



CABINET

DATE:	Friday, 17 February 2023
TIME:	10.30 am
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:	
Councillor N Stock OBE	- Leader of the Council
Councillor C Guglielmi	- Deputy Leader of the Council; Portfolio Holder for Corporate Finance & Governance
Councillor J Bray	- Portfolio Holder for Planning
Councillor P Honeywood	- Portfolio Holder for Housing
Councillor L McWilliams	- Portfolio Holder for Partnerships
Councillor M Newton	- Portfolio Holder for Business & Economic Growth
Councillor A Porter	- Portfolio Holder for Leisure & Tourism
Councillor M Talbot	- Portfolio Holder for Environment & Public Space

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DATE OF PUBLICATION: THURSDAY, 9 FEBRUARY 2023

AGENDA

1 Apologies for Absence

The Cabinet is asked to note any apologies for absence received from Members.

2 Minutes of the Last Meeting (Pages 1 - 20)

To confirm and sign the minutes of the last meeting of the Cabinet held on Friday 27 January 2023.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Announcements by the Leader of the Council

The Cabinet is asked to note any announcements made by the Leader of the Council.

5 Announcements by Cabinet Members

The Cabinet is asked to note any announcements made by Members of the Cabinet.

6 Matters Referred to the Cabinet by the Council - A.1 - Petition: Green Space Development (Pages 21 - 28)

To formally report the receipt of a petition submitted in relation to the potential sale or development of a number of areas of land in the District of Tendring.

7 Matters Referred to the Cabinet by the Council - A.2 - Petition: Re-instatement of Toilets on Middle Promenade, below Connaught Gardens East, Clacton-on-Sea (Pages 29 - 34)

To formally report the receipt of a petition submitted requesting the reinstatement of toilets on Middle Promenade, below Connaught Gardens East, Clacton-on-Sea.

8 Matters Referred to the Cabinet by a Committee - Reference from the Planning Policy & Local Plan Committee - A.3 - Conservation Area Character Appraisal and Management Plan for Brightlingsea Hall & All Saints Church (Pages 35 - 86)

To enable the Cabinet to consider the recommendations made to it by the Planning Policy & Local Plan Committee in relation to the Brightlingsea Hall and All Saints Church Conservation Area Appraisal and Management Plan that had been prepared for the Council by Essex Place Services.

9 Matters Referred to the Cabinet by a Committee - Reference from the Planning Policy & Local Plan Committee - A.4 - Jaywick Sands Design Guide Supplementary Planning Document (Pages 87 - 164)

To enable the Cabinet to consider the recommendations made to it by the Planning Policy & Local Plan Committee in relation to the Jaywick Sands Design Guide Supplementary Planning Document.

10 Matters Referred to the Cabinet by a Committee - Reference from the Resources and Services Overview & Scrutiny Committee - A.5 - Scrutiny of the Council's proposals to review the Beach Hut Strategy (Pages 165 - 178)

To enable the Cabinet to consider the recommendations submitted to it by the Resources and Services Overview & Scrutiny Committee following the scrutiny of the Council's Beach Hut Strategy by the Task and Finish Working Group on Beach Huts.

11 Matters Referred to the Cabinet by a Committee - Reference from the Resources and Services Overview & Scrutiny Committee - A.6 - Scrutiny of Cyber Security for the Council (Pages 179 - 244)

To enable the Cabinet to consider the recommendations submitted to it by the Resources and Services Overview & Scrutiny Committee following the scrutiny of the Council's cyber security by the Task and Finish Working Group on Cyber Security.

12 Leader of the Council's Items

There are no items submitted by the Leader of the Council on this occasion.

13 Cabinet Members' Items - Report of the Business & Economic Growth Portfolio Holder - A.7 - Operational considerations for the Sunspot (Jaywick Sands Covered Market and Managed Workspace) (Pages 245 - 264)

To agree that the operational management of the Sunspot is no longer outsourced longer term to a third party but delivered by the Council in-house.

To advise Cabinet that the project's external partners will provide on a short term, interim advice and support to the Council for a fee and for Cabinet to receive an update on progress with the construction phase (Jaywick Sands Covered Market and Managed Workspace).

14 Cabinet Members' Items - Report of the Corporate Finance and Governance Portfolio Holder - A.8 - Proposed Amendments to the Council's Constitution (Council Procedure Rules) (Pages 265 - 280)

To approve the recommended changes to the Constitution (Council Procedure Rules) for referral onto Full Council following a further review undertaken by the Portfolio Holder for Corporate Finance and Governance through a Working Party constituted for this purpose.

15 Cabinet Members' Items - Report of the Corporate Finance and Governance Portfolio Holder - A.9 - Annual Capital and Treasury Strategy for 2023/24 (including Prudential and Treasury Indicators) (Pages 281 - 324)

To agree the Annual Capital and Treasury Strategy for 2023/24 (including Prudential and Treasury Indicators) for submission to Council on 2 March 2023.

16 Cabinet Members' Items - Report of the Leisure & Tourism Portfolio Holder - A.10 - Tendring Beach Hut Strategy Revisited - Following Consultation (Pages 325 - 382)

To present a draft Beach Hut Strategy for adoption following stakeholder consultation; and

To agree the implementation of the subsequent work strands.

17 Management Team Items

There are no items submitted by the Management Team on this occasion.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Cabinet is to be held in the Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.30 am on Friday 17 March 2023.

Information for Visitors

COMMITTEE ROOM **FIRE EVACUATION PROCEDURE**

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**MINUTES OF THE MEETING OF THE CABINET,
HELD ON FRIDAY, 27TH JANUARY, 2023 AT 10.31 AM IN THE
COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15
1SE**

Present: Councillors N R Stock OBE (Leader of the Council)(Chairman), J D Bray (Planning Portfolio Holder), P B Honeywood (Housing Portfolio Holder), L A McWilliams (Partnerships Portfolio Holder), A O J Porter (Leisure and Tourism Portfolio Holder) and M J Talbot (Environment and Public Space Portfolio Holder)

Group Leaders Present by Standing Invitation: Councillors E T Allen (Leader of the Tendring First Group), J B Chapman BEM (Leader of the Independents Group), G G I Scott (Leader of the Liberal Democrats Group) and C P Winfield (Leader of the Holland-on-Sea Group)

In Attendance: Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Damian Williams (Corporate Director (Operations and Delivery)), Lee Heley (Corporate Director (Place & Economy)), Gary Guiver (Director (Planning)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Anastasia Simpson (Assistant Director (Partnerships)), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Keith Durran (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

92. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors G V Guglielmi (Deputy Leader of the Council & Portfolio Holder for Corporate Finance and Governance), I J Henderson (Leader of the Labour Group), M C Newton (Portfolio Holder for Business & Economic Growth) and M E Stephenson (Leader of the Tendring Independents Group).

The Leader of the Council reminded Cabinet that today was Holocaust Memorial Day and that many members of the Council were participating in services of commemoration across the District.

The Leader then led all persons present in a short period of silent reflection.

93. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting of the Cabinet, held on Friday 16 December 2022, be approved as a correct record and be signed by the Chairman.

94. DECLARATIONS OF INTEREST

There were no declarations of Interest made by Members at this time.

95. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

There were no announcements by the Leader of the Council on this occasion.

96. ANNOUNCEMENTS BY CABINET MEMBERS

There were no announcements by Cabinet Members on this occasion.

97. MATTERS REFERRED TO THE CABINET BY THE COUNCIL

There were no matters referred to the Cabinet by full Council on this occasion.

98. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - A.1 - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - SCRUTINY OF THE BUDGET

Cabinet considered the recommendations submitted to it by the Resources and Services Overview & Scrutiny Committee following that Committee's scrutiny of the Cabinet's budget proposals at its meeting held on 11 January 2023. That Committee had recommended that Cabinet -

- a) *requests a comprehensive piece of work be undertaken to assess the true costs of services subject to discretionary Fees and Charges (including full on-costs) to ensure that cost recovery is being achieved and that inadvertent subsidy of services from Council Tax income does not exist where those full costs should be met through relevant Fees and Charges;*
- b) *requests that progress be made (at pace) in the coming months to ensure that Zero Based Budgeting is applied consistently to all major net expenditure areas for the Council and that this process should involve robust challenges to ensure efficiency, effectiveness and economy of those service based budgets;*
- c) *makes any necessary arrangements so that, particularly while the current economic conditions prevail, strict caution is observed around estimates of costs of proposed projects/schemes (provided in support of decisions around those projects/schemes) with a view to supporting realistic budgetary allocations being made that more closely align with the costs identified for the projects/schemes following procurement in respect of those projects;*
- d) *records that the failure of the External Auditors (to conclude in a timely fashion the Audit of the Council's accounts for 2020/21) is an impediment to good governance, including through this Overview and Scrutiny process, and to support the sterling efforts by the Council's Audit Committee to address this failure with the External Auditors;*
- e) *concur that, for future years, the Community Leadership Overview and Scrutiny Committee, shall be requested to examine and enquire into the spend in relation to grants to statutory and voluntary sector partners and to submit its findings to the Resources & Services Overview and Scrutiny Committee in time for its budget scrutiny process;*
- f) *takes measures (without delay) to ensure that the Housing Stock Survey of the Council's homes is commenced at the earliest opportunity (with a view to it being completed within 2023/24), that regular updates on the Survey be made to all*

Councillors and that steps be taken to dispose of vacant Council homes that have particular long term maintenance issues with a view to the disposal sum being re-invested in properties that are easier to maintain and, potentially, meeting housing need locally more closely;

- g) supports the statements to the Resources & Services Overview and Scrutiny Committee, that the New Homes Bonus for 2023/24 be held without being allocated until after the 4 May 2023 elections;*
- h) proposes to Council that the shortfall between income and expenditure which would otherwise occur in 2023/24 be met by utilising the Forecast Risk Fund and that the use of the Corporate Investment Plan 'Reserve' and Building for the Future Use be applied to balance the budget in 2024/25 if required; and*
- i) arranges that an update on the approved and pipeline schemes within/through the Corporate Investment Plan, since its creation, being submitted to the Resources & Services Overview and Scrutiny Committee's meeting on 21 February 2023 to enable that Committee to undertake an enquiry into the process around that Plan."*

The Leader of the Council, on behalf of the Cabinet, thanked the Resources & Services Overview and Scrutiny Committee for their committed, exhaustive and constructive scrutiny of the Cabinet's initial budget proposals.

