

<b>Key Decision Required:</b>	<b>Yes</b>	<b>In the Forward Plan:</b>	<b>Yes</b>
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## CABINET

11 APRIL 2014

### REPORT OF THE REGENERATION, INWARD INVESTMENT AND ASSET MANAGEMENT PORTFOLIO HOLDER

#### **A.4 POTENTIAL LEASE OF PART OF THE NAZE**

(Report prepared by Andy White and Aileen Middleton)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

**To consider public comments received following the advertisement of the potential to grant a lease of the Naze to Essex Wildlife Trust (EWT) for the construction of an Education and Visitor centre.**

**To consider the views of full Council expressed through the debate on the petition with regard to granting of a lease.**

**Subject to the foregoing to consider whether to grant a lease of all or part of the Naze to Essex Wildlife Trust.**

**Subject to the foregoing to consider the terms for such a lease and to approve the establishment of a Naze Management Board which will have the responsibility for overseeing and directing the day to day management of all maintenance and other activities on the Naze on behalf of the Council.**

##### **EXECUTIVE SUMMARY**

The Council has engaged in discussions with EWT over proposals for the Naze including a new Education and Visitor centre and improved management and educational provision.

The proposals include the potential to lease part of the land at the Naze to EWT for the construction of the building at the expense of EWT.

The Council in accordance with its statutory duty advertised the disposal of a potential lease of 99 years and 45 hectares of the Naze. 63 responses were received to the advertisement: 39 opposing, 22 in support and 2 who expressed concern but without actually opposing the lease.

The Council also received a petition, including 1129 signatures, entitled Petition of Objection to the Leasing of the Naze. This petition was considered in accordance with the Council's Petition Scheme at its meeting on 25 March 2014. During the debate a number of points were raised by Members and subsequently Council resolved:

“That the Council thanks the Petitioners for the Petition and requests that the Cabinet have regard to the outcomes of the Petition and the general public consultation when determining the Essex Wildlife Trust's request for a lease of the Naze”.

During the debate the Leader of the Council and Portfolio Holder for Regeneration, Inward Investment and Growth and Assets, repeated a statement he had made at the most recent

meeting of the Cabinet that an alternative proposal was being negotiated at his request. In order to facilitate a compromise that would address public concerns about access while facilitating the building, officers were instructed to negotiate a set of terms for a different option, including the establishment of a Management Board to approve activities over the remaining land at the Naze. The Naze Management Board would include representation from various bodies including the District and Town Councils and the EWT working in partnership.

The Leader also assured the Council that under no circumstances will the existing free public access, including for dog walkers be restricted.

EWT has agreed to take the lease under these terms together with others as set out later in this report if Cabinet is minded to grant a lease on this basis.

In light of this, officers have focussed attention on developing the draft Heads of Terms on the basis of the alternative option and they are the main focus of this report and the appendices. Should Cabinet be minded to seek to proceed on the basis of the original proposal to lease the whole of the area of the Naze to the EWT then further work and a further report will be required.

This report therefore presents Cabinet with two options:

1. Grant a lease of the land for the building footprint and existing toilet block only, with the retained area of the Naze being managed by a Board. The Plan showing the proposed area is attached as Appendix A; or
2. Not to grant any lease.

The draft Heads of Terms, draft Annual Work Plan and composition of the proposed Management Board are attached as Appendices B, C and D respectively.

It is proposed that the lease is granted on a peppercorn rental. To do so will rely on the General Disposal Consent Order (England) 2003 which gives consent for local authorities to dispose of land at below best consideration reasonably obtainable. The Council must be satisfied that the under value is less than £2m and the proposal enhances the environmental economic or social wellbeing of the area. EWT are constructing a brand new facility to provide a high quality Education and Visitor Centre on Council land, attracting a wider public to the area with the potential of increasing economic activity. EWT are also proposing to work with volunteers to carry out a range of conservation and educational activities that will contribute to environmental and social wellbeing.

The legal Conveyance which transferred the land at the Naze to the Urban District Council of Frinton and Walton in 1967 contained a covenant to use the property for the purposes of Regional Open Space and to obtain consents from the County Council to use the land for any other purpose. Essex County Council has confirmed in writing that they believe the proposals are consistent with the covenants and would not look to take any further action.

## **RECOMMENDATION(S)**

**That Cabinet:**

- (a) Has regard to the responses received to the Public Notice and the content of the Petition;**
- (b) Has regard to the Council's recommendations in respect of the Petition;**
- (c) Grants a lease to EWT over the land shown in Appendix A, subject to the Heads of Terms as set out in Appendix B;**
- (d) Approves the composition of the Naze Management Board and delegates authority to the Leader of the Council to appoint three TDC Member representatives on the Board with a further officer representative being**

appointed by the Chief Executive.

- (e) Agrees that the Council meets the one off cost of converting the existing toilet block into a store at an estimated maximum cost of £10,000 to be funded from existing budgets.
- (f) Agrees that, if required, an additional area of land outside the land included in the proposed lease be made available under license to EWT on a fixed term basis for use as a compound during the construction period and for works to the access routes and parking in accordance with the planning permission, such license to be on terms to be agreed by the Corporate Director, (Corporate Services).
- (g) Agrees the schedule of everyday operations which EWT will be permitted to carry out without specific agreement from the Naze Management Board as set out in Appendix G.

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

This proposed use of open space supports the Council's priorities of:

- **Reducing health inequalities and disadvantages.**
- **Promoting healthy and active lifestyles.**
- **Protect our countryside, environment and coast.**

It is consistent with the aim in the Corporate Plan to achieve “a high quality built and natural environment with quality open spaces that enhance the natural assets of the coast and countryside” and with the Council's Tourism Strategy.

In addition the proposal offers the opportunity to enhance:

- The environment on the Naze by way of the work that would be directly undertaken under the direction of the proposed Naze Management Board;
- The local economy, by way of attracting a broader range and longer season of visitors to the town;
- The social wellbeing of the area by providing education, volunteering and community opportunities.

### FINANCE, OTHER RESOURCES AND RISK

#### Finance and other resources

A peppercorn rent has been negotiated. As outlined in the legal paragraph of this Report, it is intended to use the General Disposal Consent Order (England) 2003. The Council's external valuers have estimated that the unrestricted (insofar as possible) rental value of the site of the Education and Visitor centre and the toilet building is £10,000pa and £700pa respectively.

It must be taken into account when considering the rental value, that the Council has not incurred any financial expenditure to construct the building and therefore, any potential rental would need to be balanced against EWT's cost to provide the facility.

