



PLANNING COMMITTEE

DATE:	Tuesday, 14 May 2024
TIME:	5.00 pm
VENUE:	Town Hall, Station Road, Clacton-on-Sea, CO15 1SE (Committee Room)

MEMBERSHIP:

Councillor Fowler (Chairman)
Councillor White (Vice-Chairman)
Councillor Alexander
Councillor Everett
Councillor Goldman

Councillor McWilliams
Councillor Smith
Councillor Sudra
Councillor Wiggins

Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

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DATE OF PUBLICATION: Thursday, 2 May 2024

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 11 - 20)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday 16 April 2024.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Report of the Director (Planning) - A.1 - 23/01191/FUL - Tendring Technology College, Rochford Way, Frinton-on-Sea, CO13 0AZ (Pages 21 - 58)

Proposed creation of a 3G Artificial Grass Pitch (AGP) with perimeter fencing, acoustic fencing, hardstanding areas, storage container, floodlights, an access footpath and associated bund.

This application was called-in by Councillor Nick Turner, who has raised concerns that the development would result in a negative impact on the street scene, and is of a poor layout and would result in a negative impact to neighbours.

6 Report of the Director (Planning) - A.2 - 23/01594/FUL, Bathside Bay, Stour Road, Harwich, CO12 3HF (Pages 59 - 108)

Temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

7 Report of the Director (Planning) - A.3 - Planning Enforcement Update (Pages 109 - 116)

Live Information was taken on 17th April 2024.

To report the following areas:-

- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgements within 3 working days;
- number of harm assessment completions within 20 days of complaint receipt;
- number of site visits within the 20 day complaint receipt period;
- number of update letters provided on/by day 21;
- number of live cases presented by category, electoral ward and time period since receipt; and
- enforcement-related appeal decisions.

8 Report of the Director (Planning) - A.4 - Planning Appeal Annual Update (Pages 117 - 120)

Live Information was taken on 17th April 2024 for the period 1st April 2023 to 1st April 2024.

This report for planning appeals focuses on appeal decisions against planning permission decisions, tree works decisions and planning enforcement notice appeals. In total for the period covered there has been 68 planning appeals.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Tuesday, 11 June 2024.

INFORMATION FOR VISITORS

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee.

This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

Filming by the Council This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the

current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting.

Tendring **District Council**



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 5.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

WHO CAN SPEAK & TIME PERMITTED? All speakers must be aged 18 or over:

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the

agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 36.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 36.1; and

6. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative may be requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or, in their absence, the Vice-Chairman whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

WHICH MATTERS ARE COVERED BY THIS SCHEME?

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 686587 or 686584) during normal working hours on any weekday after the reports and agenda have been published; or

Email: democraticservices@tendringdc.gov.uk.

OR

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 above), the right to speak under that category will be on a “first come, first served” basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is **NOT** formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading “WHO CAN SPEAK?”
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and will debate, move motions and vote

Normally, the Committee will determine the matter, but sometimes the Councillors will decide to defer determination, in order to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial material change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report should identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council’s website will confirm this information.

WHAT SHOULD I SAY AT THE MEETING?

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

WHO DO I CONTACT FOR MORE INFORMATION?

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services,
Town Hall, Station Road, CLACTON-ON-SEA, Essex CO15 1SE
Tel: 01255 686161 Fax: 01255 686417
Email: planningservices@tendringdc.gov.uk Web: www.tendringdc.gov.uk

It always helps to save time if you can quote the planning application reference number.

As approved at the meeting of the Full Council held on 16 March 2021

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 16TH APRIL, 2024 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman), Alexander, Codling, Everett, Goldman, Smith, Sudra and Wiggins
Also Present:	Councillors Bray (except item 102) and Harris (items 101 & 102 only)
In Attendance:	Gary Guiver (Director (Planning)), Madeline Adger (Leadership Support Manager), Jacob Jaarsma (Planning Team Leader), Amy Lang (Senior Planning Officer) (except item 102), Michael Pingram (Senior Planning Officer), Bethany Jones (Committee Services Officer) and Daniel Johnson (Leadership Support Officer)(except item 102)

95. ABSENCE OF THE VICE-CHAIRMAN

Councillor Fowler (Chairman) made the Committee aware that Councillor White (Vice-Chairman) was not attending the meeting and that therefore, she had asked Councillor Wiggins to occupy the vacant seat and assist her in ensuring the meeting ran efficiently.

96. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received by Councillors McWilliams (with Councillor Codling substituting) and White (with no substitution).

97. MINUTES OF THE RECENT MEETINGS OF THE COMMITTEE

It was moved by Councillor Sudra, seconded by Councillor Wiggins and:-

RESOLVED that the minutes of the meeting of the Committee, held on Tuesday 12 March 2024, be approved as a correct record and be signed by the Chairman, subject to the following alteration and amendment to Minute 85 that:

“Councillor Sudra declared for the public record that, in relation to the Planning Application A.1 – 23/01375/FUL – Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ that she attend the site visit and Planning Committee meeting the first time this Planning Application was considered on 16 January 2024 and that therefore, she would not take part in the discussion and decision making for that application but that she would remain in the meeting.” to change to say *“Councillor Sudra declared for the public record that, in relation to the Planning Application A.1 – 23/01375/FUL – Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ that she **did not** attend the site visit and Planning Committee meeting the first time this Planning Application was considered on 16 January 2024 and that therefore, she would not take part in the discussion and decision making for that application but that she would remain in the meeting.”*

It was then moved by Councillor Alexander, seconded by Councillor Smith and:-

RESOLVED that the minutes of the meeting of the Committee, held on Monday 18 March 2024, be approved as a correct record and be signed by the Chairman.

98. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members on this occasion.

99. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice submitted by Councillors on this occasion.

100. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 21.01718.FUL - LAND REAR OF BLOOMFIELD COTTAGE, GRANGE ROAD, LAWFORD

Committee members were reminded that this application had been brought before the Planning Committee on 1 August 2023. Following deliberation, Members had voted to defer the item in order to afford the applicant the opportunity to:-

- provide more information on surface materials and details of the roadway design/width of the access and drive leading to the proposed bungalow;
- complete and submit an ecological survey/report for this site; and
- provide more details on the Package Treatment Sewage Plant including its location.

The Committee was made aware that, regarding the background of this case, the application had been initially referred to the Planning Committee due to the proposed development's conflict with the Development Plan's requirements. That conflict had arisen from the development's location beyond any defined settlement development boundary. That situation persisted, although it was noteworthy that the concept of a residential unit, in the form of a converted agricultural building, had been established under prior approval reference number 21/00704/COUNOT.

Officers reminded Members that the applicant had now provided the additional information as set out above. Following the completion of the assessment and in summary, ECC Highways continued to be satisfied with the proposal and had confirmed that the improved access and drive leading to the proposed bungalow would prove a safe and suitable access for the development. ECC Ecology had confirmed no objections from an ecological perspective subject to the imposition of appropriate planning conditions to ensure all mitigation and enhancement measures and/or works were carried out in full accordance with the details contained in the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment. The details of the Preliminary Treatment Sewage Plant were also acceptable because it had been demonstrated that the arrangement would result in no harm to the environment.

Members were told that, in terms of other relevant planning considerations, the proposed dwelling was not considered by Officers to be materially different regarding siting or footprint to the development approved under prior approval 21/00704/COUNOT. The overall height of the proposal slightly exceeded that of the existing building; however, that was not considered by Officers to result in significant harm.

The Committee heard that the application had been revised during the course of the application to a softer, more agricultural like appearance with timber cladding and full-length windows, which was considered to be in keeping with the rural location. The access remained as existing and there were no objections from the Highways Authority.

Members were informed that the Council’s Tree and Landscape Officer had noted that the application site was overgrown, with some established conifers along the eastern boundary. A soft landscaping scheme to include the site boundary secured by condition was suggested as that would help to soften the appearance and screen/filter views of the site from the Public Right of Way to the east.

The Committee also heard that the sufficient parking and private amenity space were provided, and there would not be significant harm to existing neighbouring amenities, subject to conditions.

Members also heard that conditions were included within the recommendations to ensure, amongst other things, the provision of biodiversity enhancements and a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development.

The Committee was finally told that unilateral undertakings had been completed to secure RAMS and Public Open Space contributions.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Planning Team Leader (JJ) in respect of the application.

There were no updates circulated to Members in respect of this application.

There were no public speakers on this application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>The Sewage Treatment Plant does not look like it is within the Red Line Area, which looks like it is not part of the application, how do we square that?</i>	<i>That is correct but the plant and the associated infrastructure like the drainage etc. will be within the Blue Line Area which is under the same ownership. Officers have complete control over that and any conditions or work that requires to be implemented or taking place within the Blue Line Area has control by TDC because it is land in the same ownership.</i>
<i>Am I correct in hearing that the surface water will be taken from the proposed red area through a series of tunnel system pipe and then into a ditch at the end?</i>	<i>Officers have imposed a condition on asking for the precise specifics of the surface water drainage and foul drainage but yes, it is reasonable to assume that some surface water will be caught through new drains that will be located close to the building and that will naturally go into the new drainage runs and into the rainwater harvesting tank. Officers are satisfied that there is a workable engineering solution on the site.</i>
<i>Is it feasible that this could take</i>	<i>Yes, it is entirely possible. It feels like a long way when you</i>

<i>place?</i>	<i>walk the site but compared to the southern-most Red Line Boundary up to the point where the Treatment Plant is going to be, it is probably 15 metres at most and then another 15 metres to the drainage ditch, so it is not a long way.</i>
<i>So, it will be done through pipe work and drainage, will it go through the biomass itself?</i>	<i>Sewerage foul water will go through the Package Treatment Plant and normal surface water runoff will either drain naturally as it is a generous site or go through the rainwater harvesting system.</i>
<i>Can you clarify that there have been no updates for the Update Sheet?</i>	<i>No, that is correct. No other updates.</i>

It was moved by Councillor Alexander, seconded by Councillor Codling and unanimously:-

RESOLVED that:-

- 1) the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated in section 8.2 of the Officer report (A.1), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- 2) the sending to the applicant of any informative notes as may be deemed necessary.

101. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23.01707.OUT - LAND ADJACENT 34 AMERELLS ROAD, LITTLE CLACTON, CO16 9HA

The Committee heard that the application was before Members at the request of Councillor Bray, due to the site being located outside the settlement development boundary and his concerns with the impact of the proposed development.

It was reported that the application related to the land adjacent to number 34 Amerells Road, Little Clacton. The site was located to the eastern end of Amerells Road and formed part of an agricultural field.

Members were told that the application sought outline planning permission for the erection of two self-build/custom built dwellings with all matters reserved. For the avoidance of doubt, Access, Layout, Scale, Appearance and Landscaping were all reserved for subsequent consideration as part of future Reserved Matters application(s) (if outline planning permission was granted).

The Committee also heard that the site was located outside, but directly adjacent to, the defined Settlement Development Boundary of Little Clacton which was categorised within Local Plan Policy SPL1 as a Rural Service Centre in recognition of its level of services and amenities. Local Plan Policy SPL2 did not explicitly preclude the development of housing outside SDBs as a matter of principle. The category of the settlement and the site's relationship with the defined settlement boundary complied with the principles of sustainable development as well as the policy requirements for self-build homes as set out in Policy LP7.

Members were informed that the proposed dwellings would intrude into the open field to some extent. However, the application site was bordered by existing development on two sides (immediately to south and west), and further away, the site was enclosed by residential development along Harwich Road (to the north) and Feverills Road (to the south). Views into the open field would largely be retained and a residential development here in the form of two dwellings would be viewed against the backdrop of the existing dwellings in Feverills Road. Consequently, in the opinion of Officers, no overriding harm to the character of the area or landscape would result.

Officers told Members that, the additional traffic associated with 2 no. dwellings would not be significant and could not be deemed as materially harmful to highway or pedestrian safety.

The Committee noted that Officers considered that sufficient space was available on the site to provide a development of two dwellings that could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

Members were also made aware that, considering the impact of the development and baseline situation on site, subject to the inclusion of the recommended conditions and completed UU, the development would conserve and enhance biodiversity interests.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representation received and a recommendation of approval subject to A Unilateral Undertaking.

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (AL) in respect of the application.

An Officer Update Sheet had been circulated to Members before the meeting with details of an update of an extension date and that the Unilateral Undertakings (UU) being secured. The full details were as follows:-

"Extension of time date now agreed until 24th April 2024.

Signed and dated UU to secure RAMS contribution received today, 16th April 2024. At the time of writing the completed UU is pending review by the Council's Legal Team. This update should be taken into account when reading the recommendation shown on Page 57 of the agenda."

In the meeting, an oral update was given to Members to say that the UU had been reviewed by the Council's Legal Team.

Peter Le Grys, the agent, spoke in support of the application.

Parish Councillor John Cuttings, on behalf of Little Clacton Parish Council, spoke against the application.

Councillor Jeff Bray, the Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<p><i>What is the quota of this District for the number of self-builds allowed and have we met that number yet? What position are we in?</i></p>	<p><i>The Council is required to have a self-build register which people can nominate themselves to go on the list. The current number of people that are on that list is 154. The current number of Planning Approvals for residential development that Officers determine to be suitable for self-build, which is the requirement of the regulations, is about double that. In terms of meeting our obligations to maintain a quantum of land for self-build development, TDC are on top of that. That is relevant if TDC were in a position if Officers were looking at a departure from the Local Plan. If someone was putting in an application for self-build dwellings to the Council, on the basis that it was a departure from the Local Plan, completely outside the Settlement Development Boundary and contrary to other policies – if TDC weren't on top of the self-build requirements, that would be a material consideration that might weigh in favour of approval, despite the development being contrary to the Local Plan. We do have a different situation for this application.</i></p>
<p><i>With LP7, how can TDC determine that this application is appropriate in scale, design for the location having regard to other policies in the Local Plan if Members do not have that information?</i></p>	<p><i>Members are looking at the principle of development, the considerations are limited because of the nature of the application and information that is provided in front of Members. However, the Reserved Matters application that would follow gives Members that opportunity to then make the necessary assessment. With this Outline Application, TDC just need to be content that the applicants can accommodate two bungalows on the site in a manner that would not be harmful, and Officers are content that this would be possible based on the footprint of the neighbouring properties directly next door and the size of the Red Line Site Area.</i></p>
<p><i>When the Reserved Matter application comes before Members, we can look at the issues under LP7 and if Members are not satisfied then Members can refuse?</i></p>	<p><i>The policy says that "should have no significant material adverse impact" then it lists the requirements – landscape, residential amenities, etc. This is an Outline Application for two bungalows, with consideration of that landscaping impact, it has been covered in the Officer report and Officers recognise that it does impeach on the open field somewhat but not to a significant materially harmful effect. Officers have consulted with ECC and considered the traffic movements associated with two properties would not have a materially harmful impact. Whilst there is not full consideration of the design, the scale Officers know is single storey. Officers are content with the application with the information that has been provided.</i></p>
<p><i>What is the quality of the land?</i></p>	<p><i>It is covered in the Officer report. It is Grade 3 Agricultural Land. The grading as well as the size of the site and the scale of development wouldn't be considered as a significant or harmful loss of agricultural land that would warrant refusal on that basis.</i></p>

<p><i>How do Officers come up with the grades?</i></p>	<p><i>Officers retrieve the information, there are other resources online where the information has been assessed by relevant people and that information has then been provided and then that has been considered by Officers.</i></p>
<p><i>Without gauging where the properties are going to go, how do TDC know if there will be a turning circle big enough within the site?</i></p>	<p><i>There can be different layouts and that can be a consideration under layout at the reserved matters stage. TDC Highway experts have reviewed the application and have suggested a condition to secure a size three turning area and it is about making the assessment and Officers being content that the size of the site can accommodate the turning area proposed.</i></p>

It was moved by Councillor Everett, seconded by Councillor Smith and unanimously:-

RESOLVED that:

- 1) the Head of Planning and Building Control be authorised to grant outline consent subject to the agreed Section 106 agreement and conditions as stated in paragraph 10.2 of the Officer report (A.2), (with the additional requirement that any Reserved Matters application for this site is submitted to the Planning Committee for its determination) or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) the sending to the applicant of any informative notes as may be deemed necessary.

102. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 23.01280.FUL - THE STABLES, HEATH ROAD, TENDRING, CO16 0BX

Members heard that the application was before the Planning Committee at the discretion of the Head of Planning and Building Control and that it sought permission for the change of use of the land to tourism and including the erection of five lodges for holiday purposes.

It was reported that the site was outside of a Settlement Development Boundary and that policies within the Local Plan did not specifically mention holiday lets in the types of tourism opportunities to be promoted within the District, and overall were not clear whether a small-scale proposal such as that represented a departure. A recent appeal decision had allowed the conversion of a stable block into two holiday units, and while that differed from the current application, it did add some weight to the acceptability of the current scheme. Further, the proposal was considered by Officers to result in a small boost to the tourism offering within the District and was also not within an isolated and unsustainable location.

The Committee was told that if it was considered that the development represented a departure from the Local Plan, planning harm had not been identified as no objections had been raised in regard to the impact to the character of the area or to the impacts to neighbouring amenities, and ECC Highways had raised no objections. Whilst ECC

Ecology initially had had concerns, additional information provided by the agent for the application had since satisfactorily addressed that.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council’s Senior Planning Officer (MP) in respect of the application.

An Officer Update Sheet had been circulated to Members prior to the meeting with an update on Paragraph 8.35 of the Officer report which was to be corrected as follows:-

“Paragraph 8.35 of the Officer report incorrectly states that the proposal will connect to an existing public foul sewer. The proposal is instead provided by a Package Treatment Plant, and therefore Paragraph 8.35 should be replaced with the following wording:

In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a package treatment plant; the declaration implies that a mains connection is not possible.

In considering the acceptability of the proposed non-mains drainage, the site is not located in close proximity to any dwelling, the site is not close to any designated site of importance to biodiversity, nor is it located within close proximity to any watercourse. The site is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, flows from a treatment plant serving five lodges served by one bedroom would be low. Taking all these factors into account, and the absence of a mains connection in close proximity to the site, the proposed foul drainage arrangements are considered to be acceptable.”

Peter Le Gry, the agent, spoke in support of the application.

Councillor Harris, the Ward Councillor, spoke in support of the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>What weight should Members be giving to the site being outside of a Settlement Development Boundary</i>	<i>When Settlement Development Boundaries are thought of, people will see that most of the Settlements are packed with residential properties and the opportunities</i>

<p><i>and the tourism benefits the development provides?</i></p>	<p><i>to deliver tourist accommodation are very limited. Some kinds of tourist accommodation work because they are in a rural location and set within a farm environment and that is what the attractor is. On this particular occasion, being outside of the Settlement Development Boundary is a relatively limited weight against development.</i></p>
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It was moved by Councillor Sudra, seconded by Councillor Alexander and unanimously:-

RESOLVED that:

- 1) the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.2 of the Officer report (A.3), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- 2) the sending to the applicant of any informative notes as may be deemed necessary.

The meeting was declared closed at 6.55 pm

Chairman

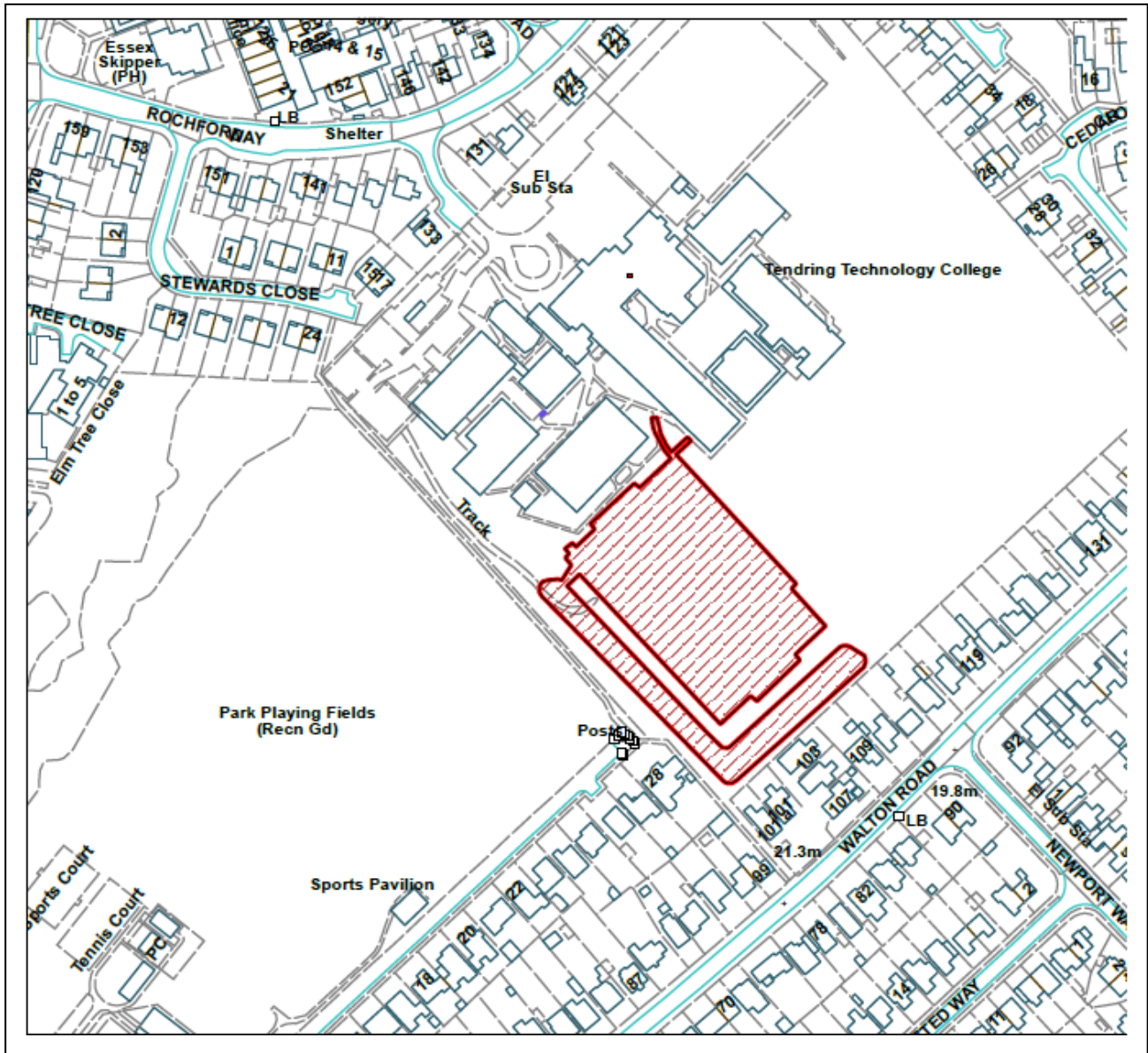
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PLANNING COMMITTEE

14 MAY 2024

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 23/01191/FUL – TENDRING TECHNOLOGY COLLEGE ROCHFORD WAY FRINTON ON CO13 0AZ



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Application:	23/01191/FUL	Expiry Date:	16th October 2023
Case Officer:	Michael Pingram	EOT Date:	21st May 2024
Town/ Parish:	Frinton & Walton Town Council		
Applicant:	Ian Dickinson		
Address:	Tendring Technology College Rochford Way Frinton On Sea, CO13 0AZ		
Development:	Proposed creation of a 3G Artificial Grass Pitch (AGP) with perimeter fencing, acoustic fencing, hardstanding areas, storage container, floodlights, an access footpath and associated bund.		

1. Executive Summary

- 1.1 The proposal is for the erection of an Artificial Grass Pitch (AGP) on land that forms part of the existing playing pitch within the grounds of Tendring Technology College, and is before the Planning Committee following a call-in request by Councillor Turner, who has raised concerns that the development would result in a negative impact on the street scene, is of a poor layout and would result in a negative impact to neighbours.
- 1.2 The proposal would generate a high level of public benefits, notably through the inclusion of modern fit for purpose facilities that can be utilised all year round. Sport England offer strong support despite the part loss of an existing playing pitch, and Officers are not aware of an alternative location better suited for the proposed development, whilst equally noting that the Playing Pitch Strategy highlights there is both a current and future shortfall of youth 11v11 and 9v9 football pitches. A strong level of weight in the overall balance is therefore given to the public benefits the scheme would provide.
- 1.3 Furthermore, the proposed development is not considered to result in significant harm to the character and appearance of the wider area, there is sufficient parking provision and ECC Highways offer no objections subject to conditions. Similarly, ECC Ecology do not object to the proposal subject to conditions, and whilst ECC SuDS initially objected, this was on more technical matters which have since been addressed.
- 1.4 The above notwithstanding, in terms of the impact to neighbouring amenities, whilst from a purely technical perspective the change in noise level is considered to be acceptable due to the absolute noise levels being within the WHO guidelines and the suggested mitigation measures proposed, Officers do equally acknowledge that there is inevitably a degree of noise disturbances given the relatively close proximity of the development to neighbouring properties. Amendments to reduce the operating hours and re-locate the AGP away from neighbouring properties have helped reduce the level of harm, but Officers do still afford weight to this harm in the overall planning balance.
- 1.5 Similarly, with regards to the impacts of the proposed floodlights to neighbouring properties, the lighting plan provided demonstrates that the glare created would not be to an unacceptable level, with all lighting facing inwards towards the pitch. However, given the close proximity of the development to neighbours there will be a degree of visual impact to neighbours, if not from the glare of the floodlights but from the light spillage generated. Officers afford this level of harm a low level of weight in the overall planning balance.