Having duly considered the recommendations submitted to Cabinet by the Resources & Services Overview and Scrutiny Committee:-

It was moved by Councillor Stock OBE, seconded by Councillor Talbot and:-

RESOLVED that the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted and that it be further noted that the response of the Portfolio Holders thereto will be considered as part of items 10 and 11 of the agenda.

99. LEADER OF THE COUNCIL'S ITEMS - A.2 - FREEPORT EAST PROGRESS AND AGREEMENT OF MEMORANDUM OF UNDERSTANDING

Cabinet considered a joint report of the Leader of the Council and the Portfolio Holder for Corporate Finance & Governance (A.2) which:-

updated it on progress with Freeport East, and drew its attention to the obligations placed on Tendring District Council (TDC) by the Freeport East Memorandum of Understanding (MoU);

recommended that authority to agree the final Freeport East MoU, on behalf of TDC, acting as Billing Authority, be delegated to the Deputy Leader of the Council & Portfolio Holder for Corporate Finance and Governance; and

set out the new TDC Business Rates Retention Policy for Freeport East and sought Cabinet's agreement for a Freeport Business Rates Relief Policy.

Business Case

It was reported that during 2022 Freeport East had responded to the 'critical actions' to refine the business case requested by Government. The final version of the Full Business Case with the response to those actions had been assessed by HM Treasury at the end of November 2022. The Full Business Case had been approved on 10 January 2023, with a number of outstanding actions for completion. Following that approval, a Parliamentary Reception event had been held by Freeport East Ltd to engage partners with the local MPs, officials and the Government Minister and a Freeport East local launch event was planned, expected in February 2023.

Company

Cabinet recalled that the Leader's Freeport East Working Party, at its meeting held on 31 August 2022, had recommended that the Council joined the Freeport East Company as a founding Member; that the Council entered into a Members' Agreement with other partner organisations in Freeport East; and that the Leader of the Council (Councillor Stock OBE) joined the Board of the Company as the Member representative Company Director from Tendring District Council (TDC). Freeport East had been formally incorporated as a company on 6 December 2022 and Councillor Neil Stock OBE had been appointed to Freeport East's board of directors, in line with the Cabinet's decision, with the Chief Executive (Ian Davidson) as his alternate, in line with Full Council's decision.

Senior roles and groups

It was reported that Freeport East had appointed a Chief Executive Officer, Stephen Beel, who had started in this role on 21 September 2022, and a new Chairman, Mark Lemmon, who had chaired the first meeting of the new company Board on 7 December 2022. The company was now implementing aspects of the business case, such as setting up a Management Committee, to be chaired by Stephen Beel, and the first of the Theme groups, which would develop future proposals for Freeport East. Those included skills, innovation, and trade and investment. TDC would be represented by officers on the Management Committee and Theme Groups.

Investment Zones

Members were made aware that an Expression of Interest (EOI) had been submitted by Freeport East in response to the Government's call for submissions for Investment Zones, which included the Freeport East area. However, since the Autumn Statement on 17 November 2022 the Government's Investment Zone policy was unclear, and there was no expectation that submitted EOIs would be considered.

Memorandum of Understanding

The Working Party was aware that the Government required TDC in its role as a Billing Authority to sign up to the Memorandum of Understanding (MoU) with them. The MoU governed the relationship between –

the Secretary of State for Levelling Up, Housing and Communities;
East Suffolk Council as the Accountable Body for Freeport East;
Freeport East Ltd as the Governing Body responsible for the delivery of the Freeport;
and

East Suffolk Council, Mid Suffolk District Council and Tendring District Council as the Billing Authorities responsible for collecting business rates in Freeport Tax Sites.

The MoU contained generic clauses across all eight Freeports. However, the final version of the MOU was bespoke to each Freeport, based on the feedback from the assessment of the Full Business Case by HM Treasury. The final draft version of the MoU had been shared by Government with Freeport East on 5th January 2023.

The MoU was not legally enforceable, however, the Working Party noted a number of key obligations that would be put on to TDC following the approval of the MOU:-

- *Section 1.1.8: Following FBC approval, DLUHC provided Freeport East with a list of outstanding actions that should be achieved within the agreed timeframes. One of those actions was to provide a more detailed funding plan for the Harwich tax site. Seed capital for this site would be withheld until this funding plan was developed.*
- *Section 2.2.5: TDC would be accountable to DLUHC for the management of the retention of business rates and would be responsible for allocating all business rates collected on the Freeport tax sites to the decision-making process and purposes outlined in the FBC.*
- *Section 2.2.7: all parties were required to manage any disputes in relation to the above through a locally agreed process.*
- *Section 2.2.6: All parties were expected to work collaboratively and proactively to manage any action or perceived conflicts of interest. The Governing Body, Accountable Body and the Billing Authorities were required to manage any disputes in relation to Section 2.2 through a locally agreed process.*
- *Section 3.2: The Governing Body committed to the Freeport being no longer reliant on HMG Capacity Funding and self-funded by FY2025/26, enabled by Capacity Funding available from FY2021/22 through to FY2024/25. It was noted that if the Freeport did not become self-funding at the time stated, further funding from additional sources would need to be identified and secured.*
- *Section 5.4.1 (h) responsibility of delivery of tax sites (including Bathside Bay) rested with Freeport East Ltd. This included the stipulation that delivery of the tax sites should be completed prior to October 2026.*
- *Section 6.1: DLUHC would carry out ongoing monitoring of Freeports to assist with delivery, assure the use of public funds and evaluate the impact of the programme.*
- *Section 7: This MoU would come into effect upon signature by the Parties and would remain in effect until it was terminated by the Parties by full mutual agreement in writing. Section 7.2.1: In the event of a dispute arising as to the interpretation or application of this MoU, the Parties would commit to discussion aimed at resolution. Section 7.3: Freeport delivery would be managed through the processes set out in the Freeports Framework. Should an issue arise, DLUHC would first attempt to resolve it in collaboration with the Governing Body and if applicable the Accountable Body. For persistent issues which were recorded at the annual review or were the result of other assurance activities DLUHC would seek to*

agree a tailored improvement plan with the Governing Body and the Accountable Body as outlined in the Freeports Framework.

However, the MoU also identified a number of opportunities which aligned with TDC's priorities, as follows:-

- *Section 5.3.1. The Governing Body committed to owning, updating and devoting appropriate resources to the delivery of the Net Zero strategy.*
- *5.4.1. The Governing Body committed to owning, updating and devoting appropriate resources to the delivery of the Innovation strategy.*
- *5.5.1. The Governing Body committed to reasonable endeavours in owning, updating and devoting appropriate resources to support the delivery of Regeneration and Levelling Up objectives.*
- *5.6.2. HMG would work with Freeports to deliver their skills delivery ambition.*

Freeport Business Rate Retention Policy

Members were aware that the business rates were split into three 'pots'.

- Pot A: to ensure local authorities did not lose out from the local tax reliefs available to businesses through Freeport. Councils allocated this funding to their general fund and could spend it as they saw fit.
- Pot B: to fund the Freeport infrastructure to develop the sites, for example to pay for land reclamation or other required infrastructure.
- Pot C: to support public benefit in the sub region, including economic development, skills and innovation. This fund was administered by the lead authority, East Suffolk Council, and decisions on its use would be determined by the Freeport East Company.

Cabinet was informed that TDC's Freeport Business Rates Policy would codify those proposals. It included the proportional split between the pots: Pot A, local authorities, received 5 percent. Of this, four percent would be for TDC and one percent for Essex County Council (ECC). Pot B, infrastructure, received 70 percent; and Pot C, regeneration, received 25 percent.

Members were advised that without Freeport East, very limited development would come forward on the Harwich Tax site, so the Council was not losing out by taking a lower share (5 percent) than was typical (20 percent) for Pot A. The Government expected councils where development was not planned before Freeport to forgo Pot A.

Pots B and C for all three Billing Authorities could be spent across the whole of the Freeport area, so it could be that funds raised in Essex were spent in Suffolk, and vice versa. Flexibility was especially important on the split between Pots B and C, as the business modelling for the Harwich Tax site continued to develop as the commercial proposition matured. The Council remained open to reviewing this policy as further information on the Harwich Tax site developed.

Freeport Business Rate Relief Policy

The proposed policy reflected the associated Government guidance, with no additional local discretionary elements proposed. The 'cost' of the scheme would be fully met by the Government via associated grant funding.

The key principles of the rate relief policy were summarised as follows:

- Business rate relief would be available to new businesses moving into the Freeport tax site after the date on which the relevant Freeport tax site was formally designated (and on or before 30 September 2026), and occupying both existing and new hereditaments on the rating list.
- Business rate relief would be available for 5 years from the date it was first claimed. Businesses would be able to claim the relief, where eligible, from the date on which the Freeport East tax site was formally designated (and on or before 30 September 2026).
- New businesses which expanded after moving into the Freeport site (whether into new or existing buildings) would, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupied in the Freeport tax site.

The recommendations above provided for the flexibilities to administer the policy along with making any necessary changes that might emerge as the wider project developed, which would include responding to the new Subsidy Control requirements that came into force on 4 January 2023.