It has been provisionally agreed, as part of the negotiation process, that while the Council will not pay a standing revenue contribution to EWT, the one off cost of an estimated maximum of £10,000 required to convert the existing toilet block into a store would be met by the Council. This cost can be met from existing budgets.

As part of the Heads of Terms it is proposed that any profits over £10,000pa made by EWT at the Naze will be shared on a 50/50 basis with the Council.

As part of the Heads of Terms it has also been provisionally agreed that in the event that the annual income from the Naze Car Park exceeds £55,400 per annum, index linked, then TDC will share any resulting additional operational surplus from the car park in the proportion of 50/50% between EWT and TDC. In this context surplus will mean the income from the car park minus any reasonable operating expenditure. This surplus share will be for the whole 60 year term of the lease but will be capped for EWT at £17,500 per annum. This cap will be index linked. To facilitate this provision TDC will provide a set of accounts to EWT within 90 days of the year end.

Accordingly it is for Members to decide whether to proceed with the proposals at an under value of £10,700pa because of the economic, social and environmental benefits of the proposals overall.

The requirement to obtain two valuations under the revised Property Disposal Policy does not apply to this disposal as it does not exceed £50,000.

### Risk

Risk	Control
That EWT will seek to restrict access to the open space.	The demised area has been reduced to cover solely the footprint of the building and surround. The retained land at the Naze will remain within the Council's ownership. The Heads of Terms also include an additional obligation on the EWT not to allow or permit anything which may restrict public access to the open space.
That the area is at present subject to coastal erosion.	Coastal erosion is inevitable. None of the parties have funds or consent at present to carry out a coast protection scheme but both will use their best endeavours to seek funding to maintain the Naze and the Crag Walk scheme in future.
EWT are not able to sustain the operation of the visitor centre.	The Heads of Terms include an obligation for the Education and Visitor Centre to be open to the public. If the terms are breached beyond remedy the land would revert back to the Council. The lease will contain a usual reinstatement clause, as the Council has not identified resources to run the facility if this happens.
That funding for the construction of a visitor centre is withdrawn.	The Heads of Terms contain a break clause to terminate the lease in this event.

### LEGAL

Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

The General Disposal Consent Order (England) 2003 gives consent for disposal at below best consideration reasonably obtainable provided that the undervalue is less than £2m and the proposal enhances the environmental economic and social wellbeing of the area.

Section 123(2A) Local Government Act 1972 indicates that, a local authority may not

dispose of land held by it without advertising its intention to do so in the local press.

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

The Council has advertised the potential disposal of open space and the responses are set out in the Current Position Section.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation/Public Engagement

#### **Consultation/Public Engagement**

A petition has been received and considered by the full Council. The proposals have been advertised and responses should be considered and taken into consideration in any decision made by the Cabinet.

#### **Ward**

Walton

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

EWT initially requested a 99 year lease in order to manage the entire area of approx. 44 ha/109 acres of Council owned land and buildings to EWT in connection with the Naze Heritage Project. This request was subsequently amended to requesting a 60 year lease.

The Naze Heritage Project includes two main but distinctly separate phases: Phase 1 includes the construction of Crag Walk and has been completed. Phase 2 relates to improved educational and visitor facilities on the land at the top of the cliffs in the vicinity of the Naze Tower and the management of the rest of the site.

In May 2010 the then Leader, acting as the Community, Partnerships and Renewal Portfolio Holder, decided to initiate the Council's Property Dealing Policy in order to facilitate negotiations and discussions.

On 07 November 2013, Planning permission was granted for the construction of an Education and Visitor centre.

On 07 March 2014, HM Treasury announced a Coastal Communities Fund grant of £1,145,000 in order to construct the Education and Visitor centre. EWT need a lease of the site for sixty years in order to draw down the grant and create a viable business to sustain the running of the facility.

Existing public conveniences on the site are very poor quality and together with the café are at risk from likely future cliff movement. The EWT proposals would provide high quality new toilets and visitor facilities.

## **CURRENT POSITION**

The Education and Visitor centre would offer a significant improvement in the facilities available to visitors to the Naze as well as high quality educational provision. Substantial grant funding and planning permission have been obtained. The proposal offers the opportunity to enhance:

- The environment on the Naze by way of the work that would be directly undertaken by the Trust;
- The local economy, by way of attracting a broader range and longer season of visitors to the town;
- The social wellbeing of the area by providing education, volunteering and community opportunities.

Accordingly the proposal meets all three of the potential criteria for application of the General Disposal Consent Order (England) 2003. Profit / surplus share has been built into the Heads of Terms for the lease.

### **Public response to consultation**

The Council has advertised the potential lease and has received responses from 61 respondents: 37 opposing and 22 in support as well as 2 that expressed concerns but did not clearly object. Some correspondents sent more than one letter or message, these have been counted only once in the foregoing. The most general theme in the objection letters is the fear of the loss of open space and dog walking or the restriction of these activities.

All items of correspondence are included in Appendix F.

Printed copies of the report will not include this appendix due to its size (103 pages) but it will be included in the electronic copy supplied to all Councillors and made publicly available to the press and via the Councils Web site.

A full printed copy of the correspondence will be available at the Cabinet meeting for inspection.

### **Petition**

The Council has received a petition entitled Petition of Objection to the Leasing of the Naze. The petition reads as follows:

“Petition of Objection to the Leasing of the Naze

We the undersigned wish to formally register our strongest possible Objection to Tendring District Council’s plans to grant any lease to Essex Wildlife Trust, or any other Third Party, the Regional Open Space known as the Naze – the 45 hectares noted in the TDC Public Announcement dated 28/11/2013.

We demand that Tendring District Council adhere to the terms of the Deeds between Essex County Council and Frinton and Walton Urban District Council (TDC are the successor Council and are consequently bound by the term of this Deed). This Land was purchased by the people of Walton, Frinton and Kirby on 06/02/1967 for it to be retained as a Regional Public Open Space, the Deed states the existing Nature Reserves are to be the only nature reserve areas the remainder must remain a Regional Open Space. TDC has managed this area well and at low cost – the undersigned wish this to continue.”

This was signed by 1129 people.

The petition was considered at the Council meeting on 25 March 2014. Council resolved:

“That the Council thanks the Petitioners for the Petition and requests that the Cabinet have regard to the outcomes of the Petition and the general public consultation when determining the Essex Wildlife Trust’s request for a lease of the Naze”.