1.6 Taking all of the detailed considerations above into consideration, Officers have concluded that on this occasion there are strong wider public benefits of the proposed development that outweigh the identified harm and with careful assessment the planning application is recommended for approval.

Recommendation: Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

3. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. There are none applicable to the areas subject to this proposal.

4. Planning Policy

4.1 The following Local and National Planning Policies are relevant to this planning application.

National:

National Planning Policy Framework 2023 (NPPF)
National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021):

SP1 Presumption in Favour of Sustainable Development
SP3 Spatial Strategy for North Essex
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022):

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design

HP1 Improving Health and Wellbeing
 HP2 Community Facilities
 HP5 Open Space, Sports & Recreation Facilities
 CP1 Sustainable Transport and Accessibility
 PPL1 Development and Flood Risk
 PPL4 Biodiversity and Geodiversity
 PPL5 Water Conservation, Drainage and Sewerage
 PPL10 Renewable Energy Generation and Energy Efficiency Measures

Local Planning Guidance:

Essex Design Guide
 Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

02/01118/FUL	1) additional science teaching space 2) provision for performing arts (music) 3) covered outdoor space for poor weather play 4) atrium space to form main pupil entrance	Approved	23.07.2002
93/00861/FUL	Front porch extension	Approved	17.08.1993
94/00597/FUL	New Sports Hall	Approved	12.07.1994
94/01043/FUL	New Sports Hall (Design revision of permission TEN/94/0597)	Approved	04.10.1994
95/00301/FUL	New science block	Approved	20.04.1995
96/00208/FUL	Retention and part re-location of 7 No. relocatable classrooms	Approved	08.05.1996
96/00381/FUL	New Technology Building	Approved	08.05.1996
96/00855/FUL	Removal of existing glazed roof structure over the Gunfleet building and construction of new pitched roof to form new art studios	Approved	13.08.1996
97/01225/FUL	Proposed first floor classroom on roof of Gunfleet building together with perimeter handrail	Approved	03.11.1997
98/00657/FUL	Two storey extension to sports hall, new all weather sports pitch with floodlights and fencing and new practice court	Approved	27.10.1998
07/01202/FUL	Retention of 3 no. relocatable classrooms.	Approved	14.12.2007

07/01787/FUL	Erection of single-storey extension and lift shaft.	Approved	03.01.2008
08/00504/FUL	Re-cladding works to various elevations, re-roofing to main 3 storey block, various DDA works and tennis court re-surfacing.	Approved	22.07.2008
08/00625/ADV	TTC logo to be fixed to front re-clad building.	Approved	16.07.2008
08/00918/FUL	First floor extension with two monopitch roofs above previously extended single storey classroom extension.	Approved	04.09.2008
10/00293/FUL	Proposed new 6th form block with light weight link to existing 6th form area.	Approved	11.06.2010
10/00942/FUL	Proposed 6th form block with light weight link to existing 6th form area.	Approved	07.10.2010
10/01208/FUL	Retention of 3 no. relocatable classrooms. (Extension of time of previously approved 07/01202/FUL)	Approved	26.01.2011
10/01453/FUL	Install 21 no. wall mounted lights on approved new 6th form block and erect 2 no. bollards, 3 no. two sided lighting columns and 4 no. one sided lighting columns to car park.	Approved	13.04.2011
11/00730/FUL	Extend existing hard surfaced sports area and erect 3m high wire mesh fencing to the perimeter to create a multi-use games area.	Approved	17.08.2011
13/00586/FUL	Demolition of temporary teaching spaces and provision of new modular teaching space and associated accommodation.	Approved	30.07.2013
13/00884/FUL	Variation of condition 2 of approved application 13/00586/FUL to reduce footprint size.	Approved	30.09.2013
21/00292/NDPNO T	Proposed installation of roof mounted solar PV panels with a system capacity of 74 kWp, including all associated ancillary infrastructure.		15.04.2021

6. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC SuDS Consultee 21.09.2023 – initial comments

Thank you for your email received on 01/09/23 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a holding objection to the granting of planning permission based on the following:

- The discharge rate restriction should be to Q1, not Qbar.
- The climate change allowance should be 45%.

ECC SuDS Consultee (24.10.2023 - further comments following submission of additional information)

Thank you for your email with additional information received on 05/10/23 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 1.93l/s for all storm events up to and including the 1 in 100 year rate plus 45% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event, OR, if impracticable
- Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate

increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Condition 5

The development hereby permitted shall not be commenced until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Reason

To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

Failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Thank you for consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures.

Summary

We have reviewed the Preliminary Ecological Appraisal (Greenwood, August 2023) and Floodlighting Scheme - Drawing No. 06 (SIS Pitches, August 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

We are satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Preliminary Ecological Appraisal (Greenwood, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Great Crested Newts, bats, reptiles, nesting birds, Badger and Hedgehog.

We also support the proposed reasonable biodiversity enhancements of bird boxes, bat boxes, habitat creation and log piles, which have been recommended by the Preliminary Ecological Appraisal (Greenwood, August 2023) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

We note that the Floodlighting Scheme - Drawing No. 06 (SIS Pitches, August 2023) demonstrates a sensitive lighting scheme for foraging and commuting bats, with little to no spill onto adjacent suitable habitat or building. Therefore, the LPA has certainty of the likely impacts to bats, European Protected Species. Finalised details in the form of a wildlife sensitive lighting design scheme should therefore be submitted to the LPA by condition of consent. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <2700k, if possible. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended Conditions.

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenwood, August 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

3. PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Environmental Protection 06.02.2024 – additional comments following submission of additional information from local residents

With reference to the above and our original comments outlined below; I can confirm we have reviewed the recently submitted NIA commissioned on behalf of local residents. We appreciate the comments and the opinions drawn from the report, but would confirm our original

comments below stand.

Noise: The Environmental Protection team have reviewed the original noise assessment and can see no reason to reject the findings. We appreciate the comments made by the objector's acoustician; however, the original report was conducted by a relevantly qualified acoustician using the appropriate standards and guidance, and as such we have no reason to reject the outcomes or the proposed mitigation techniques.

Should you have any queries concerning this, please do not hesitate to contact me.

Tree & Landscape Officer 21.03.2024 – additional comments following submission of additional information

The additional information provided shows a good level of soft landscaping that will soften and screen the proposed development.

Regarding plant species and specification, the information provided is acceptable and the proposed planting will, in time, grow to be a good buffer between the proposed development and dwellings on adjacent land.

In terms of the consistency of information provided it appears that the position of the proposed new bund, as shown on the Proposed Site Plan drawing referenced 03 Rev 05 (and other drawings such as: ref 04.04 and 06.02) does not strictly accord with that provided on the Landscape Strategy drawing ref; 5085_500.

The Proposed Site Plan drawings and others show a linear and formal 'L shaped bund' on the south-eastern and south-western boundaries of the new facility whereas the Landscape Strategy drawing shows a bund along the same boundaries, but in a less formal way, and in a slightly different position to that shown on the other drawings.

Notwithstanding the slight variation in the position of the bund the information provided in terms of soft landscaping is satisfactory. Although the position of the bund does not appear to be consistent on all drawings the slight variation in its position, as described above, is not likely to affect its overall purpose or functionality.

Environmental Protection 07.03.2024 – further comments following submission of information by local residents

With reference to the above application and the further request for confirmation of our response. We entirely appreciate the concerns of residents within the vicinity of this proposal. We have reviewed the noise impact assessment submitted by residents, however as we have previously advised we have no reason to object to the proposal providing the levels emitted from the development are in line with the relevant guidance and standards. We also understand the concern over the lack assessment in relation to existing background noise, but the original NIA was performed in line with relevant guidelines. We accept there will be a Low Observed Effect Level, of which the perception is nuanced and can be varied in each person; however, given the predicted levels are in line with relevant guidance, we have no place to object. However, we would suggest, if possible, revising the site layout to increase the buffer zone between the proposed development and the nearest noise sensitive receptor to further reduce any potential noise impact.

Tree & Landscape Officer 06.09.2023 – initial comments

The application site is set to grass and does not contain any trees or other significant vegetation.

The position of the proposed development is such that it will be seen from the rear gardens of adjacent properties on Walton Road and to a lesser extent from properties in Heronsgate. The development will also be visible from Frinton Park Playing Field and from the footpath running from Heronsgate to the Walton Road.

It is noted that acoustic fencing and floodlighting form part of the development proposal. In this regard it would appear desirable for new soft landscaping to be carried out on the proposed bund on the south-western and south-eastern boundaries of the site for the screening benefit that it would provide

Soft landscaping would soften and screen the appearance of the proposed new fencing and, in time will, reduce light spillage from the floodlights.

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, and screen appearance of the development.

Environmental Protection 13.09.2023 – initial comments

With reference to the above application, please see below for comments from the EP Team:

Noise: Section 8.6 of the submitted NIA (Appendix H) advises steps to mitigate noise from the proposal will be required to further reduce noise generated by the use of the proposal and to dampen the escape. The recommendations laid out to manage this include the implementation of acoustic barriers to the west and south of the site. In addition to this a further recommendation of a formal Noise Management Plan has also been suggested.

Providing all recommendations outlined in the report, specifically sections 8, 9 and 10 are adhered to and implemented, we have no reason to object to the proposal in relation to noise.

Noise Management Plan - Appendix I is a submitted NMP, and the EP Team can advise we are satisfied with its contents, and request this is conditioned under any subsequent approval. We would also request this NMP is routinely updated to reflect any changes in procedure / responsible officer information etc, and this document is made available upon request by the Local Authority should any noise or anti-social behaviour complaints be received.

REASON: to protect the amenity of nearby residential dwellings

Lighting: Appendices A through to D and drawing number 06 REV 01 (Floodlighting Scheme) relate to implementation of floodlights for the proposal; I can confirm we are satisfied with the contents of the said documents, and evidence in relation to potential light spill has been addressed. Providing all recommendations as laid out in the reports are adhered to, we have no reason to object on the grounds of lighting.

REASON: to protect the amenity of nearby residential dwellings

Construction Method Statement: I can advise we are satisfied with the contents of the submitted CMS, dated May 2023 (Appendix G); and have no adverse comments to make.

REASON: to protect the amenity of nearby residential dwellings

Should you have any queries concerning this, please do not hesitate to contact me.

ECC Highways Dept 04.09.2023

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. A

previous site visit was undertaken in conjunction with another earlier planning application. No changes are proposed to the established vehicular access off Rochford Way. The convenient location of the site will ensure the proposed 3G facility can easily be accessed and utilised by nearby communities. The site is within a sustainable location between the built-up areas of Walton-on-the-Naze and Frinton-on-Sea. There are bus stops along Rochford Way and other nearby roads. There is an opportunity for Tendring Technology College to manage traffic movements associated with the proposal by adopting and promoting a set of principles to manage and mitigate vehicle trips. Public transport modes, drop-off / collect systems, and car sharing should be promoted to all visitors unable to walk or cycle (active travel). Measures should be promoted to reduce vehicle trip impacts wherever possible; with active travel being encouraged to students, players, parents, and all community visitors. For community visitors travelling by car, mini-bus, or coach to the site; adequate permanent on-site parking is available with a 110 car parking spaces, including 6 Blue Badge spaces, 4 bus spaces, 48 cycle spaces and 10 motor cycle spaces being retained within the site. Given that the maximum community parking demands will occur either during weekends or outside of peak travel times (outside the regular academic day), any off-site highway impact is likely not to be significant, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. vehicle routing,
 - ii. the parking of vehicles of site operatives and visitors,
 - iii. loading and unloading of plant and materials,
 - iv. storage of plant and materials used in constructing the development,
 - v. wheel and underbody washing facilities.
 - vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

2. Within three months of the first use of the proposal, Tendring Technology College shall update/ submit a travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

Note: Essex County Council's Travel Plan team (may assist with the preparation and the details of the Travel Plan) by emailing: Travel.PlanTeam@essex.gov.uk

3. Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy

DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Sport England

31.08.2023

Thank you for consulting Sport England on the above application.

Summary: Sport England raises no objection to this application as a statutory consultee which is considered to meet exception 5 of our adopted Playing Fields Policy and paragraph 99 of the NPPF subject to three planning conditions being imposed relating to the following matters as set out in this response:

- Artificial Grass Pitch Certification.
- Excavated Topsoil Landscape Scheme.
- Community Use Agreement.

Advisory comments are made as a non-statutory consultee on the principle of the development and technical issues such as hours of use, lighting and noise.

COMMENTS MADE AS A STATUTORY CONSULTTEE

Sport England - Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (in particular Para. 99), and against its own playing fields policy, which states:

'Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.' Sport England's Playing Fields Policy and Guidance document can be viewed via the below link:

https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy

The Proposal and Impact on Playing Field

In summary, the development involves a 97x61 metre artificial grass pitch (AGP) with a 3G surface suitable for football (including floodlights and fencing) that would be sited on part of the playing fields at Tendring Technology College.

Assessment against Sport England Policy

This application relates to the provision of a new outdoor sports facility on the existing playing field at the above site. It therefore needs to be considered against exception 5 of the above policy, which states:

- 5 - The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

I have therefore assessed the proposals against the above policy to determine whether the proposals meet exception 5.

Sports Development Benefits

The key potential sports development benefits of the proposed development are set out in detail in the design and access statement. In summary, the benefits are considered to be as follows:

- The proposed floodlit AGP would provide a modern all weather surface that would be capable of intensive use throughout the year for matches, training and coaching. The AGP would be capable of accommodating a range of different sized football pitches and would be suitable for both matches and training. The design and layout of the AGP would accord with the Football Association's design guidance which will help ensure that a fit for purpose facility that is suitable for meeting community needs will be implemented in practice.
- In relation to benefits for Tendring Technology College, the AGP would provide an all weather pitch facility that could be used for meeting the school's curricular and extra-curricular PE and sport needs throughout the academic year and would offer continuity of facility provision when

natural turf pitches are unavailable due to adverse weather or ground conditions.

- In relation to community benefits, the facility would be made available for community use outside of school hours and community access would be formalised through a community use agreement. Tendring District Council's playing pitch strategy (2017) identified that the district had a deficiency of four full size AGPs with a 3G surface suitable for meeting community football training and match needs. The emerging playing pitch strategy that the Council are currently preparing to replace the 2017 strategy has confirmed that this deficiency has increased since then and there is a specific deficiency in the Central East sub-area of the district which includes Frinton-on-Sea. There are no existing 3G AGPs in the Frinton-on-Sea area, the closest facilities being in Clacton-on-Sea which are meeting existing needs in this area. The Tendring Local Football Facilities Plan (LFFP) <https://localplans.footballfoundation.org.uk/local-authorities-index/tendring/tendring-local-football-facility-plan/> that was prepared for Tendring District Council area by the Football Foundation in 2018 has confirmed the need for additional full size AGPs in the district including one within the Frinton-on-Sea area. The Tendring Technology College site has been identified as the proposed site for meeting this need in the LFFP. I have consulted the Football Foundation (who represent the FA and Essex County FA) for feedback and they have advised that there is an identified current need for 3.75 additional full size 3G AGPs in the district and that with deficiencies expected to increase to 4 AGPs in the future, the proposed facility will be crucial to support local participation. The proposed facility would support the facility needs for matchplay and training of a number of local teams including Frinton and Walton Football Club who would be a key user. The facility would significantly increase training and match play capacity locally to support the needs of a large number of teams and participants. The Football Foundation has also advised that the design of the AGP complies with the FA Guide to 3G Football Turf Pitch Design Principles and Layouts, and the FA Guide to Floodlighting, with the dimensions meeting the minimum FA permitted dimensions and supporting all of the planned programme of use. Consequently, the Football Foundation and the Essex County FA are fully supportive of the proposal.

Impact on Playing Field

In relation to the impact on the playing field, the AGP would be sited on a substantial part of the college's playing fields to the south west of the college's buildings. An existing junior football pitch that currently marked out would be displaced. It is proposed to mitigate this impact by reconfiguring the football pitches on the remaining playing field. The junior football pitch would be relocated to the east where two mini training pitches are currently marked out. While these mini pitches would be displaced it is proposed that they would be overmarked over the relocated junior football to offer the flexibility for them to be used if required. Furthermore, as set out above, the rationale for the project is to provide better quality football facilities for the college and the community and much of the existing use of the natural turf football pitches on the college site can be transferred to the AGP thereby allowing the remaining pitches to be subject to less wear and more recovery time. The Football Foundation has advised that the capacity of the AGP would significantly outweigh that of the natural turf playing field area that it would replace. However, the 3G AGP surface will only be sanctioned for community football matches if it is certified as meeting the appropriate FIFA standard and therefore it will be essential that the surface is designed and maintained to this standard in practice. The existing running track would be realigned to the east and the rounders pitches would not be affected.

The bund that would be sited to the south and west of the AGP formed through excavated topsoil offers potential to be designed to support the use of the AGP and the college's sports facilities if a creative landscape design solution was implemented. For example, the gradients could be designed to create viewing areas over the AGP and the area could be used for creating trim trails, orienteering routes, informal running or cycling routes etc.

Conclusions and Recommendation

On the basis of the above assessment, I consider that the potential sports development benefits that the proposed AGP would offer would clearly outweigh the detriment caused by the impact on the playing field. I therefore consider that the proposed development would meet exception 5 of our playing fields policy. This being the case, Sport England does not wish to raise an objection to this application subject to the following conditions being attached to the decision notice should the local planning authority be minded to approve the application:

- Artificial Grass Pitch Certification: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of certification that the artificial grass pitch has met the FIFA Quality Standard accreditation or equivalent International Artificial Turf Standard (IATS) requirements prior to first use of the artificial grass pitch. This is justified because AGPs can only be sanctioned for FA affiliated community football match use where the pitch has been tested to meet these requirements. Further details of the FIFA standard is on FIFA's website at <http://quality.fifa.com/en/Football-Turf/Install-Football-Turf/Certification/>. The facility is intended to be designed and maintained to meet these technical standards (if funding from the Football Foundation is secured) but this cannot be confirmed in practice unless appropriate testing takes place which certifies this. As a pitch can only be tested for certification when it is completed it would not be possible to request the information to be provided at planning application or pre-commencement stages. Following meeting the tests, the facility will need to be registered on the FA's Register of Football Turf Pitches <http://3g.thefa.me.uk/> to enable it to be sanctioned for FA affiliated community football match use. It is requested that the following condition and informative be imposed (which is based on condition 9b of our model conditions schedule:

"Use of the artificial grass pitch shall not commence until:

(a) certification that the Artificial Grass Pitch hereby permitted has met the FIFA Quality accreditation or equivalent International Artificial Turf Standard (IATS); and

(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches;

have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy **.

Informative: The applicant is advised that the pitch should be tested every three years by an accredited testing laboratory in order to achieve and maintain FIFA Quality accreditation."

- Excavated Topsoil Landscape Scheme: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of a detailed landscape scheme for the area proposed for the bund comprising the construction topsoil. As set out above, a creative landscape scheme which considered the sport and physical activity potential of these areas would offer scope to deliver some sport related benefits in order to mitigate the loss of this area from playing field use. A condition along the following lines is requested:

No development shall commence of the artificial grass pitch hereby permitted until an excavated topsoil landscape scheme has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme shall include details of the proposed gradients and design proposals for sport and physical activities. The excavated topsoil landscape scheme shall not be constructed other than in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy **.

- Community Use Agreement: A condition requiring a community use agreement for the AGP to be submitted and approved by the local planning authority (in consultation with Sport England) prior to first occupation of the new artificial grass pitch in order to ensure that

community access to the AGP and the facilities that support it are secured in practice. A community use agreement sets out a school/college's policy and arrangements for community use of its sports facilities and covers matters such as hours of use, types of bookings accepted, restrictions on community use etc. The agreement is usually between a school/college and the relevant local authority (i.e. Tendring District Council) but other bodies can be parties such as sports governing bodies. Sport England regularly secures the completion of such agreements through planning conditions on planning permissions for school developments. Such a condition is justified to avoid a scenario where community access (outside of school hours) to the facility does not take place (or is significantly restricted) following the implementation of the proposed development and to ensure that the community use arrangements are safe and well managed. Without suitable community access being secured over a long term period in practice, one of the principal sports development benefits of the proposals which mitigates the impact of the development on the playing field would not be realised. A community use agreement also provides clarity and formalisation with respect to community access arrangements for all parties. Community use agreement templates, examples of completed agreements and further advice can be provided upon request although advice should be sought from both Tendring District Council and Sport England before an agreement is prepared. The following condition is requested to be imposed to address this which is based on model condition 16 of Sport England's conditions schedule:

"No occupation shall commence of the artificial grass pitch hereby permitted until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the artificial grass pitch and supporting ancillary changing and parking facilities and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England considers necessary in order to secure the effective community use of the facilities. The development shall not be used at any time other than in strict compliance with the approved agreement."

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Development Plan Policy"

If you wish to amend the wording of the conditions or use another mechanism in lieu of the conditions, please discuss the details with the undersigned. Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments. If the Council decides not to attach the above conditions, Sport England would wish to be advised before the application is determined so that our position on the planning application can be reviewed. If your Council decides not to attach the above conditions, Sport England would wish to raise an objection to this application. Should the local planning authority be minded to approve this application without the above conditions, then given Sport England's subsequent objection and in accordance with The Town and Country Planning (Consultation) (England) Direction 2021, the application should be referred to the Secretary of State via the National Planning Casework Unit.

COMMENTS MADE AS A NON-STATUTORY CONSULTEE

As a non-statutory consultee, without prejudice to our position as a statutory consultee set out above, Sport England would wish to make advisory comments on the following matters:

Principle of the Development

Sport England assesses this type of application in line with its planning objectives and with the National Planning Policy Framework (NPPF). Sport England's planning objectives are to

PROTECT existing facilities, ENHANCE the quality, accessibility and management of existing facilities, and to PROVIDE new facilities to meet demand. Sport England's Planning for Sport guidance can be found here: <https://www.sportengland.org/facilities-and-planning/planning-for-sport/planning-for-sport-guidance/> . Principles 6 and 7 of the guidance relate to the 'Enhance' objective and in summary support improvements to the existing sport provision where they are needed (principle 6) and encourage/secure wider community use of existing and new sports provision. The proposed development would provide an enhanced sports facility that would offer potential to make a significant contribution towards meeting community sports facility needs in the Frinton-on-Sea area for the reasons set out above. The proposals are therefore considered to meet principles 6 and 7 of the guidance therefore. Sport England would therefore wish to confirm its support for the principle of the proposed development as a non-statutory consultee.

Hours of Use and Sports Lighting

The proposal for the AGP to include sports lighting is welcomed and considered essential as this will offer significant sports development benefits in terms of facilitating use by the community during peak periods of demand. Without suitable sports lighting, it would not be possible for the facility to meet the needs that it has been designed to address and the potential for securing revenue to support its long term maintenance would be prejudiced.

While Sport England would not require a planning condition to be imposed relating to the hours of use of the AGP or its sports lighting, it is acknowledged that the Council may wish to impose such a condition in order to address potential impact on residential amenity or the environment. If planning permission is granted, it is recommended that any condition that may be imposed by the Council relating to the hours of use of the lighting and the use of the AGP is not overly restrictive. In this regard, it is advised that peak community use of AGPs on similar sites usually extends until 10.00 p.m. on weekday evenings and the application is seeking use of the AGP and its floodlights until 10.00pm on weekday evenings. If the Council wishes to impose a planning condition restricting the hours of use of the AGP or its sports lighting, consideration should be given to using condition 14 from our model conditions schedule.

It should be noted that if the Council sought to remove the sports lighting or impose significant restrictions on the hours of use of the AGP or its lighting in the evenings this may affect our position on the planning application as the potential sport related benefits would be diminished plus it may affect the feasibility and sustainability of the project. If such an approach is to be taken it is requested that Sport England be advised before the planning application is determined to provide an opportunity to review our position on the planning application.

If the design of the lighting scheme is material to the assessment of the planning application, I would recommend that consideration be given to Sport England's 'Artificial Sports Lighting' guidance note (2012) <https://www.sportengland.org/guidance-and-support/facilities-and-planning/design-and-cost-guidance/artificial-lighting> and the FA's floodlighting guidance <http://www.thefa.com/get-involved/player/facility-development-and-technical-guidance>.

Noise

If noise generated from the use of the AGP is an issue in the determination of the planning application, Sport England has published a guidance note on the planning implications of AGP acoustics. This is intended to aid in developing a more consistent approach when assessing the noise associated with AGP use and to provide some rules of thumb when assessing noise impact. If applicable, it is recommended that this guidance is considered to inform any assessment of noise impact as it has been tailored to assist with the consideration of this issue. This can be downloaded from our website at <https://www.sportengland.org/guidance-and-support/facilities-and-planning/design-and-cost-guidance/outdoor-surfaces>.

The absence of an objection to this application in the context of the Town and Country Planning Act, does not in any way commit Sport England or national governing bodies to support for any related funding application.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.