Members' attention was drawn to Section 3.6.1 of the MOU, which stated: *"Before releasing public funding associated with the Freeport Programme to end users in the Freeport, the Body granting the subsidy will satisfy itself that doing so is compliant with UK legislation on subsidies."* The new Subsidy Control Act 2022 ("the Act") had come into effect from 4th January 2023 and would need to be considered at the appropriate time, as the legislation provided a new framework and regulated the award of financial assistance, as a subsidy, by public authorities and their agents to organisations which were engaged in economic activities.

Members were informed that Statutory Guidance for the United Kingdom Subsidy Control Regime had been issued by the Secretary of State for the Department for Business, Energy and Industrial Strategy (BEIS) under section 79 of the Act. Under section 79(6) public authorities must have regard to this guidance (so far as applicable to the authority and the circumstances of the case) when giving a subsidy or making a subsidy scheme. The guidance explained the legal obligations on public authorities under the domestic subsidy control regime and provided a framework for designing and awarding subsidies in a way which was consistent with the Act. This guidance was designed to help public authorities award subsidies in a way which minimised any negative impacts to competition and investment, as well as promoting the effective and efficient use of public money.

The Statutory Guidance referred to Streamlined Routes and primary public authority schemes in paragraphs 12.42 12.43. Streamlined Routes (referred to Streamlined Subsidy Schemes in the Act) were a particular type of subsidy scheme, made by Government for the benefit of public authorities. Transparency requirements applied to Streamlined Routes and they would therefore appear on the database alongside other subsidy schemes and would have associated subsidy awards. Primary public authorities could also create schemes for the use of other priorities in accordance with Chapter 2 of the guidance. Through the consultation period on the draft guidance, submissions had been made for Freeports to become a 'streamlined route' due to their policy objectives and could therefore apply to other Freeports nationally. Currently, this

was not the case, with the four streamlined routes under consideration by the Government however, there was always the potential for a streamline route to be added in future, or for a subsidy scheme to be created. Further work on this with other local authorities and the Freeport East company was required prior to any financial assistance being given. In the form of a tax measure (that is, a relief or exemption from a specific tax), it was given at the point at which the taxpayer became entitled to the subsidy.

Harwich Tax Site

Cabinet was reassured that the Harwich Tax Site at Bathside Bay remained a key focus of the Council. Previous financial modelling within the Outline Business Case for the Harwich Tax Site had indicated total gross retained rates income in the region of £70m over 25 years. As a result the Harwich Tax Site would generate too little business rates income to cover the capital investment required to develop the site (given the expected level of private investment). The updated modelling for the Full Business Case demonstrated the potential for over £100m of business rates income from the site, which would make the site viable. Therefore, the Council was working on the mechanism for a public body to put sufficient funding into site development up front, and be repaid by future business rates income over a likely 25 year period.

The Council's Freeport East Policy for Managing Retained Business Rates set out how retained business rates in Pot B could be used to pay for development costs of the Harwich Tax site. However, the Council was not in a position to borrow against this Pot B income to invest in the site, given the scale of the Council's resources and the scale of the project.

The 'cost' of awarding business rate relief via the proposed Freeport Business Rate Relief Policy would be fully reimbursed by the Government with no 'cost' therefore falling to the Council.

It was assumed that the above will be administered via the existing annual Business Rate forms and returns processes with the Government.

An additional risk relating to the Harwich Tax site was that seed capital funding for this site would be withheld until a detailed funding plan for the site had been provided to DLUHC by Freeport East Ltd.

It was reported that the Government intended to offer Stamp Duty relief on land purchases within Freeport tax sites in England where that property was to be used for qualifying commercial activity. It was intended that this relief would apply from 1 April 2021 until 31 March 2026. For the Harwich Tax Site, Bathside Bay the forecast was for units to become live commencing in 2024/25 and full build out in 15 years. The aim was that from 2025-2026 business rates would flow for local investment so from 2027 onwards the cost of site infrastructure could be repaid and potentially proposals for regeneration could be developed and funded. From September 2046 business rates from Freeport East sites would flow to central government, rather than locally.

The Leader of the Council thanked the members of his Working Party for their many helpful and useful ideas and suggestions that had been offered up in a constructive and apolitical manner.

Recognising that –

the Council was required to sign the Memorandum of Understanding for Freeport East to progress, and for the £25m capital seed funding to be released to the programme and that delegating that decision to the Portfolio Holder for Corporate Finance and Governance ensured that the Council would not be responsible for any delay in the process of establishing Freeport East's day-to-day operation until the next Cabinet meeting;

it was considered appropriate to request the Portfolio Holder for Finance and Deputy agree to the MOU in order to provide a separation from the Leader of the Council as he also occupied a position on the Freeport East Company Board and given that the Council was required to enter into the MOU as a Billing Authority for the area; and

the Council was required to develop policies in conjunction with the other Billing Authorities in Freeport East, to agree on the use of the rates retained, and to assist with the development of the Freeport sites.

It was moved by Councillor Stock OBE, seconded by Councillor P B Honeywood and:-

RESOLVED that Cabinet –

- (a) notes the progress made with the Freeport East Programme as set out in the joint report of the Leader of the Council and the Portfolio Holder for Corporate Finance & Governance (A.2);
- (b) delegates the authority, acting on behalf of the Council as Billing Authority, to agree the final Freeport East Memorandum of Understanding (MOU) to the Deputy Leader of the Council & Portfolio Holder for Corporate Finance and Governance;
- (c) approves and adopts TDC's Freeport East Policy for Managing Retained Business Rates, as attached as Appendix B to item A.2 of the joint report of the Leader of the Council and the Portfolio Holder for Corporate Finance & Governance;
- (d) approves and adopts the Freeport Business Rates Relief Policy, as attached as Appendix C to item A.2 of the joint report of the Leader of the Council and the Portfolio Holder for Corporate Finance & Governance;
- (e) delegates authority to the Assistant Director (Finance & IT) to implement and administer the Business Rates Relief Policy as adopted; and
- (f) delegates authority to the Assistant Director (Finance & IT), in consultation with the Portfolio Holder for Corporate Finance and Governance and the Portfolio Holder for Housing to amend the scheme to reflect any emerging Government guidance / legislation.

100. LEADER OF THE COUNCIL'S ITEMS - A.3 - HIGHLIGHT PRIORITY ACTIONS 2022/23 TOWARDS CORPORATE PLAN THEMES - MONITORING REPORT AT THE THREE QUARTERLY POINT

Cabinet considered a report of the Leader of the Council (A.1) which provided it with an update on the positive progress with the Highlight Priority Actions adopted for 2022/23 towards the Council's Corporate Plan Themes for 2020/24.

The Cabinet was aware that the Corporate Plan 2020/24, adopted by Council, set out the strategic direction and policy objectives for the Council over that period. Taking into account the Corporate Plan Themes, Cabinet at its meeting held on 25 February 2022 had adopted a series of highlight priority actions for 2022/23 with individual milestones for each of those actions. This meeting of Cabinet provided an opportunity to report on the nine month position on each of those highlight priority actions and the specified milestones.

Members were reminded that circumstances generally (and as individual highlight priority actions were progressed) could impact on the achievement of individual milestones associated with those actions. The Leader's report invited Cabinet to realign (or further realign) certain milestones as set out in the Appendix to that report where such circumstances had impacted on the timing of individual milestones.

Members were aware that, normally, this meeting of Cabinet would also finalise its proposals for highlight priority actions for 2023/24. However, with the proximity of the election of all 48 District Councillors on Thursday 4 May 2023, the adoption of highlight priorities now could be seen as making commitments that would bind the Council following the elections. This seemed un-necessary and to run counter to the approach being taken in the budget process where the opportunity existed to leave allocation of the Revenue Support Grant and new Homes bonus to the Council's administration after 4 May. As such, it was proposed to use the start of the 2023/24 financial year to complete/progress the highlight priorities for 2022/23 where there were matters to be progressed/completed.

Cabinet was informed that the Corporate Plan would continue to guide activity in that period. During that period and in advance of the administration following the election being confirmed formally, Officers would seek to gain insight of partners and the public on the priorities of, and pressures on, the Council to support decision making later in 2023 and the development of the 2024-28 Corporate Plan. The focus of the next Corporate Plan might be more restrictive than the current Corporate Plan due to the ongoing and future pressures on the Council.

In considering this report, Cabinet also reflected on the range of significant matters that the Council had delivered in the previous six months. It had been a busy six months and a range of the bids, and deliverables in that period were set out in the background section of the Leader's report and covered matters including:-

- (1) Tendring4Growth Business Fortnight to champion local Firms;
- (2) New rubbish bags for community litter picks;
- (3) BOFSTED reports good progress in Apprenticeship provider (Career Track);
- (4) Gold Award to TDC as positive employer of Armed Forces community;
- (5) Learning from Junior Ambassadors showcased at celebration event;
- (6) Christmas Panto beats Box Office record again;
- (7) Investment Plan approved for almost £1.2 million spending in District of Tendring;
and
- (8) Funding given to demolish disused Town Centre building.

In order that certain milestones associated with particular highlight priorities referenced in the report could be adjusted:-

It was moved by Councillor Stock OBE, seconded by Councillor McWilliams and:-

RESOLVED that -

- (a) the contents of the report together with the proposed realignment of particular milestones and adoption of new milestones, for particular highlight priority actions set out in the report be noted and endorsed; and
- (b) Officers be authorised to commence early engagement with partners and the public to seek insight on future priorities for the Council in readiness for development of the Corporate Plan during 2023.

