



Assessment of Mistley Port for Tendring District Council

by Adams Hendry Consulting Ltd and
MDS Transmodal Ltd

November 2009

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TITLE: Assessment of Mistley Port

CLIENT: Tendring District Council

PROJECT NO: TDC/925

REPORT NO: TDC/925/091117/AB

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1. Introduction and Context for the Study

1.1 Tendring District Council (the Council) is preparing its Local Development Framework. One of the initial local development documents being prepared is the Mistley Waterfront and Village Urban Regeneration Area Supplementary Planning Document (the SPD). The Council is also in the early stages in the preparation of its Core Strategy Development Plan Document, including the compilation of the necessary evidence base.

1.2 Mistley Port lies at the core of the historical heart of the village, providing a source of local employment in a commercial port handling approximately 150,000 tonnes of cargo a year. The Port and adjoining land lies within the designated Conservation Areas and contains numerous listed and unlisted buildings of architectural and historic interest.

1.3 In order to inform the Council's preparation of the SPD, including the consideration of potential options, and subsequent policies and allocations in the Core Strategy and other DPDs, the Council commissioned Adams Hendry Consulting Ltd and MDS Transmodal Ltd (the Consultants) to undertake an assessment of Mistley Port and to provide advice to the Council on the future of the Port.

1.4 This report sets out the methodology adopted for the study and identifies the Consultants findings and recommendations to the Council.



2. Study Methodology

2.1 The overarching objective for the study is to provide the sound evidence base necessary to support the Mistley SPD, which will provide a positive planning framework for the future of the area. The report will also inform the preparation of new policies for Mistley Port through the Local Development Framework, and may form part of the evidence base for the Core Strategy and subsequent DPDs.

2.2 The agreed objectives for the study are to:

- Appraise the small port industry and provide information about current and likely future market demand (taking into account the current economic downturn)
- Provide a thorough analysis of the port in its present state, as it currently operates, to provide useful baseline information
- Test the options to be set out in the draft Mistley Waterfront and Village Urban Regeneration Area SPD currently being prepared by another consultancy on behalf of the Council, recommending which one should be the preferred option to help regenerate the area in accordance with the requirements of Policy LMM1 in the Adopted Local Plan
- Test the benefits of adding value-added processes on site and how this would affect the overall performance of the port (in particular, whether there would be an increase in the number and/or quality of jobs)
- Provide advice as to whether the port allocation to the east of Mistley Quay should be retained in the LDF for long term future port uses. Confirm what the site could be used for if retained for port uses, given the constraints of the site and adjacent environmental designations

2.3 For the avoidance of doubt, the terms of reference for our study do not extend to undertaking an assessment of the lawfulness of the current port operations or the buildings or structures within the port. We have been provided with no information by the Council to suggest that the existing operations on the site are unlawful. This report, and the advice it contains, has been prepared on this basis.

2.4 The study has been undertaken using a combination of site visits and meetings with relevant organisations, and the research and analysis of published and unpublished data and information.

2.5 An initial project inception meeting was held on 1st September 2009 with Council Officers and The Conservation Studio (the consultancy preparing the SPD on behalf of the Council). An initial site visit was undertaken the same day.

2.6 A meeting was held with the owners and operators of the Port, on 15th September 2009. The meeting was followed by a site visit to the Port and to the warehouse facility also owned by it at Wrabness.

2.7 Initial telephone contact was made with a number of other local stakeholders, including the agent acting for Edme Ltd and the agent acting for the option holder on the Mistley Marine site. Given the findings and conclusions set out in this report it was not considered necessary for further discussions with those parties during the preparation of this report, although they, TWL and others, will be key stakeholders in decisions on future policy for the area.

2.8 A meeting was held with Council Officers and The Conservation Studio on 19th October 2009 to discuss the overall findings and conclusions of this study. The final report was submitted to the Council in November 2009.



3. Spatial and Planning Context for Mistley Port

3.1 Spatial Context

3.1.1 Mistley Port is one of the Haven Ports, located in the heart of the village of Mistley, approximately 10 miles north east of Colchester, and 8 miles to the west of the Port of Harwich. Mistley is a small, private, independently operated Port that primarily handles bulk cargo. The Port is owned and operated by Trent Wharfage Limited (TWL) and its subsidiary Mistley Quay Forwarding (MQF). A description and analysis of the Port is provided in section 5 of this report.

3.1.2 The Port has developed over time alongside the development of Mistley. Initially focused on the shipment of wool, the port subsequently became a key centre for the shipment and processing of barley. Now listed, a number of the Maltings buildings are still located on the quayside, most of which have been converted into residential apartments.

3.1.3 Mistley lies within the Stour Estuary, a sensitive landscape and ecological location. The River Stour forms part of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, which is also designated as an SSSI. Land to the north of the Stour lies within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty (AONB), a nationally important landscape. The Council has an aspiration to secure an extension to the AONB to include land on the south of the Stour, including Mistley.

3.2 Existing Legislative Background

3.2.1 There are a range of different scales and types of ports in England, including a mix of private sector ports, trust ports and municipal ports. The larger private sector, trust and municipal ports and harbours, together with a number of the smaller sites, were established through local or private Acts of parliament that confer on the harbour authority and port operators various statutory duties and powers. Defined in law as “Statutory Undertakers”, these bodies or their lessees have extensive permitted development rights under Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (the GPDO) to undertake development on operational land for the purposes of shipping, or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods. These rights extend to the construction of significant buildings or structures without the need for a planning application.

3.2.2 We have not identified any information to suggest that TWL (or MQF) is a statutory undertaker as defined in section 262 of the Town and Country Planning Act 1990, nor that the land at Mistley Port is operational land as defined by section 263 of the same Act.

3.2.3 In these circumstances, the wide ranging permitted development rights that are offered to statutory undertakers on operational land would not apply at Mistley. Unless development falls within the various other classes of permitted development set out in the GPDO, planning permission would be required.

3.2.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms the principle of a plan-led planning system in England. This section states that:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

3.2.5 Sections 3.7 and 3.8 of this report assess development plan policy relevant to port development at Mistley. As context for this, we also summarise relevant national policy and guidance in sections 3.4 to 3.6 below.

3.2.6 The provisions of the Conservation (Natural Habitats &c) Regulations, 1994 are relevant to Mistley as the River Stour forms part of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, which is also designated as an SSSI. Regulation 48 requires a competent authority to consider whether there is a likely significant effect on the European site as a result of any proposed plan or programme. The Council is the competent authority in relation to land use planning matters, including plan making and the determination of planning applications.

3.3 Emerging legislation - Marine and coastal access bill

3.3.1 The Marine and Coastal Access Bill, currently before parliament, has the stated aim of delivering the Government’s vision of clean, healthy, safe, productive and biologically diverse oceans and seas. Proposals include a new UK wide system of marine planning that will involve the production of a new UK wide marine policy statement which will be implemented through a series of local marine plans applying to specific geographical areas. A new Marine Management Organisation (“MMO”) is proposed, which would be delegated responsibility for future marine planning.

3.3.2 Legislative changes are proposed to streamline, simplify and consolidate the marine licensing process, with the new MMO administering licensing and providing integration and consistency between licensing regimes. The MMO would be responsible for licensing and determining applications for development in the area up to mean high water (MHW).

3.3.3 It is unclear how these proposals would connect with existing plans and strategies, for example existing local development plans. Proposals by port and marine industries frequently span the administrative divide between the water and the land. The LPA’s jurisdiction encompasses as far as mean low water (MLW), however there is no clarity at the current time on whether the LPA’s or MMO’s plans would prevail in the overlap area between MHW and MLW, nor whether applications for consent would need to be made to both authorities in this area.

3.4 National Ports Policy

3.4.1 Current national ports policy consists of Modern Ports: A UK Policy (November 2000) and the Ports Policy Review Interim Report (2007). A draft National Policy Statement (NPS) on Ports was published for consultation in November 2009.

3.4.2 Current Policy recognises that the ports industry is market led and that ports serve the national interest, supporting the competitiveness of national and regional economies. It is in the national interest that the UK's ports remain able to handle current UK trade and its potential development efficiently and sustainably. The UK's success in globalised markets depends in part on the ability of ports to adapt and operate efficiently as gateways to international trade. The Government recognises that commercial port operators are best placed to make decisions about where and when to invest in the port sector – i.e. the ports industry is market led. The Government's main responsibility is to create the conditions in which investment is encouraged, and yet sustainability is ensured.

3.4.3 The policy emphasises that it is important to make the most of the transport infrastructure the country already has and ensure that it works effectively. It also recognises that the pressure for expansion from the market is greatest at ports handling container and roll-on roll-off traffic. The policy recognises that whilst ports have been created to take advantage of deep water, such environments are also of high importance to wildlife. It goes on to recognise that port operations need not be incompatible with nature conservation interests but that new infrastructure which would adversely affect environmentally sensitive areas must pass special tests.

3.4.4 The interim report indicates that the Government anticipates demand for port traffic is likely to exceed available capacity and in the absence of new development or large efficiency improvements over the coming decade this could potentially significantly constrain future economic growth.

3.4.5 In respect of safeguarding, the interim report recognises that the planning system, at regional and local level, remains best placed to determine needs for safeguarding significant port facilities, even where underused, given their potential value in the longer term. However, in the very long run, the report argues that where there are pressures for alternative use now, it is right to take into account the potential value of other land uses. Recommended guidelines include:

- a strong presumption against safeguarding where there is little realistic likelihood of the facility being brought back into significant port operational use within a period of fifteen years or where the alternative use being proposed can easily be terminated and the land reinstated to port use within that time;
- a strong presumption in favour of safeguarding where there is at least a reasonable likelihood of restitution to significant operational use within fifteen years and where the alternative use in contemplation is one, such as residential development, which will be difficult to reverse.

3.4.6 The report says that it is for individual decision-makers in the planning system to make judgements based on appraisals of costs and benefits on a case by case basis, in light of the above guidance.

3.5 National transport policy

3.5.1 In October 2007 the Government produced a discussion document 'Towards a Sustainable Transport System' (TaSTS). This set out how the Government was responding to: (i) the recommendations made in the study by Sir Rod Eddington to improve transport's contribution to economic growth and productivity; and (ii) how it is ensuring that transport plays its part in delivering the overall level of reductions in carbon emissions recommended by the Stern Review of the Economics of Climate Change. TaSTS defines the Government's transport goals in summary as wanting the transport system to:

- support economic growth;
- tackle climate change;
- contribute to better safety, security and health;
- promote equality of opportunity; and
- improve quality of life and promote a healthy natural environment.

3.5.2 In November 2008 the Government produced 'Delivering a Sustainable Transport System' (DaSTS) which set out how the approach set out in TaSTS was to be put into practice. It sets five goals:

- to **support** national **economic** competitiveness and **growth**, by delivering reliable and efficient transport networks;
- to reduce transport's emissions of carbon dioxide and other greenhouse gases, with the desired outcome of **tackling climate change**;
- to **contribute to better safety, security and health** and longer life expectancy by reducing the risk of death, injury or illness arising from transport, and by promoting travel modes that are beneficial to health;
- to **promote** greater **equality of opportunity** for all citizens, with the desired outcome of achieving a fairer society; and
- to **improve quality of life** for transport users and non-transport users, and to promote a **healthy natural environment**.

