

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## CABINET

6 SEPTEMBER 2013

### REPORT OF THE FINANCE AND ASSET MANAGEMENT PORTFOLIO HOLDER

#### **A.5 BOUNDARY ISSUES IN BRIGHTLINGSEA**

(Report prepared by Aileen Middleton)

#### **PART 1 – KEY INFORMATION**

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

To resolve the discrepancies in the registered titles of the following Brightlingsea properties:

##### **EXECUTIVE SUMMARY**

This report seeks to regularise several anomalies relating to land holdings in Brightlingsea which have been outstanding since the government reorganisation in 1974. Whilst not a problem operationally to date these now need to be resolved.

- **Bateman’s Tower café on the seafront and the land it stands on.**
- **The Bayard Recreation ground.**

**Where the Land Registry plans show that Tendring District Council is the owner but where the land actually belongs to Brightlingsea Town Council.**

- **The substation in Spring Chase, Spring Road.**
- **The site of beach huts on the Pleasure Gardens land on the Western Promenade**

**Where the Land Registry plans show that Brightlingsea Town Council is the owner but where the land actually belongs to Tendring District Council.**

**The proposals set out in this report will have no direct revenue or capital impact on either council.**

##### **RECOMMENDATIONS**

**That Members authorise the transfer of land or regularisation of the Land Registry documentation to reflect the correct ownership of the: beach huts on the Western Promenade, Spring Chase Close Sub Station, Batemans Tower Café and the Bayard recreation ground.**

#### **PART 2 – IMPLICATIONS OF THE DECISION**

##### **DELIVERING PRIORITIES**

The facilitation of these changes to the titles of the properties will enable the Councils to deliver on priorities as follows:

- Encouraging tourism and promoting sustainable economic growth.
- Creating employment opportunities.
- Promoting healthy lifestyle and activity and sport in the area.
- Protection and enhancement of our countryside and coast.

## **FINANCE, OTHER RESOURCES AND RISK**

### **Finance and other resources**

There will be no financial implication on either side to these changes to the titles as the benefit of the revenue from each will remain as it currently stands.

### **Risk**

The key risk is the potential for the unresolved ownership of the areas listed to prejudice initiatives to improve the areas and business opportunities.

## **LEGAL**

This action proposed is within the Council's discretionary powers and it would seem appropriate to deal with all the small boundary issues in one matter. If this matter is not approved then the Town Council will not be able to grant the new lease to the café tenant in accordance with her statutory rights

## **OTHER IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of Crime and Disorder, Equality and Diversity, Health Inequalities, Consultation/Public Engagement and Wards; and any significant issues are set out below.**

None

### **Ward**

Brightlingsea

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

In 1974 there was a local government reorganisation in which Brightlingsea Urban District Council land was transferred to Brightlingsea Town Council and Tendring District Council. During this reorganisation some errors occurred and these errors of title are now causing problems for the Brightlingsea Town Council in granting new leases, particularly in regard to Bateman's Tower café.

**Batemans Tower Café** is a busy café situated on the seafront below Batemans Tower and opposite the paddling pool in Brightlingsea. The owner's lease expired in 2007 and she approached the Town Council for a new lease to enable her to carry out improvements. She has had plans drawn up for this redevelopment and it has the support of her local Councillors. A new lease was agreed but on registration it was found that the land the café sits on is in the registered title of Tendring District Council. This means that the Town Council cannot grant a lease of it. The Town Council have for many years had the benefit of the revenue from the lease of the café and this has been undisputed. There is clear potential for the Town Council to claim possessory title over the land making it difficult for the District Council to argue an alternative strategy should it wish to do so.

**Bayard Recreation Ground** was transferred to the Town Council in **1974**. The District Council retains deeds to demonstrate this, but the land remains registered to the District Council.

**Spring Chase Close Sub Station** similarly is registered to Brightlingsea Town Council but Tendring District Council has a wayleave over it and receives the rent. The title needs to be regularised and may involve transferring the title to Tendring District Council.

**Beach Hut Site Western Promenade** is controlled and managed by the District Council. The larger promenade site was transferred to Brightlingsea Town Council in the 1974 reorganisation but with the exception of the beach huts, the swimming pool and the sailing club. The Land Registry plans do not reflect all the omissions from the transfer. The swimming pool is within the Tendring District Council title as it should be but the beach huts are wrongly registered to Brightlingsea Town Council. This does not represent the real legal ownership of the areas in question and therefore the Land Registry entries need to be amended.

### **CURRENT POSITION**

Since 2007 the Batemans Tower café has been in an uncertain position, the current lease on the cafe has expired and the owner would like a new lease to enable her to take forward her plans. However as the Town Council do not have registered title to the land they cannot register a lease and thus the deal has not progressed. The Town Council have agreed the new lease but the owner of the café is still holding over on her old lease. It is proposed to register the Town Council as the owner.