If you would like any further information or advice please contact me.

7. Representations

7.1 The application has been called to be determined by the Planning Committee in the event the application is recommended for approval by Councillor Turner, with concerns raised that the development would result in a negative impact on the street scene, is of a poor layout and would result in a negative impact to neighbours.

7.2 Frinton and Walton Town Council objected to the initial submitted plans, raising the following concerns:

- Overdevelopment of the site;
- Will be open 365 days per year from 8am to 10pm;
- Inadequate engagement with the community;
- Height of floodlights is excessively high;
- Potential health concerns regarding the use of micro plastics; and
- Concerns with sound management.

7.2 Following the submission of amended plans and additional information, Frinton and Walton Town Council again recommend refusal, however welcome the reduction in operating hours. They have suggested an alternative scheme could be prepared, centralising the pitch and rotating it 90 degrees, and include the running track around the pitch away from boundaries to residential gardens and properties.

7.3 In addition, in total there have been 75 letters of objection received, as well as a petition signed by 265 people. This is the total number of representations received, including in response to the initial plans submitted and the amended plans. A summary of the concerns raised are as follows:

- Unacceptable noise disturbances;
- Harm to bats and wildlife;
- Significant light disturbances via floodlights;
- Overlooking concerns;
- Operating hours are excessive;
- Harm to property prices;
- Inappropriate location for such a development;
- Parking issues already, which will be made worse;
- Increased traffic concerns; and
- Will result in anti-social behaviour.

7.4 The Council has also received, in total, 100 letters of support and a petition of support submitted by Frinton and Walton Youth Football Club and signed by 359 people. This is the total number of representations received, including in response to the initial plans submitted and the amended plans. A summary of the points raised are as follows:

- An excellent addition for the school;

- Would provide facilities to cater for housing developments previously approved;
- Allow children to keep fit and healthy in a safe environment;
- Provision of facilities not available locally;
- Would provide all-year round facilities;
- Great asset for the community;
- Important for health and wellbeing of community; and
- Great alternative facility for children.

8. **Assessment**

Site Description

- 8.1 The application site is land located within the grounds of Tendring Technology College (TTC), which is located on the southern side of Rochford Way within the parish of Frinton-on-Sea. The area of that site specifically is part of the existing playing field, located to the south-eastern corner of the site.
- 8.2 The main built form associated with the college is located north of the application site, with the remainder of the playing fields being to the north-east. Further out to the west are additional community playing fields which are Safeguarded Open Space. Beyond this, though, the character of the area is heavily urban with a significant number of residential properties, most notably to the south along Heronsgate and Walton Road, to the east along Cedar Close and Lumber Keys, and to the north and west along Rochford Way and Stewards Close.
- 8.3 The site falls within the Settlement Development Boundary for Frinton-on-Sea within the adopted Local Plan 2013-2033.

Planning History

- 8.4 The overall wider site within the TTC grounds has a vast array of planning history, however there are two applications considered to be particularly relevant in relation to the proposed development. Firstly, under reference 98/00657/FUL, planning permission was granted in October 1998 for a two storey extension to the sports hall as well as a new all weather sports pitch with floodlights/fencing, that was to be located in the northern corner of the site (adjacent to Rochford Way and Lumber Keys). It appears that this permission was implemented, as aerial images show an all-weather pitch since at least 2000, although there is no evidence before Officers to suggest the floodlights were ever erected.
- 8.5 Following this, under reference 11/00730/FUL planning permission was granted in August 2011 to extend the hard surfaced sports area previously approved and constructed under permission 98/00657/FUL to create a multi-use games area.

Description of Proposal

- 8.6 This application seeks planning permission for the erection of a 3G Artificial Grass Pitch (AGP) to accommodate a football pitch measuring 97 metres x 61 metres. The pitch will be bounded by 4.5 metre high ball stop fencing with entrance gates which will form an enclosure around the pitches perimeter, a 3.5 metre high acoustic fence along the southern perimeter of the pitch, as well as 6 x 13 metre high LED floodlights.
- 8.7 In addition, the proposal includes a hard standing spectator area with a 1.2 metre high protective fence along its north-eastern boundary, two goal storage areas to accommodate sports equipment to the north-east and north-west of the pitch, and a steel storage container painted green and measuring 2.59 metres to the north-east of the pitch, and a 1.1 metre high bund along the southern and western boundaries.

8.8 The operating hours proposed are as follows:

- Monday to Friday: 8am to 9pm; and
- Saturdays, Sundays and Bank Holidays: 9am to 5pm.

8.9 Within the initial plans submitted, Officers raised some concerns relating to the impact to local residents, and accordingly amended plans/additional information has been provided during the determination of the application, as follows:

- The operating hours have been reduced from 8am to 10pm Mondays to Fridays and 9am to 10pm all other days, to the hours that are listed above;
- The pitch has been re-located approximately 3.2 metres further north away from neighbouring properties;
- A landscaping strategy has been provided to provide planting on top of the proposed bund;
- The inclusion of a running trail around the bund; and
- The preparation of a statement of need outlining the benefits and reasoning for the proposal being in this location.

Principle of Development

8.10 Paragraph 102 of the National Planning Policy Framework (NPPF, 2023) states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

8.11 In this respect the proposal is to provide for a new outdoor sporting facility. TTC was chosen to help satisfy an identified unmet local demand for artificial football pitches. An enhanced sports facility would expand for a range of accessible sports, recreation, and community facilities in Frinton and Walton, which in turn supports school and community demands.

8.12 In particular the Playing Pitch Strategy (PPS) for Tendring stated there is both a current and future shortfall of youth 11v11 and 9v9 football pitches which is further exacerbated when future demand is factored in. It also noted overplaying on several sites and a number of the pitches have been assessed as standard (53) or poor (25), with only one recognised as good quality.

8.13 In this context the proposal will provide a high-quality artificial grass pitch surface to allow structured football activities to provide certainty that scheduled training and matches would not be disrupted in all but the most inclement weather. The proposal will also allow more intensive football activities to be played at the College which will broaden the opportunity to take part in sport by local community groups and football club players.

8.14 Therefore, taking into account the benefits of the scheme, it is considered the proposals are compliant with national and local planning policies governing proposed leisure uses.

8.15 Notwithstanding the above, Sport England are a statutory consultee on this planning application as the proposal affects an existing playing field. They have confirmed that, while the proposal will result in the partial loss of an existing playing field, the proposed development is for an outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport and which outweighs the detriment caused by the loss of the playing field or playing fields. Consequently, Sport England consider the development meets exception 5 of their adopted Playing Fields Policy and therefore do not wish to raise any objections subject to conditions.

8.16 Within their consultee response, Sport England also outline a series of benefits that the proposed development would generate, which can be summarised as follows:

- Provision of a modern all weather surface capable of intensive use throughout the year for matches, training and coaching;
- Ability to accommodate a range of different sized football pitches, suitable for both matches and training;
- Design and layout of the AGP accords with the Football Association's design guidance, which ensures a fit for purpose facility suitable to meeting community needs;
- AGP would provide benefits for Tendring Technology College in that an all weather facility could be used for the school's curricular and extra-curricular PE and sport needs, and offers continuity of facility provision when natural turf pitches are unavailable due to adverse weather or ground conditions; and
- Facility available for community use outside of school hours.

8.17 In addition to the above, following a request by Officers, further details have been provided to outline that other locations for the proposed development have been considered, however due to the existing infrastructure, daytime use by the school and the general community ethos of educational establishments, the TTC site was considered to be the optimum location. In addition, two local football clubs (Frinton and Walton and Kirby Athletic) are identified as partners of the scheme, and it is noted a high level of support letters/petition have been submitted. The submission also highlights the benefits associated with all-year use of a pitch that would not be impacted by weather conditions as natural turf is, and that the proposal can also generate local economic benefits through bringing visitors to the area.

8.18 Taking all of the above into consideration, Officers are content that the proposal would generate a high level of public benefits, notably through the inclusion of modern fit for purpose facilities that can be utilised all year round, and note that Sport England offer strong support despite the part loss of an existing playing pitch. Officers are not aware of an alternative location better suited for the proposed development, note that the Playing Pitch Strategy highlights there is both a current and future shortfall of youth 11v11 and 9v9 football pitches, and also accept the argument that the TTC site is ideally located for the aforementioned reasoning. A strong level of weight in the overall balance is therefore given to the public benefits the scheme would provide.

Impact to Character of the Area

8.19 Paragraph 135 of the NPPF (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

8.20 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.

8.21 The proposal will see the erection of an outdoor sports facility located to the rear of Tendring Technology College, in-lieu of part of the existing playing field. The character of the immediate surrounding area includes the school to the north and residential properties to the east and south, and a playing field to the west. Against this context, while the proposal will be relatively prominent from the street scene, it is not necessarily considered to be out of character with the existing setting on a broad level.

8.22 The proposed perimeter fencing at 4.5m high would be visible, as will the 3.5 metre high acoustic fencing along the southern and eastern elevations, although Officers note that the majority of this will be set away from the street scene and is finished in a powder coated RAL6005 Moss Green colour. In addition, Officers note an existing 1.8 metre high metal fence as well as the proposal

also including a 1.1 metre high landscape bund between the existing fencing and the proposed fencing/pitch. The combination of these factors, as well as the fencing aiding in reducing noise and the frequency of balls having to be retrieved from the surrounding grassed playing field whenever kicked over the fenced enclosure, ensure that this element would not appear overly prominent and would not appear incongruous within the wider complex.

- 8.23 The proposed floodlighting (six in total) would be the most prominent of that being proposed from wider views, however this is a typical addition to a 3G pitch and will consist of slim line poles. Officers acknowledge that these floodlights, by nature of their height, will naturally be visible from certain views via the surrounding roads. However, in relation to the existing built form in the immediate surrounding area, these views would not be so significantly harmful that Officers consider it would be reasonable to recommend a reason for refusal.

Impact to Neighbouring Amenities

- 8.24 Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.25 Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.26 There are a number of residential properties located further out to all sides, and a key consideration is understanding whether the noise and light disturbances generated from the proposal would be to a significant level. It is noted at this stage that a significant number of objection letters/petition have been received, with concerns relating to these matters being a prominent issue raised.
- 8.27 During the determination of the application Officers raised some concerns with the initial set of drawings that the level of harm to neighbouring amenities was to an unacceptable level, and accordingly revisions to the development have been made. Notably the operating hours have been reduced to 9pm on Mondays to Fridays and 5pm on Saturdays, Sundays and Bank Holidays, the AGP has been relocated approximately 3.2 metres north away from the nearest residential properties, and a landscaping strategy has been provided to provide planting on top of the proposed bund.

Noise Impacts:

- 8.28 With respect to the associated noise levels, a Noise Impact Assessment has been provided as part of the application submission. Within this it confirms the nearest noise sensitive residential receivers are the dwellings to the south and west of the proposed AGP. The highest predicted noise level from the proposed AGP when in use is 46 dB at the façade of the residential houses to the south, and 46 dB at the façade of the residential houses to the west, which is below the 50 dB threshold for the onset of moderate community annoyance, as clarified by the World Health Organisation (WHO).
- 8.29 Furthermore, in terms of transient noise levels, noise from voices is predicted to be a maximum of 48dB (56dB without the acoustic fencing), a maximum noise from whistles of 65dB (71dB without the acoustic fencing), and noise from ball impact is a maximum of 64dB (71dB without the acoustic fencing), all falling within the WHO 65dB criteria, although Officers acknowledge some figures are on the cusp of the WHO criteria. To counter the impacts of the development, the proposal includes 3.5 metre high acoustic fencing to the southern and western elevations, as well as a 1.1 metre high landscaping bund.

- 8.30 In addition, the Noise Impact Assessment refers to the need for a Noise Management Plan, which would include the facility for neighbours to report excessive noise and/or anti-social behaviour, the preparation of a written action plan for staff to utilise to deal with complaints, and that all perimeter fencing is fixed to support posts with a neoprene isolator installed to fully isolate the panels from the posts, which reduces the 'rattling' effect when a ball impacts on the fencing. The supporting Design and Access Statement adds that the maximum user capacity will not be exceeded and only pre-booked lettings will be permitted to use the site.
- 8.31 The Council's Environmental Protection team have been consulted, and have confirmed they agree with the conclusions of the Noise Impact Assessment, and recommend that all recommendations contained within the Assessment, notably the installation of acoustic fencing and the submission of a Noise Management Plan, are implemented.
- 8.32 Following this, local residents have provided an independent review of the potential noise impacts of the proposal. In summary this review outlines there is likely to be low level background noises as the current baseline position, and therefore even with proposed mitigation measures noise from the AGP will be clearly audible, particularly during evening hours. This harm is exacerbated by the all year round use of the site, which offers little respite for neighbouring properties. It concludes that alternative locations within the college grounds further away from residential properties should be considered. It is important to note that this assessment was reviewed by the Council's Environmental Protection team, who noted its contents but maintained their earlier comments given that the Noise Impact Assessment was undertaken in line with relevant guidance and standards. They do, however, accept there will be a Low Observed Effect Level, of which the perception is nuanced and can be varied for each person.
- 8.33 Therefore, in conclusion, from a purely technical perspective the change in noise level is considered to be acceptable due to the absolute noise levels being within the WHO guidelines with the suggested mitigation measures. However, that said, Officers acknowledge that there is inevitably a degree of noise disturbances given the relatively close proximity of the development to neighbouring properties. The amendments to the scheme to reduce operating hours and re-locate the AGP away from neighbouring properties aids in reducing this harm, but Officers do afford a level of weight to this harm in the overall planning balance.

Lighting:

- 8.34 Having regard to the impact of the floodlighting columns, there are to be six in total located across the perimeter of the pitches. A lighting plan has been provided which shows the luminance calculations to the closest residential properties to the west along Herongate and to the south along Walton Road. The calculations demonstrate that the luminaire intensity (glare) created whilst floodlights are operated is below the threshold for an Environmental Zone E3 location and as such does not create an unacceptable impact by way of artificial lighting. More specifically, the lighting plan demonstrates that all lighting glare from the proposal will be inward facing towards the AGP and would, in this respect at least, have a negligible impact to neighbouring amenities.
- 8.35 The Council's Environmental Protection Department have raised no objections but requested the external lighting be located, designed and directed so to avoid intrusion into neighbouring residential properties. Officers are content that the submitted plans demonstrate this.
- 8.36 It is acknowledged that many of the local residents objection letters/petition raise concerns with the impacts of the floodlights to existing amenities. Notwithstanding what is stated above, Officers are appreciative of the fact that by being in such close proximity to the development, there will naturally be some level of visual disturbance via the floodlights, if not from the glare of them specifically but via the light spillage naturally generated. As stated above, there have been amendments to the scheme which Officers consider reduce this level of impact, however that is not to say there would be no impact. Accordingly, a low level of weight is given to these impacts in the overall planning balance.

Highway Safety

- 8.37 Paragraph 115 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- 8.38 Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.
- 8.39 Essex Highways Authority have been consulted, and note that no changes are proposed to the established vehicular access off Rochford Way and that the site is within an accessible and sustainable location close to bus stops. Given that the maximum parking demands will occur either during weekends or outside of peak travel times, any off-site highway impact is unlikely to be significant and therefore from a highway and transportation perspective the impact of the proposal is considered acceptable. However, conditions are recommended in relation to a Construction Management Plan and the submission of a Travel Plan, however ECC Highways have since confirmed that the Construction Management Plan is covered within the submission already and is therefore not required to be included as a condition. A further condition relating to floodlights is recommended, however full details have been provided and it would therefore not be reasonable or necessary to impose on this occasion.
- 8.40 The Essex Car Parking Standards (2009) state that for such a use there should be parking provision for 20 spaces per pitch plus one space per 10 spectator seats. However, these standards relate to a full size outdoor playing pitch, so while the current proposal is technically for four pitches, this is the equivalent to one full playing pitch. Given this, and there being no spectator seats, there should therefore be provision for 20 parking spaces. On this occasion, there is provision for 110 vehicular spaces, and therefore this need is met.

Tree and Landscaping Impacts

- 8.41 The Council's Tree and Landscaping Officer has been consulted on the application, and in response to the initial set of drawings, provided the following comments:

"The application site is set to grass and does not contain any trees or other significant vegetation.

The position of the proposed development is such that it will be seen from the rear gardens of adjacent properties on Walton Road and to a lesser extent from properties in Heronsgate. The development will also be visible from Frinton Park Playing Field and from the footpath running from Heronsgate to the Walton Road.

It is noted that acoustic fencing and floodlighting form part of the development proposal. In this regard it would appear desirable for new soft landscaping to be carried out on the proposed bund on the south-western and south-eastern boundaries of the site for the screening benefit that it would provide

Soft landscaping would soften and screen the appearance of the proposed new fencing and, in time will, reduce light spillage from the floodlights.

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, and screen appearance of the development."

- 8.42 Following these comments, the agent for the application has provided amendments to the overall scheme, including the submission of a Landscape Strategy. Upon re-consultation, the Tree and Landscaping Officer stated the following:

“The additional information provided shows a good level of soft landscaping that will soften and screen the proposed development.

Regarding plant species and specification, the information provided is acceptable and the proposed planting will, in time, grow to be a good buffer between the proposed development and dwellings on adjacent land.

In terms of the consistency of information provided it appears that the position of the proposed new bund, as shown on the Proposed Site Plan drawing referenced 03 Rev 05 (and other drawings such as: ref 04.04 and 06.02) does not strictly accord with that provided on the Landscape Strategy drawing ref; 5085_500.

The Proposed Site Plan drawings and others show a linear and formal 'L shaped bund' on the south-eastern and south-western boundaries of the new facility whereas the Landscape Strategy drawing shows a bund along the same boundaries, but in a less formal way, and in a slightly different position to that shown on the other drawings.

Notwithstanding the slight variation in the position of the bund the information provided in terms of soft landscaping is satisfactory. Although the position of the bund does not appear to be consistent on all drawings the slight variation in its position, as described above, is not likely to affect its overall purpose or functionality.”

- 8.43 Given the above comments, the agent for the application has since provided updated drawings to align all drawings. No objections are therefore raised in this regard, although a condition is recommended to ensure the landscaping shown on the plans is undertaken.

Drainage

- 8.44 Policy PPL5 states that proposals for development must demonstrate that adequate provision exists, or can be provided in time, for sewage disposal to a public sewer and water recycling centre (sewage treatment works).
- 8.45 The application is supported by a Drainage Strategy, which confirms the site falls within Flood Zone 1, there is currently no existing site drainage for the area, and that a drainage scheme shall be installed beneath the AGP area to ensure that the rate of surface water run-off from the site does not increase as a result of the proposed development. There will also be no foul water associated with the proposals.
- 8.46 Essex SuDS have been consulted and initially raised a holding objection due to issues with the discharge rate restriction and climate change allowances. However, following the submission of a revised assessment to address these technical points, Essex SuDS have confirmed they do not raise any objections subject to conditions relating to the submission of a detailed surface water drainage scheme for the site, the submission of a maintenance plan, the maintenance of yearly logs, and the clearance of existing pipes within the site.

Renewable and Energy Conservation Measures

- 8.47 Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

- 8.48 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.49 The proposal includes for a development that has the potential to incorporate ULEV charging points for electric cars, and potentially additional renewable features. No details, however, are provided within the application submission. Therefore, it is considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

Impact to Protected Species

- 8.50 Paragraph 180(d) of the National Planning Policy Framework (2023) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 186(a) of the NPPF adds that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 8.51 Adopted Policy PPL4 (Biodiversity and Geodiversity) states that as a minimum, there should be no significant impacts upon any protected species, including European Protected Species and schemes should consider the preservation, restoration or re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.
- 8.52 The application is supported by a Preliminary Ecological Appraisal and Preliminary Roost Assessment to assess the ecological value of the proposed development. It concludes that the development site has a broadly low ecological value due to the absence of notable areas of habitat, however recommends a series of ecological mitigation and enhancement measures relating to Great Crested Newts, reptiles, bats, nesting birds, badgers and hedgehogs.
- 8.53 ECC Place Services Ecology have been consulted on the application, and have confirmed that they are satisfied there is sufficient ecological information available for determination of this application. They add that the floodlighting scheme represents a sensitive lighting scheme for foraging and commuting bats, with little to no spill onto adjacent suitable habitat or building. Given this, they raise no objections subject to conditions relating to securing mitigation/enhancement measures, a biodiversity enhancement strategy and a wildlife sensitive lighting scheme.
- 8.54 During the determination of the application, comments have been received stating that bats will be affected by the proposal and that the data contained within the reports demonstrates that bats exhibiting light adverse behaviour would be affected by very low levels of light. It has therefore been requested that the applicant provide data contained within its lighting scheme 3.4 Horizontal 1.8m Filled ISO Contour, to include the contours for 0.21 and 0.5 not currently shown in the report.
- 8.55 ECC Place Services Ecology have been re-consulted following these comments and have confirmed they are satisfied that no additional information is required to be submitted by the applicant prior to determination of the application. Furthermore, they confirm they are satisfied that the inclusion of a bund around the 3G pitch would adequately prevent light spill to the treeline to the west of the proposed pitch.

Biodiversity and Geodiversity

- 8.56 Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value. TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 8.57 This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

- 8.58 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 8.59 This development is subject to the general duty outlined above. The proposal is for a 3G football pitch on a site currently utilised as part of a wider school playing field. On this occasion, full landscaping details have been provided and conditions are recommended to secure the planting . Moreover, an informative recommending the applicant is strongly encouraged to improve the biodiversity of the site through appropriate additional planting and wildlife friendly features is included.
- 8.60 Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

Biodiversity net gain

- 8.61 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. The application was submitted prior to the introduction of this requirement and this can not be imposed in law on this basis.

Protected Species

- 8.62 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal includes for a 3G football pitch on part of the wider school playing field. The impacts to protected species have been carefully addressed within the report above, and it is considered that the proposal is unlikely to adversely impact upon protected species or habitats.
- 8.63 In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Planning Balance and Conclusion

- 8.64 The proposal is for the erection of an Artificial Grass Pitch on land that forms part of the existing playing pitch within the grounds of Tendring Technology College. On this occasion the proposal would generate a high level of public benefits, notably through the inclusion of modern fit for purpose facilities that can be utilised all year round. Sport England offer strong support despite the part loss of an existing playing pitch, and Officers are not aware of an alternative location better suited for the proposed development, whilst equally noting that the Playing Pitch Strategy highlights there is both a current and future shortfall of youth 11v11 and 9v9 football pitches. A strong level of weight in the overall balance is therefore given to the public benefits the scheme would provide.
- 8.65 Furthermore, the proposed development is not considered to result in significant harm to the character and appearance of the wider area, there is sufficient parking provision and ECC Highways offer no objections subject to conditions. Similarly, ECC Ecology do not object to the proposal subject to conditions, and whilst ECC SuDS initially objected, this was on more technical matters which have since been addressed.
- 8.66 The above notwithstanding, a key consideration of this application is the impact to neighbouring amenities. Whilst from a purely technical perspective the change in noise level is considered to be acceptable due to the absolute noise levels being within the WHO guidelines and the suggested mitigation measures proposed, Officers do equally acknowledge that there is inevitably a degree of noise disturbances given the relatively close proximity of the development to neighbouring properties. Amendments to reduce the operating hours and re-locate the AGP away from neighbouring properties have helped reduce the level of harm, but Officers do still afford weight to this harm in the overall planning balance.
- 8.67 Similarly, with regards to the impacts of the proposed floodlights to neighbouring properties, the lighting plan provided demonstrates that the glare created would not be to an unacceptable level, with all lighting facing inwards towards the pitch. That said, given the close proximity of the development, there will be a degree of visual impact to neighbours, if not from the glare of the floodlights but from the light spillage generated. Officers afford this level of harm a low level of weight in the overall planning balance.
- 8.68 Taking all of the detailed matters above into consideration, in the planning balance Officers consider that the wider public benefits of the proposed development outweigh the overall identified areas of harm and with careful assessment the planning application is recommended for approval.

9. Recommendation

9.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

9.2 Conditions and Reasons

- 1 **CONDITION:** The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If

commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

- 2 **CONDITION:** The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing Numbers 01 Revision 00, 02 Revision 01, 03 Revision 06, 04 Revision 04, 05 Revision 00, 06 Revision 03, 07 Revision 02, 09 Revision 03 (titled 'Proposed AGP Drainage Strategy'), 09 Revision 02 (titled 'Playing Field Layout), 10 Revision 00, 5085_500 Revision A, 5085_501 Revision A, and the documents titled 'Noise Impact Assessment' received 29th April 2024, 'Design and Access with Planning Statement' received 15th March 2024, 'Tendring Community Sports Pitch', 'Landscape & Ecology Enhancements Statement', 'Greenfield runoff rate estimation for sites', 'Proposed Lighting Scheme', 'OptiVision LED gen3.5 –Smart area and recreational sports lighting', 'Sports Lighting Statement', 'Appendix E – Proposed Materials and Appearance', 'Construction & Environmental Management Plan (CEMP)', 'Noise Management Plan' and 'Preliminary Ecological Appraisal'.

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

- 3 **CONDITION:** No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- Electric car charging points;
- Agreement of a scheme for water and energy conservation
- Agreement of scheme for waste reduction.

