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Sharon Higenbottam, Company Secretary
Dover Harbour Board
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Dover
Kent
CT17 9BU

First by e mail to: Sharon.Higenbottam@doverport.co.uk

Dear Ms Higenbottam,

Marine Aggregate Dredging Application MLA/2016/00227, South Goodwin Sands, Area 521

We represent Marinet Limited ('our client'). We write regarding the Dover Harbour Board's ('the Board') Marine Aggregate Dredging Application MLA/2016/00227 (the 'Licence Application') which is currently under consideration by the Marine Management Organisation ('MMO').

As the Board will be aware, our client was a consultee to the public consultation and our client has opposed the License Application. Amongst our client's objections is the compelling point that there are a great many downed military aircraft and shipwrecks in the area where dredging will take place, if licenced by the MMO, and that these will be disturbed, either directly, in the sense that sand containing bodies or remains will be removed, or indirectly, in that they will be moved about (dredging inevitably has an impact extending beyond the areas from which sand is extracted). You will be aware that other consultees have made this point too.

These concerns have not been squarely confronted by the Board's application, however. A 'Further Environmental Information' document of 23 September 2016 notes:

"...wrecks have been enveloped by mobile sands and subsequently covered by deeper accumulations as the bank has migrated to ensure several metres of sand coverage across the remains of wrecks..."

and:

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“...the high potential for previously unidentified maritime and aviation archaeology to be present on Goodwin Sands (as a whole) and, in accordance with a realistic worst case scenario approach, identified the potential for major adverse impacts upon heritage assets that may be present within the proposed dredge area...”

adding:

“[a] precautionary approach was employed as this represents good practice in archaeological impact assessment and reduces the potential for impacts to be under-assessed....”

but it is impossible to discern from any of the Licence Application documents details of how this ‘precautionary approach’ will result in meaningful protection for the aircraft and shipwrecks along with bodies and other human remains within and nearby.

It is fair to acknowledge that the parameters of the proposed dredging area appear to have been set to try to avoid a direct impact on the shipwrecks protected by the 1973 Act (see the appended maps from the License Application). However, even in respect of them, little or no thought has been given to the secondary impact of dredging, including on supporting plinths.

There are two further serious, indeed fatal, limitations to the assessment undertaken to date.

First, the desk based studies of the kind recommended in Aggregate Dredging and the Marine Environment appear wholly inadequate. There has been no proper attempt to locate downed aircraft and wrecks using data of the kind held by Professor Brocklehurst, the Ministry of Defence and the forces hold. Our client understands that the MMO has made enquiries about the site with the Ministry of Defence. This is surprising as the application is made by the Board. In any event, these enquiries have not been published and their outcome is unknown. We raise questions about this below.

Secondly, the sonar surveys carried out to support the Licence Application conspicuously omit to mention the depth of penetration of the sand. Our client believes this is because they are superficial and so will not have detected material more than 100 cm deep. They have made this point to the MMO in their original and supplementary consultation submissions and pressed for the depth of sonar readings to be established. Enquiries made by the MMO (see the appended letter of 20 December 2016) have yet to be answered or, if they have been, made public.

No further work is in train that is capable of adequately addressing these assessment shortcomings. A magnetometer (magnetic) survey has been requested by Historic England and that request has been adopted by the MMO (see the 20 December letter), this also has limitations. It will only cover the proposed dredging site, but that ignores the secondary impact

dredging will have close by. At best, it will only detect material of a ferrous nature. Aircraft frames, which were likely to have been made of aluminium or wood, will not be detected by this survey. A magnetic survey will not therefore identify the “skeletons” of aircraft, as it would in the case of ships.

It follows that the combined assessment measures unequivocally recommended by Aggregate Dredging and the Marine Environment have not been taken and there are no plans to take them either.

This combination of circumstances has prompted our client to instruct us to formally seek the designation of Goodwin Sands as a controlled site under the Protection of Military Remains Act 1986. We refer you to the **enclosed** correspondence to the Ministry of Defence. We have also written to the MMO seeking an undertaking that it will hold back from determining the License Application until the designation decision has been made.

We trust you will have no objections to that proposed decision-making sequence. If you do, please advise us of those objections, with full reasons.

In any event we ask that you address the following questions which will assist the Ministry of Defence and MMO in determining the designation request and Licence Application respectively:

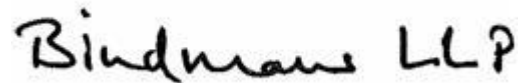
1. do you accept that ‘Aggregate Dredging and the Marine Environment: an overview of recent research and current industry practice’ is accurate and that the assessment methodology it recommends in relation to ship wrecks and downed aircraft ought to be followed? (or, if you do not, please explain why not, giving reasons);
2. what, if any, steps have been, and are to be, taken to establish and eliminate the risks to the downed aircraft within Goodwin Sands that are protected under the 1986 Act?;
3. what, if any, steps have been, and are to be, taken to establish and eliminate the risks to the ship wrecks within Goodwin Sands that are within the scope of the 1986 Act?;
4. do you propose to seek a licence for the proposed dredging under the 1986 Act, or have you done so already?;
5. what, if any, steps have been, and are to be, taken to establish and eliminate the risks to the ship wrecks within Goodwin Sands that are designated under the Protection of Wrecks Act 1973?;
6. do you propose to seek a licence for the proposed dredging under the 1973 Act, or have you done so already?; and

7. what steps are in train, or planned, to address the queries raised in the MMO's 20 December 2016 letter?

Please forward any impact and risk assessment documentation that is relevant to your responses to the questions above, along with relevant correspondence with the Ministry of Defence and MMO.

We look forward to hearing from you shortly.

Yours faithfully,

A handwritten signature in black ink that reads "Bindmans LLP". The script is cursive and somewhat informal.

Bindmans LLP

Encs.