3.5.3 DaSTS identified the importance of aviation and shipping to the national economy, enabling UK firms to export their goods and services to world markets and give consumers access to a wide range of goods, thereby ensuring the continued availability of our energy supplies and other vital raw materials. Para 3.10 of DaSTS stated that *"there is no doubt that the UK will continue to be dependent on imports and that the vast majority by volume will arrive by sea"*. The report identifies what are considered to be critical items of national infrastructure, including the Haven Ports of Harwich and Felixstowe. It also identifies strategic national transport corridors, including one that links London to the Haven ports, and another linking the Haven Ports to the midlands.

3.6 Planning Policy Statements and Guidance (PPSs / PPGs)

Economic Development

3.6.1 PPG4: Industrial and Commercial Development states that one of the Government's key aims is to encourage continued economic development in a way which is compatible with its stated environmental objectives. Economic growth and a high quality environment have to be pursued together. Paragraph 10 of PPG4 states that local and regional policy and plans must offer the opportunity to:

- encourage new development in locations which minimise the length and number of trips, especially by motor vehicles;
- encourage new development in locations that can be served by more energy efficient modes of transport; and
- discourage new development where it would be likely to add unacceptably to congestion.

3.6.2 The Government published its draft PPS4 – Planning for Prosperous Economies – in May 2009. This is only draft at the current time (and as such is not Government policy and may be subject to change) but once approved will replace existing PPG4 and elements of PPS6 and PPS7. The draft is relevant as it indicates the current direction for emerging Government policy on economic development.

3.6.3 The introduction to Draft PPS4 recognises the important role of the planning system in providing certainty:

“The planning system affects investment by providing certainty about the uses land can be put to and by coordinating the pattern of infrastructure needed to support development. When firms and individuals are sure of the future use of their own and surrounding land then they are more likely to commit to investment.”

3.6.4 It goes on to identify the importance for planning to be based on “an understanding of the needs of business”, as failure to do this can “represent a barrier to employment and productivity growth”. The draft PPS recognises however that “it is not the role of the planning system to restrict competition, preserve existing individual commercial interests, or to prevent innovation.”

3.6.5 Draft PPS4 Policies EC2.2 and EC4 state that regional and local planning authorities should set out policies to identify, protect and promote key distribution networks, and “locate or co-locate developments which generate substantial freight movements in such a way as to minimise carbon emissions.” The draft PPS indicates that these should be in sustainably sited locations, “so as to avoid congestion and to preserve local amenity interests as far as possible whilst ensuring accessibility (including to rail and water transport where feasible)”.

3.6.6 Draft PPS4 Policy EC4 also requires local planning authorities to support existing business sectors, “taking account of whether they are expanding or contracting”. The Draft PPS states that LPAs should ensure that site allocations, “particularly for single or restricted uses”, should not be

carried forward into a new Plan “*without evidence of the need and reasonable prospect of their take up during the plan period*”. The guidance goes on to state that “*If there is no reasonable prospect of a site being used for the allocated economic use during the plan period, the allocation should not be retained, and wider economic uses or alternative uses, such as housing, should be actively considered*”. LPAs are also encouraged to make the most efficient and effective use of land and buildings, and promote new uses for vacant or derelict buildings, including historic buildings.

3.6.7 In terms of the overall approach to be taken in determining applications, Draft PPS4 Policy EC12 states that LPAs should “*adopt a positive and constructive approach towards planning applications for economic development*”, noting that “*where a planning application for economic development ... is in accordance with the development plan it should normally be approved.*” The guidance goes on that LPAs “*should consider proposals ... favourably unless there is good reason to believe that the social, economic and/or environmental costs of development are likely to outweigh the benefits*”.

Transport and Freight Transport

3.6.8 In terms of freight activity, PPG13 Transport and Planning, acknowledges that road transport is likely to remain the main mode for many freight movements, but also states that land use planning can help to promote sustainable distribution, including where feasible, the movement of freight by rail and water. PPG13 requires LPAs to identify and protect existing and potential sites and routes for freight transport and, where possible, to “*locate developments generating substantial freight movements such as distribution and warehousing, particularly of bulk goods, away from congested central areas and residential areas, and ensure adequate access to trunk roads*”. LPAs are also asked to promote opportunities for freight generating development to be served by rail or waterways.

3.6.9 PPG13 recognises that freight movement can impact on local communities, paragraph 46 stating that “*Policies need to strike a balance between the interests of local residents and those of the wider community, including the need to protect the vitality of urban economies, local employment opportunities and the overall quality of life in towns and cities*”. PPG13 promotes joint working to agree on lorry routes, loading and unloading facilities, and on reducing vehicle emissions and vehicle and delivery noise levels.

3.6.10 Dealing specifically with ports, paragraph 10 of Annex B to the PPG confirms that LPAs should “*work with the ports and shipping industries when preparing development plans and dealing with development proposals*”. Annex B goes on to note in paragraph 11 that LPAs should take particular care when allocating sites for port use to ensure they are viable, “*to avoid causing unnecessary blight and to secure the economic and regeneration benefits of developing sites for port or port related uses*”. LPAs are asked to encourage the full use of existing facilities, and ensure rigorous appraisal of new facilities or expansion with new land take. Developments which are incompatible with any nearby port operations should “*be avoided*”.

Conservation of the Landscape, and the Natural and Built Environment

3.6.11 PPS7: Sustainable Development in Rural Areas states in paragraph 22 that major developments should not take place within national designated landscapes “*except in exceptional circumstances*” and that “*applications for all such developments should be subject to the most rigorous examination*”. Major developments should be demonstrated to be “*in the public interest*”.

before being allowed to proceed", being subjected to three tests set out in paragraph 22. Mistley does not lie within a nationally designated landscape, however it is the stated policy intention of the Council that the AONB to the north of the Stour should be extended to the south of the river, which would include Mistley.

3.6.12 PPS9: Biodiversity and Geological Conservation PPS9 details Government guidance for the protection and enhancement of biodiversity, including designated and undesignated sites and habitats. The highest level of protection is afforded to internationally protected sites such as the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, which is also designated as an SSSI. For all development proposals, PPS9 seeks to protect and enhance biodiversity and to secure measures to mitigate any adverse impacts arising from the development.

3.6.13 Consultation Draft PPS15 contains a series of draft policies on the protection of heritage assets, including archaeological sites, ancient monuments, conservation areas and listed buildings. The draft PPS continues the policy protection afforded by existing PPG15 and 16, seeking the preservation and enhancement of heritage assets through plan making and the determination of planning applications. This guidance is relevant to Mistley Port given the presence of ancient monuments, listed buildings and a designated conservation area within and adjoining the port.

3.6.14 PPG 20: Coastal Planning recognises the coast as an important national resource. The guidance states that coastal habitats of national and international importance should be protected and conserved and that policies should seek to minimise development in areas at risk from flooding, erosion and land instability. PPG20 states that development plan policies should normally not provide for development which does not require a coastal location. Examples of developments requiring a coastal location include: tourism; recreation; developments, including ports, marinas and industries importing bulky raw materials, that depend on access to the sea. The consultation paper on draft PPS20, published in July 2009, continues the focus on coastal protection, including draft policy guidance on the climate change implications for coastal areas.

3.7 Development Plan Policy relevant to Mistley Port

3.7.1 As set out in paragraph 3.2.4 above, applications for development must be determined in accordance with the development plan unless material considerations indicate otherwise. At the time of writing this report, the Development Plan comprises the following individual plans:

- the East of England Plan – Regional Spatial Strategy (RSS 14), adopted in May 2008
- Saved policies in the Essex Minerals Local Plan, adopted in January 1997
- Saved policies in the Essex and Southend Waste Local Plan, adopted in September 2001
- Tendring District Local Plan, adopted December 2007

3.7.2 The Development Plan contains policy at regional and local level on economic development, transport and freight, and landscape and the conservation of the built and natural environments. In most cases this policy guidance follows or repeats the national guidance summarised above. A summary of Development Plan policy considered to be specifically relevant to planning the

development of Mistley Port is set out below (this does not repeat the general policies in relation to conservation etc).

3.7.3 RSS Policy SS5 identifies the Haven Gateway as a sub-region of significant deprivation in need of regeneration (the sub-region is also identified as a Government New Growth Point). A significant proportion of the region's growth in new jobs and housing is expected to take place within the sub-region and funding is allocated for new infrastructure to support regeneration and facilitate these high levels of growth. Policy HG2 states that within the sub-region the LPAs should support a competitive business environment, including through *“supporting the maintenance and appropriate expansion of the ports, maritime and related activities, recognising the role they play in making the sub-region a major economic growth point ...”*.

3.7.4 RSS Policy T10 gives priority to the efficient and sustainable movement of freight, with the aim of maximising the proportion carried by rail and water where those are the most efficient modes. The Policy seeks the safeguarding of *“existing well-located freight wharves and facilities for rail and water freight interchange ... where there is a reasonable prospect of developing them for port operational uses”*. It also seeks protection for previously used rail accessible sites where there is a reasonable prospect of developing them for rail freight uses. The supporting text (paragraph 7.26) recognises the importance of smaller ports, stating that *“Opportunities for moving freight along the coast and on inland waterways are encouraged by national policy and coastal shipping could lead to increased use of the region's smaller ports.”*

3.7.5 RSS Policy T11 promotes the management and enhancement of access to the region's ports *“to support their development and enable them to contribute to national and regional objectives for economic growth and regeneration”*. The policy states the priority of maximising the proportion of freight, particularly longer distance freight, moved by modes other than road.

3.7.6 At the county level, Mistley Port is not identified in any of the saved policies in the Essex and Southend Minerals Local Plan as either an existing or safeguarded minerals/aggregates wharf. The Essex Minerals Development Document Site Allocations is in the very early stages of preparation. The Issues and Options paper for this DPD (currently published for consultation) does not identify Mistley Port as an existing minerals wharf facility, nor propose that it should be safeguarded for future use.

3.7.7 At the local level, there are a number of policies relevant to Mistley Port in the adopted Local Plan. Policy QL6 identifies Mistley Waterfront and Village as an Urban Regeneration Area, with Policy LMM1 then providing the specific policy provision for that area, stating that:

“New development in the Mistley Urban Regeneration Area will be required to:

- i. provide for the promotion of a balanced community, including an appropriate range of opportunities for the protection and enhancement of the historic environment (having particular regard to the maritime heritage of the area) and the provision of new housing, employment, tourist, recreation and leisure facilities;*
- ii. protect the employment base of Mistley through the provision of alternative employment facilities to replace any potential loss of employment;*

- iii. *protect the port operations;*
- iv. *have regard to the potential for port uses of existing buildings, before allowing any change of use;*
- v. *allow for access arrangements which do not increase current levels of HGV traffic on the High Street;*
- vi. *provide or allow for sustainable and managed public facilities and non-motorised public access to the waterfront, including a public footpath link in all the non-commercial areas and a public right of mooring along the quayside;*
- vii. *enable the development of views across the Stour Estuary; and*
- viii. *protect the adjoining nature conservation interests, biodiversity and landscape quality during construction work and thereafter.*

New development at the western end of the Urban Regeneration Area must respect the character and setting of the Mistley Towers Scheduled Ancient Monument.