The scheme shall be fully implemented prior to the first use of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through reduce need, better use or savings in the use of water, energy and resources; reduce harm to the environment; and result in wider public benefit in accordance with the NPPF.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

- 4 CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

- 5 CONDITION: Prior to commencement of any development on the playing field, a contractor's specification for the works to convert the hard porous sports pitch to a natural turf playing field area which includes an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The playing field enhancement works shall be implemented in accordance with the approved specification and implementation programme.

REASON: To ensure the satisfactory quantity, quality and accessibility of compensatory provision, to ensure that the playing field is reinstated to an adequate standard and is fit for purpose.

- 6 CONDITION: Use of the artificial grass pitch hereby permitted shall not commence until:
- (a) certification that the Artificial Grass Pitch hereby permitted has met the FIFA Quality accreditation or equivalent International Artificial Turf Standard (IATS); and
 - (b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches; have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the development is fit for purpose and sustainable, provides sporting benefits.

- 7 **CONDITION:** Prior to first use of the artificial grass pitch hereby permitted a community use agreement prepared in consultation with Sport England shall have been submitted to and approved in writing by the Local Planning Authority. The development shall not be used at any time other than in strict compliance with the approved agreement.

REASON: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport, including use of the site from external football clubs.

NOTES: The agreement shall apply to the artificial grass pitch and supporting ancillary changing and parking facilities and include details of pricing policy, hours of use, access by noneducational establishment users, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England considers necessary in order to secure the effective community use of the facilities.

- 8 **CONDITION:** Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

- 9 **CONDITION:** No development shall commence (except demolition) until details of a surface water management scheme/plan, detailing how surface water and storm water will be managed on the site during construction and during the lifetime of the development, is submitted to and agreed in writing by the local planning authority. The scheme shall include but not be limited to:

- Details and verification of the suitability of infiltration of surface water for the development.

- Details of all discharge rates for all flood and storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change
- Provide details of sufficient on site storage to be installed and demonstrate if off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event is likely to occur.
- Provide details to demonstrate if all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Provide details that demonstrate if features proposed are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Provide final modelling and calculations for all areas of the drainage system.
- Provide detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Unless a timetable is agreed as part of the surface water management scheme submitted, no part of the development shall be first occupied or brought into use until the scheme is fully installed and is functionally available for use, unless alternative timing for installation is otherwise agreed in writing by the Local Planning Authority. The drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment and minimise the risk of flooding. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm by reason of flood risk.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

- 10 **CONDITION:** Prior to first use of the hereby permitted development a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to, and agreed in writing by, the Local Planning Authority. Maintenance shall be carried out as approved in accordance with the details and timescales in the plan.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

NOTES: Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

- 11 **CONDITION:** The applicant or any successor in title must maintain yearly logs of maintenance for the hereby approved SuDs which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 12 **CONDITION:** The development hereby permitted shall not be commenced until details have been provided to, and agreed in writing by, the Local Planning Authority to demonstrate that the existing

pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

REASON: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

13 CONDITION: The hereby permitted development/use, including the use of the floodlights, shall only operate between the following hours:

- Monday to Friday: 8am to 9pm; and
- Saturdays, Sundays and Bank Holidays: 9am to 5pm.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

2) If the development operates outside of the hours stated this may result in unlawful development/use at risk of Enforcement Action. You are encouraged to discuss any concerns with this condition with the Local Planning Authority.

14 CONDITION: Prior to the first occupation of the hereby approved development, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenwood, August 2023) and thereafter maintained.

REASON: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations.

15 CONDITION: Prior to first occupation of the hereby approved development, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species and habitats.

- 16 **CONDITION:** Prior to the erection/installation of any floodlighting or other means of external lighting at the site, a lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (ILP) shall be submitted to and approved in writing by the local planning authority. The lighting shall be carried out and retained in accordance with the details as approved. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

REASON: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations.

- 17 **CONDITION:** Prior to the first use of the hereby approved development, the acoustic fencing as shown on Drawing Numbers 03 Revision 06 and 04 Revision 04, shall be fully erected and retained in this form in perpetuity.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

9.3 Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to

these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Biodiversity Enhancements Informative:

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include:

<https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

10. **Additional Considerations**

Equality Impact Assessment

- 10.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.
- 10.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 10.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Human Rights

- 10.4 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 10.5 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 10.6 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 10.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application. There are none for consideration with this application.

11. Background Papers

- 11.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

PLANNING COMMITTEE

14th May 2024

REPORT OF THE DIRECTOR OF PLANNING

A.2 PLANNING APPLICATION – 23/01594/FUL – BATHSIDE BAY STOUR ROAD HARWICH CO12 3HF



DO NOT SCALE

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Application: 23/01594/FUL

Expiry Date: 7th February 2024

Case Officer: Jacob Jaarsma

EOT Date:

Town/ Parish: Harwich Town Council

Applicant: Harwich International Port Ltd

Address: Bathside Bay Stour Road Harwich CO12 3HF

Development: Temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

1. Executive Summary

- 1.1 The proposal seeks permission for the temporary use of the Bathside Bay Container Terminal (BBCT) platform, established under the BBCT permission, as a "Green Energy Hub" (GEH). The GEH is designed and clearly intended to increase, for a temporary period of 15 years, port capabilities to accommodate the rapidly growing offshore energy sector, aligning with the government's ambitions of installing 50 Giga Watt of offshore wind generating capacity by 2030.
- 1.2 Moreover, the proposed GEH will facilitate activities such as wind turbine storage, assembly, and servicing for a temporary period of up to 15 years. This temporary repurposing allows for the beneficial use of the BBCT development before the full capacity of the BBCT is required, which is projected to be between 2034 and 2042. Additionally, the proposal will contribute extensively to the advancement of Freeport East, playing a key role in establishing Bathside Bay as a key component of Freeport East's development, in accordance with relevant local and central government objectives for the region.
- 1.3 Insofar as the principle of development is concerned, for the most part the Local Plan is silent on offshore proposals for storage and distribution facilities for the off shore renewable energy sector, however the proposal is for a temporary change of use to take place on already approved infrastructure (the container terminal platform for the BBCT development. Having regard to the above, the NPPF, in paragraphs 157, 160 and 163 offer very strong support for proposals involving renewable and low carbon energy and associated infrastructure. Local Plan policy PPL10 states that proposals for renewable energy schemes will be considered having regard to their scale, impact (including cumulative impact) and the amount of energy which is to be generated.
- 1.4 The development has been purposefully designed to ensure its compatibility with the ongoing use of the platform for BBCT, without slowing or impacting on its progression. The activities associated with this GEH have been designed to be entirely reversible and the Applicant has demonstrated that carrying out the works required for the platform to operate as a temporary GEH would not prohibit the BBCT development from being fully completed after the GEH use ceases operation. In the event that planning permission is granted and upon cessation of the use, the site will be restored to its original state and details around these requirements can be

secured by condition stipulating the removal and reinstatement of the site in accordance with an approved decommissioning strategy, overseen by the local planning authority.

- 1.5 Your officers and the Essex County Council (ECC) ecology department consider that the proposal will not result in significant adverse effects on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar Site.
- 1.6 All other material planning considerations, including statutory and third-party concerns have been adequately addressed through the submission of further information, and where relevant will be covered in forthcoming submission of further information required under necessary, reasonable and relevant planning conditions (set out in section 9), or where not exclusively relevant to planning, or indeed where matters straddle planning and marine law, a separate application for a Marine Licence will cover those matters.
- 1.7 Accordingly, the proposal stands as acceptable in principle and is recommended for approval for the detailed reasons set out in this report.

Recommendation:

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. Planning Policy

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework Dec 2023
National Planning Practice Guidance
National Policy Statement for Ports (2012)

Local Policy

Tendring District Shared Strategic Section 1 Local Plan (2021)

SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3 Spatial Strategy for North Essex
SP5 Employment
SP6 Infrastructure and Connectivity
SP7 Place Shaping Principles

Tendring District Section 2 Local Plan (2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP3 Green Infrastructure
HP5 Open Space, Sports and Recreation Facilities
PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt
 PPL3 The Rural Landscape
 PPL4 Biodiversity and Geodiversity
 PPL5 Water Conservation, drainage and sewage
 PPL7 Archaeology
 PPL8 Conservation Areas
 PPL9 Listed Buildings
 PPL10 Renewable Energy Generation
 CP1 Sustainable Transport and Accessibility
 CP2 Improving the Transport Network
 DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
 Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area.
 At the time of writing there are no neighbourhood plan(s) in place for this area.

3. **Relevant Planning History** (the site and immediate surrounding area's planning history is extensive therefore only most recent and relevant planning history included)

03/00600/FUL	Reclamation of Bathside Bay and development to provide an operational container port; such works comprising:- Engineering and reclamation works including construction of a cofferdam and 1.4 km quay wharf; Construction of a concrete block paved container handling and stacking facility with 11 quayside cranes and 44 Rubber Tyre Gantry (RTG) cranes and associated workshop, customs control, Border Inspection Post and mess buildings, substations, fuelling station and mast and crane mounted lighting; Development of a 6.13 ha rail terminal with 3 rail gantry cranes and heavy duty container transfer	19.11.2003
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	area linked to existing rail facilities; Associated office building, logistics facility, car and HGV parking and driver facilities; Site works, including additional hardstanding, structural landscape and mounding, wetland buffer, access internal estate roads and perimeter fencing.		
03/00601/FUL	Development of a small boat harbour comprising; construction of a cofferdam wall and breakwater; reclamation; sheltered moorings for boats and wave wall; slipway and boat storage and tender compounds; public viewing and seating areas; Fisherman's store and fuel facility; and site works including access road, car parking and lighting, fencing and landscape mounds.		19.11.2003
03/00602/LBC	Partial demolition of the long berthing arm attached to the listed Train Ferry Gantry and associated remedial works.		19.11.2003
10/00202/FUL	Application for replacement planning permission (in respect of planning permission 03/00600/FUL) subject to a new time limit (to 2021) for the reclamation of Bathside Bay and development to provide an operational container port; comprising:- Engineering and reclamation works including construction of a cofferdam and 1400 metre quay wall; Construction of a concrete block paved container handling and stacking facility with 11 quayside cranes and 44 Rubber Tyre Gantry (RTG) cranes and associated workshop, customs control, Border Inspection Post and mess buildings, substations, fuelling station and mast and crane mounted lighting; Development of a 6.13 ha rail terminal with 3 rail gantry cranes and heavy duty container area linked to existing rail facilities; Associated office buildings, logistics facility, car and HGV parking and driver facilities; Site works, including additional hardstanding, structural landscape and mounding, wetland buffer, internal estate roads and	Approved	14.02.2013

	perimeter fencing.		
10/00203/FUL	Application for replacement planning permission (in respect of planning permission 03/00601/FUL) subject to a new time limit (to 2021) for a small boat harbour (sic) comprising; engineering and reclamation works including construction of a cofferdam wall and breakwater; sheltered moorings for boats and wave wall; slipway and boat storage and tender compounds; public viewing and seating areas; Fisherman's store and fuel facility; and site works including access road, car parking and lighting, fencing and landscape mounds.	Approved	14.02.2013
10/00204/LBC	Application for replacement listed building consent (in respect of listed building consent 03/00602/LBC) subject to a new time limit (to 2021) for the partial demolition of the long berthing arm attached to the listed Train Ferry Gantry and associated remedial works.	Approved	14.02.2013
21/01624/DISCON	Discharge of conditions 10, (Archaeological work) 11, (Construction management plan) 12, (Control of noise and vibration) 14, (Approved system for operating vehicles and plants) 15, (Percussive piling operation) 19, (Scheme of construction lighting) 21, (Construction dust management plan) 23, (Details of a wheel wash facility) 24, (Handling of materials) 26 (Scheme for concrete pouring) and 27 (Scheme for pollution control) of application 10/00203/FUL.	Current	28.03.2022
21/01625/DISCON	Discharge of conditions 3, (Scheme of phasing substantially) 12, (Archaeological work) 13, (Construction management plan) 14, (Control of noise and vibration) 16, (Reverse warning system) 17, (Percussive piling operation) 25, Scheme of construction lighting) 27, (Details of luminaries) 29, (Construction dust management plan) 30, (Cleaning and maintenance programme) 32, (Wheel wash facility) 33, (Handling of materials)	Current	28.03.2022

	34, (Ambient dust monitoring strategy) 36, (Flood evacuation plan) 38 (Scheme for concrete pouring and filling works) and 39 (Scheme for pollution control) of application 10/00202/FUL.		
21/01792/VOC	Variation of condition 20 of application 10/00203/FUL to not release HPUK from the requirement to secure the prior approval and installation of operational lighting, but to defer submission, approval and installation in respect of these details prior to any operation of the SBH. The application sets out the proposed amended wording for this condition.	Approved	28.03.2022
21/01810/VOC	Variation of conditions 2 (Approved Plans / Documents), 28 (Operational Lighting), 41 (Highways), 42 (Highways), 43 (Highways), 44 (Highways), 52 (Operational Air Quality Controls) and 53 (Operational Traffic Noise Attenuation) of application 10/00202/FUL in respect of the proposed Bathside Bay container terminal, Harwich.	Approved	28.03.2022
21/01816/DISCON	Discharge of Conditions 3 - (Landscaping Scheme) , 6 - (Design and External Appearance of Buildings, Structures and Hardstanding Areas), 8 - (Details of Fences, Walls, Gates and other Enclosures), 9 - (Foul and Surface Water Drainage), 25- (Gas Migration and Accumulation), 28 - (Translocation of reptiles, Invertebrates and Coastal Vegetation), 29 - (Vehicular Access from A120), 30 - (Scheme of Provision to be made for Disabled People to Gain Access to Public Areas) 32- (Scheme and Layout of Hard Standing for Vehicles)of application 10/00203/FUL.	Current	28.03.2022
23/01136/EIASCO	Request for an environmental impact assessment (EIA) scoping opinion under the Town And Country Planning (Environmental impact assessment) Regulations 2017 (EIA	EIA required	06.10.2023

Regulations) in respect of the temporary use of the Bathside Bay Container Terminal (BBCT) site for Green Energy Hub use.

4. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC SuDS Consultee

01.12.2023

Thank you for consulting the SuDS team on the above application.

We consider that the proposals will have zero impact on the drainage of the site, and so do not wish to comment in this instance.

ECC Highways Dept

20.03.2024

No objection

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. No site visit was undertaken in conjunction with this planning application. It is noted that a comprehensive Transport Assessment has been submitted with this application. The proposal would permit, on a temporary basis, wind turbine storage, staging, marshalling and assembly, with components brought in by sea, assembled and then shipped out; activities that are undertaken at HIPL. Manufacturing to support green energy initiatives would not be permitted within this proposal. It is anticipated that the Green Energy Hub would be operational by 2026 and maintained whilst demand for the container terminal is growing and demand for offshore wind manufacturing, storage and handling is high. The junction assessments of the A120/Phoenix Road and St Nicholas roundabouts demonstrate that the overall impact of the development traffic upon the operation of these junctions would be negligible. Junction assessments of the Parkeston roundabout forecast it would be close to reaching capacity in future years as a result of cumulative developments. The introduction of the Green Energy Hub results in a very limited impact. Detailed review of the junction performance reveals that the approaches do not exceed capacity. The impact of the Green Energy Hub on the Parkeston roundabout would not be severe, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,

- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

2. No development shall be permitted to commence on site until such time as the collision review study of the Parkeston roundabout to look at the emerging pattern of cycle collisions has been completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Any remedial measures required by the review study shall be carried out prior to occupation.

Reason: To provide adequate mitigation measures between the users of the roundabout and cyclists in the adjoining highway in the interest of highway safety, in accordance with policy DM1, DM14, and DM17.

3. The proposed development shall not be occupied until such time as details of a vehicle parking area including any parking spaces for the mobility impaired including areas of hard surfacing and marked out parking bays has been submitted to and approved in writing. The approved vehicle parking area and associated turning area shall be provided prior to occupation and retained in this form at all times unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

4. The Details of cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards and submitted to and approved in writing by the Local Planning Authority prior to occupation. The approved facility shall be provided prior to occupation and shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8

5. Within three months of the new development opening, the applicant shall update their workplace travel plan for approval to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- Prior to any works taking place in the highway the developer should enter into an S278 legal agreement or Minor Works Authorisation with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All highway related details should be agreed with the Highway Authority.

Officer comment: *If recommended for approval the requests and safeguards sought above can be secured by conditions.*

Environmental Protection

16.02.2024

NOISE: With reference to the submitted Environmental Statement, dated October 2023, and with specific reference to the Noise Impact Assessment, section 7; I can confirm we are satisfied with the methodology used. The report identifies the potential for significant adverse impact from night-time operations to several noise sensitive receptors – depending on operation and wind direction. However, also highlighted within the report is the confirmation of agreement for an upper level of 55dB LAeq, 1hr relating to application 21/01810/VOC, and we can confirm the EP Team have no objection to this limit being imposed upon this proposal. We would however request, in line with previous comments relating to the 2021 VOC application, that should this application be approved, the applicant / agent submit a formal Operational Noise & Vibration Management and Monitoring Plan to the LPA prior to the commencement of any activities associated with this proposal.

REASON: to protect the amenity of nearby residential dwellings.

AIR QUALITY: Section 8 of the submitted Environmental Statement, dated October 2023, outlines the impact assessment methodology and conclusions; I can confirm the EP Team are satisfied with the methodology used and the predicted outcomes. The report identifies following areas will not have a recognised impact on local air quality –

- Operational Phase for NRMM
- Operational Phase for Road Traffic Emissions
- Cumulative Operational Impact

However, in respect of the Operational Phase for Vessell Emissions, the report identifies the need for implementation of some mitigation measures. Providing all measures outlined in section 8.6.4 (2) are implemented and adhered to throughout the operational phase, we will have no reason to object to this proposal in respect of Air Quality Impacts

Officer comment: *If recommended for approval the requests and safeguards sought above can be secured by conditions.*

National Landscape Team (former Suffolk Coast and Heaths Area of Outstanding Natural Beauty Team)

31.01.2024

Thank you for consulting the National Landscape team on the above planning application for the temporary use of the consented Bathside Bay Container Terminal (BBCT) at Harwich for use as Green Energy Hub (GEH). The temporary use is proposed for a 15 year period which will end when the Bathside Bay Container Terminal is operating at full capacity between 2034-2042.

The National Landscape team has reviewed the information provided to support the current planning application and have the following comments to make.

The application site lies within the setting to the Suffolk Coast & Heaths Area of Outstanding Natural Beauty (AONB). The boundary of the Suffolk Coast and Heaths AONB was extended in July 2020 to include along with other areas, the south bank of the River Stour in Tending and the River Stour itself.

On the Tending side of the Stour Estuary, the AONB boundary lies approximately 2.6km west

of Bathside Bay, while the boundary of the Suffolk Coast & Heaths AONB on the northern Suffolk side of the Stour Estuary lies approximately 1km opposite the application site. The link below shows the recent extension to the Suffolk Coast & Heaths AONB (pale pink areas)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/898108/suffolk-coast-heaths-aonb-designation-variation-order-map-2.pdf

It is the National Landscape team's understanding that the use of the Bathside Bay Container Terminal as a Green Energy Hug would involve Additional work to that already consented under applications 21/01810/VOC which replaced 10/00202/FUL and 21/01792/VOC which replaced 10/00203/FUL. This additional work includes:

- a) the creation of a berthing area alongside the heavy load out quay with rock mattresses at its base to allow jack-up vessels to berth at the new quay wall.
- b) A temporary piled berth platform, with associated mooring dolphins, required for the import of construction materials for completion of BBCT but also be used for unloading of green energy components.

It is proposed that these would be decommissioned and removed at the end of the Green Energy Hub operations.

It is not clear if the proposed additional works constitute a departure from the Bathside Bay Container Terminal approval and whether a separate planning approval is required for this

Lighting

Bathside Bay is sandwiched between the Parkeston Oil Refinery and Harwich International Port to the west and Harwich Town /Dovercourt to the east. Felixstowe Port lies opposite at the mouth of the River Orwell. The area is already heavily industrialised with high levels of light pollution and sky glow from the above facilities. It was acknowledged that the future development of Bathside Bay Container Terminal would further add to the light levels locally. Mitigation was proposed through conditions which were modified through a variation of Condition application 21/01810/VOC.

The National Landscape team did not raise any objections to the modifications to the Lighting Conditions proposed through this application. The Environmental Statement submitted with the current application broadly concludes that there will be no change to the lighting needs for the operation of the Green Energy Hub. No information has been provided or assessment made about the lighting needed during the construction and decommissioning stages of the project. As additional work is being proposed to deliver the Green Energy Hub, the lack of assessment of any additional lighting needed is an oversight. This information should be provided to enable the full lighting impacts and mitigation needed to be considered. As highlighted in previous responses lighting impacts are likely to be greatest in cross river views from the eastern end of the Shotley Peninsula.

The Environmental Statement confirms that the lighting conditions approved for the Bathside Bay Container Terminal will be applicable to the Green Energy Hub .

"This condition stated the following "Prior to the commencement of the development permitted by this planning permission a scheme for the provision and control of operational lighting must be installed in accordance with a scheme which has first been submitted to and approved by the Local Planning Authority."

Since the approval of the application 21/01810/VOC, a new Lighting Design Guide for the Suffolk & Essex Coast & Heaths National Landscape has been published. With regards lighting,

the National Landscape team recommend that the already agreed lighting conditions align with mitigation recommendations in this Lighting Design Guide in terms of light types, shielding, lumens, luminosity, colour. This will help ensure that the light spill impacts of any lighting scheme is mitigated as effectively as it can be within the setting to the AONB. It will also ensure that as the Relevant Authority, Tendring Council complies with the strengthened duty to further the statutory purpose underpinning AONB designation introduced through Section 245 of the Levelling Up and Regeneration Act on 26 December 2023.

The National Landscape Team shares similar concerns as Natural England that the construction and decommissioning elements of the Green Energy Hub proposal associated with the additional works (rock mattresses, mooring dolphins and temporary berth platform) have not been fully assessed in the Habitats Regulation Assessment. The Habitats Regulation Assessment should be updated to assess these elements of the scheme.

Officer comment (specifically in respect of content in paragraph directly above but also more other comments made by the National Landscape Team): *The point as to whether the decommissioning elements of the GEH have been fully assessed in the HRA is covered in the 'Landscaping/Ecology/Biodiversity/Habitats Regulations Assessment' section below, and indeed elsewhere in this report. The other comments and points made by the National Landscape Team will also be covered off in the 'Assessment Section' of the report below.*

Babergh & Mid Suffolk District Council

No response.

Marine Management Organisation 21.11.2023

Comments: Marine Licensing, Wildlife Licences and other permissions

Any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark.

Response to your consultation

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence

<https://www.gov.uk/guidance/make-a-marine-licence-application>

A wildlife licence is also required for activities that that would affect a UK or European protected marine species.

The MMO is a signatory to the coastal concordat and operates in accordance with its principles. Should the activities subject to planning permission meet the above criteria then the applicant should be directed to the follow pages: check if you need a marine licence and asked to quote the following information on any resultant marine licence application:

- local planning authority name,
- planning officer name and contact details,
- planning application reference.

Following submission of a marine licence application a case team will be in touch with the relevant planning officer to discuss next steps.

Environmental Impact Assessment

With respect to projects that require a marine licence the EIA Directive (codified in Directive 2011/92/EU) is transposed into UK law by the Marine Works (Environmental Impact Assessment) Regulations 2007 (the MWR), as amended. Before a marine licence can be granted for projects that require EIA, MMO must ensure that applications for a marine licence are compliant with the MWR.

In cases where a project requires both a marine licence and terrestrial planning permission, both the MWR and The Town and Country Planning (Environmental Impact Assessment) Regulations <http://www.legislation.gov.uk/ukxi/2017/571/contents/made> may be applicable.

If this consultation request relates to a project capable of falling within either set of EIA regulations, then it is advised that the applicant submit a request directly to the MMO to ensure any requirements under the MWR are considered adequately at the following link

<https://www.gov.uk/guidance/make-a-marine-licence-application>

Marine Planning

Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons. MMO as such are responsible for implementing the relevant Marine Plans for their area, through existing regulatory and decision-making processes.

Marine plans will inform and guide decision makers on development in marine and coastal areas. Proposals should conform with all relevant policies, taking account of economic, environmental and social considerations. Marine plans are a statutory consideration for public authorities with decision making functions.

At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark, there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark.

A map showing how England's waters have been split into 6 marine plan areas is available on our website. For further information on how to apply the marine plans please visit our Explore Marine Plans service.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary

regulations are adhered to. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise. Local authorities may also wish to refer to our online guidance and the Planning Advisory Service soundness self-assessment checklist. If you wish to contact your local marine planning officer you can find their details on our gov.uk page.

Minerals and waste plans and local aggregate assessments

If you are consulting on a mineral/waste plan or local aggregate assessment, the MMO recommend reference to marine aggregates is included and reference to be made to the documents below;

- The Marine Policy Statement (MPS), section 3.5 which highlights the importance of marine aggregates and its supply to England's (and the UK) construction industry.
- The National Planning Policy Framework (NPPF) which sets out policies for national (England) construction minerals supply.
- The Managed Aggregate Supply System (MASS) which includes specific references to the role of marine aggregates in the wider portfolio of supply.
- The National and regional guidelines for aggregates provision in England 2005-2020 predict likely aggregate demand over this period including marine supply.