Brightlingsea Town Council is the proper owner of the Bayard Recreation Ground. It is proposed to register it as the freehold owner.

Tendring District Council is receiving consideration for the wayleave on the Spring Chase substation and this position will not change but they will become the registered freeholders of the land.

Tendring District Council is receiving rent for the beach huts on the seafront at Brightlingsea and this position will not change. It is proposed to register the District Council as the freehold owner.

### **FURTHER HEADINGS RELEVANT TO THE REPORT**

None

### **BACKGROUND PAPERS FOR THE DECISION**

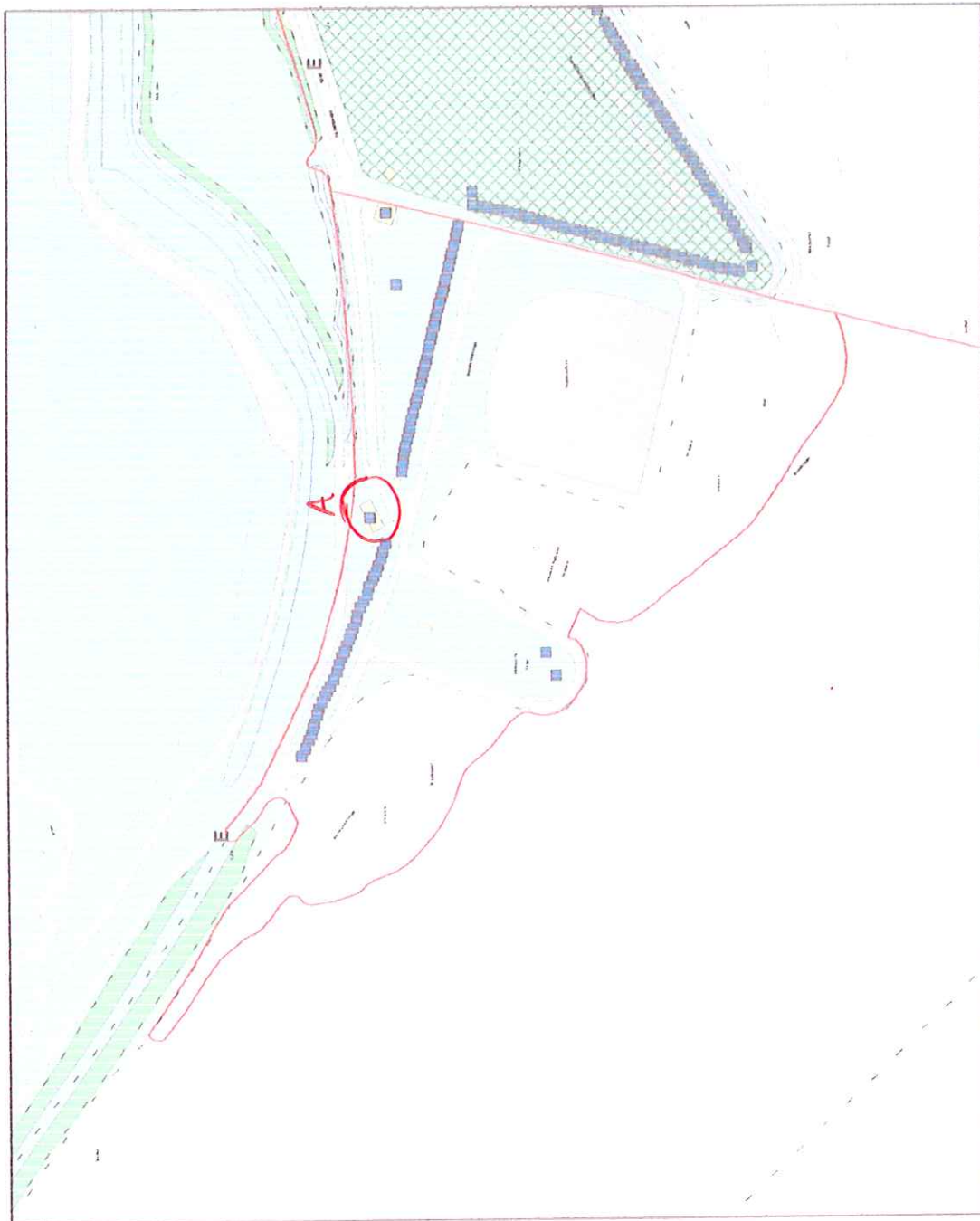
None

### **APPENDICES**

- **Appendix A – Plan of Batemans Tower Café. – Circled Red and marked A**
- **Appendix B – Plan of Bayard Recreation Ground – Hatched Red**
- **Appendix C – Plan of Spring Chase substation – Circled Red and marked B**
- **Appendix D – Plan of the Western Promenade beach huts – Hatched Red**

Not Set

Not Set



Legend

Scale : 1:2500

Organisation	Tending District Council
Department	Legal and Admin Services
Comments	Not Set
Date	19 April 2013
SLA Number	100018684, 2006

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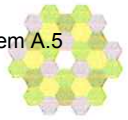
Produced using Ceps Solutions Ltd Uni-Form Spatial - <http://www.ceps-solutions.co.uk>

Appendix A.