In order to seek to address public concerns while facilitating the provision of the improved facilities officers have progressed negotiations with EWT on a compromise option:

1. Lease the building footprint and surround to EWT together with the redundant toilet block; and
2. Establish a separate collaborative agreement on the shared management of the open space to be overseen by a representative Naze Management Board including the District, County and Town Council, the EWT and a range of interested groups.

### **Public Conveniences**

The proposed approach includes the provision of new public conveniences including facilities for people with a disability (which the Naze currently lacks) as part of the visitor centre (but accessible from outside the centre) to be run by EWT, and the conversion by TDC of the existing public convenience building for use by EWT as a store.

### **The Naze Tower**

The owners of the Naze Tower are supportive of the EWT scheme for an Education and Visitor Centre and will be a voting member of the Naze Management Board. The EWT scheme will not have a detrimental effect on the Tower and the business carried out there as there are very few similarities in the offer. The Tower is owned freehold by the Nye-Brown family and the Council have a good working relationship with them.

### **The Naze Café and Kiosk**

This is owned by TDC and leased to Mrs Barbara Russell who runs the café and kiosk and has done for some years. This lease is currently under-going a renewal and the new lease will run until 2024. The offer is wide ranging but basic and it is not thought that the visitor and education centre will impact upon this business. It is not known if Mrs Russell is supportive of the plans or not.

### **The Nazeman**

The Nazeman is Mike Cranston-Todd who conducts tours of the Naze and produces information leaflets on the environment, geology and ecology to be found there. He also has a stall which he sets up on the Naze selling various items of jewellery and stones. TDC have recently had a meeting with Mr Todd as it was felt that more robust documentation should be put in place if he was to continue this offer on the Naze. He was therefore asked to provide public liability insurance, a first aid certificate, a CRB check and a detailed risk assessment. Mr Todd decided that he no longer wanted to operate on the Naze and has given TDC notice that he will not be on the Naze in 2014. He did not have any formal rights to be on the Naze selling his merchandise TDC just provided him with a letter of permission each year. It is not known whether he is supportive of the EWT scheme.

The Heads of Terms for the lease, indicative draft first annual management plan and proposed membership of the Management Board are attached as Appendices B, C and D respectively.

### **Draft Heads of Terms (Appendix B)**

This represents the provisionally agreed terms for the lease. This has been negotiated with EWT and their solicitor as well as with the Assets team and the Legal Services Manager. The terms within this document will be expanded to form a full lease document if Cabinet decide to approve a lease.

### **Draft Annual Work Plan (Appendix C)**

The annual work plan will be agreed by the Naze Management Board and will be based on the Naze management plan already in existence which the Public Experience Department use as a guide to the current management of the Naze. It is envisaged that this plan will change over the years as the Naze environment alters. The annual work plan uses the open space plan as a template and this will need to be altered and updated prior to the annual work plan being agreed to ensure that responsibilities are current.

The level of commitment by TDC to works in the plan reflects current activities and resources.

### **Proposed Naze Management Board (Appendix D)**

The Naze Management Board will be set up to oversee the management of the open space on the Naze. It will have 12 voting members and these will be made up of representatives from various bodies. The casting vote will be held by the chair of the management board which will be an officer of Tendring District Council. The board will also have a variety of other bodies represented that will have no voting rights.

The Board will oversee the management of the whole area of the Naze on behalf of the Council and will be the reference point for decisions regarding any EWT proposals for activities on the Naze which are not included in the schedule of agreed activities (see Appendix G) or in the Annual Work Plan agreed by the Board (see Appendix C)

### **Analysis of ongoing financial effects (Appendix E)**

The full estimated effects are set out in the Appendix.

Officers have negotiated a mechanism for sharing growth in the Car Park income due to any increased use resulting from the scheme.

The proposals offer the potential for financial benefits to the Council as well as opportunity costs:

Management of open space	As existing
Management of Public Conveniences	One off conversion cost but ongoing revenue saving thereafter
Rental	As existing.
Car park income	Potential increased income anticipated to arise as a result of the Education and Visitor centre and Trust activities.
Car park costs	Potential increased maintenance and opening costs
Sharing of any car park gains	The Council would both gain and share any increased operating surplus resulting from increased use



## **EWT Business Plan**

The EWT prepared a Business Plan for their proposals as part of their submission for a grant from the Coastal Communities Fund. The initial proposal was for the lease of the whole of The Naze and a revised version has been prepared based on the more limited lease and arrangements now proposed and is attached as Appendix H.

## **Correspondence (Appendix F)**

As referred to above all responses to the consultation on The Naze are included in this appendix. Due to its size it is not included in the hard copy printed version of this agenda.

## **List of Permitted Events on the Naze (Appendix G)**

The list of activities set out in Appendix G has been prepared in order to define activities which the EWT is permitted to carry out under the lease without the need for specific approval from the Naze Management Board. Activities other than those set out do require the Board's approval. It is proposed that any variations to this list should be agreed by the Naze Management Board.