The NPPF informed MASS guidance requires local mineral planning authorities to prepare Local Aggregate Assessments, these assessments have to consider the opportunities and constraints of all mineral supplies into their planning regions - including marine. This means that even land-locked counties, may have to consider the role that marine sourced supplies (delivered by rail or river) play - particularly where land based resources are becoming increasingly constrained.

If you require further guidance on the Marine Licencing process, please follow the link <https://www.gov.uk/topic/planning-development/marine-licences>

Natural England

(latest comments dated 13.02.2024)

Natural England have reviewed the additional information supplied within your re-consultation email, Savills response letter on the portal 'Savills letter to TDC dated 17 Jan 2024', and at the meeting with Tendring District Council, Place Services, Savills, Royal Haskoning DHV, Hutchinson Ports UK Ltd and Natural England on 01 February 2024. As requested within your letter we have considered Savills formal response and other details available on the planning portal, along with your comments as part of our reply.

1. Change to the permanent platform and quay area design and
2. Construction and decommissioning of additional platform structures

Natural England note that Savills' do not agree with the suggestion that the design of the quay is different, the assertion being that the main elements of the platform are within the same footprint as the granted permission. Tendring District Council (TDC) confirm that there is no specific condition to facilitate agreement of a final platform/quay design and that the amendment or alteration to the design can be assessed as part of the change of use application. We understand that the applicants consider the additional structures attached to the quay, outside of the permitted development footprint, to fall into the marine environment and, therefore, do not require assessment as part of the change of use application.

It is clear from the original documentation and the additional information provided that this change of use application is only considering the physical changes that will occur on the platform for which permission has already been granted. We respect the decision makers role and responsibilities and appreciate the assurance that the changes to quay construction identified are being addressed through this new planning application. The environmental impacts of the altered quay construction and additional structures required should be fully assessed as part of the change of use planning application. We understand that a revised Environmental Statement (ES) and Habitat Regulations Assessment (HRA) will consider all of these factors and their impacts on the Stour and Orwell Estuaries designated features as part of the marine licence application, and that Natural England will be able to comment on these matters at that time.

We are aware that this project has a long history and is complex in nature, resulting in a less cohesive route through the planning system. However, Natural England strongly advocate an holistic approach to both planning and marine licence applications allowing both regulators to have a full view of the scope of projects and their potential impacts. We believe there is a risk when applications are divided up and factors impacting the environment are not considered as a whole. Multiple applications result in multiple HRAs and a potentially complex and confusing audit trail of environmental assessment. Thereby, potentially undermining nature conservation consideration, putting pressure on regulators to permit an activity because it has already gained other approvals, or leaving applicants with stranded assets.

If your authority are assured that all the necessary environmental consideration for the change of use planning application and associated amendments to design meet necessary planning system requirements, Natural England will comment on the new quay design and new structures as part of the Green Energy Hub (GEH) element of the Marine Management Organisation (MMO) licence application. Our advice provided for the marine licence application will be without prejudice to any advice given previously.

3. Vessel movements associated with the GEH operational phase

The details provided in Savills letter confirm that current Galloper Wind Farm Ltd vessel movements are included in the baseline calculations for the vessel movement assessments. Operational usage is considered difficult to estimate at this time but will be included in the full Navigation Risk Assessment as part of the marine licence. Natural England note that TDC request comments on a worst case scenario for vessel movements associated with a GEH operation.

As discussed during the meeting Natural England took an action to confirm the appropriate position for advice on GEH operational vessel movements particularly in regard to the Outer Thames Estuary (OTE) SPA. We can confirm that we are content that these will be considered through the Operations and Maintenance plans from the relevant Offshore Wind Farm and therefore assessment of impacts specifically for the OTE captured within the associated HRA. However, we expect to see full justification provided within the current HRA that outlines this so that it is clear where assessment lies. We advise that operational use of vessels within the Stour and Orwell estuary should continue to be assessed within the current HRA for the change of use application, as these vessels will pose a different level of disturbance for SPA birds within the estuary (i.e. smaller, faster vessels).

4. The need to consider IROPI for the change of use application

Natural England note that your authority consider IROPI is not necessarily applicable under planning for this application as it is not considered under the TDC development plan or the NPPF etc., as a material consideration or a matter of significance when considering this proposal. We also note that Savills reason that a granting of the change of use application will not prejudice Natural England's assessment of a case for overriding public interest which will

be presented as part of the marine licence application. On the basis that TDC are assured that an IROPI case does not need to be presented for the temporary use of Bathside Bay as a GEH, Natural England will, without prejudice to any advice given previously, comment on this matter during consultation on the MMO licencing phase. For any queries relating to the content of this letter please contact me using the details provided below

Officers comment: *The above various and specific points will be addressed in the main body of the report below (under the 'Assessment' heading)*

Highways England

22.02.2024

Referring to the consultation on a planning application dated 20 November 2023 referenced above, in the vicinity of the A120 that forms part of the Strategic Road Network (SRN), and National Highways' previous response dated 19 January 2024, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection (see reasons at Annex A);

Annex A National Highways' assessment of the proposed development National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard 23/01594/FUL and has been prepared by Mark Norman.

Reasons

This Planning Application seeks to approve the temporary use of the Bathside Bay container terminal, permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission), as a Green Energy Hub.

Following National Highways' response dated 19 January 2024, in which we recommended that the application not be approved pending the outcome of further analysis, we have met with the Applicant and its transport consultants and further information was provided. Further analysis of this information has satisfied National Highways that the increase in traffic flows as a result of the proposed Green Energy Hub development should not have a significant impact on the SRN and its junctions within the vicinity of the proposed development, or further afield.

Therefore, National Highways' view is that the holding recommendation can now be removed, and the planning application can be approved.

Tree & Landscape Officer

08.12.2023

No objection.

In terms of soft landscaping details of the indicative planting shown on drawing no. 34/7548 entitled Existing Site Plan ' Green Energy Hub should be secured by a condition attached to

any planning permission that may be granted.

Essex County Council Ecology

04.03.2024

No objection subject to securing ecological mitigation and biodiversity enhancements

We have reviewed the additional documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species, and identification of proportionate mitigation.

We note Natural England's re-consultation comments (ref 459956, dated 13 February 2024) with confirmation that Green Energy Hub (GEH) operational vessel movements particularly in regard to the Outer Thames Estuary SPA will be considered through the Operations and Maintenance plans from the relevant Offshore Wind Farm and therefore assessment of impacts specifically for that SPA captured within the associated HRA not alongside this temporary change of use application.

We are satisfied that the shadow HRA screening of likely significant effects, without mitigation in place and beyond reasonable scientific doubt, has ruled out the need for further assessment at Stage 2 Appropriate Assessment from the development either alone or in combination with other plans and projects. Based on our understanding and review of other plans and projects that could potentially act in-combination, we agree that there are no other plans and projects for which likely significant effect can be excluded (alone) i.e. judged to have insignificant effects which may combine to result in a likely significant effect in combination. We therefore highlight that there is no need to include the IROPI report for 21/01810/VOC dated March 2022 (BBCT Permission) as large projects such as this are ring fenced and effectively removed from an in-combination assessment. Consequently, there are no other plans and projects that themselves have insignificant effects and which need to be considered in-combination with the (non-significant) effect of the GEH change of use.

We are satisfied that there is sufficient ecological information available for determination of this planning application as the physical works necessary for the GEH use are already authorised under planning permission 10/00202/FUL as amended by 21/01810/VOC.

We agree with the applicant's shadow HRA conclusion that, the project will avoid a Likely Significant Effect on the Habitats sites listed in this assessment, either alone or in combination with other plan and projects. Having considered the HRA screening assessment of the implications of the project for the sites in view of those sites' conservation objectives and having consulted Natural England and fully considered any representation received where necessary, the authority may should it decide to do so, agree to the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

We accept that Natural England, as the key adviser to the Marine Management Organisation, will consider the need for appropriate assessment, consideration of alternatives and IROPI, as part of the separate marine licence application for the change of use of Bathside Bay as a GEH.

The mitigation measures identified in the Environmental Statement (Royal Haskoning DHV, October 2023) for the Temporary GEH, Bathside Bay should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality.

We advise that reasonable biodiversity enhancements, which have been recommended to

secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (December 2023) should be secured for the GEH alongside the consent for the Bathside Bay Container Terminal. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

We can advise on which conditions attached to 21/01810/VOC should also be secured for any consent for the GEH. Please contact me with any queries.

Arch. Liaison Off, Essex Police

29.11.2023

Essex Police Designing Out Crime Office (DOCO) thank you for the opportunity to comment on planning application 23/01594/FUL.

We recognise that developments where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its operators and clients. Perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a successful location.

An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete.

The published documents have been studied; at this time, they do not provide sufficient detail to allow an informed decision pursuant to the National Planning Policy Framework however it is essential to consider crime as a material consideration throughout the life cycle of the proposed Protecting and serving Essex scheme. Effective physical security is best achieved by multilayering different measures, as any adversary will attempt to identify and exploit perceived weaknesses. For example, fencing provision as well as having an acoustic element and being aesthetically pleasing, should have an appropriate security rating that is commensurate to the risk (attributed by the crime profile). The appropriate level of lighting and lighting source is important, as is a fit for purpose CCTV system that should align with a response capability.

To comment further on the proposal, we would require further details of the proposed operation of the site and planned security provisions.

Essex Police would recommend that the developers consider the foreseeability of crime during the construction phase of this development and maximise on the opportunity to design crime issues out. During the planning of the construction process, Essex Police would welcome early engagement with the developer to discuss this notion. See the Secured by Design Construction Site Security Guide 2021: www.securedbydesign.com/guidance/design-guides In support of the above and to ensure that risk commensurate measures are delivered, we would strongly recommend that the developer liaises with the Designing out Crime Team at Essex Police and would invite them to contact us via designingoutcrime@essex.police.uk

Environment Agency

10.01.2024

Thank you for your consultation on this proposal. We have reviewed the submitted documents and can confirm that we have no objection to the proposal on the basis that the temporary change of use does not necessitate changes to the design of the permanent platform and quay area that fall to be considered under this application.

If there are changes to the design which require assessment as part of the consideration of this application, we request to be reconsulted. We are aware that Natural England have raised concerns in this respect.

Specifically regarding flood risk, we have reviewed the flood risk statement submitted within the applicant's Environmental Statement and currently have no comments further to the original permission. Similarly, in terms of ecology having reviewed the submitted documents we currently have no objection to these proposals, provided any and all recommendations by Natural England in relation to the nearby designated sites are followed, and subject to the above.

Essex Wildlife Trust

No response available on file

Royal Society For The Protection of Birds (RSPB) 29.01.2024

Thank you for consulting the Royal Society for the Protection of Birds (RSPB) on the above application by Harwich International Port Application (HIPL) for temporary planning permission for the use of Bathside Bay Container Terminal (BBCT) as a Green Energy Hub (GEH). The temporary use is proposed for a period of time up to 15 years, to end when BBCT has reached full capacity (some time between 2034 and 2042). The RSPB is grateful for the extension of time granted to respond to the consultation.

Below the RSPB sets out its observations on the GEH application and its relationship with the proposed marine licence application (the ML application) by HIPL for the reclamation and permanent loss of the Bathside Bay component of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site (the SPA/Ramsar site) in order to construct the platform upon which the GEH and BBCT would operate.

Green Energy Hub application

From reading the GEH application documents, it is the RSPB's understanding that the following assumptions have been made:

- Consent to carry out the tidal works to reclaim and cause the permanent loss of Bathside Bay (for the purposes of the GEH and BBCT, as well as the Small Boat Harbour) will be sought under a separate ML application to the Marine Management Organisation (MMO)(see section 1.3, paragraphs 3-5 of the Environmental Statement (ES)). The ML application will also address relevant aspects of the compensatory habitat proposed at Little Oakley;
- The ML application will set out the full derogation case for GEH and BBCT under the Conservation of Habitats and Species Regulations 2017 (as amended) in respect of the permanent loss of Bathside Bay from the SPA/Ramsar site (see below);
- Assuming the ML application is consented, the intertidal habitats at Bathside Bay will be reclaimed and the port platform will be constructed under the ML and the existing planning permission for BBCT (e.g. see para 3.7.2 of applicant's Planning Statement);
- As a consequence, the GEH planning application has restricted its focus to the impacts of the operation of the GEH and some additional physical works to facilitate the temporary use of the platform for the GEH;
- The Applicant has carried out a screening assessment for a Habitats Regulations Assessment in respect of the GEH's operation and the additional physical works and concluded there would be no likely significant effect, noting that the SPA/Ramsar site would already have been lost to the construction of the port platform. Therefore, no appropriate assessment has been undertaken in respect of the current planning application;

- Prior to first use of the GEH, an approved Transition Plan will be required in respect of the phasing in of the BBCT and the phasing out of the GEH no later than 15 years after the date of any GEH planning consent (para 3.7.4 of the Planning Statement).

The GEH application places reliance on the construction of the port platform under the terms of the proposed ML application. The ML application will set out the applicant's derogation case justifying the permanent loss of Bathside Bay for the purposes of both the GEH and the BBCT. This will necessarily represent a new derogation case for the permanent loss of Bathside Bay from within the SPA/Ramsar site, combining arguments relating to the container port and offshore wind sectors. This is because it proposes a change of use from container port only to a combination of Lift-On Lift-Off (LoLo) containers and offshore wind turbine storage, staging, marshalling and assembly.

Some of these arguments are touched on briefly in the Planning Statement accompanying the GEH application but will require fuller justification as part of the ML application.

Ultimately, the ability of the GEH planning proposal to proceed will rest on whether the port platform is built and therefore whether the applicant succeeds in making out its derogation case for the revised uses of the platform to the MMO.

Relationship with the ML application

We make some initial observations below in respect of the derogation case that the applicant would need to set out in respect of its ML application and the use of the resulting port platform for:

- Temporary use (for up to 15 years, ending sometime between 2034-2042) for offshore wind turbine storage, staging, marshalling and assembly (ES, section 2.1, para 3); and
- Eventual use as a LoLo container terminal, with full operation proposed by 2042 at the latest.

We envisage the applicant will set out a detailed case for each use of the platform in respect of the "alternative solutions" and "imperative reasons of overriding public interest" (IROPI) tests under Regulation 64 of the Habitats Regulations.

Below we set out some initial observations in respect of the information we would expect to be included in the derogation case in respect of the alternative solutions and IROPI tests:

- **Container ports:**

- projected supply and demand for LoLo containers in the UK over the next 30 years and the level of confidence in the projections;
- projected contribution of BBCT to meet the projected demand over time; and
- how the BBCT contribution will ramp up to meet that projected demand as the port reaches full operational capacity (in line with the proposed Transition Plan, see para 3.7.4 of the Planning Statement).

- **Offshore wind.** The list of potential projects requiring the functions proposed at GEH can be reasonably foreseen, as their supply is based on The Crown Estate's offshore wind leasing rounds. Therefore, in addition to the information contained in the Planning Statement it would be helpful to understand:

- The projected supply and demand for the GEH functions between the anticipated completion of the port platform (based on the timeline suggested in the GEH application, we have assumed a target date for its availability to the GEH of c.2027) and the full operation of the LoLo container port (latest end date of 2042);
- Details on precisely which offshore wind markets the Green Energy Hub proposes to contribute to, separating out Fixed Wind Turbine Generators (WTGs) and/or Floating WTGs;
- How GEH contributes to the existing or consented UK port capacity for the same

functions (e.g. Green Port Hull (operational), Tyne (in development) and Able Marine Energy Park (consented). Source: Renewable UK (2023) *Floating Offshore Wind Taskforce: Industry Roadmap 2040*). This is relevant to the alternative solutions test;

- **Fixed wind:** description of the addressable market and which offshore wind projects the GEH anticipates it would be available to support c.f. rival ports such as Green Port Hull etc. This is a predictable overall market, comprising a limited number of projects in the North Sea from Round 3, Project Extensions and Round 4 that are, as yet, unbuilt or unconsented. Several Round 3 and Project

Extensions currently predict they will be fully operational by 2030 i.e. within the first few years of potential operation of the proposed GEH;

o **Floating wind:** it is unclear whether the GEH intends to address this market. The Crown Estate is currently focusing its Floating Wind leasing rounds in the Celtic Sea and has initiated Round 5.

Round 5: leases likely to be issued by autumn 2025, with a requirement for consent and construction within 10 years of any lease being awarded (see TCE (2023) *Information Memorandum: Celtic Sea Floating Offshore Wind. Leasing Round 5*). Each bidder must nominate preferred integration ports during the bidding process in 2025. Does the GEH aim to compete for this market?

Future rounds: as yet there is no firm information on future floating wind rounds by The Crown Estate, but their geographic focus remains the Celtic Sea. Therefore, it is not yet possible to predict what the scale of the market will be or its relevance to the GEH given it is predicted to cease operation some time between 2034 and 2042.

We trust these comments and observations are helpful to the Council. Please do not hesitate to contact us if you wish to discuss them further.

Essex County Council Archaeology

05.12.2023

The above application is for the Temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

The proposed GEH use would operate using the platform approved under the BBCT consent. The impact on archaeology from the development of the port platform was assessed during the applications for the BBCT consent. Details of a programme of archaeological work to the site is controlled under condition 12 of permission ref: 21/01810/VOC and the proposed works to facilitate the GEH use shall be assessed under an application for a marine license.. There is no objection to the application.

Essex County Council Heritage

14.12.2023

The application is for temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green

energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

The proposal site is within the setting of Harwich and Dovercourt Conservation Areas. Most of the scheduled monuments and listed buildings within the Conservation Areas are not likely to be affected by the proposal due to their distance from the site and the presence of intervening buildings. The following heritage assets are also likely to be affected by the proposal:

- Schedule Monument Napoleonic coastal battery at Bath Side, 400m north west of Tower Hill;
- Grade II Listed Harwich Train Ferry Berth;
- Non-designated heritage asset Dovercourt Station.

The impact of the development of this site has already been assessed under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission dated March 2022 for the construction of Bathside Bay Container Terminal.

The currently proposal for the temporary use of Bathside Bay for turbine storage, staging, marshalling and assembly is not dissimilar from the development approved under the extant permission and is overall not considered to result in an additional harm to the significance of the identified heritage assets due to the change of their wider setting.

Should any additional structure or building be required, details and specifications of the proposal should be submitted for approval to the Local Planning Authority prior construction.

Economic Growth Team

29.11.2023

The Economic Growth Team strongly support and endorse this application which seeks the temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL

The site occupies a key location in close proximity to strategic transport infrastructure, making the site more attractive than employment sites in Clacton or Harwich. It is not thought that the development of this site would have any negative impact on employment sites or existing commercial activity in the neighbouring settlements of Brightlingsea or Manningtree.

In conclusion the Council's Economic Growth Team commend this application for approval.

ECC Growth and Development Team

24.01.2024

In support:

ECC is a key infrastructure and service provider and is responsible for delivering and commissioning a wide range of strategic and local infrastructure requirements and public services to support and shape inclusive and healthy communities. ECC's role covers a wide range of statutory services including (but not limited to) highways and transportation, education, early years and childcare, minerals, waste, surface water management, passenger transport, adult social care, and public health. We also advise on, and have a material interest in a number of other related placemaking matters to assist in the determination of planning applications.

The Growth and Development team at ECC is responsible for coordinating single corporate responses for major development schemes and Nationally Significant Infrastructure Projects to ensure that the Council's interests and responsibilities to deliver quality and sufficient Growth and Development County Hall Chelmsford Essex CM1 1QH Our Ref: Bathside Bay You Ref: 23/01594/FUL Date: 24 January 2024 infrastructure in the right places and at the right time are

effectively communicated, and to support good place-making and place-keeping for existing and future communities.

Given our statutory responsibilities, we are keen to ensure that the potential impact of this proposal on ECC's service areas is comprehensively considered by our relevant officers, and appropriate mitigation measures communicated to, and secured by (either through financial contributions or physical provision) Tendring District Council, wherever possible, as the Local Planning Authority.

The nature and scope of ECC's consultation response to planning application 23/01594/FUL addresses the following service areas.

- Economic Growth and Skills
- Flood Risk and Drainage
- Environment and Green Infrastructure
- Climate and Planning Unit (CaPU)

Please note that ECC Highway comments will be submitted separately, and this letter should be read in conjunction with the ECC Highways response which will be received by Tendring District Council as part of the current consultation on the proposal.

Summary

ECC has reviewed the proposal and accompanying documents and is generally in support of development which would promote the growth of a 'Green Energy Hub' across the Freeport East site. ECC is keen to ensure that the proposed development is a catalyst to unlocking the Bathside Bay development and encouraging the delivery of a wider Green Energy Hub, with a variety of training and employment opportunities and therefore recommend further consideration of:

- Community Benefits
- Flexibility and adaptability of the use to support a variety of Green Energy uses
- Skills and Training Opportunities
- Local Procurement
- Environmental Enhancement
- Sustainable Construction

These matters are addressed in turn in this letter.

Site Background and Relevant History

The planning application site has a long history in seeking to unlock the economic potential of Bathside Bay and the surrounding areas. The Bay itself, was originally granted planning permission to be infilled and used as a container terminal in March 2006 (Application Ref. 03/00600/FUL). This application was subsequently extended by Application Ref. 10/00202/FUL and varied by Application Ref. 21/01810/VOC. Works to commence the development have now been undertaken on the site and application 21/01810/VOC remains an active application.

Current Application

Bathside Bay, known as 'Freeport East Harwich', forms part of 'Freeport East', a partnership between Hutchison Ports, Harwich Haven Authority, New Anglia LEP, South East LEP, Essex County Council, Suffolk County Council, East Suffolk Council, Tendring District, Babergh and Mid Suffolk Councils and the Haven Gateway Partnership.

The current application is for a temporary change of use from the currently approved container terminal to a temporary use as a Green Energy Hub for storage, staging, marshalling and

assembly of offshore wind turbine sails for a period of up to 15 years from the date of consent. ECC understands that the proposed change of use would act as a catalyst to progressing development on the site and to support the Government's ambition to install 50GW of offshore wind generating capacity by 2030 and ECC fully support the principle of this development.

Proposed Works

ECC understands that the work proposed to facilitate the temporary use would be light touch, comprising:

- Creation of a berthing area.
- Heavy load out quay with rock mattresses at its base to allow vessels to berth at the new quay wall.
- Installation of a piled temporary platform and mooring dolphins dredged to -10mCD.
- Works to be removed at the end of the temporary permission.

We understand that these works would be undertaken in accordance with the information approved via application ref. 21/01810/VOC and a Marine License Application, however, in the spirit of the application, seeking to promote Green Energy, we would welcome opportunities to promote clean construction, which should be secured via a Construction Management Plan.

Economic Development

ECC recognises that there have been challenges with developing Bathside Bay over the last decade and consequently very much welcome this application, which will support the progression of the Bathside Bay development and the wider Free Port East.

ECC would like to express their full support for this application which is an excellent opportunity to utilise the site to ensure it does not remain vacant and to encourage new inward investment in Green Energy, in this case, from the offshore wind energy sector, which will unlock employment opportunities.

ECC would welcome the chance to work with the developer to ensure that the proposed change of use acts as a catalyst to the local clean growth proposition, net zero ambitions and the number of high value, high paid jobs the area can create.

In progressing the application, we would welcome Tendring District Council taking a flexible approach to the proposed use, in order to support, encourage and maximise opportunities for the site and surrounds to grow as a green energy hub, not limiting the site to offshore wind sail storage, assembly and distribution but opening it up to wider opportunities for innovation and research and development. For example, ECC is aware that there is a strong demand for hydrogen production and supply chain companies, and we would welcome opportunities for such occupiers to utilise the site and surroundings.

Skills

ECC sees Freeport East and all associated applications as an excellent opportunity to improve Essex and offer a wide variety of job opportunities during construction and beyond and consequently, ECC welcomes the socio-economic benefits this development will bring to the area as outlined in the Planning Statement. To complement our work via the Freeport East arrangements, we are keen to work with the applicant from the outset to establish a clear strategy around maximising skills and employment opportunities for local residents during the construction phase, as well as the operational phase which mentions a 150 strong workforce.

In this regard, ECC is aware that the original consent on the site incorporates a requirement for the development to promote local jobs and training and ECC would like to expand upon this in

the current application. Owing to the shorter-term nature of the proposed use, ECC are keen to fully understand how this could impact on employment and training. We would welcome further discussions with the developer to explore how an appropriate training and skills programme could be put in place to ensure that courses are commenced and completed within the timescales for construction and operation, so that local people can benefit from jobs in the green energy sector beyond the 15 years proposed by the application.