Land Registry  
Official copy of  
title plan

Title number EX808449  
Ordnance Survey map reference TM08175E  
Scale 1:1250 enlarged from 1:2500  
Administrative area Essex : Tendring

Appendices to Item A.5



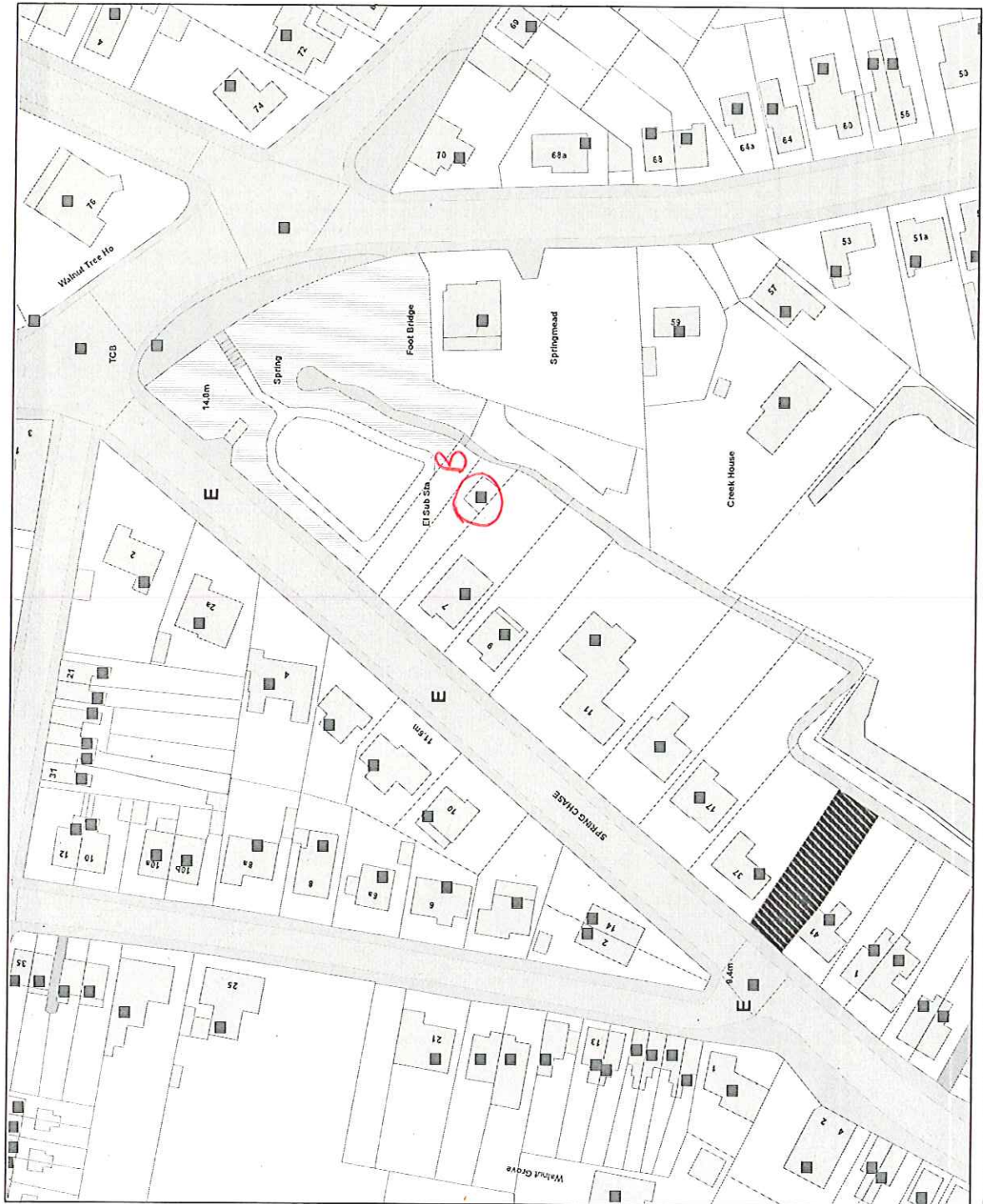
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Appendix B