To promote new development in accordance with these requirements, the Council will prepare a Supplementary Planning Document for the Mistley Village and Waterfront area.”

3.7.8 This policy sets out a series of policy requirements relevant to the Port. We review the specific implications of this Policy for the Port in section 3.8 below. The SPD referred to in the last paragraph is currently in preparation, and the potential options being considered through the SPD process are commented on in Section 6 of this report.

3.7.9 Local Plan Policy LMM1a allocates land to the east of Mistley Port for port expansion. The policy states that:

“3 hectares of land to the east of Mistley Quayside is allocated and safeguarded as land for port expansion. Proposals will need to demonstrate that they will not cause any harm to the adjacent special protection area nor damage the character of the estuarine landscape”.

3.7.10 We assess and comment on the implications of this Policy for the Port in section 5.9 of this report and also comment in that section on Policy TR10 relating to rail freight.

3.7.11 Local Plan Policy ER3 protects existing employment land from alternative uses unless an applicant can demonstrate that *“it is no longer viable or suitable for any form of employment use”*. Applicants promoting redevelopment or change of use must provide evidence to support an application. Appendix 3a to the Plan provides further guidance on this issue.

3.7.12 Local Plan Policies COM15, 15a and 16 relate to recreational activities and recreational facilities for coastal and estuarine areas. Policy protection is afforded for existing facilities, although a more precautionary approach is taken to new facilities which must avoid impacts on European and other nature conservation designations. Specific reference is made to the sensitivity of the Stour estuary in paragraph 12.31.

3.8 Policy requirements arising from Local Plan Policy LMM1

3.8.1 Policy LMM1 is relevant to the potential future operation, development or redevelopment of areas within the Port, or its expansion into land not currently in use by the port.

3.8.2 This policy requires that new development within the urban regeneration area (URA) meets various detailed criteria as set out in the policy. It is important to note that the wording of the policy is such that it only relates to new development. It does not impose any requirements on lawful existing uses and operations. Policy LMM1 relates to future development proposals for, or potentially affecting, the Port in the following ways.

3.8.3 Criterion (i) requires that new development provides for the “*promotion of a balanced community*”, specifically referring to the protection and enhancement of the historic environment and the provision of a range of potential uses in new developments. This requires the Council to consider the most appropriate range and mix of uses for the area and the importance of the historic environment, both in preparing the SPD and through determining individual planning applications. This criterion does not, on its own, appear to place specific requirements on the port.

3.8.4 Criterion (ii) requires new development within the URA to provide “*alternative employment facilities to replace any potential loss of employment*”. In determining proposals for development, the Council will have to consider whether there would be any potential loss of employment and if so, to secure alternative employment facilities. The term “*loss of employment*” does not specifically relate to land in employment uses and so could be taken more widely to refer to any development proposals involving the loss of employment (i.e. jobs). The requirement to provide “*alternative employment facilities*” is not defined in the policy either by reference to the scale or geographical location of the alternative facilities. The wording is such that a proposal could include alternative facilities of a smaller scale, and located outside of the URA area, and potentially still comply with the policy. Irrespective of this wording however, Local Plan Policy ER3 protects existing employment land from alternative uses unless an applicant can demonstrate that “*it is no longer viable or suitable for any form of employment use*”. Applicants promoting redevelopment or change of use must provide evidence to support an application. Proposals for the redevelopment of port land, or the change of use or redevelopment of other employment land in the URA area would need to be assessed against this criterion.

3.8.5 Criterion (iii) requires new development to “*protect the port operations*”. The criterion is positively worded and there is no requirement for any “*harm*” to port operations to be demonstrated. This requires the Council to make an assessment as to whether port operations would be protected by development that is proposed within the URA. The phrase “*port operations*” is not defined in the policy or supporting text. Proposals for the development of land or buildings currently in port use would clearly need to be considered against this criteria. Additionally, proposals for the development of land or buildings with the potential for port use would also need to be assessed, to consider whether their development would protect port operations.

3.8.6 Criterion (iv) requires that in considering applications for change of use, the Council must have regard to “*the potential for port uses of existing buildings*”. As Policy LMM1 relates to the URA as a whole, this requirement applies to proposals for change of use across the majority of the settlement of Mistley. However, we consider that the potential for port use of existing buildings would be greatest for those buildings lying physically within, adjacent to, or in close proximity to the port.

Proposals for the change of use of buildings such as the Edme quayside warehouse, or buildings on the main Edme site to the south of the High Street would fall to be considered against this criterion. Should applications be proposed for the change of use of buildings currently in employment use, the provisions of Policy ER3 (referred to above) would also apply.

3.8.7 Criterion (v) requires new development to *“allow for access arrangements which do not increase current levels of HGV traffic on the High Street”*. The criterion requires new development to *“allow for access arrangements”* which do not increase levels of HGV traffic on the High Street. The policy wording does not require there to be no increase in HGV traffic itself, although this is likely to have been the intention of the wording. Development that proposes the use of alternative access points for the port, including the intensification of the use of the access opposite the railway station, would have to be considered against this criterion. The policy wording appears to prefer towards the retention of the existing main access to the Port adjacent to Mistley Towers.

3.8.8 Criterion (vi) requires new development to provide or allow for non-motorised public access to the waterfront, including a public footpath link in all non-commercial areas. It also requires new development to provide or allow a public right of mooring along the quayside. The specific exclusion of the requirement for public footpaths within commercial areas is recognition of the potential for conflict between operational requirements such as health and safety, and the desire to secure public access. Whilst applying across the URA, only development proposals that directly relate to the quayside area could allow or provide these policy elements. Where no existing rights of access, footpaths or public moorings exist, negotiations with applicants and landowners would have to be undertaken to secure such rights as a form of “planning gain” through the determination of individual planning applications.

3.8.9 Criterion (vii) requires development to *“enable the development of views across the Stour Estuary”*. Although not explicit, we consider this wording to relate to the protection of existing views and the development of new views, for example, through the careful orientation of buildings that may be proposed in the redevelopment of existing sites.

3.8.10 Criterion (viii) requires that new development protects nature conservation, biodiversity and landscape quality both during and post construction. This policy aspect would be met through the sensitive design of new development and the use of appropriate construction techniques and mitigation measures.

3.8.11 The final part of the Policy requires new development at the western end of the URA to *“respect the character and setting of the Mistley Towers Scheduled Ancient Monument.”* This requires a high standard of design, and sensitive layout planning for any development or redevelopment in the vicinity of the Towers.



4.0 Appraisal of small port industry

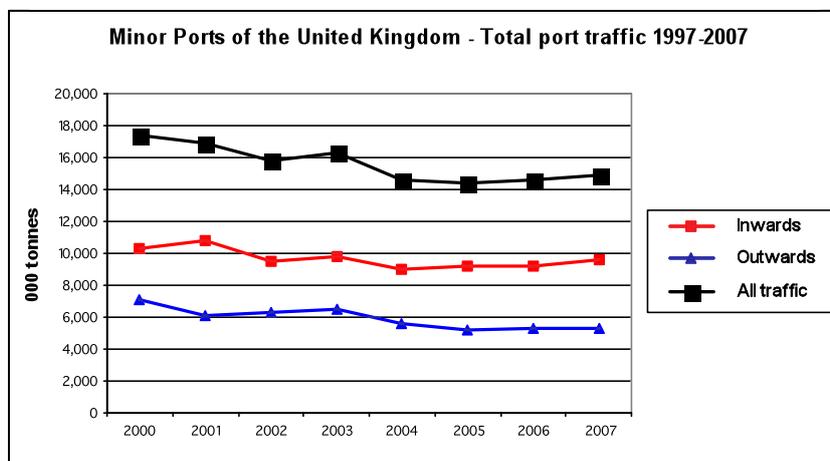
4.0.1 A key aspect of this study is to identify relevant factual information on the current and future prospects for the small ports industry, as context for the consideration of Mistley Port.

4.1 Overview of the GB Ports industry

4.1.1 Great Britain is a maritime nation and relies on its ports for trade. Around 95% of Britain's trade, in volume terms, is seaborne. There are around 120 commercial ports in the UK, which in 2008 handled some 563 million tonnes of cargo. The industry has experienced continual growth since the Second World War. That growth has been maintained at an overall rate, in terms of tonnages handled, of around 1% per annum over the 20 years between 1988 and 2008.

4.1.2 Around 60 'Major Ports' handle approximately 97% of the total port traffic volume. These range between Grimsby & Immingham, handling over 60 million tonnes per annum, to ports such as Poole and Newhaven, which handle around 1.5 million tonnes. Felixstowe (handling 25m tonnes in 2008), Harwich (3.3m tonnes) and Ipswich (2.6m tonnes) all fall into the Major Ports category.

4.1.3 The remaining 3% of traffic, amounting to 14 million tonnes in 2008, is handled at 61 'Minor Ports', which are classified by the Department for Transport (DfT) as ports handling less than 1 million tonnes per annum. Mistley Quay falls into this category alongside ports such as Lowestoft, Wallasea, Mostyn, Barrow, Workington and Silloth, to name just a few.



Source: DfT Maritime Statistics, 2007

4.1.4 International traffic (as opposed to domestic coastal) has led the overall increase in UK port traffic generally, with imports growing particularly strongly in the last ten years. There have been significant differences between the performance of the different modes of appearance, with unitised cargo (i.e. containers and roll on-roll off (ro-ro) traffic) growing more rapidly than the bulk sectors. Major Ports (such as, particularly, Felixstowe, Southampton, London, Liverpool and Dover) have benefited from this trend.

Table 4.1: Composition of UK Major Port Traffic by Mode of Appearance

Mode of appearance	1998		2007		% change '97-'07
	Million tonnes	% of total	Million tonnes	% of total	
Liquid bulk	280.5	49.8%	250.6	43.3%	-10.7%
Dry bulk	125.2	22.2%	133.7	23.1%	+6.8%
Containers & Roro	132.1	23.5%	166.2	28.7%	+25.8%
Semi bulk	22.4	4.0%	24.4	4.2%	+8.9%
Conventional	2.9	0.5%	4.4	0.8%	+51.7%
Total	563.1	100%	579.3	100%	+2.9%

Source: DfT Maritime Statistics, analysis by MDS Transmodal

4.1.5 With the increase in trade and globalisation of world markets so UK ports have seen a general decrease in exports, reflecting the decline in the UK's manufacturing base and growing competition from overseas producers, and an increase in imports, reflecting our growing appetite for consumer goods produced in other parts of the world. We have experienced strengthening trade links with the EU, which has promoted the increase in short sea business with the Continent, and which has favoured the east coast, Thames estuary and cross-Channel ports, and the growth of deep sea trade, especially in the container trades. Alongside these trends has been the general growth in ship sizes, in order to achieve scale economies, which in turn has favoured the deep water ports.

4.1.6 The volume of cargo passing through ports is not the only determinant of the physical demands that ports are required to fulfill. In particular, the physical parameters of ships involved in the deep sea or short sea trades are quite different and have a significant bearing on the requirement for port facilities, as well as on port productivity and overall port capacity. Deep sea vessels require deep water, specialised facilities and significant storage facilities to accommodate large volumes of cargo. Short sea vessels can usually operate into a wider range of ports, with less depth of water and can also be accommodated at ports closer to the inland origin and destination of cargo; the principal exception to this rule are short sea ro-ro vessels, which require specialist handling facilities and (usually) large areas of land for the storage of cargo in units.

