Local Plan and having regard to paragraphs 174 and 185 of the National Planning Policy Framework.

13. No operations, processes or development hereby approved shall be undertaken within the site unless in full compliance with the mitigation measures set out in the Shadow Habitats Regulations Assessment, Revision C, by Greenspace, dated June 2023. This has specific regard to, (but not the only measures to be followed), in respect of noise, dust and lighting at paragraphs 7.3.4, .26, .29, .32, .36 and .37.

Reason: To ensure the protection and preservation of the adjacent Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest and the Dungeness, Romney Marsh and Rye Bay Special Protection Area and reduce any impacts on adjacent water levels, in accordance with Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and site Allocations Local Plan, the National Planning Policy Framework and the Habitat Regulations.

14. The landscape planting and alterations to the bund are to be completed within the current planting season, i.e. by the end of March 2024, in accordance with the approved plan Drawing No. 4330-210 Rev.C, Landscape Plan, dated 12/01/2021 and in accordance with the requirements of Condition 6 above.

Reason: To ensure the visual and green enhancement of the site and protection and preservation of the adjacent Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest and the Dungeness, Romney Marsh and Rye Bay Special Protection Area and reduce any impacts on adjacent water levels, in accordance with Policy EN5 of the Rother Local Plan Core Strategy, Policy DEN4 of the Development and site Allocations Local Plan, the National Planning Policy Framework and the Habitat Regulations.

**NOTE:**

1. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the Local Planning Authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest.

All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the National Planning Policy Framework (paragraph 38) and with the

Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.