101. CABINET MEMBERS' ITEMS - REPORT OF THE CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER - A.4 - UPDATED GENERAL FUND FINANCIAL FORECAST INCLUDING PROPOSED BUDGET CHANGES IN 2022/23 ALONG WITH BUDGET PROPOSALS FOR 2023/24

Cabinet considered a report of the Corporate Finance & Governance Portfolio Holder (A.4) which:-

- set out the updated financial forecast, including budget changes in 2022/23 and budget proposals for 2023/24;
- sought its agreement for the latest financial forecast / budget proposals and council tax amount for 2023/24 to be submitted to Full Council; and
- sought delegations to the Portfolio Holder for Corporate Finance and Governance to agree the detailed budget proposals and formal draft resolutions / 'technical' appendices required for Full Council on 14 February 2023.

It was reported that since the Cabinet's meeting held on 16 December 2022, additional changes had been required, primarily as a result of new or revised information becoming available which included the Government's Financial Settlement announcements. The changes required had resulted in a reduced deficit for 2023/24 of **£2.487m**, a change of **£0.946m** compared to the **£3.433m** deficit presented to Cabinet in December.

Appendices A and B to the Portfolio Holder's report provided further details across the various lines of the forecast, with the most significant change being the receipt of the revenue support grant and other associated funding from the Government.

Given the impact of the various changes to the forecast across the remaining forecast period, it was proposed by the Portfolio Holder to transfer the remaining balance of funding of £1,643,290 as set out within Appendix A to the Forecast Risk Fund. This was required to support the forecast across 2024/25 to 2026/27 based on the updated estimated position set out in Appendix B.

Cabinet was informed that in order to enable the detailed estimates along with the various resolutions / 'technical' appendices required for Full Council on 14 February

2023 to be finalised, a delegation to the Portfolio Holder for Corporate Finance and Governance was required. A further delegation was also required to enable a business rate relief policy, associated with a 2023/24 mandatory Government relief scheme, to be finalised in advance of bills being printed and sent out before the start of the next financial year.

This report also set out a proposed Council Tax Support Fund Scheme, which reflected the associated Government guidance.

Members were made aware that the recommendations also included a delegation to the Corporate Finance and Governance Portfolio Holder to agree expenditure to support climate change initiatives, following an associated adjustment to the budget for 2022/23 set out within Appendix A.

It was likely that the budget position set out in this report would change, as further adjustments would be required as part of finalising the budget for presenting to Council on 14 February 2023, with a further delegation included in the report's recommendations to reflect this.

Cabinet was informed that, based on the final proposed budget for 2023/24, the Council Tax requirement was **£9.603m**, which was based on a **3% (£5.47)** increase for this Council's services, with a Band D council tax of **£188.11**. Those figures would remain unchanged and therefore would be reflected in the various budget resolutions / 'technical' appendices proposed to be delegated to the Portfolio Holder for Corporate Finance and Governance.

Similarly to last year, the approval of the associated Treasury Strategy for 2023/24 for consultation with the Resources and Services Overview and Scrutiny Committee was recommended to be delegated to the Portfolio Holder for Corporate Finance and Governance.

Having considered the latest financial position for the Council and in order to respond to the emerging issues in 2022/23 and to develop the budget and long term forecast along with final budget proposals for 2023/24 for recommending to Full Council on 14 February 2023:-

It was moved by Councillor Stock OBE, seconded by Councillor Bray and:-

RESOLVED that Cabinet –

- a) approves the updated Financial Forecast including a revised position for 2022/23 and proposed position for 2023/24, as set out in the Portfolio Holder's report and Appendices (A.4) and recommends to Full Council a Band D Council Tax for district services of £188.11 for 2023/24 (a £5.47 increase), along with the associated council tax requirement of £9.603m;
- b) agrees a delegation to the Portfolio Holder for Corporate Finance and Governance to agree the 'technical' appendices and resolutions for the budget proposals for recommending to Full Council on 14 February 2023;
- c) approves that, in consultation with the Leader of the Council and the Corporate Finance and Governance Portfolio Holder, the Chief Executive reports directly to

Council in respect of the formal resolutions necessary to implement the Executive's budget proposals along with any late information or notifications received from the Government;

- (d) approves a delegation to the Portfolio Holder for Corporate Finance and Governance to agree / adopt a Retail, Hospitality and Leisure mandatory business rate relief scheme for 2023/24;
- (e) approves a delegation to the Portfolio Holder for Corporate Finance and Governance to agree any associated expenditure from the £250,000 Climate Change budget set out in Appendix A to his report;
- (f) approves / adopts the proposed Council Tax Support Fund Scheme as set out within the Portfolio Holder's report (A.4) and that any remaining balance be transferred to the existing Council Tax Hardship scheme; and
- (g) agrees a delegation to the Portfolio Holder for Corporate Finance and Governance to approve the draft Treasury Strategy 2023/24 for consultation with the Resources and Services Overview and Scrutiny Committee.

102. CABINET MEMBERS' ITEMS - REPORT OF THE HOUSING PORTFOLIO HOLDER - A.5 - PROPOSED RE-DEVELOPMENT OF THE FORMER HONEYCROFT SHELTERED ACCOMMODATION SITE, WALDEGRAVE WAY, LAWFORD

Cabinet considered a report of the Housing Portfolio Holder (A.5) which:-

advised it of the proposals for redevelopment of the Honeycroft, Lawford site following an open tender process;

sought its approval of the acquisition and redevelopment scoring/appraisal for use of the site for housing for older persons purposes;

sought its approval to proceed with the scheme and with the bid made by Rose Builders;

sought its recommendation to Full Council that funding from receipts be allocated to the proposals; and

sought a delegated authority to the Corporate Director (Operations and Delivery), in consultation with the Housing Portfolio Holder, to determine the detailed scheme content.

Cabinet recalled that, following completion of the demolition of the former Honeycroft sheltered accommodation in June 2021, it had decided on 16 July 2021 to seek proposals in respect of the redevelopment of the site. An open tender process had now been undertaken in conjunction with procurement partners at Essex County Council.

Members were made aware that the specification for the scheme had enabled bidders to propose their own designs and construction methods. However, it had been requested that the scheme should be as energy efficient as possible and bidders had been encouraged to be innovative in this regard. A range of local developers and builders had been advised of the bidding opportunity as were a number of

manufacturers and consortia who had contacted the Council over the recent past promoting their development and construction services.

It was reported that proposals had now been received and evaluated, with the preferred scheme made up of fully accessible and adaptable bungalows; a small community facility with optional additional accommodation above; and all associated parking and landscaping to benefit the site.

Members were informed that three submissions were received which had been evaluated by Officers on a combined price, quality and social value basis. The recommended bidder was Rose Builders who had put forward a scheme (proposed site plan attached at Appendix C to the Portfolio Holder's report) to construct 13 new lifetime bungalows, a small community building with an optional flat above and all the associated landscaping and parking necessary for the site.

The proposed scheme incorporated many carbon reducing technologies, including solar panels, heat pumps, water butts, electric vehicle charging points and even the option of a green wall.

The tender cost submitted for the development was £2,828,717.05, however, there were a number of caveats to this and therefore the sum of £3,250,000.00 was requested as the budget for the scheme.

Recognising that –

the proposed development would provide specialist accessible properties that reflected the past use of the site and were much needed to meet the current housing demand (scoring under the Housing Acquisition and Development Assessment showed an aggregate score of 28);

the properties would be lifetime homes and would provide accessible living for later life and enable people to stay in their own community despite changing physical needs;

the scheme incorporated many carbon and energy saving measures to meet current and future energy efficiency demands, making them cheaper to run and therefore combating fuel poverty;

redevelopment supported many of the Council's current corporate priorities for 2020 – 2024 as well as the priorities in the Housing Strategy 2020 – 2025;

the proposal made by Rose Builders included the highest number of residential units and scored highest overall in the quality and social value assessments as well as overall when considered in terms of financial and non-financial assessments; and

that Rose Builders were a respected local construction firm who had their main office in the Manningtree and Lawford area and therefore had a vested interest in providing a good quality and successful development for their own reputational reasons in this area.

It was moved by Councillor P B Honeywood, seconded by Councillor Talbot and:-

RESOLVED that Cabinet –

- (a) agrees to the principle of re-development of the Honeycroft site to provide additional housing accommodation to be used for the sole purpose of occupation by elderly persons;
- (b) agrees the scoring matrix for the use of the site Honeycroft site for redevelopment purposes in accordance with the Council's Acquisition and Development Policy Assessment, as set in Appendix A to the Portfolio Holder's report (A.5);
- (c) approves the re-development of the Honeycroft site on the basis of the scheme proposed by the recommended supplier, including the optional flat above the proposed community building and agrees to enter into a contract with them to deliver the Scheme, subject to funding being approved by Full Council as part of setting the HRA budget; and
- (d) authorises the Corporate Director (Operations and Delivery), in consultation with the Housing Portfolio Holder, to determine the detailed scheme content and implement the redevelopment of the Honeycroft site subject to the funding being agreed by Full Council on 14 February 2023 as part of their consideration of the wider HRA Budget Proposals for 2023/24.

103. CABINET MEMBERS' ITEMS - JOINT REPORT OF THE HOUSING PORTFOLIO HOLDER AND THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER - A.6 - UPDATED HOUSING REVENUE ACCOUNT BUSINESS PLAN AND BUDGET PROPOSALS 2023/2024

Cabinet considered a joint report of the Housing Portfolio Holder and the Corporate Finance & Governance Portfolio Holder (A.6), which sought its approval of the updated Housing Revenue Account (HRA) Business Plan for years 2022/23 and 2023/24 along with the final HRA budget proposals 2023/24 (including fees and charges, capital programme and movement in HRA Balances) for recommendation to Council on 14 February 2023.

It was reported that, since the Cabinet's meeting on 16 December 2022, a number of minor changes had been required in 2023/24, with 2022/23 remaining unchanged.

The changes required in 2023/24 had resulted in the overall deficit increasing marginally to **£0.296m** a change of **£0.022m** compared to the position reported to Cabinet in December 2022. Appendix A to the joint report set out the updated Business Plan, in terms of 2022/23 and 2023/24, with Appendix B setting out the proposed detailed budgets that reflected this latest position.