4.1.7 The fall out of these general trends for the Minor Ports has been that some of the smaller, shallower ports have lost business or even become closed to commercial shipping as ships have become bigger and trade consolidated at the larger ports, while those that remain in business have done so because of a variety of factors, be it their particular geography or location, proximity to a particular industry or importer, particular transport links, or the business strategy pursued over time by the port owner. Often a port's *raison d'être* is a combination of all of these factors.

4.1.8 A common factor linking Minor Ports is that they tend to specialise in handling smaller bulk and 'semi-bulk' products (usually bagged or palletised materials) and 'general cargoes' in volumes that are possibly less attractive to the Major Ports. These trades feature agricultural products, fertilisers, construction materials, timber, steel products, scrap and aggregates and a range of minor ores and minerals. A large proportion of this type of trade is intra European; the vessels employed are relatively small, so creating a market for smaller ports. A discussion of the broad trends in these market sectors follows in section 4.3.

4.2 Overview of the Haven ports

4.2.1 Most of the UK ports industry is in the hands of the private sector, with ownership of the Major Ports divided between five major groups: Associated British Ports (ABP), Forth Ports, Hutchinson Port Holdings (HPH), Peel Holdings and PD Ports. Almost 40 ports are in the control of these five groups. Many of the smaller ports (and a few of the larger e.g. Dover) are trust ports or municipal ports run by local authorities. The remainder are privately owned and operated by small businesses.

4.2.2 In Harwich Haven, the ports of Felixstowe and Harwich are owned and operated by HPH, while Ipswich is an ABP port. Felixstowe is the UK's biggest container port and is focused on the expansion of the port for this business. Harwich majors on short sea ro-ro services, but is also equipped to handle a range of bulk cargoes as well as cruise ships. Navyard Wharf is a private wharf operated by the Harwich Dock Company Ltd., and handles primarily ro-ro and semi container services between the UK, North Continent, Baltic and North Africa. Some heavy lift items or 'project cargoes' are also occasionally handled including, for example, components for wind farm construction.

4.2.3 The Harwich Haven Authority is the Competent Harbour Authority (CHA) for the Haven and is responsible for securing the safety of navigation in the estuary through maintenance of the main shipping channels, provision of navigational aids and provision of pilotage and towage, where necessary. HHA is not involved in the commercial operation of any of the ports within its jurisdiction, but derives income from conservancy dues paid by ships entering the estuary.

4.2.4 Mistley Quay is an independently operated, small, private port. It is in competition with Ipswich and Harwich for some of the cargoes handled. Some shipowners see the port's independence from the major groups as an advantage and its comparatively low overheads mean that the port can offer competitive prices on the handling and storage of certain cargoes. The availability of off-dock storage facilities at Wrabness enables the port, to an extent, to overcome the limitations of space at Mistley Quay, though this imposes an additional handling charge to the cargo owner.

4.3 Future prospects

4.3.1 MDS forecasts produced for the DfT in 2005 and updated in 2007 examined the underlying trends in each of the trade sectors served by UK ports. This work covered the economic drivers affecting the major commodity trades, production and consumption trends, and the resulting forecasts included two key assumptions: (i) that port capacity was unconstrained and (ii) that there is no change in current port market shares. These are 'high level' forecasts that examine the 'bigger picture' to provide a broad context to describe and explain the existing national situation and how it might develop in the future.

4.3.2 The forecasts for the 'other dry bulk', 'agricultural products' and 'general cargo' sectors that are relevant to Mistley indicated a steady state, where neither spectacular growth nor decline is anticipated. Summary forecasts for these three sectors are shown in tables 4.2 - 4.4.

4.3.3 A pessimistic outlook for agricultural products is largely linked to the decline of the national herds and hence drop in imports and the domestic coastal shipping of animal feeds, whereas international imports and exports of cereals, in the long term, are expected to remain the same as the average of flows in the last ten years.

4.3.4 These are national forecasts that indicate what is expected to happen in ports collectively engaged in these trades in the longer term. At the individual port level it is a fact that different cargoes will come and go, and ports will be engaged in continually seeking new cargoes.

Table 4.2: Great Britain Agricultural Products, Central Forecast to 2030 (Million tonnes)

	Direction	2005	2010	2015	2020	2025	2030	% Change 2005-2030	% CAGR
International	Imports	7.1	6.6	6.4	6.3	6.2	6.1	-14%	-0.6%
	Exports	3.7	3.2	3.2	3.2	3.2	3.2	-14%	-0.6%
Domestic	Inwards	0.2	0.1	0.1	0.1	0.1	0.1	-48%	-2.5%
	Outwards	0.7	0.6	0.6	0.6	0.6	0.6	-0.6%	..
Total	Total	11.6	10.5	10.4	10.2	10.1	10.0	-14%	-0.6%

Source: MDS Transmodal

Table 4.3: Great Britain Other Dry Bulks, Central Forecast to 2030 (Million tonnes)

	Direction	2005	2010	2015	2020	2025	2030	% Change 2005-2030	% CAGR
International	Imports	11.1	10.1	10.2	10.2	10.2	10.2	-9%	-0.4%
	Exports	10.2	10.3	10.3	10.3	10.3	10.3	+1%	..
Domestic	Inwards	15.6	17.1	17.4	17.4	17.4	17.4	+12%	+0.4%
	Outwards	3.5	4.2	4.2	4.2	4.2	4.2	+23%	+0.8%
Total	Total	40.3	41.6	42.1	42.1	42.1	42.1	+4%	+0.2%

Source: MDS Transmodal

Table 4.4: Great Britain General Cargo, Central Forecast to 2030 (Million tonnes)

	Direction	2005	2010	2015	2020	2025	2030	% Change 2005-2030	% CAGR
International	Imports	3.4	4.5	4.5	4.5	4.5	4.5	+64%	+2.0%
	Exports	1.4	1.4	1.4	1.4	1.4	1.4	+3%	+0.1%
Domestic	Inwards	0.8	0.2	0.2	0.2	0.2	0.2	-77%	-5.7%
	Outwards	1.6	0.6	0.6	0.6	0.6	0.6	-60%	-3.6%
Total	Total	7.1	7.7	7.7	7.7	7.7	7.7	+8%	+0.3%

Source: MDS Transmodal

4.4 Impact of the economic slowdown

4.4.1 In the short term it is the case that the UK port industry has suffered the effects of the economic slowdown and the reduction in business has been experienced across the board by large and small ports alike. Ports involved with imports and exports of trade cars and container ports have been especially badly hit.

4.4.2 Provisional UK government figures show a marked decline in traffic through British ports in 2009. For the four quarters ending Q2 2009 total port traffic was 7% down. Inward traffic was down 8% and outward traffic down 6%. The number of units (i.e. containers and ro-ro units) handled was down 11%. Inward traffic was down 14% and outward traffic down 8%.

4.4.3 The construction business has also been badly hit and many trades handled at small ports including imports of building materials, aggregates, steel products and timber have all taken a downturn. Mistley has not been immune to these effects.

4.4.4 In spite of the slowdown, the general economic drivers of the port business, alluded to in section 4.1, are still relevant and a recovery and return to growth is anticipated within the next two years.

4.5 Key findings relevant to this study

4.5.1 Mistley is a Minor Port actively engaged in international and domestic coastal trade. Mistley has sufficient water depth to accommodate most vessels involved in these trades, but faces some operational disadvantages as quayside space is inadequate for anything other than short-term storage.

4.5.2 The key commodities handled are:

- Agricultural products, (bulk cereals, fertilisers (bulk and in bags))
- Building materials (e.g. stone, cement, aggregates, palletised goods such as bricks and concrete blocks)
- Minor ores and minerals (e.g. rock salt)
- Metals (e.g. zinc ingots, copper plate, steel products)

4.5.3 The markets for these types of commodities, particularly those related to the construction industry, are susceptible to economic fluctuations and 2008/9 has been difficult for most ports.

4.5.4 In the dry bulk and semi bulk markets, the main sectors in which Minor Ports, such as Mistley compete, the longer term prospects are for a return to a more stable market, albeit with relatively low projected growth.

4.5.5 The general role and key advantages offered by Minor Ports include the following:

- To provide a local port for shippers/receivers within the local hinterland, providing an alternative to moving goods by road to/from more distant, larger ports and thereby offering the potential for transport cost savings;
- Attractive to shippers and receivers of smaller sized consignments moved in small vessels;
- Can offer competitive prices compared with some of the major ports;
- In the long term the use of Minor Ports is consistent with EU/UK modal shift policy and the promotion of short sea shipping, providing the possibility of sustainable transport solutions and reduction of lorry miles.



5. Appraisal of Mistley Port

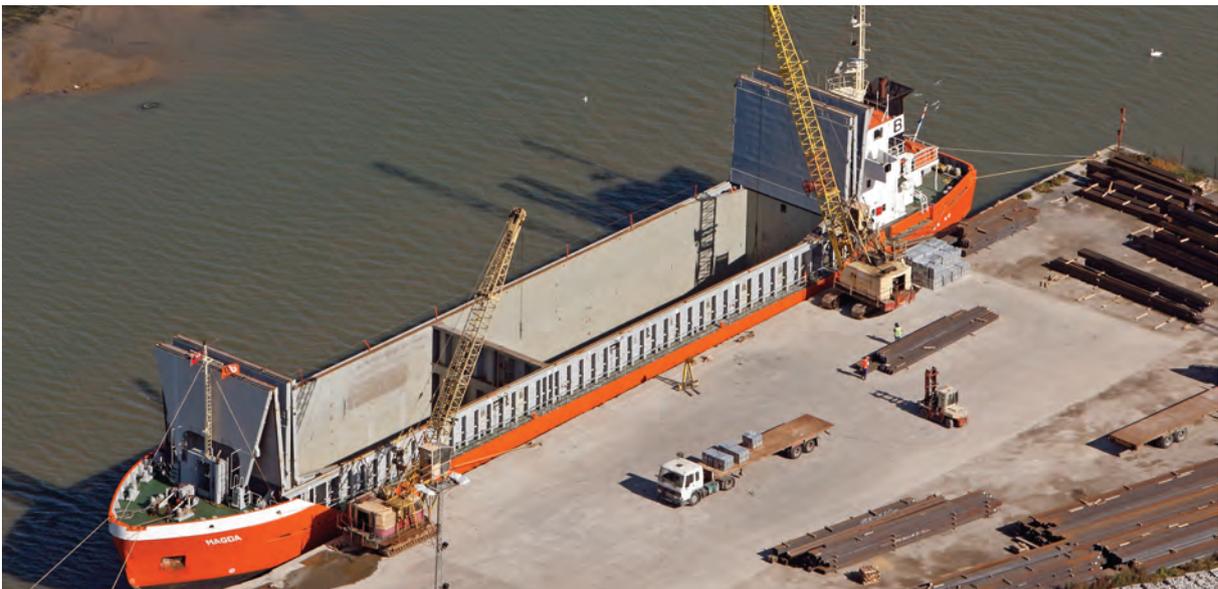
5.1 Existing port facilities

5.1.1 The commercial port facilities at Mistley are incorporated over a total working quay length of 500 metres. Covered storage is located at the western end of the Mistley Quay in the Stockdale warehouse.