## **APPENDICES**

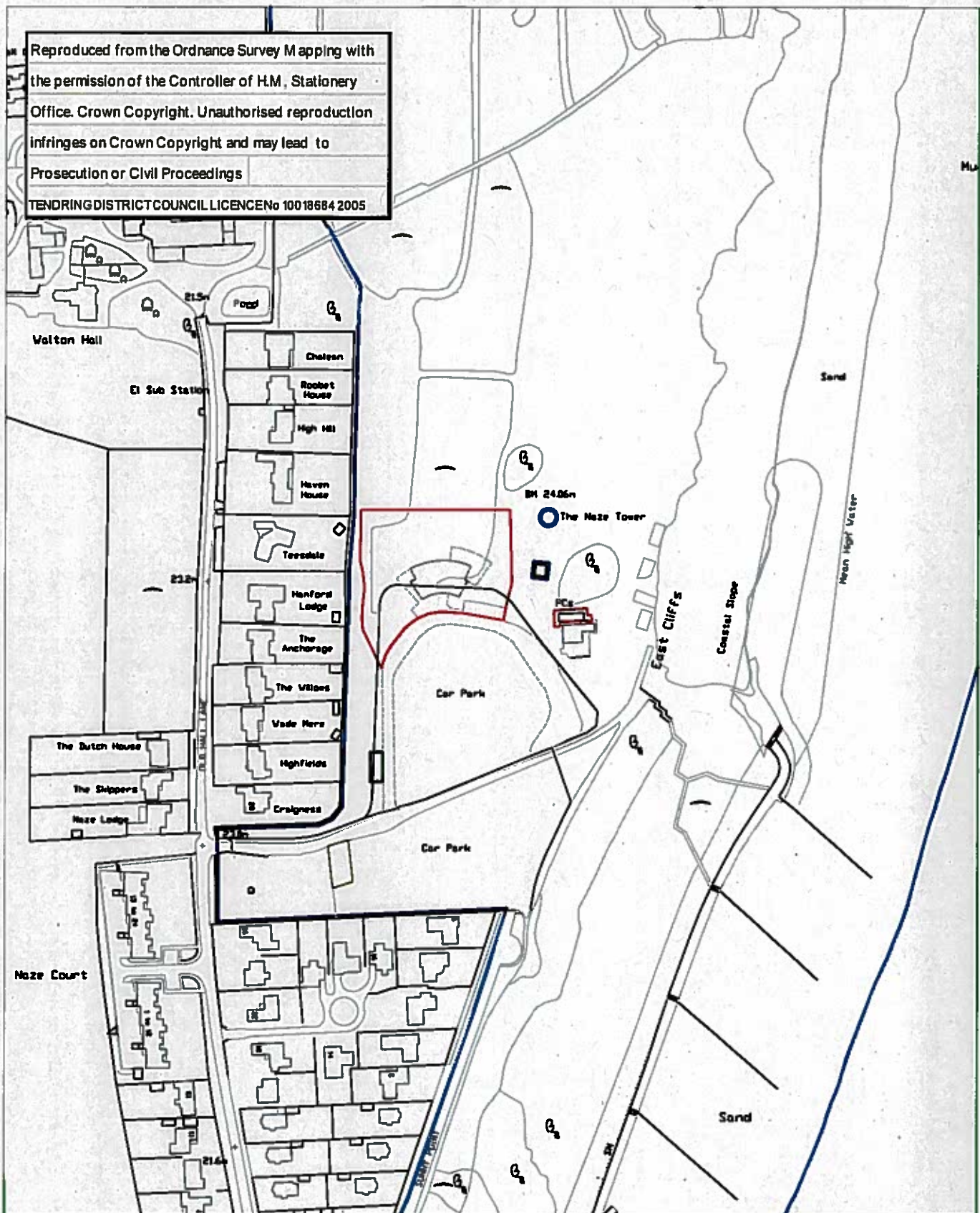
- Appendix A – Plans
  - (i) Location Plan
  - (ii) Site Plan
- Appendix B – Heads of Terms
- Appendix C – Draft Annual Work Plan
- Appendix D – Composition of the Management Board
- Appendix E – Analysis of on-going financial effects
- Appendix F – Correspondence (electronic copy of agenda only).  
Available for inspection at the Town Hall Clacton and online if you follow this link. [Agenda](#)
- Appendix G – List of Permitted Events on the Naze
- Appendix H – EWT Business Plan. Available for inspection at the  
Town Hall Clacton and online if you follow this link. [EWT Business Plan](#)

## **BACKGROUND PAPERS**

The Naze Byelaws.

# APPENDIX A(i) LOCATION PLAN

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 TENDRING DISTRICT COUNCIL LICENCE No 10018684 2005



**TENDRING DISTRICT COUNCIL**  
 M. KNAPPETT  
 BA(hons). DMS.  
 CORPORATE DIRECTOR: CORPORATE SERVICES

title: WALTON ON THE NAZE:  
 THE NAZE  
 drawing: POTENTIAL LEASE  
 LOCATION PLAN

scale:	1:2500
drawn by:	AR WHITE
date:	02 April 2014
drwg.No.	revision
3	D



# APPENDIX A (ii) SITE PLAN

DO NOT SCALE FROM THIS DRAWING  
All dimensions to be checked on site

14 JUL 2010  
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12 JUL 2010  
11 JUL 2010  
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09 JUL 2010  
08 JUL 2010  
07 JUL 2010  
06 JUL 2010  
05 JUL 2010  
04 JUL 2010  
03 JUL 2010  
02 JUL 2010  
01 JUL 2010

**LAURIE WOOD ARCHITECTS**  
The Studio  
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client	Essex Wildlife Trust
project	Naze Education & Visitor Centre
drawing	PROPOSED SITE PLAN
scale	1:500 @ A3
drawn by	LW/JJG
checked by	WJ
date	10.11.10
rev.	D
drawing no.	173 - 04



**A3**

**Appendix B**  
**HEADS OF TERMS FOR A NEW LEASE FOR THE NAZE**

**All without prejudice and subject to contract and necessary member or other approvals**  
**by Lessor and Lessee**

**LESSOR:** TENDRING DISTRICT COUNCIL of Town Hall, Station Road,  
Clacton on Sea, Essex, CO15 1SE

**LESSEE:** ESSEX WILDLIFE TRUST

**PROPERTY:** The footprint of the visitor and education centre building and surrounds on The Naze, Walton on the Naze as shown edged red on the attached plan.

**BUILDING:** The Lessee to construct on the Property a visitor centre in accordance with Planning Permission 13/00515/FUL within 5 years of the date of the Lease

**LESSOR'S SOLICITOR:** Tendring District In-House Solicitors

**LESSEE'S SOLICITOR:** Ellisons ~Solicitors (REF: PR)

**CONSENTS:** The Lessee to seek and obtain all necessary licences or other consents for the use of the Property and for any adaptations alterations or improvements required. The Lessee to provide the Lessor with a full copy of all consents and permissions and where applicable any related documents. Planning permission for visitor and education centre already in existence

**RIGHTS:** The Lessee will have rights over but not possession of the 45 hectares of land edged blue ("the Naze") but this will not constitute a lease. The rights will include:

- (a) The right to:
  - (i) hold events including walks, lectures, picnics, nature trails, bird watching fund raising events and any other event deemed appropriate on the Naze by the Management Board whose consent will be required. A list of general operational events has been supplied by EWT and agreed by TDC for which the approval of the Management Board will not be required.
  - (ii) carry out surveys of all aspects of the Naze, including its wildlife, fossils, geology, history, land use etc.
  - (iii) to monitor and research the features of interest of the Naze;
  - (iv) store records relating to these and to publish these records or analysis or research or literature relating to these, providing always that the same information is made available to the Lessor should the Lessor ask for it.
  - (v) carry out conservation projects such as scrub clearance, nesting box construction and erection.
  - (vi) And any other project deemed appropriate by the Management Board.
- (b) To construct the building in accordance with planning permission and building regulation consent to provide a visitors centre open to the public.
- (c) The right to use lay and connect all media for the supply or removal of heat, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities

and all structures, machinery and equipment ancillary to those media, situated in on over or under the Naze.