Members were made aware that this position remained subject to further adjustments that might be required as part of finalising the budget for presenting to Council on 14 February 2023, with a delegation included in the joint report's recommendations to respond to that possibility.

Cabinet was informed that Appendix C set out the proposed fees and charges for 2023/24, which broadly reflected inflationary uplifts of 7% where relevant or changes to better reflect the cost of providing the associated service.

The proposed HRA Capital Programme for 2023/24 was set out in Appendix D, which now included the Honeycroft New Build Scheme and the redevelopment of Spendells House.

Cabinet was advised that the average weekly rent remained unchanged to the figure reported in December 2022 at £93.68, an increase of 7% over the comparable figure of £87.55 for 2022/23.

It was reported that the HRA general balance was forecast to total £3.754m at the end of 2023/24, which retained a strong financial position against which the associated HRA 30 year Business Plan could continue to be delivered / developed. The HRA balances, together with the proposed rent increase for 2023/24 were important elements of delivering a sustainable HRA in the longer term.

Cabinet was notified that the HRA debt continued to reduce year on year as principal was repaid with a total debt position at the end of 2023/24 forecast to be £33.949m (a reduction of £1.414m compared with the figure at the end of 2022/23).

Members were informed that it was proposed to consult with the Tenants' Panel on 7 February 2023, with any comments planned to be reported to Members either ahead of, or directly at, the Full Council meeting on 14 February 2023.

In order to enable the most up to date HRA Business Plan which sets out a revised position for 2022/23 along with the proposed HRA budget for 2023/24, and to enable associated recommendations to be presented to Full Council on 14 February 2023:-

It was moved by Councillor P B Honeywood, seconded by Councillor Bray and:-

RESOLVED that Cabinet –

- (a) approves the updated HRA 30 year Business Plan, which includes the proposed position for 2022/23 and 2023/24, as set out in Appendix A to item A.6 of the Joint Report of the Housing Portfolio Holder and the Corporate Finance & Governance Portfolio Holder;
- (b) authorises the Assistant Director (Finance & IT), in consultation with the Housing Portfolio Holder, to adjust the forecast / budget, including the use of reserves, if the financial position changes prior to Council considering the HRA budget on 14 February 2023; and
- (c) endorses and approves for submission to Full Council on 14 February 2023 a 7% increase in dwelling rents in 2023/24 along with the detailed HRA Budget proposals for 2023/24, as set out in Appendices B to E to the Joint Report of the Housing Portfolio Holder and the Corporate Finance & Governance Portfolio Holder (A.6).

104. CABINET MEMBERS' ITEMS - REPORT OF THE LEISURE & TOURISM PORTFOLIO HOLDER - A.7 - TOWN POLICE CLAUSES ACT 1847 - ADOPTION OF TENDRING DISTRICT COUNCIL ROAD CLOSURE POLICY

Cabinet considered a report of the Leisure and Tourism Portfolio Holder (A.7), which sought its approval for the adoption of a Tendring District Council policy in respect of

applications for temporary road closures under section 21 of The Town Police Clauses Act 1847.

Members were aware that the number of applications for temporary road closures had increased in recent years, which had highlighted the need for, and benefits associated with, clearer rules associated with road closure applications.

Consequently, a (draft) Tendring District Council Local Road Closures Policy for special events under section 21 of The Town Police Clauses Act 1847 was attached to the Portfolio Holder's report as Appendix A for Cabinet's consideration.

Recognising that the adoption of a Local Road Closure Policy for events applied for under the Town Police Clauses Act 1847 would improve administration and efficiency associated with applications for the temporary closure of roads; provide a basis for setting fees and charges; reduce complaints concerning inconsistency of decisions made; and increase clarity around the roles and responsibilities of both applicant and administrator:-

It was moved by Councillor Porter, seconded by Councillor McWilliams and:-

RESOLVED that Cabinet –

- a) approves and adopts the Tendring District Council Local Road Closure Policy for special events;
- b) authorises the Assistant Director (Building and Public Realm), in consultation with the Portfolio Holder for Leisure and Tourism to update the policy with any future legislative, or best practice, changes; and
- c) approves that fees will be waived for street parties organised for the weekend of the Coronation of His Majesty the King, or of national importance as determined by the Portfolio Holder at the relevant time.

105. CABINET MEMBERS' ITEMS - REPORT OF THE PARTNERSHIPS PORTFOLIO HOLDER - A.8 - COVID-19 MEMORIAL

Cabinet considered a report of the Partnerships Portfolio Holder (A.8), which updated it regarding the proposal to erect a Covid-19 Memorial within the District of Tendring.

Members recalled that, further to the decision taken by Full Council at its meeting held on 30 November 2021 (Minute 94 referred), the Leader of the Council had informed Cabinet at its meeting held on 25 February 2022, that he had requested the Portfolio Holder for Partnerships (Councillor Lynda McWilliams) to work with Councillors Mark Stephenson and Gina Placey on the installation of a Covid-19 Memorial and to report back to Cabinet in due course. He had urged them to 'think positive and think big' and gave by way of an example of a public art project the "Angel of the North".

Following this Officers and the aforementioned Councillors had worked together to explore the relevance and need for a large piece of public art to reflect on lives lost and changed during the Covid-19 pandemic. The purpose of a piece of prominent art would be to provide communities with a space to reflect how those communities had supported each other during times of challenge and uncertainty and to create a space to represent

lives lost. This work had included background research, site visits and a bid to the Arts Council for funding.

Acknowledging that:-

- 1) the working group of Councillors had identified that Clacton-on-Sea, with the largest population in the District should be identified as the preferred area for the installation of the piece of public art; and
- 2) that following a visit to various sites across Clacton-on-Sea with the Head of Public Realm a potential site had been identified at Anglefield. This site required improvement but had the necessary space to install a piece of public art which could be viewed by residents and visitors to the District.

It was moved by Councillor McWilliams, seconded by Councillor Bray and:-

RESOLVED that –

- (a) the contents of this report be noted;
- (b) external funding streams continue to be pursued to install a piece of public art within the District as opportunities arise;
- (c) if successful a more general piece of public art, rather than a Covid-19 memorial maybe more likely as the availability of external funding streams appear to be linked to economic growth and tourism;
- (d) the Council's general fund is not considered as the appropriate funding route for this project in light of current budgetary pressures; and
- (e) the Anglefield, Clacton-on-Sea site be approved for the installation of a piece of public art, if future funding can be secured.

106. CABINET MEMBERS' ITEMS - REPORT OF THE PARTNERSHIPS PORTFOLIO HOLDER - A.9 - EQUALITY AND INCLUSION STRATEGY 2023 TO 2027

Cabinet considered a report of the Partnerships Portfolio Holder (A.9), which presented it with a four-year Equality and Inclusion Strategy and which sought its approval for its adoption and roll out following a period of consultation.

Cabinet was made aware that, in accordance with the requirements of the Equality Act, 2010, all public bodies, including local authorities, were subject to what was referred to as the 'Public Sector Equality Duty (PSED)'. This duty required public bodies to pay due regard to the following:

- *Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.*
- *Advance equality of opportunity between people who share a protected characteristic and those who do not; and*
- *Foster good relations between people who share a protected characteristic and those who do not.*

As part of this PSED local authorities were required to have and publish their equality and diversity objectives, showing how they would meet those requirements. This Equality and Inclusion Strategy set out how Tendring District Council (the Council) would meet its obligations under the PSED over the period of 2023 to 2027.

Following the period of consultation Cabinet was asked to approve this strategy for publication and implementation.

Members were informed that the Equality and Inclusion Strategy set out five objectives underneath each of which were listed the ways in which the organisation would seek to achieve them over the lifetime of the Strategy. The contents were aligned to the existing Corporate Plan and priorities and other documents such as the forthcoming Community Engagement Strategy, Local Plan, Housing Strategy, Economic Growth priorities and by working in close partnership with other providers. The five objectives were:

1. *Engage and communicate in appropriate and accessible ways*
2. *Ensure we deliver inclusive and responsive services*
3. *Foster good relations with and within the community*
4. *Break the cycle of inequality and improve life chances*
5. *Develop and support an inclusive workforce*

In order to enable the adoption and publication of an Equality and Inclusion Strategy for this Council:-

It was moved by Councillor McWilliams, seconded by Councillor Stock OBE and:-

RESOLVED that Cabinet –

- (a) approves for publication the Equality and Inclusion Strategy, as set out in the Appendix to item A.9 of the Report of the Partnerships Portfolio Holder; and
- (b) approves the proposed roll out plan for the Equality and Inclusion Strategy.

107. CABINET MEMBERS' ITEMS - REPORT OF THE PARTNERSHIPS PORTFOLIO HOLDER - A.10 - ESSEX ANCHORS INITIATIVE UPDATE

Cabinet considered a report of the Partnerships Portfolio Holder (A.10), which updated it on the progress of the Essex Anchors initiative, including specific work relating to the District of Tendring.

It was reported that Anchor organisations were usually large organisations which were locally based and had the leverage to maximise social value through their role as workplace developers, employers and procurers, their core business (for example health and education) and the linkages they had to the place they operated. They were typically large, non-profit organisations such as hospitals, local Councils and universities.

Members were informed that, over the past 18 months, 30 Anchor organisations had come together across Greater Essex to work collaboratively on a number of priorities including Climate Action, Employability and Social Value.

Cabinet was made aware that the Chairman of the Essex Anchors Initiative was TDC's Chief Executive (Ian Davidson) and the Vice Chairman was Ed Garratt, the Chief Executive of the North East Essex/Suffolk Integrated Care Board.