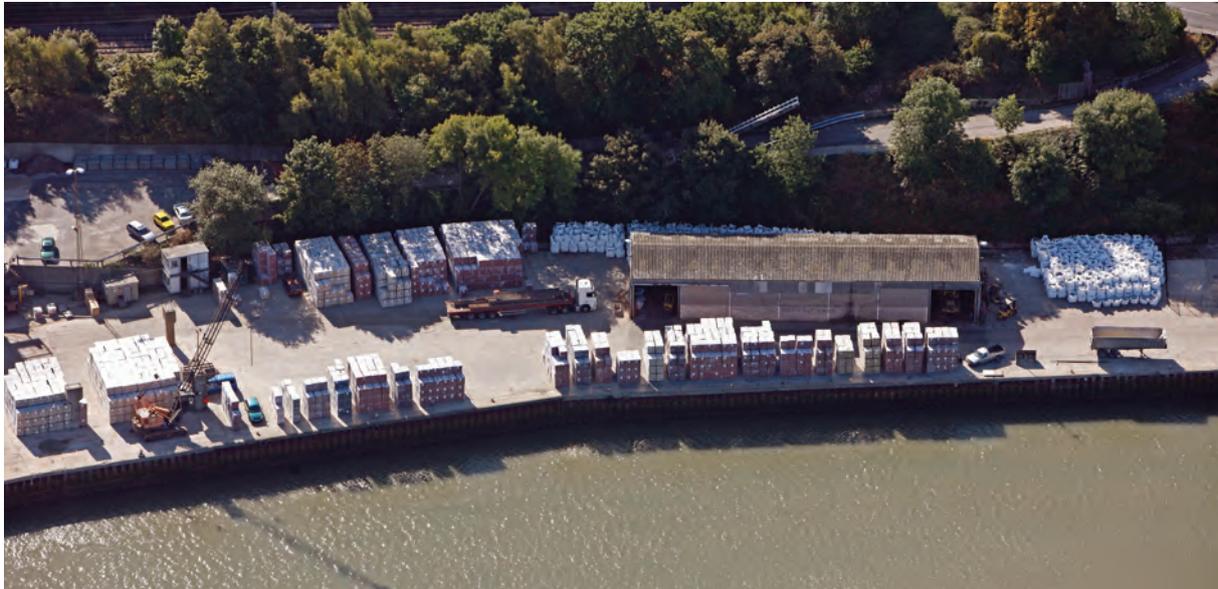
Stockdale warehouse

5.1.2 Vessels are normally handled at the easternmost end of the quay at Baltic Wharf and Berth 1. There is no ship handling at the West Quay.



Vessel unloading at Baltic Wharf (photo source - TW Logistics)

5.1.3 The working berths are backed up by quay working space of approximately 3,800m² and open storage space of 5,600m². The quay working areas are used directly for ship discharge/loading operations and cannot be used for cargo storage. A limited amount of open storage, approx. 1,100m², is located at the western quay together with 5,000m² of covered storage in the Stockdale Warehouse.



Open quayside storage (photo source - TW Logistics)

5.1.4 The allocation of port land is summarised in the table below. This does not include land allocated to vehicle access and parking/turning. The figures in this table identify that approximately 60% of the operational area is located at the eastern end of Mistley Quay and 40% at the western end.

Table 5.1 Summary of Port operational land *

Location	Land use	Location	Area (m ²)
East Quay	Ship working areas	Baltic Wharf Berths 1& 2	3,300
		East Quay Berths 3-6	500
	Open storage	Baltic Wharf Berths 1& 2	2,300
		East Quay Berths 3-6	2,000
		All other East Quay discrete areas	1,300
Subtotal			9,400
West Quay	Open storage		1,100
	Covered storage	Stockdale warehouse	5,000
Subtotal			6,100
Total			15,500
Of which		Ship working area	3,800
		Total open storage	6,700
		Total covered storage	5,000

**Note: All measurements are approximate and actual space has not been subject to detailed Survey
Source: MDS Transmodal based on information provided by TWL*

5.1.5 The total available working area of the port, excluding areas used for vehicle movements is therefore 1.55 hectares. Port HGV traffic predominately passes along the quayside between the berths and main port access at opposite ends of the quay.



HGV movements on the quayside



Main port access road

Wrabness storage depot

5.1.6 The facilities at Mistley are complemented by 120,000 ft² (approx. 11,150m²) of additional covered storage at TWL's Wrabness storage depot. This is used to take some slower moving goods or goods requiring special or dedicated storage, though incurring a haulage charge of £3/tonne in addition to handling charges at Mistley. For this reason the facility is not greatly utilised for off-dock storage. The depot is also used for storage of non-port traffic by local businesses.

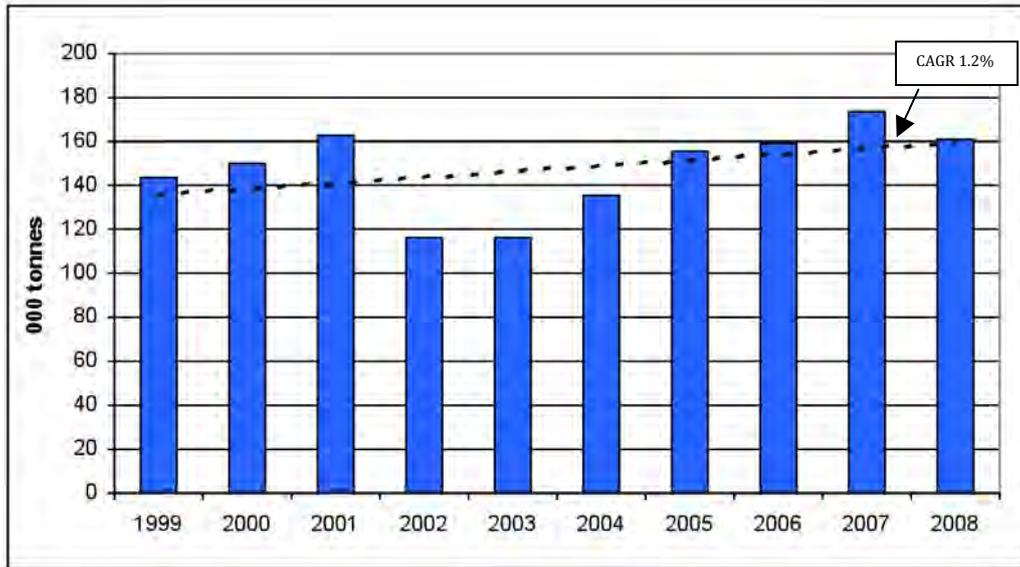
5.2 Trends in port traffic

5.2.1 Mistley is a multipurpose port handling primarily bulk and semi-bulk commodities. The port is active in both international and domestic coastal trade.

5.2.2 The key commodities handled are:

- Agricultural products, (bulk cereals, fertilisers (bulk and in bags))
- Building materials (e.g. stone, cement, aggregates, palletised goods such as bricks and concrete blocks)
- Minor ores and minerals (e.g. rock salt)
- Metals (e.g. zinc ingots, copper plate, steel products)

5.2.3 Total port throughput has averaged 150,000 tonnes per annum over the last ten years. Overall modest growth of 1.2% has been achieved in the period 1999-2008 (figure 5.2). In addition, the port receives goods delivered in containers by truck from Felixstowe and Harwich, amounting to approximately 25,000 tonnes a year.

Figure 5.2: Mistley Quay total port throughput, 1999-2008

CAGR - compound annual growth rate

Source: DfT Maritime Statistics/TWL 2008 figure

Table 5.1: Port throughput by cargo category

Cargo by sector	2005	2006	2007	2008
Agricultural products	26,562	54,382	47,782	65,548
Bulk (aggregates, salt etc.)	23,679	12,995	15,559	29,792
Forest products	1,137	1,239	5,629	378
Steel products	-	-	-	1,664
Other breakbulk (granite, metals, bricks etc.)	103,817	90,892	104,566	63,697
Total	155,195	159,508	173,536	161,079

Source: TWL. Note: The figures above exclude volumes received by road

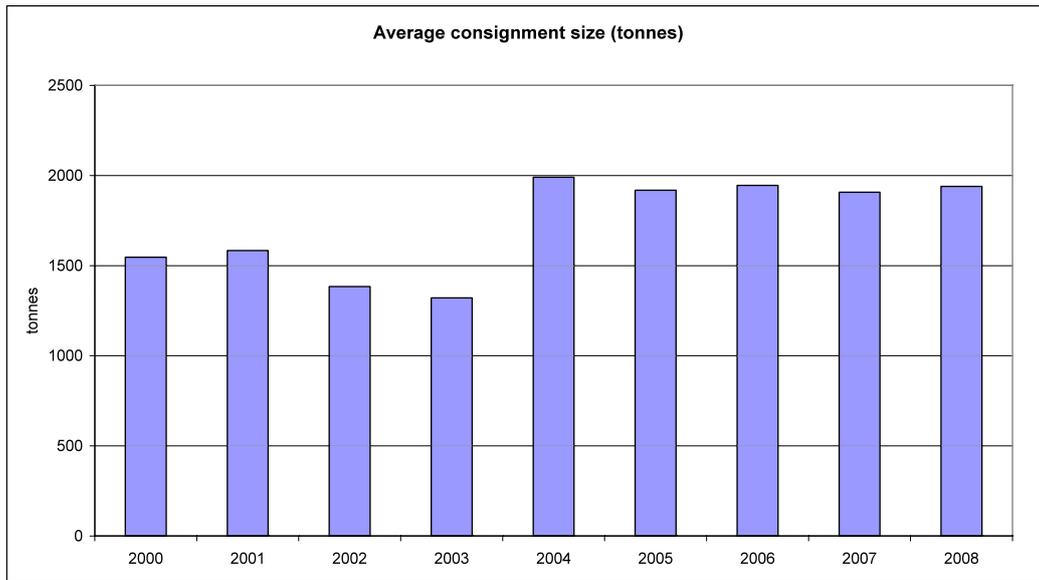
5.3 Vessel trends

Vessel Size

5.3.1 The maximum size of vessel that currently can be accommodated at Mistley is 5,000 deadweight tonnes (dwt). This size of vessel is common in the European short sea and UK coastal trades. There has been a general increase in the average size of vessel calling at Mistley reflecting trends in the industry as a whole and an increase in the call frequency of larger vessels. DfT data indicates that the average cargo consignment size of at Mistley Quay has increased from 1,550 tonnes in 2000 to 1,940 tonnes in 2008.

Call frequency

5.3.2 In the period since 2000 the number of annual vessel calls into Mistley has averaged 86 equating to 1-2 vessel calls per week. In peak periods 3-4 vessels can be handled though this can create pressure on storage space, depending on the type of cargo and 'dwell time' in port.