- (d) A right on foot or bicycle to and from the Property over the nearest footpath or cycle route on the Naze leading to the adopted public highway subject to the right of the Lessor to close the footpath or cycle route for safety reasons or to carry out works without being liable to the Lessee
- (e) Free car parking for the Lessee and their volunteers and staff to be accommodated in an exclusively designated area marked green on the plan. Parking elsewhere in the Naze Car Park will incur the usual charges. A maximum of three coaches per day will be allowed to park within the Naze Car Park
- (g) A right to build and allocate a hard standing area for disabled bays in accordance with the planning permission.
- (h) The right of access to the Property for all persons and purposes across from Old Hall Lane by vehicle, by bicycle or on foot.
- (i) A right of way to and from the Property over all parts of the Naze which are accessible, with or without dogs.
- (j) The right over all parts of the Naze (including but not limited to Sunny Point) that are accessible on foot (or wheelchair or powered wheelchair for disabled visitors only) for the purposes of exploring the Naze and explaining all aspects of biology, geology, history, land use and other aspects of the Naze and for taking specimens, providing this is within the law, for educational or scientific purposes.
- (k) The right for the Lessee staff and volunteers and contractors to undertake any aspects of land management which is approved by the Lessor in the Management Plan such approval not to be unreasonably withheld or delayed and endorsed in the Annual Work Plan agreed for the Naze by the Naze Management Board or separately agreed by that same Board and therefore to use any machinery, including powered machinery or hand tools which are appropriate for undertaking those agreed tasks and providing that the Lessee has assured itself that those persons are appropriately qualified, trained and insured by the Lessee for undertaking those tasks.
- (l) [The right to use the area edged [ ] for keeping bicycles belonging to the Trust, its employees and visitors.] [If no such area in the Property] In accordance with the planning permission.
- (m) [The right to use an area for loading and unloading goods and materials] [If no such area in the Property] In accordance with the planning permission
- (n) The right to display:
  - a. the name and logo of EWT (and any authorised undertenant)
  - b. Advertisements for EWT, the Property and activities carried out thereon

on signs or noticeboards at:

- i. the car park entrance
- ii. the car park
- iii the beach

in a form and manner approved by the Lessor or Management Board [if consent is granted by the Management Board, this will be deemed as the Lessor's approval].

- (o) Right to put up interpretation boards on the Naze in such positions and of such design as approved by the Lessor or Management Board [if consent is granted by the Management Board, this will be deemed as the Lessor's approval].
- (p) The right to enter the Naze so far as is reasonably necessary to carry out any works to the Property required or permitted by the lease.
- (q) The right to exhibit and have temporary shelter/stand on the Naze and beach in a form and manner approved by the Lessor, such approval not to be unreasonably withheld or delayed.
- (r) The right to form a 'log circle' to be used as a base for educational activities and to carry out educational activities at the same
- (s) The right to produce promotional material referencing the Naze Public Open Space.

**MANAGEMENT PLAN:** The Naze will be managed by Tendring District Council in accordance with the 10-year Naze Management Plan adopted by Tendring District Council. The Lessee will conduct their activities in accordance with the Management Plan. Any specialist event or activity which will limit full public access needs to be referred to the Management Board for approval prior to the event taking place. The Management Plan will be reviewed and renewed every 10 years by the Management Board and Natural England.

**MANAGEMENT BOARD:**

A Management Board will be set up to approve the running of The Naze in accordance with the Management Plan to agree:

- (i) the Annual Work Plan;
- (ii) to ensure that any works proposed which are not in the existing Naze Management Plan are agreed; and
- (iii) to ensure any events outside the ordinary running of an Education & Visitor Centre, the general events list or impacting on the public visiting the Naze are agreed; and

- (iv) for additional events and projects not covered by the Management Plan..

The Terms of Reference and composition of the Management Board will be set out in a separate agreement. Representatives and allocation will be as follows:

- EWT (3),
- TDC (4),
- Naze Tower Owner (1),
- Essex County Council (1),
- Hamford Water Management Committee (1)
- Frinton & Walton Town Council (1).
- The Naze Protection Society (1).

The casting vote will sit with the Chair of the Management Board which will be a TDC officer.

**EXCLUDED:** No warranty of fitness by the Lessor.

**SECURITY OF TENURE:** The provisions of Landlord and Tenant Act 1954 will apply to the Lease.

**TERM:** 60 years

**BREAK CLAUSE:** The lease will be subject to a break clause exercisable by the Lessee if any of the following factors arise:

- a. If on inspection the land is found to be contaminated (pre-planning condition) such that it prevents construction of the building.
- b. If on inspection the land is found to be of archaeological importance (pre-planning condition) such that it prevents construction of the building.
- c. If the Lessee fails to obtain any necessary third party consents.
- d. If the Lessee after using reasonable endeavours fails to secure sufficient funding to comply with both the planning permission and the terms of the lease by March 2016.
- e. Such a break cannot be exercised once the build has commenced.

**USER:** Not to use the Property for any purpose other than as a visitor and education centre and public toilets and ancillary to the former a gift shop and for the sale of confectionary, snacks and non-alcoholic drinks unless otherwise agreed in writing by the Lessor.

**RENT:** Peppercorn (subject to profit share of 50% to each party subject to the visitor and education centre annual profit exceeding £10,000). Profit share will be determined based on Audited accounts submitted annually by the Lessee to the Lessor within 90 days of the year end.

**RENT REVIEW:** Upon assignment at open market rent.

**OUTGOINGS:** The Lessee to pay all outgoings including business rates, any gas, water, electricity and charges for other services arising in relation to its use of the Property. The Lessee shall pay the Lessor on demand a fair proportion of all costs payable by the Lessor for the maintenance, repair, lighting, cleaning and renewal of all Service

Media, structures and other items used or capable of being used by the Property in common with other property.

**REGULATIONS:** The Lessee to comply with all regulatory or other requirements of any competent authority in respect of the Property and the use of the Property. The Lessee to pass on a full copy of any notices received in respect of the Property or its use to the Lessor.

**CLEANING:** To maintain the property in a clean and hygienic manner and comply with any regulations concerning the disposal of waste.

**CONDITION:** As built in accordance with the planning permission.

**REPAIRS TO BUILDING:** Lessee to be responsible for the maintenance upkeep and decoration of the building and all services serving the building including the structure and roof for the duration of the lease. Terminal Schedule of Dilapidations to be served a minimum of 2.5 years before the end of the lease to enable Lessee to carry out the works required.