Recognising that the work of the Essex Anchors Initiative had made progress in the areas of Employability, Climate Action and Social Value; that there were also plans in place for the future development of the Anchors' work; and that the Anchors' work was already showing success, including additional funding being pooled to deliver apprenticeships (£1m), fuel poverty training for front line employees, reverse job fairs and active travel:-

It was moved by Councillor McWilliams, seconded by Councillor P B Honeywood and:-

RESOLVED that Cabinet –

- (a) notes the progress of the Essex Anchor initiative across Greater Essex to date;
- (b) supports the anchor approaches and pledges, as highlighted in Appendix A to item A.10 of the Report of the Partnerships Portfolio Holder, acknowledging the ethos is already in place across the Council;
- (c) formally recognises Tendring District Council as an Anchor Organisation seeking to maximize social value through their role as workforce developers, employer and procurer, through its core business and linkages to the place they operate; and
- (d) commits to continuing to embed the ethos through existing and new policies, procedures and initiatives within the resources and capacity available.

108. MANAGEMENT TEAM ITEMS

There were no Management Team items submitted for Cabinet's consideration on this occasion.

109. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Stock OBE, seconded by Councillor McWilliams and:-

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 19 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A, as amended, of the Act.

110. EXEMPT MINUTE OF THE MEETING HELD ON FRIDAY 16 DECEMBER 2022

It was **RESOLVED** that the exempt minute of the meeting of the Cabinet, held on Friday 16 December 2022, be approved as a correct record and be signed by the Chairman.

The Meeting was declared closed at 11.14 am

Chairman

CABINET

17 FEBRUARY 2023

REFERENCE FROM COUNCIL

A.1 PETITION: GREEN SPACE DEVELOPMENT

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of a petition submitted in relation to the potential sale or development of a number of areas of land in the District of Tendring.

EXECUTIVE SUMMARY

An e-petition submitted by Caroline Saye, as lead petitioner, was received on 15 November 2022. The petition was signed by 432 persons and stated:-

“We the undersigned petition the council to take no further action in respect of exploring the potential for development /disposal for each of the 69 proposed areas of land reported to Cabinet on 15 July 2022 until such time as a public meeting or meetings have been held to provide all residents with the ability to express their views.”

Asset management is an executive function and therefore the Cabinet is the appropriate body to consider this matter.

In accordance with the Council’s adopted Scheme for Dealing with Petitions the receipt of this Petition was reported, for Members’ information, to the meeting of the Full Council held on 24 January 2023. This matter has now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

Having discussed the petition it will be for Cabinet to decide what action, if any, will be taken.

RECOMMENDATION(S)

That, having duly considered the Petition together with the information provided in this report, the Cabinet decides what action, if any, it wishes to take.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Cabinet once the petition has been considered, including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*
- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*
- *Referring the petition to a Committee or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future Cabinet meeting*
- *Calling for a referendum (if permitted under legislation and subject to costs)*

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Strong Finances and Governance (and specifically using assets to support priorities).

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Asset Management is an executive function that is delegated by the Leader of the Council to the Cabinet collectively and, individually, to the Corporate Finance & Governance Portfolio Holder (depending on the nature of the decision required) in schedule 3 of part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Not applicable.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
- B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
- C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Not Applicable in this instance.

MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.

- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

EQUALITIES

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

Not Applicable in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There is no impact on the Council's aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

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

Crime and Disorder	None
Health Inequalities	None
Area or Ward affected	Most of the Wards in the District

PART 3 – SUPPORTING INFORMATION

ASSISTANT DIRECTOR (BUILDING & PUBLIC REALM)'S ASSESSMENT AND ADVICE

Following a motion put to the full Council in November 2020 by Councillor Placey the Cabinet requested a review of Council owned assets that could be used for the construction of new Council homes or used or released in return for capital receipts in order to support Council priorities.

As part of that exercise a total of 69 sites were identified, with three already pending action after earlier decisions.

A report for Cabinet consideration was prepared identifying the sites and inviting determination of in respect of which of them to commence the property dealing procedure. Three previously identified sites were identified for priority disposal action, two of the then identified sites were identified for action.

On 15 July 2022 Cabinet agreed the identified priority actions and decided to progress with the property dealing procedure in relation to all of the identified sites.

Officers have begun to progress the identified priority actions, as resources permit, but no detailed assessment of any of the other sites has yet been undertaken.

On 04 November 2022 Cabinet considered a report outlining the Council's financial outlook including a number of housing and property investment requirements that could not be funded.

It is likely that looking forward it will be increasingly necessary to practice asset management in order to deliver property and other obligations and aspirations.

Section 123 of the Local Government Act 1972 provides that any proposal for disposal of open space must be advertised in the local press and representations taken into account. Any planning application will necessitate statutory and neighbour consultation and due consideration to any responses. Both of these would happen at a later stage in the property dealing process. Cabinet may wish to note the petition, thank the petitioner and request that these views and others are taken into account as the property dealing procedure unfolds, subject to available resources.

Portfolio Holder's Comment:

"These 69 sites have been identified as part of a process to review potential development or other options throughout the District. They should not be considered in isolation or outside of that process. No decision has been taken to build on or dispose of any land. This process was begun following questions raised at the full Council and has consumed considerable time and effort to get to this stage. Given the Council's financial position and aspirations for housing and public space improvement the Authority must look towards careful use and rationalisation of its properties in order to reduce costs, avoid clinging to unproductive space and facilitate investment in services and facilities.

I recommend that Cabinet notes the petition, thanks the petitioner and requests that these views and others are taken into account as and when the property dealing procedure unfolds, subject to available resources."

BACKGROUND

An e-petition submitted by Caroline Saye, as lead petitioner, was received on 15 November 2022.

The petition was signed by 432 persons and stated:-

“We the undersigned petition the council to take no further action in respect of exploring the potential for development /disposal for each of the 69 proposed areas of land reported to Cabinet on 15 July 2022 until such time as a public meeting or meetings have been held to provide all residents with the ability to express their views.”

The receipt of this Petition was reported, for Members’ information, to the meeting of the Full Council held on 24 January 2023.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Cabinet Meeting on 15 July 2022 - Minute 40 - Cabinet Members’ Items – Report of the Corporate Finance & Governance Portfolio Holder – A.5 – Initiation of the Property Dealing Procedure in order to explore the Development Potential of various areas of Council Land

“RESOLVED that Cabinet -

- (a) *agrees to initiate the Property Dealing Procedure in respect of each of the areas identified in Appendix A to the Portfolio Holder’s report;*
- (b) *agrees that priority action be taken in relation to bringing forward proposals for further decision in relation to the potential development of the sites at Fernlea Road, Harwich and Seaview Close, Little Oakley, as contained in the appendix and subject to the Council’s Corporate Priority actions;*
- (c) *determines a prioritised list of the other sites, having regard to:*
 - i) the likely ease or otherwise of completing disposal actions with limited resources;*
 - ii) the identified need for social housing provision in the area;*
 - iii) the number of potential dwellings identified;*
 - iv) the potential level of capital contribution to other priorities;**all to be subject to further decision in relation to the allocation of resources required; and*
- (d) *requests that Officers bring forward processes and ultimately reports for further decision in respect of the freehold disposal of sites at Crome Road Clacton-on-Sea, Dover Road, Brightlingsea and Burrows Close, Clacton-on-Sea.”*

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

E-Petition to the Council submitted by the Lead Petitioner (Ms. Caroline Saye).

Report of the Corporate Finance & Governance Portfolio Holder (A.5) – Initiation of the Property Dealing Procedure in order to explore the Development Potential of various areas of Council Land – submitted to Cabinet on 15 July 2022.

Published Minutes of the Cabinet meeting held on 15 July 2022.

APPENDICES

None

REPORT CONTACT OFFICER(S)

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CABINET

17 FEBRUARY 2023

REFERENCE FROM COUNCIL

A.2 PETITION: RE-INSTatement OF TOILETS ON MIDDLE PROMENADE, BELOW CONNAUGHT GARDENS EAST, CLACTON-ON-SEA

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of a petition submitted requesting the reinstatement of toilets on Middle Promenade, below Connaught Gardens East, Clacton-on-Sea.

EXECUTIVE SUMMARY

An e-petition submitted by Colin Underwood, as lead petitioner, was received on 18 November 2022. The petition was signed by 41 persons and stated:-

“We the undersigned petition the council to re-instate public toilets in the vicinity of the demolished toilets on the middle promenade below Connaught Gardens East”.

Asset management (including the provision of public conveniences) is an executive function and therefore the Cabinet is the appropriate body to consider this matter.

In accordance with the Council’s adopted Scheme for Dealing with Petitions the receipt of this Petition was reported, for Members’ information, to the meeting of the Full Council held on 24 January 2023. This matter has now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

Having discussed the petition it will be for Cabinet to decide what action, if any, will be taken.

RECOMMENDATION(S)

That, having duly considered the Petition together with the information provided in this report, the Cabinet decides what action, if any, it wishes to take.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Cabinet once the petition has been considered, including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*
- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*
- *Referring the petition to a Committee or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future Cabinet meeting*
- *Calling for a referendum (if permitted under legislation and subject to costs)*

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Strong Finances and Governance (and specifically using assets to support priorities).

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Asset Management is an executive function that is delegated by the Leader of the Council to the Cabinet collectively and, individually, to the Corporate Finance & Governance Portfolio Holder (depending on the nature of the decision required) in schedule 3 of part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Not applicable.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
- B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
- C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Not Applicable in this instance.

MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.

- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

EQUALITIES

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

Not Applicable in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There is no impact on the Council's aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

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

Crime and Disorder	None
Health Inequalities	None
Area or Ward affected	St Paul's

PART 3 – SUPPORTING INFORMATION

ASSISTANT DIRECTOR (BUILDING & PUBLIC REALM)'S ASSESSMENT AND ADVICE

The former public conveniences at this location were closed and demolished around twenty years ago in the light of structural issues and low usage. The East Clacton and Holland-on-Sea seafront remains served by five public conveniences. Around 700m to the West of the proposed location Public Conveniences opposite St Albans Road and around 500m to the East of the location Public Conveniences at Lyndhurst Road remain operational.