ECC's strategic aim is to ensure that major developers work with us to bring about skills clusters that support the matching of workers to in-demand career opportunities for specific projects but also across the region. We therefore encourage and expect all projects and developments to use a Skills and Employment Plan to set out their strategy for supporting this joint ambition. Unless the intention is to include it within the Freeport East Workforce Development Plan, we encourage the applicant to use best practice guidance and templates provided by CITB which, as a minimum, refer to commitments, clear plans and targets for:

1. Working within the existing skills and employment partnership(s) and maximising the number of local skills and job opportunities on offer
2. Recruiting through Jobcentre Plus and other local employment vehicles
3. Advertising jobs via the Essex Opportunities portal or any other portal as advised by ECC
4. Setting targets and monitoring systems for
 - a. New jobs created
 - b. Work trials and interview guarantees
 - c. Pre-employment training
 - d. Apprenticeships and Vocational training (NVQ)
 - e. Work experience (14-16 years, 16-19 years and 19+ years) and engagement with T Levels
 - f. School, college and university site visits and career events – via the Tendring Future Skills Programme
 - g. Construction Skills Certification Scheme (CSCS) cards
 - h. Supervisor training, and Leadership and management training
 - i. Support with transport, childcare and work equipment
 - j. In-house training schemes

Procurement

ECC recognises the limitations in the current change of use application to influence the construction of the site, which will progress under the Bathside Bay application but in the interests of circular economy principles, sustainability and to enhance local economic growth generally, ECC would support discussions in relation to local procurement opportunities for construction.

Community Benefits

It is noted that paragraph 2.3.3 of the Planning Statement suggests that the proposed temporary change of use would deliver benefits for the Local Community, however, these are not specified within the planning application. Essex County Council is keen to ensure that developments deliver community benefits to balance the impacts of supporting the delivery of infrastructure in the national interest and would welcome discussions between Tendring and the developer to explore the opportunity to support the community, particularly through projects which promote sustainability and climate action. Such benefits should be discussed and negotiated alongside the planning application and secured by the relevant legal mechanism.

Flood Risk and Drainage

We understand that the majority of the works would be undertaken using application 21/01810/VOC, which incorporates SUDs and flood risk measures and are outside of the scope of this application. We support the applicant's comment that the proposed use for

storage of Offshore Wind Turbine Sails would be a water compatible development and therefore, within a suitable location. On the basis of the information provided in the application, the LLFA raise no objections to the proposed development. Environment and Green Infrastructure ECC recognises that in this case, the development will utilise the Bathside Bay consent for the majority of the construction works. However, we would support Tendring District Council in discussing opportunities for environmental enhancement on the site, with the introduction of new flora and fauna, being mindful that significant progress in policy has been made in relation to biodiversity net gain since the original consent was granted.

Climate and Planning Unit (CaPU)

The proposed use is considered to contribute towards the delivery of sustainable development, through the promotion of Offshore Wind, which sits within the wider aspirations for the area, for a Green Energy Hub.

In the context of sustainability and built environment, it is difficult to make climate and planning commentary on the Bathside Bay as a change of use application to a Green Energy Hub without considering the construction of Bathside Bay, the original application (container terminal platform constructed under permission ref: 21/01810/VOC) which will result in a significant embodied carbon impact.

The proposal for the temporary Green Energy Hub use is, in principle, welcomed as the site will become a facility that distributes and assembles elements for wind turbines, towards creating renewable energy, indirectly contributing to a decreased use of fossil fuels.

As outlined in the application form the bay is being created by (next to) the convergence of the River Stour and River Orwell meeting the North Sea, an intervention to reclaim land creating a significantly increased site area of 101.94ha (see images below for comparison). It should be noted 'The built environment makes up 25 per cent of the UK's total greenhouse gas emissions and the UK's Nationally Determined Contribution...committing the UK to achieve a 68% reduction in the UK's carbon emissions by 2030...1' It is therefore a recommendation that a whole-life carbon assessment be carried out for the site to measure and control the amount of carbon within the materials both required to reclaim land for the bay within the site and the material required make it fit for use as a green energy hub (outlined below) should, in order to determine and intently reduce where possible the sites carbon emissions, especially if it has not been done as part of any previous application.

As a minimum the whole life carbon impact assessment should measure, the light touch Green Energy temporary use interventions, as outlined in the planning statement to include:

- Creation of a berthing area
- Heavy load out quay with rock mattresses at its base to allow vessels to berth at the new quay wall.
- Installation of a piled temporary platform and mooring dolphins dredged to -10mCD
- Works to be removed at the end of the temporary permission.

It is noted a separate application for a Marine Licence will be submitted to the Marine Management Organisation (MMO) for the rock mattresses, piled temporary platform and the mooring dolphins therefore material commentary on these items does not seem intended within this application but it would be useful to make a combined view of the carbon impact of all elements required within one application.

As part of the Green Energy Hub decommissioning, to enable container terminal use of the site, an assessment of the materials which would no longer be required should be made, considering the circular economy of materials and how materials are intended to be accounted for, reused and how the reduction of waste materials will be minimised. This might be included

in the Green Energy Hub's decommissioning report which will be submitted to and approved in writing by the Local Planning Authority that demonstrates that all works associated with the temporary Green Energy Hub that were approved under this permission have been removed.

In Bathside Bay's first iteration as a Green Energy hub the reclaimed bay site will be used for holding wind turbine parts, the associated paraphernalia, 150 employees working on the site and result in 240 annual vessel (presumably ship) movements. Beyond embodied energy of materials, the impact of the increased use of the reclaimed land is a major consideration in terms of sustainability.

In terms of operational carbon impact, the consideration for the types of machinery the Green Energy Hub will be required to both construct the hub and during its use (the description provided in the Planning Statement as self-propelled modular transportation vehicle, heavy lift crawler cranes of 1000t lift capacity and 500-750t mobile crane, reach stacker and forklift truck) and their energy usage should be outlined, with a recommendation for fossil fuel free electric only machinery on the site to reduce the air and water pollution of the increased use of the site.

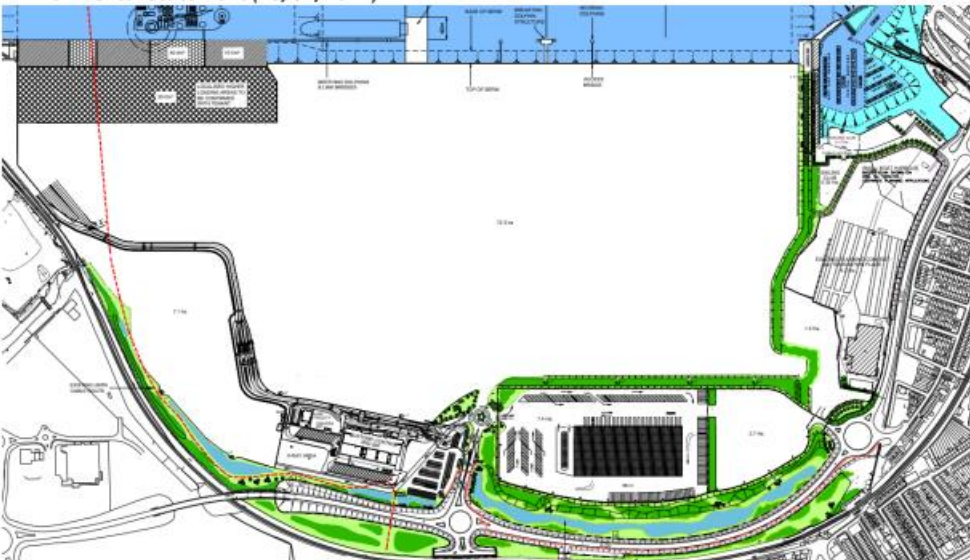
It should be outlined how the increased vessel movement will impact the environment and energy use and if any reduction can be made for the environmental impact of these.

The proposed Green Energy Hub Use would provide jobs for 150 personnel during its operational phase and support the area's role as a global trade hub and would provide a location to receive, assemble and ship out wind turbines - it should also be assessed on what the increased vehicle movement will be due to the new use of the site from how it is currently used. Encouraging low carbon, fossil fuel free transport for all site personnel is recommended.

Existing Site area prior to commencement of reclamation of land extracted by officer from Google Maps (15/01/2024)



Proposed site including reclamation of Bathside Bay extracted by officer from applicant's Environmental Statement (15/01/2024)



Conclusion

ECC is a key infrastructure and service provider with statutory responsibilities to ensure that the right infrastructure is delivered in the right place at the right time to support new and existing communities. ECC has carefully considered the information submitted in support of the change of use application and is generally in support of development which would promote the growth of a 'Green Energy Hub' across the Freeport East site. ECC is keen to ensure that the proposed development is a catalyst to unlocking the Bathside Bay development and encouraging the delivery of a wider Green Energy Hub, with a variety of training and employment opportunities and therefore recommend further consideration of:

- Community Benefits
- Flexibility and adaptability of the use to support a variety of Green Energy uses
- Skills and Training Opportunities
- Local Procurement
- Environmental Enhancement
- Sustainable Construction

5. **Representations**

- 5.1 The publication of the application in the local press, dissemination through site notices displayed at strategic points across the extensive site, and distribution of individual letters to neighbouring properties, no individual objections were raised.
- 5.2 A total of four letters received, three of which were from companies within the offshore wind industry. Additionally, Freeport East expressed its support in a separate letter. In summary, these letters highlight the following points:
- The development of offshore wind is crucial for decarbonizing the UK's power system and achieving net zero emissions by 2050.
 - They argue that there is a significant shortage of port capacity nationally, hindering sector growth. Bathside Bay's attributes make it an ideal location for an offshore wind manufacturing or installation port.
 - They argue that this development not only addresses environmental concerns but also offers significant economic opportunities.
 - It is argued that Bathside Bay's development is integral to the Freeport East initiative, promising substantial economic transformation for the local area. Moreover, they state that the proposal aligns with efforts to bolster the UK's offshore wind sector.
 - The project not only attracts private sector investment but also contributes to broader regional economic and social goals.
 - Embracing climate action can yield substantial economic benefits, and initiatives like Freeport East are positioned to lead in decarbonization efforts while supporting ambitious businesses. The Bathside Bay proposals are central to these objectives, reinforcing the area's commitment to climate action and economic development.
- 5.3 Harwich Town Council have not responded to this application as part of the consultation.

6. **Assessment**

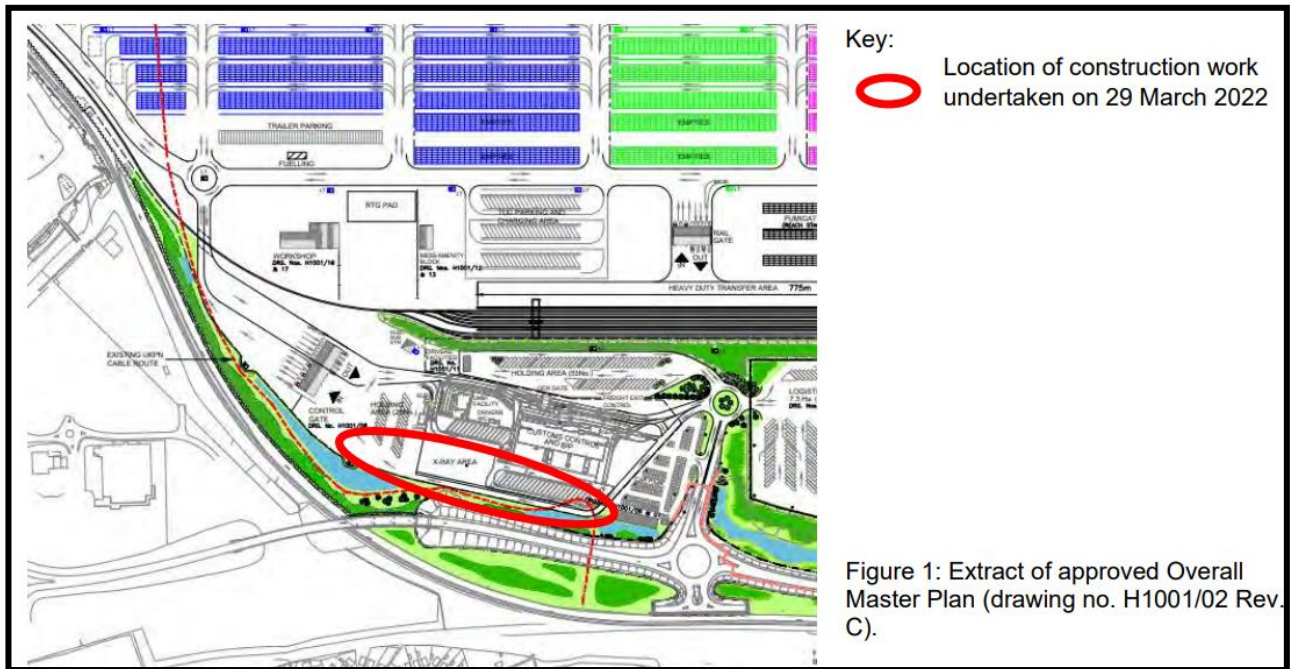
Site Context

- 6.1 The application site at Bathside Bay is located between Harwich International Port, Parkeston, to the west and Harwich to the east, on the south side of the estuary of the River Stour, on the opposite bank from the small settlement of Shotley Gate, which is itself separated from the Port of Felixstowe to the east by the estuary of the River Orwell. The 65ha site comprises primarily a large bay which forms part of the irregular edge to the southern shore of the Stour Estuary. From Parkeston in the west to Harwich in the east, the site is about 1.6km wide. From the open water of the Stour Estuary in the north, the distance across the site to the A120 road and the land fringing Dovercourt and Bathside Bay in the south is about 1km. The site forms part of the Stour and Orwell Estuaries Special Protection Areas and the Stour and Orwell Estuaries Ramsar site
- 6.2 The proposed new terminal was assessed by the Secretary of State to have a capacity of 2.1 million TEU's (Twenty-foot Equivalent Units) when fully developed and operational. As a reference point the Port of Felixstowe, which is Britain's biggest and busiest container port, and one of the largest in Europe currently has capacity to handle more than 4million TEUs per annum.

Key planning history

- 6.3 The BBCT has a significant planning history, primarily tied to planning permissions granted nearly 20 years ago (under TDC application ref nrs 03/00600/FUL & 10/00202/FUL). Despite delays due to various factors including the global financial crisis and the construction of

competing ports, progress has been ongoing. More Recently, Tendring District Council approved a Section 73 application (under application reference 21/01810/VOC) to vary conditions of a previous planning permission, allowing for a phased start to development by 29 March 2022. Works have begun on site in the form of site-clearance, preparation and pegging out of the southern road in the location identified on the extract of the approved Bathside Bay Master Plan included below. These works comprise material operations during preparation of the site and in the laying out and construction of a road. The applicants have explained that construction works will continue over the coming months.



In more detail these works comprised:

- Installation of markers for the location of reptile fencing'
- Groundwork to install the concrete bases, post powers and communications ducting for noise and air quality monitoring equipment; and
- Pegging out of the southern road, x-ray area and truck hardstanding area.

6.4 The LPA is satisfied that the above evidence establishes the BBCT development as an existing and ongoing project (an LPA officer site visit was also conducted back in March 2022 confirming the above). Therefore, very significant can be given to this fallback position. Moreover the BBCT development is part of a medium term plan to meet what is expected to be continuing demand for deep-water container port capacity in the UK.

Proposal

6.5 As briefly set out above a temporary planning permission (up to 15 years) is sought for the use of the already approved Bathside Bay container terminal for the storage, staging, marshalling, and assembly of wind turbines. This includes the import, export, handling, and deployment of concrete substructures, moorings, anchors, array cables, and other associated offshore green energy infrastructure. Following the operational phase, provisions are made within the application for decommissioning activities, facilitating the transition back to, and to enable the continuation of the for the container terminal use under the BBCT Permission.

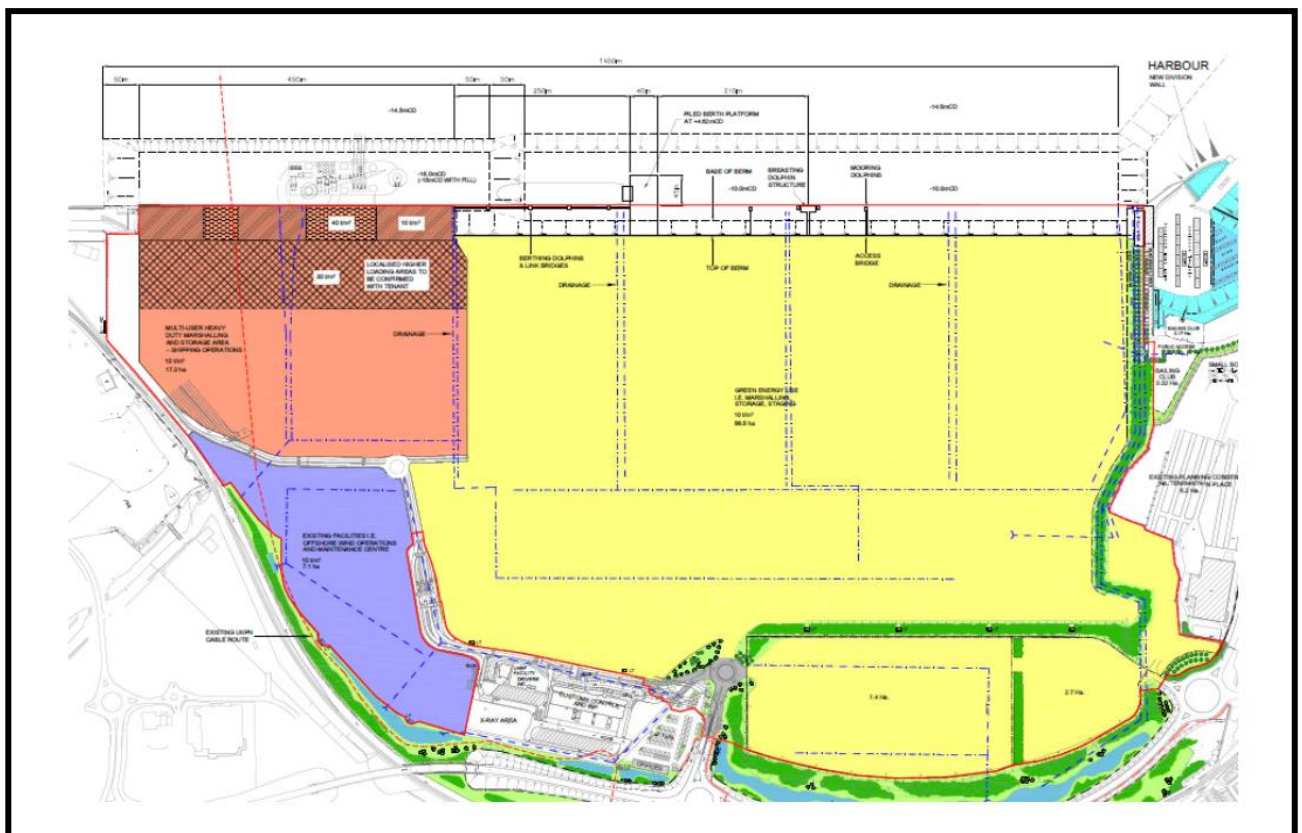
6.6 The applicant has explained that the GEH use can take place on the BBTC platform with only limited additional requirements that can be summarised as follows:

- A slightly different berthing area (compared to the BBCT approval) is being constructed in the north western zone of the approved container platform – essentially next to the heavy load out quay (as approved under the BBCT permission). This construction will allow for jack-up vessels to dock at the new quay wall; and
- A temporary platform, supported by piles is being installed next to the above mentioned berthing area, along with mooring dolphins (which are structures used to secure vessels associated with the proposed GEH use).

6.7 It is worth pointing out that the above works will exclusively take place offshore and not on land, and therefore planning permission is not required for these works, instead these elements will be covered in a separate Marine License application.

6.8 The plan below shows the overall extent of the container terminal approved under the BBCT permission (combined these are the areas inside the red line, including the yellow, orange/red and blue/purple areas). The three bullet points directly below expands on the activities that will take place in these 3 coloured areas, as part of this temporary GEH application:

1. The primary activities envisaged entail establishing a dedicated import and export shipping operations zone tailored for multi-user heavy-duty marshalling and storage, as depicted by the delineated orange/red coloured area;
2. A designated zone for the marshalling and storage of wind turbine blades and associated components, including concrete substructures, moorings, anchors, and array cables is outlined in yellow;
3. The area in blue/purple be allocated for offshore wind operations and maintenance purposes.



Principle of Development

- 6.9 The application site and its proposed development present a unique aspect: the majority of the site and the intended temporary use are situated on water rather than on land. Essentially, the proposal is for a temporary storage and distribution facility to operate from and on already approved infrastructure, namely a container terminal. The GEH use is tailored for the offshore renewable energy sector, particularly wind farms.
- 6.10 Consequently, considering this distinctiveness and adopting a strictly literal interpretation of the development proposal, for the most part the Local Plan is silent (insofar as its policies are concerned) on development proposals of this nature, not least due to its uniqueness.
- 6.11 Despite this, it is essential to note that even though most of the site is located in the waters of Bathside Bay, for the purposes of assessing the principle of development and from a planning perspective, and whilst having regard to the planning history, the site effectively forms part of the Settlement Development Boundary of Harwich and Dovercourt, or at the very least, it is located partially within, and partially directly adjacent to the SDB.
- 6.12 Policy SP3 'Spatial Strategy for North Essex' of the Section 1 Plan states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. The policy states development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
- 6.13 Relevant policies SPL1 and SLP2 (as a combination) set out TDC's settlement hierarchy (SPL1), and relevant part of policy SPL2 states outside of Settlement Development Boundaries, these policies state that (summarised) the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.14 Policy SP5 'Employment' of the Section 1 Plan states that a strong, sustainable and diverse economy will be promoted across North Essex with the local planning authorities pursuing a flexible approach to economic sectors showing growth potential across the Plan period.
- 6.15 Also, of relevance is policy PPL10 which states that proposals for renewable energy schemes will be considered having regard to their scale, impact (including cumulative impact) and the amount of energy which is to be generated.
- 6.16 As alluded to above, the vast majority of the site is located in the Stour Estuary, however the site directly adjacent to employment sites, allocated employment sites, a priority area for regeneration and indeed in a very sustainable location directly adjacent to the settlement development boundary for Harwich and Dovercourt which excellent road and rail infrastructure close or very close to the site.
- 6.17 The proposal will make use of infrastructure that was approved under the BBTC permission, which has already begun implementation. Therefore, this permission holds very significant weight as an existing approval.
- 6.18 The proposed temporary GEH use is considered to align with the overarching objectives in the Local Plan of maximising economic and sustainability opportunities within the remit of the Freeport East designation of the area. The proposed temporary use as a GEH is also considered to be in accordance with the aim of promoting the expansion of the offshore renewable energy sector and channelling investment towards Harwich. Moreover, despite the temporary nature of the proposed use the development will nevertheless be a catalyst as an employment generator, set to generate in the region of 150 jobs during its operational phase and in a strong nod to policy SP5 as outlined above.

6.19 Ultimately, insofar as the principle of development is concerned, no policy conflict can be identified with the key and most important policies (for establishing the principle of development) as set out above. In reaching this conclusion, very significant weight is given to the fact that the BBCT permission has now been implemented on site.

Other Considerations (under Principle of Development)

6.20 Imperative Reasons of Overriding public interest (IROPI):

6.21 BBCT development was granted planning permission on the basis of Imperative Reasons of Overriding public interest (IROPI), essentially meaning that the BBCT development holds such compelling and essential positive factors that outweigh any potential negative impacts or objections, as set out in the original planning decision for the BBCT approval.

6.22 In more detail, insofar as it is relevant to this application, the BBCT proposal, at the time, underwent rigorous scrutiny, including an Environmental Impact Assessment (EIA) and a Habitats Regulations Assessment (HRA). Following the HRA, it was determined that the BBCT application could potentially compromise the integrity of the Stour and Orwell Estuaries SPA and Ramsar site. However, planning permission was granted due to compelling reasons of IROPI. It is officers view that this BBCT planning approval is considered to be a material planning consideration of very significant weight due to the fact that that development work has commenced on the BBCT. Despite the thorough assessments conducted as part of the assessment of the BBCT application, due to the scale and nature of the proposed GEH it is deemed necessary to undertake an EIA and HRA for the GEH application.

6.23 In light of the above, and in officers opinion, insofar as the assessment of this application is concerned, the BBCT permission is considered to be extant due to the fact that works on the BBCT have commenced. Both the EIA and HRA components are included within the Environmental Statement (ES) submitted with this application. The EIA concludes that the GEH use generates no significant changes in the effects of the development compared to the BBCT scheme. The HRA, on the other hand, focuses on the operational activity and comparisons of those between the container terminal use and the temporary GEH use. Moreover, the proposed GEH use is temporary in nature (and this can be controlled by condition) and therefore, for these combined reasons the LPAs view is that there is no need to consider whether IROPI is applicable for this application.

Environmental Statement

6.24 The Environmental Statement (ES) prepared by the Applicant and accompanying this planning application covers areas such as:

Commercial and Recreational Navigation:

- The Green Energy Hub falls within the jurisdiction of the Harwich Haven Authority.
- Harwich Haven is a busy commercial shipping area, with significant vessel calls annually.
- Recreational yachting and charter angling are important activities in the Stour and Orwell estuaries and these activities will not be impeded by the proposal.
- The Green Energy Hub's traffic impact is acceptable and within existing activity levels.