**FORCE MAJURE:** Both parties reserve the right to bring the lease to an end should any incident render the building unsafe or uninhabitable subject to independent survey by suitably qualified professional.

**ALTERATIONS:** No structural alterations or improvements permitted to the Property without the prior written consent of the Lessor, not to be unreasonably withheld or delayed.

Internal non-structural alterations permitted without consent, subject to notice being given

**AERIALS:** Not permitted without the prior written consent of the Lessor, not to be unreasonably withheld or delayed.

**ALIENATION:** Subject to obtaining the Lessors consent not to be unreasonably withheld or delayed.

**NUISANCE:** The Lessee to use the Property and carry out any activities thereon with reasonable regard to neighbouring properties and taking all reasonable measures to prevent the causing of nuisance to any neighbouring owners/users.

**HAZARDOUS WASTE:** The Lessee shall not bring dangerous things including any hazardous, radioactive, explosive, harmful or polluting materials onto the Property other than and to the extent permitted by necessary consents relating to the Property and to keep such hazardous materials in full compliance with such authorisations. The Lessee shall not to use the Property for any illegal or immoral purpose.

**INDEMNITY:** The Lessee will indemnify the Lessor against any claims or liability arising from the Lessee's occupation or use of the Property or exercise of the rights

The Lessee to indemnify the Lessor for any damage to the Property or any other land or Property caused by their occupation or actions/omissions including any liability in respect of any release of any contaminant caused by the Lessee

**LESSEE OBLIGATIONS:**



- (a) To run a visitor and education centre which is open to the public every weekend, and a minimum of 3 days from Monday to Friday every week for at least six hours per day.
- (b) Lessee to incorporate new public toilets including disabled facilities within the visitors centre, some of these to be accessible from the external parts of the building from 8.30am to 6pm September to Easter and from 8.30am to 10pm at all other times.
- (c) To abide by the byelaws of the Naze a copy of which is attached to the lease. Where the byelaws are in conflict with the lease, TDC will not seek enforce the byelaws.
- (d) To ensure that in exercising the terms of this lease and subject to rights granted herein, not to allow or permit any restriction of the public open space.
- (e) To endeavour to raise or help raise funds which assist the Lessor with the cost of maintaining the Crag Walk including tacking this in to the cliff as the cliff recedes if this is deemed the correct course of action at the time by the Lessor acting reasonably.
- (f) To provide a visitors centre within 3 years of the date of the lease

**LESSOR OBLIGATIONS:**

- (a) Upon the existing toilet block being decommissioned to refurbish as a Ranger's store and the Lessee will have the right to utilise this toilet block as a Ranger's store for the storage of any equipment or materials or tools relevant to the management of the Naze. This store will form part of the lease demise and the rental and repair provisions will be in accordance with the terms of the lease.

- (b) To maintain and run the car park as it is currently

In the event that the annual income from the Naze Car Park exceeds £55,400 per annum, index linked, then TDC will share any resulting additional operational surplus from the car park in the proportion of 50/50% between EWT and TDC. In this context surplus will mean the income from the car park minus any reasonable operating expenditure. This surplus share will be for the whole 60 year term of the lease but will be capped for EWT at £17,500 per annum. This cap will be index linked. To facilitate this provision TDC will provide a set of accounts to EWT within 90 days of the year end.

- (c) To maintain the picnic benches at the Naze

- (d) To carry out the works as specified in accordance with the annual work plan.
- (e) To use best endeavours within resources available to maintain access to the beach at a suitable point as close to the visitors centre as it is safe to do so.
- (f) To use best endeavours within the resources available to maintain the Crag Walk including tacking back into the cliff as the cliff erodes should this be considered the best course of action at the time by the Lessor.

**INSURANCE:** The insurance of the Property and the building is to be the responsibility of the Lessee.

**LEGAL COSTS:** Each party to be responsible for their own legal costs

**GENERAL:** The Lease shall contain any other terms and conditions as the Lessor's and Lessee's solicitor considers necessary for a Lease of this nature.

**TERMINATION:** The Lease may be determined at the end of the term in accordance with the Landlord and Tenant Act 1954.

**FORFEITURE:** Either party may determine the lease if the other party is in breach of the lease and the breach is non-remedial.

**YIELD UP:** To yield up the Property and the Building in accordance with the repairing covenants at the end of the term

**SUBLETTING:** The Lessee may only sublet part, and not all, of the property to a wholly owned subsidiary of the same group as the Lessee.

## Appendix C

### ANNUAL WORK PLAN – THE NAZE OPEN SPACE

The below is not a definitive list but an idea of the sort of activities that would be on an Annual Work Plan and proposals as to who would do which activities. Each of the tasks is taken from 'The Naze Public Open Space Management Plan, July 2009'.

A map showing the location of each feature is on page 4.

<b>Section A Management of the main features</b>	<i><b>first thoughts on who could do which activities</b></i>
<b>A1. Feature 1 – Stabilised Cliff</b>	
A1.1 Maintain main paths by mowing, as necessary.	TDC
A1.2 Maintain main paths by winter scrub management.	EWT
A1.3 Create and maintain additional, 'cul-de-sac' paths.	TDC
A1.4 Coppice a maximum of ¼ hectare of scrub each winter.	EWT
A1.5 Create and maintain viewpoints by selective coppicing.	TDC
A1.6 Mow one fifth of northern grass in November	TDC
A1.7 Expose small patches of bare substrate.	EWT
<b>A2. Feature 2 – Eroding Cliff</b>	
A2.1 Clear perennial vegetation from a 10m wide strip in early spring.	EWT
A2.2 Clear all woody growth in every third year.	EWT
A2.3 Leave 4-6m strip on the cliff edge un-mown.	TDC
A2.4 Maintain or re-create seepage and pool features if necessary.	EWT
<b>A3. Feature 3 – Amenity Areas</b>	
A3.1 Maintain amenity grassland by regular mowing.	TDC
<b>A4. Feature 4 – Top, Grassland and Scrub</b>	
A4.1 Maintain main paths by mowing, as necessary.	TDC
A4.3 Cut and collect main acid grassland areas in November.	EWT
A4.4 Cut and collect a quarter of remaining grass in three blocks in November.	EWT
A4.5 Undertake additional scrub management	EWT
<b>A5. Feature 5 – Bottom, Scrub and Grassland</b>	
A5.1 Cut and collect half of open grassland in November each year, alternately.	EWT
A5.2 Cut one side of all path margins alternately during winter.	EWT
A5.3 Coppice ½ hectare of scrub each winter.	EWT
A5.4 Thin Sycamores in every fifth year.	EWT
A5.5 Consider other selective felling	TDC
<b>A6. Feature 6 – Lagoons and Beach</b>	
A6.2 Consider protection of significant plant species on the beach	NAZE MANAGEMENT BOARD
A6.3 Cut seawall and folding in alternate years, if not carried out by the Environment Agency.	EWT