The success of the Holland on Sea beach recharging has led to increased visitor numbers in the area. And there is a case for increased provision of facilities to match that.

On 4 November 2022 Cabinet considered a report outlining the Council's financial outlook including a number of housing and property investment requirements that could not be funded.

It is likely that looking forward it will be increasingly necessary to practice asset management in order to deliver property and other obligations and aspirations.

The construction of a significant new public convenience on a shoreline site is likely to be substantially costly and may be hard to prioritise against other investment needs in the prevailing financial landscape.

The Council's Public Conveniences Strategy was adopted in 2017 with a direction of reducing the number of conveniences in order to focus resources on the most necessary locations. The strategy does not envisage the creation of new public conveniences in Holland on Sea It would be most appropriate to consider any proposals for increased or reprioritised facilities within the context of a review of that strategy.

Portfolio Holder's Comment:

"Although I note, and welcome, the increased visitor usage of the excellent new beaches at Holland on Sea. The Council is in an increasingly worrying financial position and a desire to increase facilities and services, as desirable as that is, cannot sit comfortably among the tough choices that lie ahead.

Reconsidering lavatory provision throughout the towns and coast of the District can only fairly be achieved within the context of an overall review of the strategy. Such a strategy review can take account of the developing financial issues that we face and should follow consideration and resolution of those issues.

I would like to thank the petitioners for their views and consideration, and I acknowledge the increased visitor numbers in the area but believe that we cannot, at present, commit the organisation to the construction of new facilities. I believe that a review of this and other strategies should be carried out at a future juncture once the approach to the Council's financial position can be brought into clear focus."

BACKGROUND

An e-petition submitted by Colin Underwood, as lead petitioner, was received on 18 November 2022. The petition was signed by 41 persons and stated:-

"We the undersigned petition the council to re-instate public toilets in the vicinity of the demolished toilets on the middle promenade below Connaught Gardens East".

The receipt of this Petition was reported, for Members' information, to the meeting of the Full Council held on 24 January 2023.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

E-Petition to the Council submitted by the Lead Petitioner (Mr. Colin Underwood).

APPENDICES

None

REPORT CONTACT OFFICER(S)

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CABINET

17 FEBRUARY 2023

REFERENCE FROM THE PLANNING POLICY & LOCAL PLAN COMMITTEE

A.3 CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLAN FOR BRIGHTLINGSEA HALL & ALL SAINTS CHURCH

(Report prepared by Ian Ford, Committee Services Manager)

PURPOSE OF THE REPORT

To enable the Cabinet to consider the recommendations made to it by the Planning Policy & Local Plan Committee in relation to the Brightlingsea Hall and All Saints Church Conservation Area Appraisal and Management Plan that had been prepared for the Council by Essex Place Services.

EXECUTIVE SUMMARY

The Planning Policy & Local Plan Committee (“the Committee”), at its meeting held on 23 January 2023 (Minute 32 refers), considered a comprehensive report (and appendix) of the Director (Planning) which had reported to it the Brightlingsea Hall and All Saints Church Conservation Area Appraisal and Management Plans that had been prepared for the Council by Essex Place Services. The report had also sought the Committee’s recommendation to Cabinet that they be approved for public consultation purposes.

The Committee’s decision at its meeting held on 23 January 2023 was as follows:-

“RESOLVED that the Planning Policy and Local Plan Committee:

- a) endorses the new Conservation Area Appraisal and Management Plan for Brightlingsea Hall and All Saints Church (Appendix 1 to item A.4 of the Report of the Director (Planning));
- b) recommends to Cabinet that the above document be published for consultation with the public and other interested parties; and
- c) notes that Conservation Area Appraisal and Management Plans for the District’s remaining Conservation Areas will be brought before the Committee in due course and before the new financial year.”

Planning Portfolio Holder’s Comments

“I thank the Planning Policy and Local Plan Committee for its consideration of this latest Conservation Area Character Appraisal and Management Plan and I sincerely welcome, once again, its recommendation to Cabinet that this be published for public consultation. Reviewing all of the District’s Conservation Areas is one of the key actions in the Council’s Heritage Strategy and the progress so far has been very good. Ensuring we have an up-to-date appraisal for each and every Conservation Area will enable residents, developers, planners and our Planning Committee to understand the key characteristics that make each area special and which need to be preserved and enhanced when making planning applications and determining them. They will also enable us to reconsider the boundaries of each area and determine whether any Article 4 Directions are needed to provide an extra level of protection and control.”

RECOMMENDATION

That, subject to Cabinet’s consideration of the recommendations of the Planning Policy & Local Plan Committee arising from its meeting held on 23 January 2023, Cabinet resolves that the new Conservation Area Appraisal and Management Plan for Brightlingsea Hall & All Saints Church Great Oakley (Appendix 1) be approved for consultation with the public and other interested parties.

CURRENT POSITION

Cabinet is now requested to consider the recommendations submitted to it by the Planning Policy & Local Plan Committee.

The Director (Planning)’s Report and accompanying Appendix which were considered by the Planning Policy & Local Plan Committee at its meeting held on 23 January 2023 are attached as Appendices to this report.

BACKGROUND PAPERS

Published Minutes of the meeting of the Planning Policy & Local Plan Committee held on 23 January 2023.

APPENDICES

A3 Appendix 1 – Great Oakley Conservation Area Appraisal

A3 Appendix A – Report of the Director (Planning) (item A.4) to the meeting of the Planning Policy & Local Plan Committee held on 23 January 2023.

Brightlingsea Hall and All Saints Church Character Appraisal and Management Plan

Tendring
District Council



Client:
Tendring District Council

Date:
Dec 2022





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All Saints Church



Brightlingsea Hall

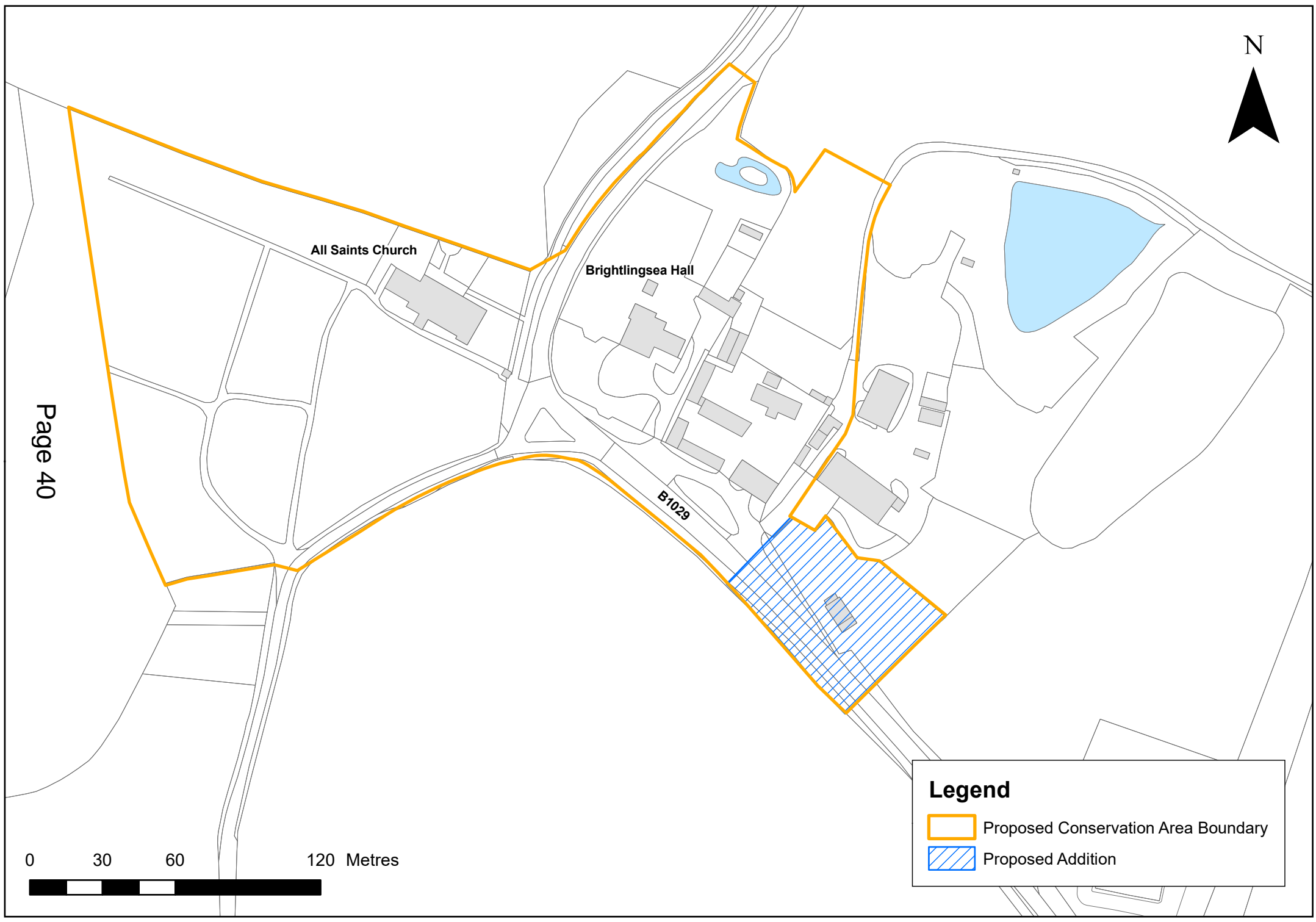
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Legend

-  Proposed Conservation Area Boundary
-  Proposed Addition



1. Introduction

1.1 Summary

This Appraisal and Management Plan provides an overview of the Brightlingsea Hall and All Saints Church Conservation Area, outlining its designation history, alterations to the boundary, and a description of its special interest. The appraisal will also consider buildings, greens, spaces, and features which contribute to the Conservation Area's character and appearance. The appraisal will also consider the significance of heritage assets within the area and the contribution that these, along with their setting, make to its character. The understanding of significance can be used to help manage future change.