Landscape and Visual considerations:

- The proposed hub is not within the designated National Landscape ((albeit in its setting) and not inside a Conservation Area.
- There are several scheduled monuments and listed buildings in the vicinity.
- The hub's development is not expected to significantly change the effects predicted for the Bathside Bay Container Terminal.

Traffic and Transportation:

- Traffic impact assessments show negligible effects due to the low traffic generated by the hub.
- Severance, amenity, and highway geometry impacts are scoped out.
- Road safety and driver delay impacts are minimal.

Noise:

- Existing noise sources include road, air, and rail traffic, and activities at Harwich International Port.
- Predicted noise impacts from the hub are generally low, with potential significant impacts in specific wind conditions.
- Operational noise limits will be enforced, similar to those set for the Bathside Bay Container Terminal.

Air Quality:

- Local air quality objectives are currently met.
- Predicted road traffic emissions from the hub are not expected to exceed air quality objectives.
- Continuous emissions from the hub are unlikely to significantly impact local air quality.
- Vessel movements from the hub are expected to have a minor impact on air quality.

Cumulative Effects Assessment:

- Other nearby projects have been reviewed for potential cumulative effects but are not expected to significantly impact the hub.

Habitats Regulations Assessment:

- A screening assessment concludes that significant effects on important wetland bird populations are not expected.

Flood Risk Statement:

- The flood risk assessment and emergency plan developed for the Bathside Bay Container Terminal will also apply to the Green Energy Hub, with updates as needed.

6.25 Overall, the Green Energy Hub's development is expected to have manageable impacts on navigation, landscape, traffic, noise, air quality, and flood risk, with no significant cumulative effects or significant impacts on protected habitats. The ES and Supplementary ES have been fully considered as part of the detailed consideration of this planning application.

Landscape and impact of the proposal on the character and appearance of the area

6.26 The first bullet of relevant Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.

6.27 Paragraph 7.3.3 of the Section 2 Local Plan states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.

6.28 Policy PPL3 is criteria based, and states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to:

- a) *estuaries, rivers and undeveloped coast;*
- b) *skylines and prominent views including ridge-tops and plateau edges;*
- c) *traditional buildings and settlement settings;*
- d) *native hedgerows, trees and woodlands;*
- e) *protected lanes, other rural lanes, bridleways and footpaths; and*
- f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*

6.29 The NPPF, paragraph 182 states great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

6.30 It is important to stress that, due to the fact that the site is located in the Stour Estuary, the actual physical works required to facilitate the proposed GEH use are comparatively minimal as summarised below:

- A berthing area that will be constructed next to the heavy load out quay (as approved under the BBCT permission), with a base made of rock mattressing, to allow jack-up vessels to dock at the new quay wall; and
- A temporary platform, supported by piles along with mooring dolphins to secure vessels associated with the proposed GEH use.

6.31 These elements, due to the fact they are located offshore, are to be assessed under an application for a marine license, which is a separate process to the planning process.

Turning to the assessment of the application in terms of its impact on the character and appearance of the area, including the setting of the nearby National Landscape, the temporary introduction of the GEH use would result in very minor changes to the industrial infrastructure at Bathside Bay in comparison to the BBCT approval. Moreover, the lighting specifications and the configuration of port operation buildings would remain unchanged with the implementation of the GEH. It is therefore considered that the proposed GEH use would have a negligible impact on the local landscape character, the nearby national landscape, other vistas, and skylines when compared with the extant BBCT development.

Heritage and Design

6.32 In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), special regard must be paid to the desirability of preserving listed buildings potentially affected by the proposal, or their settings or any features of special architectural or historic interest which they may possess. Following Paragraph 193 of the Framework, great weight should be given to the conservation of these heritage assets.

6.33 Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the

relevant paragraphs of the Framework should be applied dependent on the level of harm caused.

- 6.34 Framework Paragraph 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be - irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account - in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.35 Framework paragraph 208 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.36 Framework Paragraph 209 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.37 The site falls within the setting of the Harwich and Dovercourt Conservation Areas. The following heritage assets are likely to be impacted by the proposed temporary change of use:
- The Napoleonic coastal battery at Bathside, located 400 meters northwest of Tower Hill, this is a scheduled monument.
 - The Harwich Train Ferry Berth which is a Grade II listed structure.
 - Dovercourt Station which is a non-designated heritage asset.
- 6.38 Assessment of the BBCT development has previously been conducted under planning permission 10/00202/FUL, granted on February 14, 2013, and varied in March 2022 for the construction of the Bathside Bay Container Terminal.
- 6.39 The current proposal for temporary turbine storage, staging, marshalling, and assembly at Bathside Bay bears close resemblance to the approved development under the existing permission. Overall, it is considered that the development will not result in any additional harm to the significance of the identified heritage assets compared to the approved BBCT development, but despite that fallback which is a significant material consideration, the proposal does cause less than substantial harm. Furthermore a second significant consideration is the temporary nature of the proposed change of use and the entirely reversible nature of both the visual impacts of the use, and indeed the minor additional works required to facilitate the use. **While harm is caused, the temporary nature of harm in setting terms is also given weight in the planning balance. The extensive public benefits from this scheme for the environment and economic growth are considered to outweigh the identified heritage harm of the development. It is also considered that the scheme is not more harmful than the previous approval and this scheme proposal is also temporary.**

Highway safety/impact on road network/parking considerations

Policy Overview

- 6.40 The ninth bullet of Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design. Policy CP1 states that proposals for new

development must be sustainable in terms of transport and accessibility, and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. Policy CP2 'Improving the Transport Network' states proposals will not be granted planning permission if there would be unacceptable impacts on highway safety, or the residual cumulative impact on the road network would be severe. The impacts are assessed under the TA and summarised below. Part B of Policy SPL3, criterion a), requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact. Amongst other things, criterion f) requires adequate vehicle and cycle parking.

6.41 Paragraph 108 of the Framework states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that:

- the potential impacts of development on transport networks can be addressed;
- opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- opportunities to promote walking, cycling and public transport use are identified and pursued;
- the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

6.42 Paragraph 109 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making

6.43 Paragraph 115 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

6.44 Within this context, Paragraph 116 states that applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.45 Paragraph 117 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported

by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

General Highway capacity and road safety implications

- 6.46 The application site is served by the A120 Trunk Road which is part of England's Strategic Road Network under the administration of National Highways. The submitted Transport Assessment, which include assessments of junctions along the A120 identified negligible impacts from the development. A road safety review has shown that there have been no reported collisions involving the site access junction as well as no collisions directly involving HGVs. Most traffic relating to the GEH Hub would utilise the eastern A120 approach to the junction that provides access to the site, this junction is not operating at or even near capacity and has existing signalised cycle crossings. There are concerns in respect of cycle safety raised by the highways authority, as such should planning permission be granted a condition is considered necessary seeking a collision review study of the Parkeston roundabout to review the emerging pattern of cycle collisions to be completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Should any remedial measures required by the review study these shall be carried out prior to occupation.
- 6.47 The TA considers that the increase in traffic associated with the development would have a negligible impact on road safety. ECC Highways agrees with this finding. Moreover, TA provides and assesses future year traffic forecasts using a methodology agreed with ECC Highways. It demonstrates that the transport impact of the GEH would not have a material negative impact on the local highways network and again ECC Highways are in agreement with these findings.
- 6.48 In terms of parking, again having regard to the temporary nature of the proposed change of use, it is anticipated that parking areas / zones as approved under the BBCT permission will be utilised for the proposed GEH use. In the event of an approval a specific condition can be included seeking details of the designated vehicle parking area including any parking spaces for the mobility impaired, areas of hard surfacing and marked out parking bays to submitted to and approved in writing by the LPA.

Vessel Movements

- 6.49 In terms of additional vessel movements associated with the GEH use and more specifically, to what extent there would be an increase compared to movements in the marine environment already:
- 6.50 As per Section 8.6.3 of the ES it is expected that the total number of vessel trips needed during operation of the GEH would be a total of twenty movements split as follows:
- Outbound berth (i.e. the offshore wind farm installation vessels) – two vessels per month (i.e. four movements). The vessels would berth for a few days while being loaded.
 - Inbound berths – eight vessels per month (i.e. 16 movements). These vessels would be bringing in large components for assembly into wind turbines
- 6.51 Therefore, the vessel movements would equate to approximately 240 movements per year. The number of movements generated by the GEH use as a proportion of the existing vessel traffic movements in the area, which averages approximately 6,100 movements, would represent approximately 3.9% over current vessel traffic.
- 6.52 Detailed information on this matter including Automatic Identification System (AIS) data is reported in the navigational risk assessment undertaken for the marine licensing EIA process. This data shows that the predicted vessel movements associated with the GEH are

insignificant in the context of baseline vessel movements and would not introduce vessels of a different nature to the existing.

Conclusion (Highway safety/impact on road network/parking considerations)

- 6.53 **Operationally and in terms of the proposals highways impacts during construction, it is considered that the scheme is compliant with relevant NPPF paragraphs and local policies, subject to conditions, including a requirement to submit a construction management plan. Moreover, from a highways capacity, sustainability, infrastructure, and accessibility point of view the scheme adequately mitigates construction traffic impacts while maintaining suitable access for all other users during the operational phase. Having regard to all of the above, subject to the said conditions no policy conflict can be identified and the proposal is acceptable from a highways safety, parking and road network capacity point of view.**

Archaeology

- 6.54 Policy PPL7 states (summarised): any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate desk-based assessment. It goes on to state: where identified as necessary within that desk-based assessment, a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive will be required to be submitted to, and approved by, the Local Planning Authority. The policy also states proposals for new development affecting a heritage asset of archaeological importance or its setting will only be permitted where it will protect, or where appropriate, enhance the significance of the asset. Where a proposal will cause harm to the asset, the relevant paragraphs of the NPPF should be applied dependent on the level of the harm caused. The final section of the policy states proposals for new development which are not able to demonstrate that known or possible archaeological remains will be suitably protected from loss or harm, or have an appropriate level of recording, will not be permitted.

The impact on archaeology from the development of the port platform was assessed during the applications for the BBCT consent. Details of a programme of archaeological work for the site is controlled under condition 12 of permission ref: 21/01810/VOC and the proposed off shore (physical) works to facilitate the GEH use will be assessed under an application for a marine license. The position for this temporary permission is not considered to be different given the recent assessments and material history. The proposal therefore results in no conflict with policy PP7 and the relevant provisions of the NPPF as set out above.

Impact on Residential Amenity

- 6.55 The final bullet of Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to factors such as noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.56 Policy SPL3, Part B criterion e), requires development to be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.57 Amongst other things, the relevant part of the Framework states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The Framework also states planning decisions should contribute to and enhance

the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality. The Framework also includes that planning decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.

- 6.58 The proposed GEH's road traffic and noise impacts are expected to be considerably lower than that of the approved BBCT development. In addition, as the proposed GEH would only result in approximately 240 annual vessel movements (see relevant section under Highways safety and Parking above), its impact on air quality is considered to be minimal compared to existing vessel traffic in the area. Due to the nature of the work undertaken on site for the proposed GEH use, a planning condition is considered reasonable and necessary setting a limit of 55 dB LAeq,1h on the operational noise of the GEH use, as well as a planning condition requiring an Operational Noise and Vibration Management and Monitoring Plan to be submitted for further approval – both conditions are necessary in to preserve the residential amenity of the areas further to the south (that are residential in character). Subject to the above, no significant conflict can be identified with the above mentioned policies and relevant provisions of the Framework given all material considerations.

Flood Risk and Mitigation

- 6.59 Tidal: A temporary 15 year permission is proposed and the proposed GEH use is a water compatible development in terms of the definitions of the NPPF and sequential test (in the main it is for temporary storage and distribution for off shore wind infrastructure). Tidal flood risk data suggested that by 2040, the 1 in 200-year water level might be 3.93m AOD (Above Ordnance Datum) under the Higher Central allowance. Considering the GEH's quayside level at 4.0m AOD, some minor overtopping might occur due to wind and wave action, however mitigation measures (see below) that have been secured for the BBCT development is considered adequate to protect the proposed GEH use for its lifetime. In addition, the temporary change of use does not necessitate changes to the design of the permanent platform and quay area and the Environment Agency also raise no objection to the proposal.
- 6.60 Flood Risk Mitigation: A Flood Risk Emergency Plan was secured as part of the BBCT permission which includes detailed emergency measures to be taken during extreme flooding events – the Environment Agency signed off the FREP and once again, from a flood risk mitigation perspective, have also raised no objection to this proposal, subject to conditions which will be included in the event of planning permission being granted.

Drainage and Surface Water Flooding

- 6.61 The proposal, being a temporary use located on infrastructure already approved under the BBCT permission will fully benefit from the BBCT's surface water drainage strategy that is required to be implemented as part of that scheme, resulting in limited surface water flood risk.
- 6.62 Moreover, the Environment Agency and ECC SuDs raise no objection to the proposal. The proposal therefore raises no conflict with policy PPL1 of the Local Plan.

Landscaping/Ecology/Biodiversity/Habitats Regulations Assessment

- 6.63 Paragraph 180 of the Framework states planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c. maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d. minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e. preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- f. remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

6.64 Paragraph 185 of the Framework states to protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

6.65 Paragraph 186 of the Framework states that when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

6.66 Policy 187 of the Framework states that the following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

- 6.67 Paragraph 188 of the Framework states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
- 6.68 The LPA has duties under the Conservation of Species and Habitats Regulations 2017. First, the LPA must determine whether the project is likely to have a significant effect on the protected sites. In relation to each site, if it concludes that the project would not have such an effect, it need not carry out any further assessment of the site. If it finds that there may be a likely significant effect, the LPA must carry out an appropriate assessment of the project to determine whether it will have an adverse effect on the integrity of the protected site.
- 6.69 Following consultation with ECC Ecology and following a review of the submitted shadow HRA, the proposed development, both independently and when combined with other plans and projects, does not warrant further assessment at Stage 2 Appropriate Assessment. ECC Ecology is also of the view that there is no need to include the IROPI report for 21/01810/VOC dated March 2022 (the BBCT Permission) because large projects such as this are ring fenced and effectively removed from an in-combination assessment. **Both the LPA and ECC Ecology concur with the applicant's assessment that the project will not result in a Likely Significant Effect on the listed Habitats sites listed in the HRA, either alone or in combination with other projects.**

Planning Obligations

- 6.70 Having regard to the assessment of the application above as well as the various impacts of the proposed GEH, it is considered that the identified impacts can be adequately addressed through planning conditions (included below). Therefore, there is no requirement for specific planning obligations. It is also important to highlight that the broader BBCT permission is subject to a legal agreement which includes a set of planning obligations. These obligations must be adhered to as part of the BBCT development, and they are not relevant to the current proposal, which will stand independently as a freestanding approval (in the event that planning permission is granted for a temporary 15 year period).

7. Conclusion and Planning Balance

- 7.1 The applicant seeks permission to use the approved BBCT platform as a "Green Energy Hub" on a temporary basis and to facilitate activities supporting the offshore energy sector. This aligns with the government's objective of installing 50 GW of offshore wind generating capacity by 2030. Over a temporary period of up to 15 years, the GEH will accommodate wind turbine storage, assembly, and servicing.
- 7.2 Weighing further in favour the proposal will significantly contribute to the advancement of Freeport East, particularly crucial for the development of Bathside Bay within it. The HRA confirms that the GEH proposal will not result in significant adverse effects on the Stour and Orwell Estuaries SPA and Ramsar Site. Thus, there is no requirement to demonstrate "imperative reasons of overriding public interest" to justify the GEH development. No objections were received from any third parties and all other comments and requests from statutory consultees have been covered in the main body of the report, or through the submission of new or revised information by the Applicant. Where necessary, reasonable and relevant, any outstanding concerns of requirements for further information can be secured

through appropriately worded planning conditions as set out in section 8.2 below (and in the event that planning permission is granted).

- 7.3 The design of the development ensures compatibility with BBCT's intended use, without hindering its progress. While Heritage Harm is given significant weight in the balance, the merits of the proposal and material fallback position are also given significant weight. It is not considered likely that there will be harmful elements to this temporary use over and above the BBCT development. The GEH operations are reversible, with removal of all equipment etc at the end of the designated period. A condition of the temporary planning permission will require the removal and site reinstatement, guided by an approved decommissioning strategy overseen by the local planning authority.
- 7.4 After conducting a comprehensive assessment of the proposal outlined above, it is considered that there are no adverse impacts that cannot be effectively mitigated through the implementation of necessary, relevant, reasonable and enforceable planning conditions or would be removed at the end of the granted period. Additionally, no significant conflicts with existing policies have been identified. Therefore, the proposal is deemed to represent sustainable development, meeting and often surpassing the criteria for social, environmental, and economic sustainability outlined in the Framework. Consequently, it is recommended that the application be approved.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives as set out below:

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMPLETION TIME LIMIT

CONDITION: The development shall be commenced on or before 18th March 2029.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

34/7548 Existing Site Plan Green Energy Hub
34/7534 rev. A Proposed Site Plan Green Energy Hub
Planning Statement prepared by Savills dated November 2023
Statement of Community Involvement by Savills dated November 2023
Environmental Statement prepared by Royal HaskoningDHV dated 26 October 2023
Environmental Statement – Non Technical Summary prepared by Royal HaskoningDHV dated 26 October 2023
Transport Assessment by Royal HaskoningDHV dated 3 November 2023

REASON: For the avoidance of doubt and in the interests of proper planning.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is

not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3 TEMPORARY PERMISSION

CONDITION: The temporary Green Energy Hub use hereby approved shall cease operational use no later than fifteen years from the date of this permission.

a) Prior to the first use of the temporary Green Energy Hub hereby approved, a transition plan must be submitted to and approved in writing by the Local Planning Authority that demonstrates how the works and operations associated with the Container Terminal use approved under permission RN: 21/01810/VOC (or any amendment to this permission) would be introduced on the application site and how the operations associated with the Green Energy Hub use would be phased out.

b) Within six months of the Green Energy Hub use ceasing operation all paraphernalia associated with the temporary Green Energy Hub that is physically incompatible with the use of the entire site as a Container Terminal use approved under permission 21/01810/VOC (or any amendment to this permission) shall be removed unless any extension of time has been approved in writing by the local planning authority. A decommissioning report must be submitted to and approved in writing by the Local Planning Authority that demonstrates that all paraphernalia within six months of the end of the operational use.

REASON: To facilitate the commencement of the Bathside Bay Container Terminal use on the site.

4 NOISE LEVELS

CONDITION: Noise from the operation of the development and emanating from the site shall not exceed a free-field sound pressure level of 55 dB LAeq 1 hr at the boundary of any residential property existing at the date of this permission measured at a height of 4 m above local ground level between the hours of 23:00 to 07:00.

REASON: To protect residential amenity.

5 OPERATIONAL NOISE AND VIBRATION MANAGEMENT AND MONITORING PLAN

CONDITION: Prior to the commencement of the development hereby permitted an Operational Noise and Vibration Management and Monitoring Plan (NVP), relating to the control of noise and vibration from the operation of the development must be submitted to and approved in writing by the Local Planning Authority. The NVP shall include the following:

- (a) definitions of roles and responsibilities in relation to the obligations contained in the NVP;
- (b) requirements for the adoption of best practice for the specification and procurement of quiet plant and equipment;
- (c) consultation and reporting processes in relation to noise and vibration;
- (d) noise and vibration monitoring and recording procedures;
- (e) action to be taken in the event of non-compliance;
- (f) complaint response procedures; and
- (g) a requirement to provide environmental noise awareness training to operatives.

The development hereby permitted shall be carried out in accordance with the approved NVP.

REASON: To protect residential amenity.

6 OPERATIONAL LIGHTING

CONDITION: Prior to the commencement of the development permitted by this planning permission a scheme for the provision and control of operational lighting must be installed in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

REASON: To minimise any possible glare or sky glow caused by the operational lighting for the development and to minimise the effect of the operational lighting on navigational aids or signs, public roads and local residential areas.

7 AIR QUALITY IN ACCORDANCE WITH ENVIRONMENTAL STATEMENT

CONDITION: The development hereby permitted shall be operated only in accordance with the mitigation measures described in paragraph 2 of section 8.6.4 titled 'Mitigation measures and residual impacts' of the Environmental Statement by Royal HaskoningDHV Reference: PC3294-RHD-XX-ZZ-RP-Z-2008 Status: S4/P02 dated 26 October 2023 or in accordance with mitigation measures agreed in writing with the local planning authority.

REASON: For the protection of air quality.

8 CONSTRUCTION MANAGEMENT PLAN

CONDITION: No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period at all times. The Plan as a minimum shall provide for:

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,

- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

9 PARKESTON ROUNDABOUT REVIEW

CONDITION: No development shall be permitted to commence on site until such time as the collision review study of the Parkeston roundabout to review the emerging pattern of cycle collisions has been completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Any remedial measures required by the review study and/or recommended by the LPA shall be carried out prior to first use

REASON: To provide adequate mitigation measures between the users of the roundabout and cyclists in the adjoining highway in the interest of highway safety.

10 VEHICLE PARKING AREAS

The proposed development shall not be first used until such time as details of a vehicle parking area including any parking spaces for the mobility impaired including areas of hard surfacing and marked out parking bays has been submitted to and approved in writing. The approved vehicle parking area and associated turning area shall be provided prior to occupation and retained in this form at all times unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

11 CYCLE/POWERED TWO WHEELER PARKING

CONDITION: Details of cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards and submitted to and approved in writing by the Local Planning Authority prior to occupation. The approved facility shall be provided prior to first use and shall be secure, convenient, covered and retained at all times.

REASON: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity

12 TRAVEL PLAN

CONDITION: Within three months of the new development opening, the applicant shall submit a workplace travel plan for approval to the Local Planning Authority in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

8.3 Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

9. Additional Considerations

Equality Impact Assessment

- 9.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.
- 9.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

9.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Human Rights

9.4 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

9.5 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

9.6 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

9.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application. It is considered that this proposal does have wider economic change to Tendring as a whole and that may indirectly affect Council interests.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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PLANNING COMMITTEE

14 MAY 2024

REPORT OF THE DIRECTOR OF PLANNING

A.3 Planning Enforcement Update

No information in this report is considered to be confidential. Personal and site information that may allow identification of the site and/or persons is not provided given the confidential nature of enforcement activities and consideration of data protection requirements.

Live Information was taken on **17th April 2024**.

The enforcement policy seeks to report the following areas.

- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgements within 3 working days
- number of harm assessment completions within 20 days of complaint receipt.
- number of site visits within the 20 day complaint receipt period.
- number of update letters provided on/by day 21
- number of live cases presented by category, electoral ward and time period since receipt;
- enforcement-related appeal decisions.

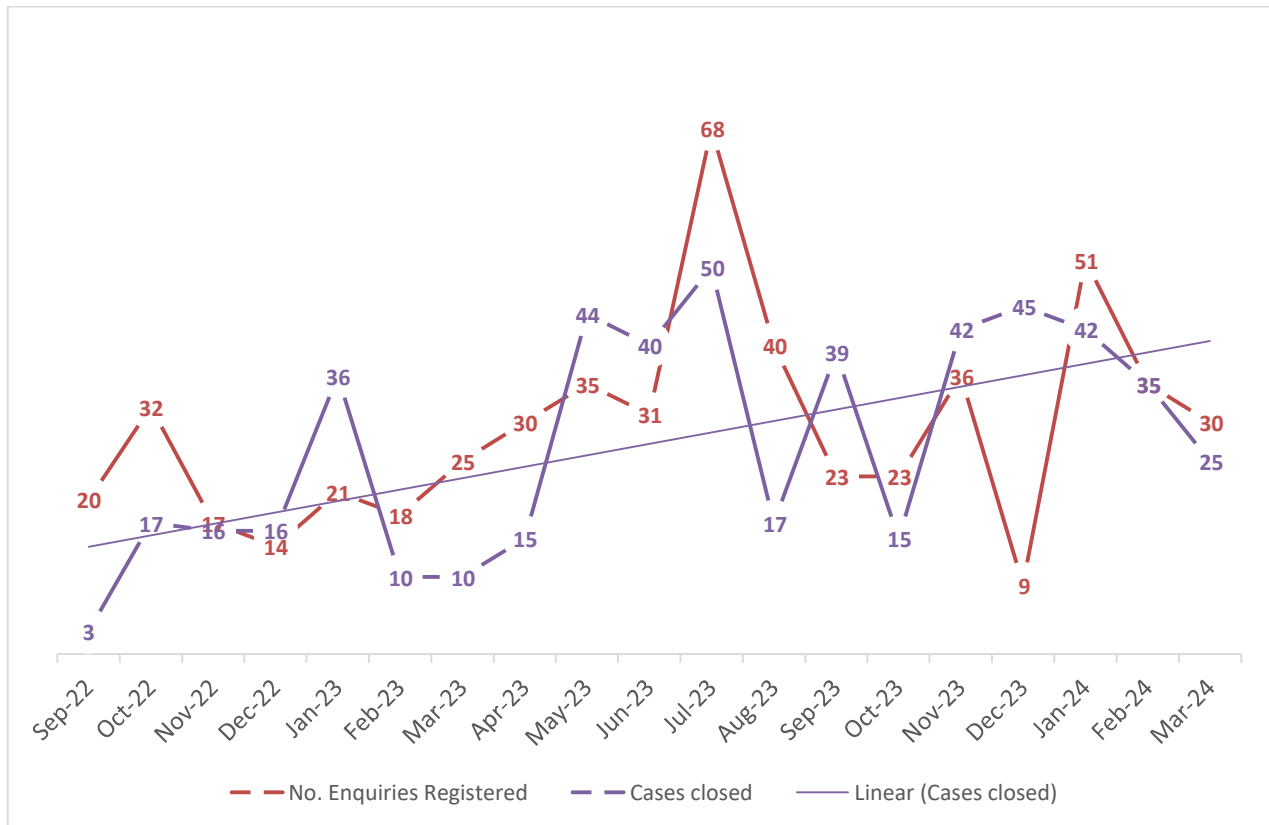
Please note that some areas continue not to be available given the resource to export information from the available system or as addressed directly below. Replacement of Microsoft Access as the main reporting tool are being explored, but transfer of the entire database across to a cloud based server this year (to be conducted Mid April) and upgrade of the Uniform system has delayed efforts.