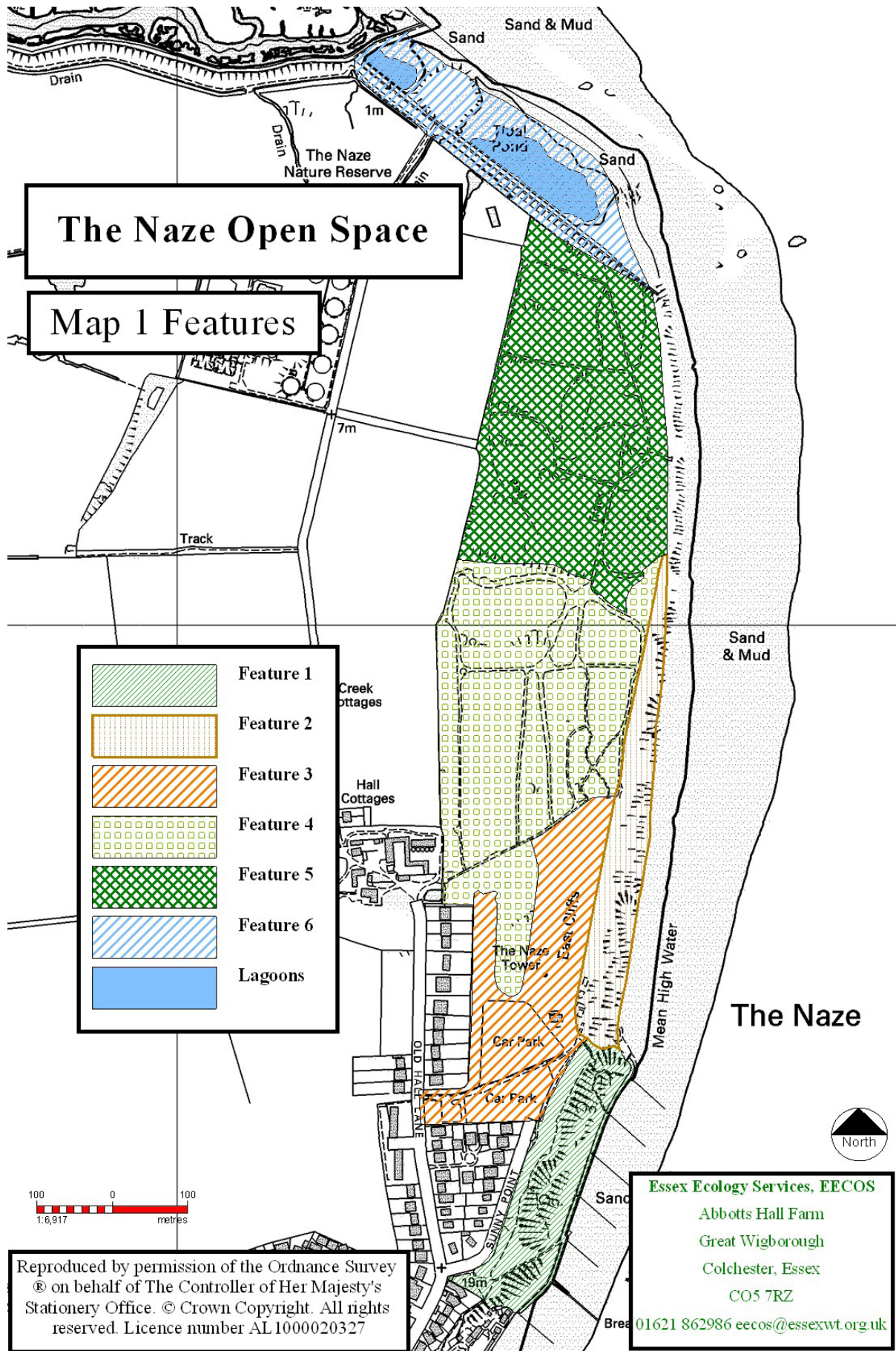
## Appendix C

<b>Section B Recording and Monitoring</b>	
<b>B1 Soft Cliff Invertebrates</b>	
B1.1 Undertake invertebrate surveys in Feature 1 and 2 every five years.	EWT fundraise for
<b>B2 Crag Walk</b>	
B2.1 Monitor rate of vegetation growth on cliff behind Crag Walk	EWT
B2.2 Monitor cliff profile and erosion patterns	EWT
B2.3 Monitor condition of seepages and pools	EWT
<b>B3 Botanical</b>	
B3.1 Undertake baseline botanical survey repeated every ten years.	EWT fundraise for
B3.2 Undertake botanical surveys of Features 2 and 6.	EWT fundraise for
<b>B4 Other Monitoring</b>	
B4.1 Encourage specialist recording by individuals and societies.	EWT
B4.2 Undertake Great Crested Newt survey.	EWT
B4.3 Undertake reptile survey.	EWT
<b>Section C Management of any other features</b>	
<b>C1 Heritage Features</b>	
C1.2 Seek advice on the preservation of the remaining pill boxes.	EWT
C1.3 Produce interpretation for historic elements of the site.	EWT fundraise for
<b>C2 Dogs</b>	
C2.1 Provide dog waste bins and encourage their use.	TDC
<b>C3 Camping</b>	
C3.1 Prevent camping on the open space.	TDC
<b>Section D Promotion of the Site</b>	
<b>D1 Public Access</b>	
D1.1 Maintain current visitor infrastructure of car park, footpaths, steps, etc.	TDC
<b>D2 Interpretation</b>	
D2.1 Develop and implement a full interpretation plan	NAZE MANAGEMENT BOARD
<b>Section E Administration of the Site</b>	
<b>E1 Annual action plan</b>	
E1.1 Agree the Annual Action Plan and carry out an Annual Action Plan site visit.	NAZE MANAGEMENT BOARD
<b>E2 Health and Safety</b>	
E2.1 Carry out Health and Safety Site Audit every two years.	EWT AND TDC
E2.2 Produce Risk Assessments for all events.	EWT
<b>E3 Owner Liability</b>	