Figure 5.3: Average consignment size

Source: MDS Transmodal based on DfT data

Tidal constraints

5.3.3 Under Harwich Haven Authority (HHA) rules (*HHA is the Competent Harbour Authority for the Haven and responsible for safety of navigation. Pilotage is compulsory for vessels >50m in length*), vessels making for or leaving Mistley are required to take on a pilot for navigation of the channel. Vessels normally make for the port on a rising tide and leave on an ebb tide on either side of High Water.

5.3.4 Mistley is a NAABSA (*Not Always Afloat But Safe Aground*) facility and therefore vessels can remain on the berth at low tide, resting safely on the bottom. High Water ranges between 3.1m-4.6m with an additional depth of 0.9m at Baltic Wharf and No.1 berth enabling vessels with a draft of up to 5.5m to berth. Currently, TWL is in talks with HHA regarding dredging of the berth to return it to a former depth of 6.5m and so allowing larger vessels to berth. This would increase business opportunities for the port and potentially the cargo throughput volume.

5.3.5 Vessel turnaround times on the berth vary with the type and volume of cargoes being handled, (e.g. free flowing bulk goods can be discharged direct to quayside or waiting trucks more quickly than breakbulk cargoes e.g. steel beams). The majority of vessels are berthed for 1-2 days and ships are worked to meet the first available tide.

5.4 Origin/destination of cargoes

5.4.1 The majority of imports into Mistley are delivered from the near Continent from ports in the Netherlands, Germany, Northern Spain, and the Baltic. There are also regular shipments into Mistley from the Tees and Northern Ireland as well as shipments from Mistley to Belfast and Scotland (principally wheat and barley exports).

5.4.2 In terms of inland distribution, TWL estimates that in 2007 approximately 60% of goods were sourced or delivered within a radius of 50 miles of the port. In 2008 this figure increased to 75%. The anticipation, based on secured contracts and targeted business, is that this figure could increase to c.80% in the future.

5.4.3 TWL has indicated that the types of cargoes imported through Mistley also provide backhaul opportunities for lorries returning to the Midlands after delivering goods for export from Felixstowe and Harwich.

5.5 Spatial requirements of cargoes handled

5.5.1 The various cargoes handled at Mistley Quay each have different spatial requirements depending on a number of factors. Some of the principal practical and commercial considerations are outlined below.

(i) Cargo storage characteristics and requirements

5.5.2 Nature & type of cargo – palletised and uniform cargoes generally stack better than certain bundled or loose goods. For example bundled steel with differing sectional heights, lengths and weights cannot be stacked as easily as palletised bricks. Bulk commodities may need to be split into grades and shipment sizes, which will require separation. Different types of commodity will require covered storage and ventilation to control moisture levels (e.g. barley) whereas other non-sensitive goods (e.g. aggregate) can be stored in the open.

5.5.3 Safe stacking heights and load bearing requirements - weight load on base layers give different materials different stowage factors. For example the zinc ingot 'jumbos' theoretically can be stacked high due to their uniformity but are relatively heavy and can risk local settlement damage and therefore have a lower stowage factor than, say, plywood and chipboard.

5.5.4 Compatibility of cargoes – consideration need to be given to separation of cargoes to ensure there is no risk of contamination through dust particles, leakage or spillage (e.g. fertilizer and steel cannot be stored in close proximity).

5.5.5 Some stacking heights are imposed by regulation (e.g. ammonium nitrate) or by the client (e.g. stacking according to specific lots/bills of lading, stock rotations etc). This may be part of a service level agreement negotiated at the time of contract.

5.5.6 Commercial agreements – linked to the above point. Some clients require 'dedicated' area for storage and as stocks deplete residual balances may occupy a disproportionate spatial footprint.

5.5.7 Restricted cargoes – such as TASC (Trade Assurance Scheme for Combinable Crops address's the handling of grains, pulses and animal feed materials in the supply chain beyond the farm gate, whether the destination is storage, feed, food, seeds or other uses)/COMAH (Control of Major Accident Hazards Regulations 1999, usually refers to storage and distribution of chemical products including fertilizers) (fertilizers) require specific nominated and approved storage.

(ii) Dwell times

5.5.8 Dwell time relates to the length of time different cargoes are held in port. This may vary from direct/immediate delivery to cargoes being held as strategic stockpiles in store. The speed of turnover clearly influences how often the same storage area can be re-used and therefore the overall handling capacity of the port. Again this will be a function of commercial negotiation and may influence a port's ability to compete for particular contracts.

5.5.9 Direction of trade - In general terms imported cargoes tend to dwell longer than exports, though it may take some time for sufficient material to be consolidated in port to generate a shipload. The bulk of Mistley’s business is in receiving imported goods.

5.5.10 Seasonality and ‘peaking’ – there is normally increased demand for storage space for agri-products during the 3rd and 4th quarters. Rock salt will be imported in advance and held for a number of weeks in readiness for winter peak demand.

5.5.11 Economic market conditions – the buoyancy of other sectors will affect dwell times and can lead to stockpiling (for example the downturn in the construction sector has slowed the distribution of building materials).

5.5.12 Prevailing market prices – related to the above certain commodities are susceptible to fluctuations in prices and may be stockpiled on a rising market or equally, if price movements are adverse, will lead to material being held in stock

(iii) Value- added activity

5.5.13 Some cargoes can lend themselves to being processed in port, for example from a raw material to a semi-finished product, negating the need to transport goods from one location to another and incurring additional transport costs. Generally for bulk cargoes this entails bagging and packaging, possibly labelling and bar coding to customer requirements. This can generate important revenue for the port, which complements some of the lower contributing, faster moving volume bulk cargoes.

5.5.14 Clearly a port owner will seek a balance between all of these considerations in order to optimise the use of available storage capacity and generate income whilst meeting the demands of port customers.

5.6 Port capacity

Land utilisation

5.6.1 Taking all of the above considerations into account, clearly it is difficult to assess the total land requirement of the port’s present operation as the stock space required by different types of commodity varies hugely depending on stowage characteristics and stock turnover.

5.6.2 From pure observation it is clear that all available land is heavily utilised. If anything, the land area available is a key constraint on the growth of the port.

5.6.3 From a theoretical standpoint a ‘rule of thumb’ measure of land requirements for dry bulk and general cargo and based on our observation of practice elsewhere is as follows:

Bulk	-	12 tonnes per sq.m./year*
General cargo	-	26 tonnes per sq.m./year*
Steel	-	26 tonnes per sq.m./year*

(*the above parameters are based on 12 stock turns per annum)



Unloading and open storage at Baltic Wharf (photo source - TW Logistics)

5.6.4 Taking the evidence of the recent years’ throughout, the balance of cargo handled at Mistley is split approximately 60:40 between general (breakbulk) and bulk cargoes.

5.6.5 On this basis the total storage capacity at Mistley can be estimated at approximately 206,000 tonnes per annum as follows:

Table 5.2: Estimated port capacity

Storage area	Throughput capacity
7,020m ² x 12t	84,240 tonnes
4,680m ² .x 26t	121,680 tonnes
11,700m²	205,920 tonnes

5.6.6 Clearly, this is an estimated figure and comes with the caveat that faster or slower turnover of goods will have a significant effect on the overall capacity of the port. Similarly a proportion of cargo is offloaded at Mistley for direct delivery and requires no storage, which also increases the port’s total throughput capacity. In the current economic climate stock is tending to dwell in port for a longer period of time. However, this estimate indicates that in recent years Mistley had been operating in the region of between 75% and 85% of its total theoretical throughput capacity. At peak times, for example after calls by 2/3 ships on consecutive days, it is likely that the port will be working at a higher level of utilisation.

Berth occupancy

5.6.7 Berth occupancy is often used as a measure of port capacity as well as efficiency. A port cannot operate at 100% of its theoretical capacity as there needs to be some leeway between vessel arrivals to allow for mooring/unmooring, weather patterns that may delay vessel arrivals or lead to berth ‘downtime’, and also the type of business handled. For example container ports, such as Felixstowe, achieve high occupancy levels as container ships are usually working to tight schedules and need to meet predetermined berthing slots. Such vessels require a rapid turnaround time and may be on the berth for less than one day and after departure will soon be followed by another vessel. Even so, occupancy of more than 90% can signal that a port is not working optimally and that vessel waiting and queuing for berths could be an issue.

5.6.8 For ports such as Mistley, which support non-scheduled or charter services (i.e. random arrivals) and handle bulky materials with slower discharge rates, such as timber and steel, an occupancy level of between 30% and 40% can be regarded as the optimum.

5.6.9 Even so, berth occupancy is relatively low at Mistley at an estimated 25%. This estimate has been reached on the basis of the two principal berths (Berth 1 and Baltic Wharf); the maximum number of ship working days per year of 510 days (255 x 2; assuming vessels are not worked Christmas/New Year or weekends) and on the basis of an average of 86 ships per year, occupying the berth for an average of 1.5 days = 129 days.

5.6.10 The implication is that Mistley has the berth capacity to handle up to double the number of annual vessel calls than is presently the case. Should the market support this, the knock-on effect would be a doubling in the volume of cargo handled to in excess of 300,000 tonnes per annum.

5.6.11 The main constraint on the total capacity of the port, therefore, is considered to be the amount of land available, rather than berth and navigational constraints.

5.7 Port traffic forecasts

5.7.1 At the national level the broad trends anticipated in the sectors served by Mistley as set out in the DfT port traffic forecasts to 2030 were as follows:

Agricultural products	-	negative trend
Dry bulk international	-	flat market
Dry bulk coastal	-	positive trend
General cargo international	-	positive trend
General cargo coastal	-	negative trend

5.7.2 In this context, the national port forecasts show that modest growth is anticipated in some of Mistley's markets, however, it may be that Mistley Port can aspire to a higher level of growth through:

- a) geographical advantage that minimises the length of road haul to end receivers - increasingly important as fuel costs and congestion rise; and
- b) the proactive action of port management to facilitate an increase in market share.

5.7.3 TWL's long-term outlook for Mistley is for positive growth, though recognising the constraints imposed by the lack of storage space. TWL's own forecasts, supplied to the consultants in confidence, indicate that throughput could increase by over 30% on the 2008 volume by 2010 (some of this has already been secured in contracts) with the potential to increase to around 285,000 tonnes provided additional storage space can be identified.

5.8 Future prospects and opportunities

Added value activities

5.8.1 Added-value activities are being developed at Mistley as part of TWL's long-term business plan for the port. Activities involve the screening and packing and bagging of a variety of bulk materials (mainly agri-products) into 10-1,000 kg bags. This also involves elements of stock control and logistics management, in which TWL is also experienced. TWL has estimated that these processes have added 11% to the port's turnover since 2008.

5.8.2 The port has been handling the bagging of fertilisers for the East Anglian market for some years. The volume rose to 47,000 tonnes in 2008. The port has subsequently invested in a new fertiliser packing plant in anticipation of handling increased winter/spring call-off volumes in 2010.

5.8.3 TWL have estimated that the volumes of material providing value - added potential could triple in the next few years. Such activities have to be carried out under cover, therefore being able to capitalise on this opportunity is dependent on additional covered storage space becoming available. This space requirement would be in addition to any additional open storage space that may be provided. There has been some discussion of the potential use of the Edme quayside warehouse building, potential use of the port expansion land, or other sites away from the quay (the latter requiring detailed consideration of costs, practicality and viability).