Not Set

Not Set



Legend

Scale : 1:1250

Organisation	Tending District Council
Department	Legal and Admin Services
Comments	Not Set
Date	31 July 2013
SLA Number	100018684, 2006

Appendices to Item A.5

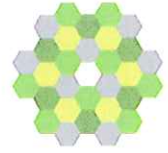
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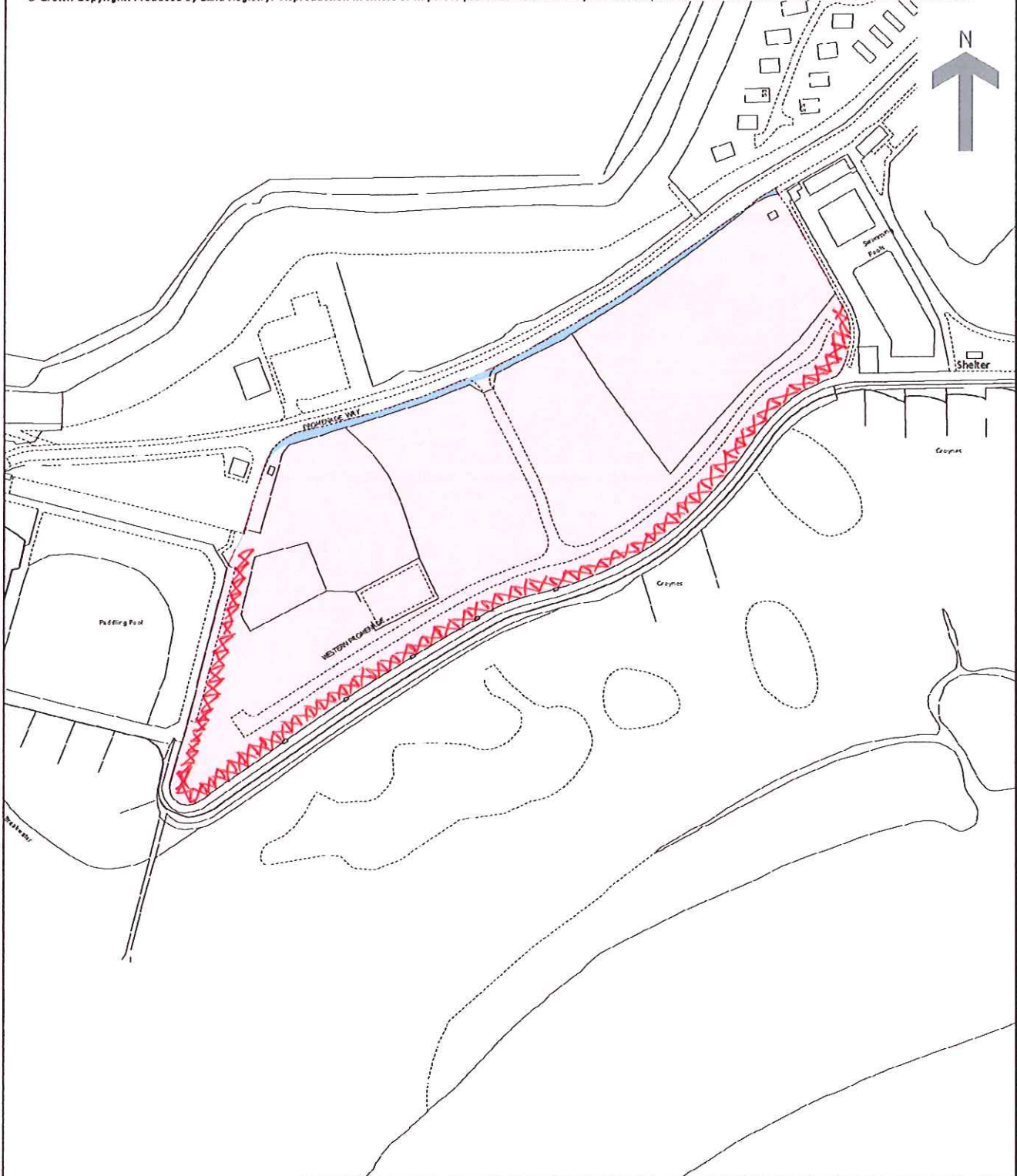
Appendix C

# Land Registry Index map plan

Title number **not applicable**  
Ordnance Survey map reference **TM0716SE**  
Scale **1:2500**



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Plan prepared on 05/07/2013 at 00:00:01.

This Plan should be read in conjunction with result P58PXKB.

This plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.

Appendix D