## **Appendix C**

E3.1 Carry out inspections of all manmade structures and other hazardous features.	TDC Bi Annually
<b>E4 Management Plan Review</b>	
E4.1 Prepare revised management plan after ten years	NAZE MANAGEMENT BOARD
<b>F Other aspects outside the Naze Management Plan</b>	
<b>F1 John Weston Nature Reserve</b> - Undertake all management works at John Weston Nature Reserve in accordance with EWT Management Plan and Annual Action Plan.	EWT

**Appendix C**



**The Naze**  
**Management Board Membership**

Chair (casting vote) to be TDC Officer		
Voting Member	Tendring District Council	Representative
Voting Member	Tendring District Council	Representative
Voting Member	Tendring District Council	Representative
Voting Member	Tendring District Council	Representative
Voting Member	Essex Wildlife Trust	Representative
Voting Member	Essex Wildlife Trust	Representative
Voting Member	Essex Wildlife Trust	Representative
Voting Member	Essex County Council	Representative
Voting Member	Frinton & Walton Town Council	Representative
Voting Member	Naze Tower owner	Representative
Voting Member	Naze Protection Society	Representative
Voting Member	Hamford Water Management Committee	Representative

Invited, but no voting right.	Natural England	Representative
Invited, but no voting right.	Environment Agency	Representative
Invited, but no voting right.	Essex County Council	Representative
Invited, but no voting right.	Anglian Water	Representative
Invited, but no voting right.	English Heritage	Representative
Invited, but no voting right.	Tendring District Council	Representative
Invited, but no voting right.	Essex Wildlife Trust	Representative
Invited, but no voting right.	Essex Wildlife Trust	Representative
Invited, but no voting right.	Essex Wildlife Trust	Representative
Invited, but no voting right.	Essex Wildlife Trust	Representative
Invited, but no voting right.	Adjoining farm owner	Representative

## Appendix E

### Analysis of On-Going Financial Effects

#### Current Position

	Pubcons	The Naze	Car Park <sup>®</sup>	Total
Average Annual Costs	£6,980	£30,840	£19,690	<b>£57,510</b>
Average Annual Income	£0	<b>-£2,395</b>	<b>-£55,412</b>	<b>-£57,807</b>
<b>Average Annual Net Costs</b>	£6,980	£28,445	<b>-£35,722</b>	<b>-£297</b>
<b>Note:</b> Based on 5 year average with 10% contingency				

#### Pessimistic Prediction

	Pubcons	The Naze	Car Park <sup>®</sup>	Total
Average Annual Costs	£0	£33,924	£23,628	£57,552
Average Annual Income	£0	<b>-£2,395</b>	<b>-£55,412</b>	<b>-£57,807</b>
Average Annual Net Costs	£0	£31,529	<b>-£31,784</b>	<b>-£255</b>
Visitor Centre profit share				£0
Car park surplus sharing				£0
Overall Net Costs				<b>-£255</b>
Variance from existing position				£42
<b>Note:</b> Assumes no growth in car park income but a 10% growth on naze management costs and a 20% growth in car park costs. The result would be a marginal overall cost to the Council.				

#### Optimistic Prediction<sup>1</sup>

	Pubcons	The Naze	Car Park <sup>®</sup>	Total
Average Annual Costs	£0	£30,840	£21,659	<b>£52,499</b>
Average Annual Income	£0	£0	<b>-£72,036</b>	<b>-£72,036</b>
<b>Average Annual Net Costs</b>	£0	£30,840	<b>-£50,377</b>	<b>-£19,537</b>
Visitor Centre profit share				<b>-£2,500</b>
Car park surplus sharing				<b>£7,327</b>
Overall Net Costs				<b>-£14,709</b>
Variance from existing position				<b>-£14,751</b>
<b>Note:</b> Assumes £15,000 profit made by EWT in the Visitor Centre, 30% growth in car park income but no growth on naze management costs and a 10% growth in car park costs. The result would be a significant surplus for the Council.				

**Note:** In all examples costs shown as +ve values and income/ surplus as -ve



## **Appendix F**

### **Correspondence**

Letters can be viewed via the Council's website

## Appendix G

Events run as part of everyday operation of an Essex Wildlife Trust Education and Visitor Centre:

1.	<b>Identification and survey events and/or walks</b> – for example wild flowers, grasses, trees, birds, bird song, bats, invertebrates, fungi foray, shore search, fossils, countryside management, landscape, seascape, marine creature, coastal processes etc.
2.	<b>Arts &amp; Crafts events</b> – for example willow weaving, felt making, enamelling, origami, nature’s art, exhibitions etc.
3.	<b>Special occasion events</b> – outdoor activities and crafts - for example Easter egg trails, Christmas market, Halloween walks, Mother’s day, Valentine’s Day etc.
4.	<b>Pre-school club</b> – activity sessions with pre-school age children. Nature and wildlife themes, outdoors and indoors, natural play, arts and crafts
5.	<b>Wildlife Discovery Days</b> – nature and wildlife themed drop-off and pick-up sessions for children 8+
6.	<b>Family Fun days</b> – nature and wildlife themed events for all of the family
7.	<b>After-school clubs</b> – activities for a dedicated site group as well as activities for example Brownies, Scouts, Beavers, Rainbows, Sea Scouts etc.
8.	<b>Formal Educational visits</b> – Primary, Secondary, College, University, Specialist interest groups
9.	<b>Birthday parties</b>
10.	<b>Advice days and workshops</b> for example birds in garden, looking after your pond, wildlife gardening, optics, wildlife homes – nest box building etc.
11.	<b>Themed events</b> - for example Nature, Wildlife, Geology, Bush Craft, Dens, Science, Weather, Space, Astronomy, Waste & recycling, Teddy Bears, Treasure hunt, Beach, Sand Castles, Marine, Pirates, Pixie & Fairies, Kites, Picnics
12.	<b>Health walks and Healthy Living events</b> - for example Yoga, Tai Chi etc.
13.	<b>Annual Open Day</b>
14.	<b>Dog Show</b>
15.	<b>Fundraising sales</b> – for example Plant Sale, Second-hand book Sale etc.
16.	<b>Storytelling</b>
17.	<b>Orienteering, Runs and trail races</b>
18.	<b>Photography</b>
19.	<b>Animal Encounters/Displays</b> –Birds of prey, reptiles, invertebrates, lambs etc.