Employment

5.8.4 The port currently employs 10 full-time port operatives and up to 6 agency staff during peak periods.

5.8.5 In addition the port employs four management/admin staff including a terminal manager, operations manager, stock clerk and weighman. These are backed up by a business development manager and general management staff at TWL's head office in Gainsborough.

5.8.6 It is anticipated that 10-12 FTEs could be created to handle the increased volumes including value-added activities should all the port's business plans be realised. This would be dependent on additional space being made available.

5.9 Port expansion allocation

5.9.1 An area of port expansion land was initially designated in the non-statutory 1980 Lawford, Manningtree and Mistley Local Plan. Approximately 3ha of land was allocated under Proposal 17 which stated that:

"An extension of Mistley Quay eastwards will be encouraged with associated industrial development on the land between the quay and the railway line, as identified on inset map 2".

5.9.2 The supporting text to the policy recognised the development potential of the land. It noted that access would have to be gained from the existing quay, that the port would develop eastwards to take advantage of the deep channel, and that the backland land could be developed for associated industry or warehousing.

5.9.3 This allocation has largely been carried forward into subsequent local plans unaltered and unchallenged, save for the amendment of the site area to 2.9ha to exclude the curtilage of the large replacement dwelling permitted on part of the site. Drivers Jonas undertook an employment land supply review for the Council in January 2002 as part of the preparation of the Tendring District Local Plan. This review concluded that the site should be retained as an allocation for port expansion, largely on the basis that the land would provide replacement storage and warehousing for TWL, necessary as part of then proposed mixed-use redevelopment proposals for the port. Drivers Jonas did not access the site as part of their assessment work.

5.9.4 Most recently, the landowners are understood to have granted an option to a potential residential developer. Planning application 06/00688/OUT was submitted but withdrawn prior to determination in March 2008. The application had proposed the redevelopment of the site for *"13 no. detached dwellings, boat repair shed with boat park, and reconstructed wharf with new recreational moorings"*. It is understood that the prospective developer has recently put the site forward for consideration through the Council's forthcoming Strategic Housing Land Availability Assessment (SHLAA). A further application (09/01033/FUL) was submitted in October 2009.

5.9.5 At the current time, whilst the site is allocated for port expansion in the adopted local plan, it is clear that the prospective developer is proposing alternative forms of development on the site, such that it is unlikely that the land would be able to be brought forward for port use in the short term. However, our analysis has shown that the existing port is constrained by its available storage space

and in principal, this site is one of only a small number of options to provide additional facilities. Future residential development of the site would, in our view, be irreversible and thus lead to the loss of any future potential for port use.

5.9.6 The future use of this site is an issue that we would recommend the Council considers carefully through the forthcoming Core Strategy and subsequent DPDs. The potential importance of the site as the only significant area of land adjoining the Port with potential for uses associated with it, requires such a policy led approach.

5.9.7 This is supported by guidance in the Ports Policy Review Interim Report (2007) which, as set out in section 3.4 above, supports the principle of safeguarding of land for port use but requires consideration of the likelihood of port uses coming forward and also the nature of potential alternative uses (e.g. the extent to which they are reversible). PPG13 Annex B also provides guidance on this issue, requiring LPAs to take particular care when allocating sites for port use to *ensure that they are viable, "to avoid causing unnecessary blight and to secure the economic and regeneration benefits of developing sites for port or port related uses"*. Draft PPS4, Policy EC4 also advises LPAs to consider the viability of allocations and to consider the likelihood that they will come forward for development.

5.9.8 It will be necessary for the Council to work closely with the landowners of the site, the prospective developers, and TWL, in order to conclude an assessment of the viability of the site's development for port and related uses, or any other alternative uses. Given the conflicting aspirations for the site, such an approach may not be easy to facilitate, however it will be important that a robust factual assessment is made of the potential for development on the site, informed by contributions from all relevant parties and other stakeholders.

5.9.9 Our terms of reference do not extend to undertaking the above detailed viability assessment of the port expansion land. We have also not yet been provided with any detailed information on how the site could potentially be developed for port uses. We have, however, provided below our general views and conclusions on the site to inform the Council's consideration of future policies.

5.9.10 The site is subject to various constraints, including lying adjacent to the Stour Valley SPA, Ramsar and SSSI site. It also experiences significant differences in level, limited vehicular access, risk of flooding, and the potential for contamination and poor ground conditions due to current and past activities on the site. The site also lies within an area that the Council is promoting as an extension to the AONB.

5.9.11 We consider that the most significant of the constraints is the Stour estuary SPA/Ramsar site. If the Council propose to allocate the site for port and related uses in a DPD, it must undertake an Appropriate Assessment of the proposal under Regulation 48 of the Conservation (Natural Habitats &c) Regulations, 1994. These provisions will apply, irrespective of whether the site has previously been allocated. In order to satisfy the tests set out in the Regulations, it will be necessary to consider whether there is a likely significant effect on the European site as a result of the proposals. This in turn requires the Council to be able to articulate details of what the development proposal would be, in order that its effects can be assessed.

5.9.12 We do not have sufficient information to advise on whether it would be possible to devise a scheme that would be acceptable to Natural England. We would expect it to be concerned about

both direct and indirect impacts on the designated site and the features for which it is designated. Direct (negative) impacts would arise from any reclamation of mudflats. Direct (positive) impacts could arise from removing the hulls and other structures that have been deposited in the mud. Indirect (negative) impacts would arise from construction and operational activities on the site, particularly, noise, lighting, recreational disturbance and potential pollution, and from any additional boat movements that may result from the eventual development.

5.9.13 On the basis of the information before us, we consider it likely that a proposal involving reclamation of the mudflats to enlarge the flat area of land available for port uses may be difficult to promote. Reclamation would be expected to have a direct impact on the European Site. There would be a requirement to demonstrate imperative reasons of overriding interest and a lack of alternative solutions. Compensatory measures may also be required.

5.9.14 It is possible, however, that there may be potential for limited, small scale reclamation, linked to the removal of the hulls and other structures. We would recommend early discussions with Natural England on all of the issues relating to the SPA/Ramsar site.

5.9.15 As the site lies within an area being promoted as an extension to the AONB, it may also be relevant for the Council to consider the wording of Paragraph 22 of PPS7. This states that that major developments should not take place within national designated landscapes “*except in exceptional circumstances*” and that “*applications for all such developments should be subject to the most rigorous examination*”. Major developments should be demonstrated to be “in the public interest before being allowed to proceed” and include consideration of:

- i. “the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy.
- ii. the cost of, and scope for developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- iii. any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

5.9.16 There is no statutory definition of what constitutes “major development”, although it is considered likely that a large-scale expansion of port land would fall within this. The tests in paragraph 22 are not insurmountable, but if considered to be applicable to development on this site, would require the demonstration of need, consideration of alternatives (including those outside of the designated area) and the assessment of environmental effects, all in consultation with Natural England.

5.9.17 Of the other detailed site specific constraints, we consider that access, nature conservation, contamination/pollution and flooding could all be assessed in a relatively short period of time, to inform the Council’s decisions on policies for the Core Strategy and subsequent DPDs.

5.9.18 We consider it most likely that any potential port development on the site would be for open storage, and that it is unlikely that covered storage could be provided in a viable form given the physical characteristics of the site.

5.9.19 The significant levels difference across the site, together with the access constraints, suggest that in considering the potential future development of the site, consideration should be given to the potential option of a split use of the site. Port storage uses on the lower levels, accessed from the existing quay, with alternative uses on the higher levels accessed from Anchor Lane.

5.9.20 Clearly there would be a need to ensure that conflicts between potential uses would not arise, either from a mixed use development of the port expansion land, or from residential uses being introduced in close proximity to the working berths in the existing port. These might give rise to potential conflicts and pressure for controls over the ports existing operations.

5.9.21 In undertaking any assessment of the port expansion land, it may also be appropriate to include within this assessment the appropriateness of retaining existing Local Plan Policy TR10 relating to rail freight safeguarding at Mistley.

5.9.22 Finally, in considering the potential for port use of the port expansion land we have considered what other alternatives for port expansion might exist. We have concluded that the only realistic sites within Mistley are the Edme quayside warehouse, the main Edme site to the south of the High Street, and the former trailer park site on the quayside. None of these 3 sites are in TWL's ownership and none are currently available for port use.



6. Appraisal of Mistley Waterfront and Village SPD options

6.1 Summary of SPD options

6.1.1 The Council's consultants preparing the SPD, The Conservation Studio, has developed alternative options for the Mistley port area, on which we have been asked to comment in this report. In agreement with the Council, we have been asked to direct our comments to the potential implications for Mistley Port arising from:

- Option A – the baseline position
- Option B – the aspirational position

6.1.2 Our comments on each are provided below.

6.2 Assessment of implications for Mistley Port arising from Option A

6.2.1 As described to us, Option A (the baseline position) is a continuation of existing operations at the Port, with a recognition that change will take place through the development of the Edme riverside warehouse site. The option recognises that TWL is looking to deliver additional port storage facilities and value added processes, whether in open areas or under cover, and on or off site, and that this could then lead to increased usage of the existing berths.

6.2.2 In light of Policy LMM1 it will be necessary for any development or redevelopment proposals for the Edme quayside warehouse site (see photo overleaf) to have regard to the potential for port use of the existing building (criterion (iv)) and, subject to the nature of the development proposals, it will also be necessary to provide alternative employment to replace any that may be lost (criterion (ii)). The development must also protect the port operations (criterion (iii)). TWL has stated that it considers there to be potential for port use of the existing Edme quayside warehouse

6.2.3 In relation to port storage, the conclusion of our research is that TWL would need additional storage to be provided in order for the utilisation of its existing berths to be increased much beyond existing levels. It is apparent that there is no available space within TWL's existing ownership that could be used to provide additional quayside storage. The largest area of TWL land that could potentially be used for additional covered storage lies to the back of the Baltic wharf berth, however



Part of Edme quayside warehouse

this land is the largest single area of open storage and the first point of rest for cargo being unloaded from vessels. Leaving aside the financial costs of doing so, any additional covered storage on TWL's landholdings could only be provided at the cost of displacing existing open storage – which itself would have to be re-provided.

6.2.4 Aside from the Edme quayside warehouse site, there may be some potential for port related uses on the former trailer park site, although any potential is limited by the small size of the site. The trailer park site is understood to be owned by Gladedale Homes and it is thus not immediately available to TWL. The main Edme site to the south of the High Street may also have some potential for port related uses, although it is not known whether any of this land would become available for port use. There is likely to be potential for port uses on the port expansion allocation site should that land become available to TWL, although as a new application has been submitted for residential use of that site it is not considered likely that it would become available in the short term at least. Any development proposals that may come forward on any of these three sites would fall to be considered against the provisions of Policy LMM1, referred to in paragraph 6.2.2 above.

6.2.5 Given the lack of space within TWL's ownership, and the non-availability of other land at the current time we consider it likely that under SPD option A the port would continue to operate as it does now, with little significant change. The SPD refers under Option A to the possibility of introducing more aesthetically pleasing railings on the quayside, and potentially some occasional leisure mooring on the quayside. In the absence of any mechanism to negotiate with TWL to secure this (such as a planning application for development of its land), we consider it unlikely that TWL would voluntarily agree to these aspirations given its clearly stated concerns over health and safety and the port operations. The views of the Health and Safety Executive will also be relevant to this issue.