Number of enforcement complaints received/registered in the quarter +, number of cases closed in the quarter + and number of acknowledgements within 3 working days.

Month	Year	No. Enquiries Registered	No. Enquiries Registered in 3 Working Days	Cases closed
Jan-23	2023	21	21	36
Feb-23	2023	18	18	10
Mar-23	2023	25	25	10
Apr-23	2023	30	30	15
May-23	2023	35	35	44
Jun-23	2023	31	31	40
Jul-23	2023	68	68	50
Aug-23	2023	40	40	17
Sep-23	2023	23	23	39
Oct-23	2023	23	23	15

Nov-23	2023	36	36	42
Dec-23	2023	9	9	45
Jan-24	2024	51	51	42
Feb-24	2024	35	35	35
Mar-24	2024	30	30	25

(Graph of information above, ENQ and Case Closed, includes earlier data not shown on the table above.)



1. Enquiries Registered:

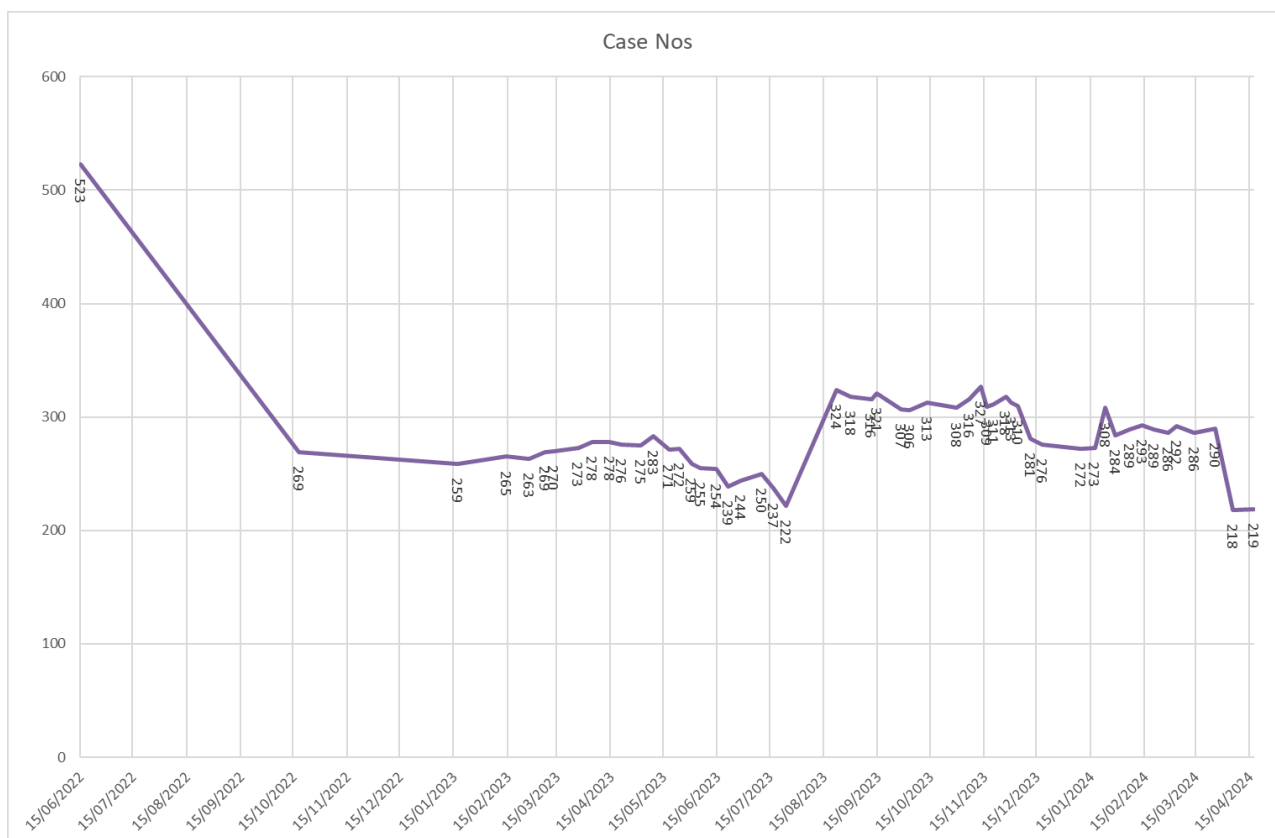
- The number of enforcement enquiries registered continues to vary each month without a clear pattern. A running average is around 29 new enquires a month recorded, or if looking at each calendar year 2023 was an average of 30 per month and 2024 is 38 cases per month so far.

2. Enquiries Registered within 3 Working Days:

- The data shows that all enquiries were registered within 3 working days across all months, indicating a timely response to new cases.

3. Cases Closed:

- The running average of case closures is around 27 cases per month for all records, but for just 2023 this was 30 cases per month and for 2024 so far this is 34 cases per month. As the trend line indicates there has been a notable increase in closures per month, but with historic backlog having been successfully tackled by the team, it is expected that case closures will naturally find a position against the variable of new enquires being made in the future.



Above are points in time that that live case numbers have been recorded, around once a week as in the last year. As demonstrated above there was a significant decline in numbers of enforcement cases until August 2023 when the Jaywick project can forward. While this project continues and some of these matters are closed, officers have also tackled the historic backlog leading to the current lowest figure of active caseload to date since these figures have been recorded at 218 at the beginning of April.

Number of harm assessment completions within 20 days of complaint receipt.

At this time harm assessments are used twice for new cases when first created and updated or created for the conclusion of all cases. Harm assessments are stored in Idox and need to be manually counted. It is understood these are all completed within 20 days and the updated harm assessment through Member review has been implemented.

It is further noted that the Enforcement Policy sought a traffic light and priority system, and this has been implemented for new cases and all historic cases have been reviewed.

Priority 1 (P1) This category includes development which could cause irreversible or serious harm if the Council does not act immediately.

Priority 2 (P2) This category includes likely significant public concern or where there is significant immediate harm to the amenity of the area.

Priority 3 (P3) Minor breaches which do not result in significant immediate or irreversible harm or public concern.

There is a Priority 4, but these are non breaches of planning and so are closed within a couple of days.

Overlaying the priorities is the Red, Amber and Green traffic lights and together this results in the following table. For example P2AMD is Priority 2 and Amber. N/a means not assessed yet as these are new cases.

N/A	7
P1AMB	4
P1GRE	5
P2AMB	17
P2GRE	13
P2RED	1
P3AMB	74
P3GRE	96
P3RED	1
P4GRE	1
Grand Total	219

Number of site visits within the 20 day complaint receipt period.

While site visits are recorded, there is not yet a report designed to pull out this information and would require a manual count. There is limited skilled technical officers available to design this report at this time. A new reporting tool has been requested that may assist, but not yet installed or set up. From random sampling all initial visits were within 20 days of the complaint.

Number of update letters provided on/by day 21

It remains the case that there is also no report designed to pull this information from the system at this time and this needs expert help to create from the Uniform system in place. We have instead developed a way to track all future update dates for all Enforcement Cases to ensure updates to complainants are not missed. Taken a sample of cases in writing this report, all cases reviewed have achieved an update before day 21.

As a response to the Enforcement task and finish group the following actions continue.

- The engagement of regular updates to Members (a weekly list of enforcement cases placed on the Members Hub)
- Public Access online is now available for all Members and the Public to enable the public to self-serve appropriate information on enforcement cases (similar to planning applications but mindful of sensitive information).

Number of live cases presented by category, electoral ward and time period since receipt.

There are 219 Live Cases at the time of writing this report.

Time Period since receipt.

Age	No of Cases (14 th June)	No of Cases 6 th December	No of Cases 17 th April (219 cases)
Year 1	73	167	174
Year 2	69	40	22
Year 3	21	12	10
Year 4	5	5	9

Year 5	4	4	1
Year 6	4	4	1
Year 7	49	49	0
Year 8	4	4	0
Year 9	1	1	1
Year 10	1	1	0
Year 11	2	2	0
Year 12	20	20	0
Year 13+	1	1	1

Category

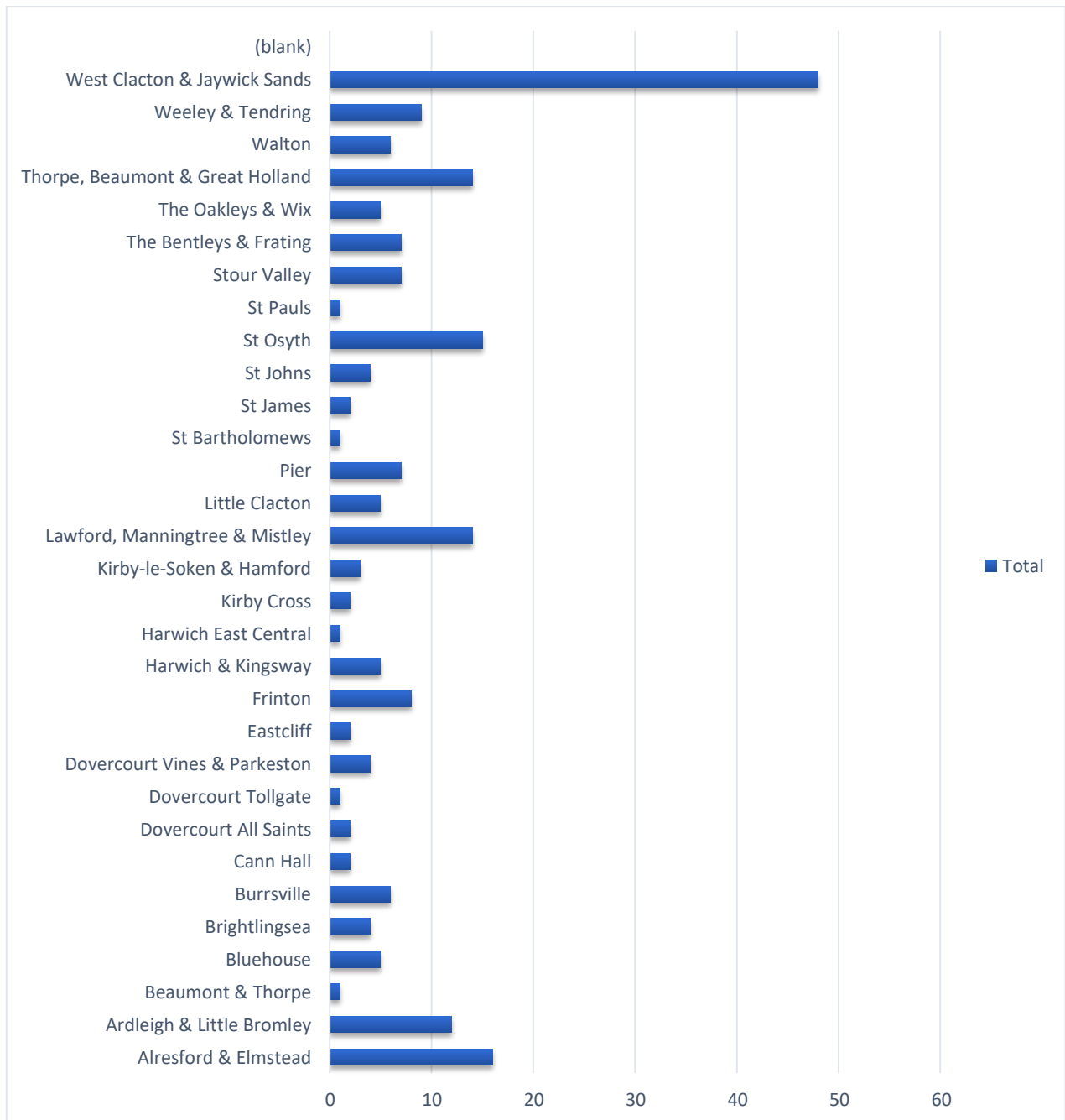
Alleged breach of condition	41
Alleged breach of occupation condition	2
Alleged building works	40
Alleged change of use	43
Alleged change of use to HMO	6
Alleged Non-Compliance with approved plans	16
Alleged Non-Compliance with Section 106	4
Alleged unauthorised advert	5
Alleged Unauthorised Engineering Works	2
Alleged Untidy Site Jaywick S215	40
Alleged Untidy Site S215	12
Alleged works to a protected tree	4
Alleged works to Listed Building	3
Old Type Reference	1

Electoral ward

The following is the number of current enforcement cases divided by Ward (Please note Ward in some cases is based on the Ward at the time of the enquiry being made). This is translated into a graph further down.

Alresford & Elmstead	16
Ardleigh & Little Bromley	12
Beaumont & Thorpe	1
Bluehouse	5
Brightlingsea	4
Burrsville	6
Cann Hall	2
Dovercourt All Saints	2
Dovercourt Tollgate	1
Dovercourt Vines & Parkeston	4
Eastcliff	2
Frinton	8
Harwich & Kingsway	5
Harwich East Central	1

Kirby Cross	2
Kirby-le-Soken & Hamford	3
Lawford, Manningtree & Mistley	14
Little Clacton	5
Pier	7
St Bartholomews	1
St James	2
St Johns	4
St Osyth	15
St Pauls	1
Stour Valley	7
The Bentleys & Frating	7
The Oakleys & Wix	5
Thorpe, Beaumont & Great Holland	14
Walton	6
Weeley & Tendring	9
West Clacton & Jaywick Sands	48



Current Enforcement-related appeals.

EN Case Ref	Address	Breach	Uniform Appeal Ref	Appeal Start Date	Procedure	Enforcement Notice
22/00117/ENFE NQ	Adens Wignall Street	Alleged not in accordance with Planning Permission	23/00056/REFUSE	03.04.2024	Written Rep	DRAFTED
23/00187/BOC	Land adjacent Windmill House, The Street, Ramsey	Alleged Breach of conditions	24/00001/FHOUSE	16.02.2024	Fast Track Appeal	DRAFTED
23/00309/BWK	1 Mill Lane Dovercourt	Alleged Unauthorised Building Works	24/00006/FHOUSE	05.03.2024	Fast Track Appeal	DRAFTED

24/00015/BWK	Tendring Meadows Nursing and Residential Home Heath Road Tendring	Alleged unauthorised building works - erection of a fence adjacent to a vehicle highway	24/00012/ REFUSE	22.03.2024	Written Rep	DRAFTED
23/00041/COU HMO	112 Wellesley Road, Clacton on Sea, Essex	Alleged HMO	23/00048/ REFUSE	16.01.2024	Written Rep	
21/00128/BLDO P3	Blue Barns Farm, Old Ipswich Road, Ardleigh, Colchester, Essex, CO7 7QL	Alleged Unauthorised building Works	24/00004/ FHOUSE	17.04.2024	Written Rep	DRAFTED
23/00160/COU	The Rose, 63 The Street, Kirby Le Soken, Frinton On Sea, Essex	Alleged Change Of Use	24/00015/ REFUSE	TBC	TBC	
20/00322/BLDO P3	Manningtree Station Car Park Manningtree Railway Station	Alleged unauthorised building works - construction of railway station car park extension	24/00016/ ENFORC	16.04.2024	Public Inquiry	SERVED
22/00027/ENFE NQ	Western side of Cow Lane St Osyth	New boarded fence partially surrounding site and at the northern end a lot of hard core has been laid down	22/00048/ ENFORC	25.10.2022	Written Rep	SERVED
21/00149/CHG US3	Forty Winks Dairy Farm Meadow St Osyth Clacton On Sea	Change of use for residential caravans and possible building of new dwelling-?	22/00048/ ENFORC	25.10.2022	Written Rep	SERVED
23/00187/BOC	Land adjacent Windmill House The Street Ramsey	Alleged Breach of conditions.	24/00001/ FHOUSE	16.02.2024	Fast Track Appeal	
23/01282/FULH H	Rairakkushanti Mill Lane Dovercourt Harwich	Alleged Unauthorised Building Works	24/00006/ FHOUSE	05.03.2024	Fast Track Appeal	
21/00335/ENFE NQ	Land adjacent to Heathfield Clacton Road Weeley Heath	unauthorised traveller / gypsy and futher operational development	23/00015/ ENFORC	07.07.2023	Hearing	SERVED

RECOMMENDED – That the Planning Committee notes the contents of this report.

PLANNING COMMITTEE

14 MAY 2024

REPORT OF THE DIRECTOR OF PLANNING

A.4 Planning Appeal Annual Update

No information in this report is considered to be confidential. Live Information was taken on 17th April 2024 for the period **1st April 2023 to 1st April 2024**.

This report for planning Appeals focuses on appeal decision against planning permission decisions, trees decisions and planning enforcement notice appeals. In total for the period covered there has been 68 planning appeals.

Development Management Appeals Total 65

Allowed: 14

Dismissed: 46

Split: 1

Turned away by PINNS without decision: 2

Withdrawn by applicant: 2

Enforcement Appeals Total: 3

Dismissed: 1

Split: 1

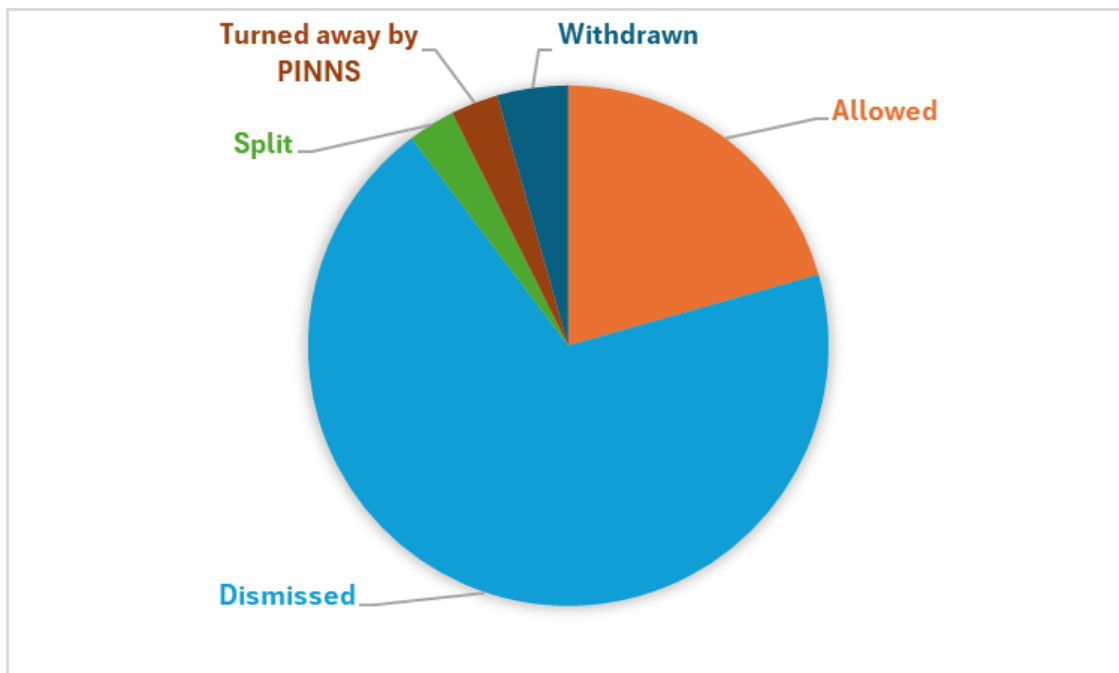
Withdrawn: 1

Allowed: The applicant won the appeal against the Council

Dismissed: The applicant did not win the appeal against the Council

Split: Part of the appeal proposal was successful and part was not.

Withdrawn / Turned away: Not determined as appeals.



Below are the number of appeals during 2023 to 2024 period by location.

Location	No
Alresford	1
Ardleigh	5
Bradfield	3
Brightlingsea	3
Clacton on Sea	8
Dovercourt	3
Elmstead	1
Frating	1
Frinton On Sea	2
Great Bentley	1
Great Oakley	1
Holland On Sea	1
Jaywick	3
Kirby Cross	1
Kirby Le Soken	2
Lawford	1
Little Bentley	1
Little Clacton	5
Manningtree	1
Ramsey	3
St Osyth	4
Tendring	1
Thorpe Le Soken	8
Thorrington	2
Weeley	3
Wix	3

Allowed Appeals

It is the intention of all local planning authorities to made sound planning decisions that are defensible at appeal, but appeals are allowed and in the period April to April 2023 to 2024, 14 appeals have been allowed representing 23% of the appeals against dismissed (setting aside split decisions, withdrawals and appeals turned away).

Below is a review of the allowed appeals.

Ref	Address1	Parish	Reason
21/00038/REFUSE	Newlands Nursey, Slough Lane	Ardleigh	New dwelling in the countryside allowed as Inspector considered no harm despite policy conflict and consider provision of reuse of redundant buildings in respect of the NPPF
22/00004/REFUSE	Land off Connaught Road	Weeley	The Inspector consider the development acceptable adjacent for 7 dwellings for self build housing and would be acceptable to the character of the area against council arguments

22/00005/REFUSE	Land between Fieldside and Eltone	Frating	Principle of development in the countryside accepted as no planning harm despite policy conflict.
22/00016/REFUSE	Land to the south of Michael Wright Way	Great Bentley	Issues of character and contribution to infrastructure for residential scheme. The Inspector applied more weight to the economic and need of homes against the harm on character.
22/00049/CMTRAP	Auto Spares Station Yard Frating Road Thorrington	Thorrington	An extension to existing metals recycling facility that was allowed as the Inspector considered there were conflicts with the local plan and character of the area, but compared to the Council gave these limited weight.
22/00057/REFUSE	Land to The East of Bradfield Road	Wix	Despite being outside the settlement boundary, the Inspector considered that the proposed dwelling could have good access to services. Arguments on character were also set aside and appeal allowed.
22/00059/REFUSE	Land rear of 172 Point Clear Road	St Osyth	Despite the new local plan engaged, previous decision for development were given weight by the inspector and matters of policy set aside to allow this dwelling
22/00061/REFUSE	Land South West of Hill Farm House, Bromley Road	Ardleigh	Three dwellings allowed in the countryside as the inspector considered connections to settlements acceptable. Issues around impact on Listed Buildings were also discounted.
22/00065/REFUSE	Land South West of Crockleford Grange Bromley Road	Ardleigh	The Inspector gave significant weight to surrounding development also approved on appeal against the local plan and considered no conflict. Issues regarding harm to a listed building also set aside.
23/00002/REFUSE	Land adjacent Cliphedge Farm Harwich Road	Little Bentley	Construction of buildings to serve a class E use where the inspector gave weight to both a previous appeal decision that allowed development and the consultation response of the Council's economic growth team. Arguments on harm to character and residential amenity were set aside.
23/00014/FHOUSE	High Birch Farmhouse High Birch Road Weeley	Weeley	A caravan that harms a Listed Building character and agreed by the inspector, but as the Inspector concluded that the caravan was ancillary to the enjoyment of the existing dwelling and not separate, the proposal was no longer development

			and could go ahead in any event, thus allowed.
23/00022/REFUSE	Land Adj to Willowell Spring Valley Lane Ardleigh	Ardleigh	While this decision was allowed, it was useful in the understanding of the local plan position for holiday lets in the countryside. Matters of piecemeal development were no given weight by the inspector. A cost decision was dismissed.
23/00030/REFUSE	Land to rear of 8A Holland Road	Little Clacton	The dwelling proposed was allowed outside the settlement boundary contrary to policy, but the inspector considered this was not the case given the settlement boundary that surrounds three sides of the site. A cost award was also allowed on this basis and on review it remains a view that this award is unusually harsh given the position was on matters of the professional judgement.
23/00034/REFUSE	Land to The East of Straight Road	Bradfield	A proposal for 4 no plots for residential use by a Gypsy and Traveller family allowed. This is a detailed appeal given the nature of the proposal.

Looking at the decisions made, it is considered that on the whole the degree of weight being applied between the Inspector and the Council has been the predominate issue on subjective matters. This includes the degree of weight given to previous decisions before on the site and connections to settlements. While the local plan should be defended, there are improved arguments and consideration around access to services and character harm can should be taken away to seek improvement and reduction of allowed appeals.

At the time of writing, for planning there are 28 live appeals consisting of 25 Written Reps, 2 Householder and 1 Hearing (This does not include live Enforcement Appeals reported in the Enforcement Report).

RECOMMENDED – That the Planning Committee notes the contents of this report.