6.3 Assessment of implications for Mistley Port arising from Option B

6.3.1 SPD Option B is described to us as “the aspirational position”. Under this option the port expansion land would be utilised for covered and open storage, and possibly for value added processes as well. The SPD anticipates that this could allow the western end of the quay to be released from port uses, for mixed use redevelopment and to secure environmental and community benefits with the main port access relocated to opposite the railway station, removing HGV and port traffic along the quayside.

6.3.2 We consider it appropriate to refer to this option as “aspirational”, as TWL has clearly and consistently stated that it will not release the land or warehousing at the western end of the quay for redevelopment. Unless TWL’s position changes, it will not be possible to secure the aspirations set out in Option B. Furthermore, TWL has indicated to our consultants that it sees the purpose of the port expansion land to be to deliver additional storage for the port, not to replace any that would be lost elsewhere within the port as envisaged in Option B. The option would also require a change in attitude from the landowner of the port expansion allocation site, as that land is currently being promoted for residential development.

6.3.3 The SPD clearly sets out the wider regeneration benefits for Mistley that could be delivered through this aspirational option. In order to achieve these, it would be necessary for the Council to work with the multiple landowners in the area, including TWL, Edme, Gladedale, and the owners of the port expansion site to identify and bring forward a negotiated development solution that secures the future operation of the port and delivers other landowner’s aspirations as well. We do not underestimate the difficulty of this task. A successful outcome would require positive engagement from all parties and a willingness to compromise. It may also necessitate the reconsideration of adopted Local Plan policies LMM1 and LMM1a through the emerging Local Development Framework.

6.3.4 Government guidance and Local Plan Policy LMM1 requires that new development protects port operations. For port operations to be protected under Option B we consider that it will be necessary to ensure that:

- sufficient covered and open port storage space remains available adjacent to the quayside;
- redevelopment proposals do not impinge on operational activity at the port – for example through introducing conflict between port operations and neighbouring sensitive land uses such as residential;
- any proposals to move the existing main access to the port to opposite the railway station have the full support of the highway authority and local community, given that the access in that location is currently sub-standard (see photos below) and use of that access would increase HGV traffic along the High Street;



Port access road opposite railway station

- any proposals involving the redevelopment of the western quay replace not only the open and covered storage space but also the port offices, weighbridge, circulation and parking space currently located in that area;
- consideration is given to allowing increased off site storage associated with the port, whether at Wrabness or another location, provided this can be demonstrated to be viable in the longer term and that sufficient quayside storage and cargo unloading space remains at Mistley;
- consideration is given to including space for added value uses in any development/redevelopment plans;
- any proposals for environmental improvements, public access and public mooring along the quayside take account of advice from the port operators, the Health and Safety Executive and other statutory organisations; and
- any development/redevelopment proposals are tied to appropriately worded legal agreements to ensure that a phased and comprehensive approach is taken in the interests of the proper planning of the area, and to avoid the inevitable conflicts that a partially completed solution would bring.

6.3.5 In conclusion, we consider that Option B is aspirational and will require considerable work and agreement on the part of all relevant parties to bring to fruition. At the current time there is no evidence to indicate whether such agreement could be reached.



7. Conclusions

7.1 Our research, which has been supplemented by discussions with TWL, leads us to the following conclusions about the Port, its future and its relationship with existing and emerging planning policy.

7.2 Mistley is a multipurpose commercial port handling primarily bulk and semi-bulk commodities. The port has six berths within a total working quay length of 500 metres. Behind the berths are 10,500 sq m of open storage and 5,000 sq m of covered storage on the quayside, a total of 15,500 sq m. The continued availability of these storage areas, which are in locations that are immediately accessible to and from the berths and quayside, is essential to port operation. TWL, the port owners also have a covered storage facility at Wrabness, of 9,290 sq m, which they operate in conjunction with the port.

7.3 In our view, Mistley is a commercially viable port whose current operation and intended growth conforms to government policy for ports generally and for the sustainable movement of goods. There is no reason to believe that the Port will not continue to perform its current role into the future. It is reasonable to anticipate that the Port will at least continue to deal with cargo on a similar scale to recent throughputs. TWL anticipate some growth and point to contracts already secured. However, the extent of further growth is constrained by the limited availability of open and covered storage behind the quay.

7.4 TWL has told us that the company does not wish to dispose of any of its existing operational land or storage facilities. It considers that it is essential that all this land is retained in this use, otherwise the future viability of the Port would be compromised and its future jeopardised. We consider this analysis to be realistic and supported by the evidence.

7.5 Local Plan Policy LMM1 specifically requires that any new development within the Mistley URA should protect port operations. Proposals, in an SPD or as part of an individual planning application, that would result in the loss of storage areas to non-port uses would appear to conflict with this policy, which is in line with national ports policy and PPG13.

7.6 TWL wishes to expand operations through the provision of additional storage and the introduction of value added processes, which could extend beyond the scope of permitted development rights. The scope to expand operations on TWL's current landholding is extremely

limited. There are only limited areas on to which port operations could expand elsewhere in the vicinity of the berths: the Edme quayside warehouse site; the former trailer park site on the quayside, the Edme High Street site or the Port expansion allocation. We comment on these options in our report.

7.7 Subject to being satisfied as to its financial viability and securing the necessary funds to make it happen, the Port could extend the use of off-site storage outside Mistley. This could, for example be at its existing site at Wrabness, or some new facility at a nearby industrial estate, subject to necessary planning approvals. In this respect, we are aware that an application for open storage at Wrabness was refused by the Council and rejected at appeal.

7.8 Given the existing constraints on available land at the Port, we consider that any additional off-site storage would have to be an addition to the Port's quayside land and facilities, and/or to include additional value-added processes. Off-site substitution of existing areas of quayside storage facilities would be likely to jeopardise the viability of the port, at least in its current form, and could well lead to its decline. Such action could make it uneconomic to ship some types of low margin bulk cargo through the port, due to the additional costs involved in double handling and extra transport. Such a policy initiative would therefore not be supported by national policy for ports and transport, even were it to be encouraged by the port operators (which it is not). In reaching this conclusion, we acknowledge that a proposal on these lines might facilitate wider regeneration aspirations.

7.9 We have been asked to direct our conclusions to provide consultancy advice to support the Council's preparation of an SPD for the Mistley Urban Regeneration Area (URA). We have commented in our report on SPD Option A and Option B and their implications for the port.

7.10 Protection of the interests of the Port in its current form and encouragement of regeneration are not, in principle, incompatible objectives. Difficulties can arise, however, when regeneration proposals threaten the operation of the Port, and/or expansion of Port operations constrain regeneration of areas not required for Port purposes. It seems to us, therefore, fundamental that regeneration policies should not directly or indirectly encourage the redevelopment, for non-port uses, of areas required for port operation, and that regeneration proposals should proceed in the understanding that Mistley is a viable working port. Paragraph 11 of Annex B to PPG13 says: "*developments which are incompatible with any nearby port should be avoided*".

7.11 We conclude that the Council could consider using the forthcoming Core Strategy and subsequent DPDs to resolve the apparent tension in the current wording of Policy LMM1, i.e., between support for the ongoing operations of the port and for the wider regeneration objectives for the URA.

7.12 In our judgement, the existing policy protecting the Port's continued operation conforms to national policies for ports and for transport. We have found no evidence to suggest that the Port, which appears to be thriving, is not a viable component of the national network of small ports, or that that position is likely to change in the foreseeable future.

7.13 We are asked to comment specifically on the port expansion allocation. This first appeared in 1980 and has thereafter been 'rolled forward' into subsequent local plans, apparently with little objection or formal reconsideration. Since the stated intention of the landowner and prospective developer is to promote residential use on the site, this land is unavailable for port use, at least in the short term.

7.14 Government planning policy (PPG13 paragraph 45) supports the principle of protecting sites for the movement of goods by water and encourages planning authorities to promote such development. However, paragraph 11 of Annex B to PPG13 cautions authorities to *“take particular care when allocating sites for port use to ensure they are viable, both to avoid causing unnecessary blight and to secure the economic and regeneration benefits of developing sites for port or port related uses”*.

7.15 To secure a port allocation in the LDF, the Council will therefore need to be in a position to demonstrate that a viable and environmentally acceptable development can be delivered. Our brief did not extend to a detailed assessment, but from what we have seen of the site we think that the lower levels of the site might be suitable for a viable open bulk storage facility linked to the existing quayside. It is unlikely that a viable covered storage scheme could be brought forward, however, without reclamation of mudflats to extend the land available. Such a reclamation would be costly but would produce a site that could provide a significant addition to the Port's back up land.

7.16 Reclamation would be likely to have a direct impact on the European Site and would need to be considered under Habitats Regulations 48 and 49. There would be a requirement to demonstrate imperative reasons of overriding interest and no alternative solutions, and compensatory measures may be required. We do not have sufficient information to advise on whether it would be possible to devise a scheme that would be acceptable to Natural England however, on the basis of the information before us, we consider that such a proposal may be difficult to promote.

7.17 It would be advisable for the Council to seek the views of TWL and the landowners/prospective developers before reaching a view on the feasibility and potential environmental effects associated with the future development of the site. Consideration could be given to retaining some parts of the lower level of the site for marine industry use, alongside use for port related storage, and to the possibility of other uses on the elevated parts of that site which could be accessed from Anchor Lane. Any mixed use proposal must not, however, introduce unacceptable amenity and other conflicts between neighbouring land uses. The highway authority's views will clearly also be important.

7.18 For the port allocation to be retained in its existing or amended form in the LDF, we consider it necessary for TWL to articulate its proposals for the development of that land now, such that the Council and consultees can assess the potential impact of the proposals and consider the appropriateness of their allocation. In the absence of information on how the port expansion land is to be used we consider that the Council may find it difficult to promote an allocation in the LDF, particularly given the landowners alternative intentions for that site and the Council's obligations under the Habitat Regulations to undertake an appropriate assessment.

7.19 In conclusion, we see no reason why development plan policies cannot continue to support regeneration of sites surplus to (or not appropriate for) Port requirements, provided that any proposals do not adversely affect the operation of the Port. As we have explained above, these are not incompatible objectives.

7.20 A policy framework brokered between the parties would be the preferred solution. In reviewing the policy approach for the Mistley URA, the Council will need to balance national guidance and development plan policy support for the Port, with the protection and enhancement of the historic environment and any wider regeneration objectives the Council may wish to achieve.

7.21 The Council's previously expressed aspirations to bring forward a comprehensive regeneration of the Mistley URA will need to be caveated by the needs of the Port, and take into account the stated current intentions of TWL. It would be sensible not to identify options within the SPD that are incapable of implementation. The Council may wish to consider the appropriateness of its approach, having regard to the advice in PPS12, particularly if it goes on to review the policy approach to the Mistley URA through the forthcoming Core Strategy and subsequent DPDs.

7.22 In facilitating any future development proposals we would recommend that the Council secures, through appropriately worded legal agreements, the phased implementation of any development to secure outcomes that protect the Port and deliver regeneration objectives and community benefits.