Conservation Area designation provides broader protection than the listing of individual buildings as it recognises all features within the area which form part of its character and appearance. This ensures that planning decisions take the enhancement and preservation of the area into consideration.

The Conservation Area includes the All Saints Church and Brightlingsea Hall, prominent on the main entrance to the Brightlingsea peninsular. The Hall is a nineteenth century building with a range of outbuildings of various dates and styles, mostly in light industrial use. The Conservation Area's key significance is derived from its historic, landmark buildings and location on the main route to Brightlingsea.



Figure 1 View towards All Saints Church, Grade I Listed landmark building within the Conservation Area (List Entry Number: 1337182)



1.2 Purpose of Appraisal

This document is to be used as a baseline to inform future change, development, and design with regard to the sensitivities of the Conservation Area and its unique character and appearance.

The appraisal recognises designated and non-designated heritage assets within the Conservation Area which contribute to its special interest. It will consider how the area came to be developed, in terms of its building styles, forms, materials, scale, density, roads, footpaths, open spaces, views, landscape, landmarks, and topography. These qualities will be used to assess key characteristics, highlighting potential impact future developments may have upon the significance of heritage assets and the character of Brightlingsea Hall and All Saints Church area. This assessment is based on information derived from documentary research and analysis of the individual character areas, as well as a review of the previous Conservation Area Appraisal for the area (2006).

This appraisal will enhance understanding of Brightlingsea and its development, informing future design. Applications that demonstrate an understanding of the character and appearance of a Conservation Area are more likely to produce appropriate and responsive design with positive outcomes for agents and their clients.

It is expected that applications for planning permission will also consult and follow the best practice guidance outlined in Section 6.2.

1.3 Planning Policy and Guidance

The legislative framework for conservation and enhancement of Conservation Areas and Listed Buildings is set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (HMSO 1990). In particular section 69 of this act requires Local Planning Authorities to designate areas which they consider to be of architectural or historic interest as Conservation Areas, and Section 72 requires that special attention should be paid to ensuring that the character and appearance of these areas is preserved or enhanced. Section 71 also requires the Local Planning Authority to formulate and publish proposals for the preservation and enhancement of these areas.

The National Planning Policy Framework (NPPF) highlights good design as one of twelve core principals of sustainable development. Sustainable development relies on sympathetic design, achieved through an understanding of context, the immediate and larger character of the area in which new development is sited.

National planning policy in relation to the conservation and enhancement of heritage assets is outlined in chapter 16 of the Government's National Planning Policy Framework (DCLG 2021).

This assessment follows best practice guidance, including Historic England's revised *Historic England Advice Note 1: Conservation Area Appraisal, Designation and Management* (2019) and *Good Practice Advice in Planning: 3 The Setting of Heritage Assets* (2017).

The Conservation Area which is the subject of this report is located within the area covered by Tendring District. Local planning policy is set out in the Tendring District Local Plan 2013-2033 and Beyond Section 2 (2022).

Policies which are relevant to the historic environment include:

- Policy SPL 3 - Sustainable Design
- Policy PP 8 - Tourism
- Policy PPL 3 - The Rural Landscape
- Policy PPL 7 - Archaeology
- Policy PPL 8 - Conservation Areas
- Policy PPL 9 - Listed Buildings
- Policy PPL 10 - Renewable energy generation and energy efficiency

The Conservation Area is located outside the town's Development Boundary, and is within the Coastal Protection Belt.

1.4 Designation of the Conservation Area

Brightlingsea Hall and All Saints Church Conservation Area was first designated in 1993. An appraisal was first adopted in 2006.

1.5 Proposed Boundary Revision

The boundary currently includes the listed church, its surrounding churchyard, and the Hall with historic barn complex which is now occupied by businesses.

It is proposed that the area is extended to include the pair of early nineteenth century dwellings to the south of the area. They contribute positively to the historic character and appearance of the area. Their location and proximity to the road creates a sense of a gateway for the Conservation Area. They are prominent in views towards the Church to the north west. The building is red brick with details



Figure 2 Buildings on Church Road

such as the flat headed arches at ground floor level, and single polychromatic diamond above the original central entrance. The simple but decorative detail adds to the quality and character of the building and Conservation Area. Although some changes have occurred, such as the loss of original windows and roofing, and timber lean to extensions on both sides, the building still makes a positive contribution. It is considered, therefore, that the Conservation Area and building would both benefit from inclusion within the boundary.



Alresford Creek

B1029

All Saints Church

Brightlingsea Hall

Movers Lane

B1029

Modern Brightlingsea

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2. Brightlingsea Conservation Area

2.1 Context and General Character

The Conservation Area includes All Saints Church, Brightlingsea Hall and the outbuildings to the Hall, including a barn complex. These are located on the edge of a ridge of high ground above the Alresford creek. The modern edge of Brightlingsea town is visible across level fields to the south-east of the area. The Conservation Area is bisected by the B1029, the only main road accessing Brightlingsea.

The area is rural in character, surrounded by arable fields and open land stretching to the creek.

2.2 Origin and Evolution

The following section provides an overview of the history of the Conservation Area, and its environs.

Prehistory (500,000 BC – 43 AD)

The archaeology of the Brightlingsea area is well documented through cropmark evidence and suggests a rich history dating back to the Mesolithic period. Evidence of early human activity is suggested on aerial photography, which shows buried archaeological features as a visible trace in the landscape. These have revealed a widespread multi-period landscape stretching back to the Mesolithic period. Neolithic activity is evidenced from flint tool manufacture as well as large scale ritual monuments. During the Neolithic period, the landscape was cleared of trees by early settlers for monuments and likely for agricultural purposes.

The occupation of the area continued into the Bronze Age with extensive cemeteries located upon the gravel ridge. These cemeteries, with their many barrow monuments, would have been important landmarks in the Bronze Age landscape. Extensive field systems were established during the Bronze Age, marked out by ditches and trackways. Occupation within the area continued through into the Iron Age.



Figure 3 Aerial image of Brightlingsea All Saints Church and Hall (Google Earth 2009). Cropmarks are visible within the field to the south, highlighted in red, possibly showing a double-ditched trackway and field boundaries (HER 2131)



Roman (43 – 410)

The church is located on the site of an earlier Roman building. Roman building material has been recovered within the church grounds and incorporated into the church walls. These remnants of Roman materials which can be seen to the left of the south door are in a round-headed recess incorporating the Roman brickwork.

The environs of the Conservation Area was also occupied, with the remains of villas and farmsteads, linked by trackways along the gravel ridge. New field systems were also laid out across this area in the Roman period.

Anglo Saxon (410 – 1066)

All Saints Church likely has Saxon origins. Brightlingsea was one of a group of Anglo-Saxon royal manors, the central settlement in the area which would likely have been attended by the king. Remains of the settlement have been revealed southwest of the Church and the presence of a church is confirmed in a writ dating to 1096.

It is likely that the land within the Conservation Area was home to an ancient meeting place for the wider, scattered agricultural community of the parish; this made it the natural site for its ecclesiastical centre.

Before the sea receded, Alresford Creek provided a sheltered haven for the town of Brightlingsea, and the meadow below All Saints Church is still called Church Dock.¹

Medieval (1066 – 1540)

The medieval period saw the expansion of the port of Brightlingsea, as after 1353 the historic port was established as a limb of the Cinque Port of Sandwich, Kent. Cinque Ports were an association of ports and their supporting 'limbs' spread

across Kent, Sussex and Essex. Their purpose was to provide ships and men to the crown. They were first established by Edward I as a defensive group, but later grew in importance and peaked in their production in the thirteenth and fourteenth centuries.² Already a thriving ship-owning port at this time, Brightlingsea was able to contribute to the ship-service quota of Sandwich, acting as its limb. Brightlingsea was, and still is, unique in that it is the only element of the Cinque Ports and their associated limbs which lies in Essex.

All Saints Church's fabric dates mainly from the thirteenth century, although it contains earlier material. It is possible that the Church was connected to the thirteenth century owner and resident of nearby Moverons, Alexander de Brightlingsea, who was a man of importance; this may explain its separation from the main town of Brightlingsea.³ The church stands on the highest point of the town. The tower, one of the finest in East Anglia displaying diagonal buttressing, stands at 97 feet tall, acting as a wayfinder and landmark within the wider landscape. It may once have served Thorinton and Arlesford Parishes too. The interior of the church is rich with history, and contains seven brasses of the Beriffe family. The Beriffes were notable wool merchants and the owners of Jacobes Hall in Brightlingsea; the family contributed to the rebuilding of the church. Within the baptistry is a Tudor font, carved with roses.

Brightlingsea Hall was formerly the rectory, and was called Brightlingsea Rectory Hall in 1458. The change from the name Brightlingsea Rectory Hall to Brightlingsea Hall would have occurred at a later date. The existing hall was built in 1874, replacing the timber house, and as such is not likely to be the rectory house of 1458 unless very much altered.⁴

The Vicarage house stood to the south of the Church facing the Green. The tithe barn stood behind it. In 1610 it was stated that a stable and garden were attached to it. The house burnt down in 1816.

¹ Michael Swindlehurst Vicar, The Parish Church of All Saints, Brightlingsea (2002 rev.)

² <https://www.britannica.com/topic/Cinque-Ports>
³ Edward Dickin, History of Brightlingsea (1913)
⁴ History of Brightlingsea op. cit.



Figure 4 Chapman and Andre map of 1777. The map depicts buildings south of the Church along the road which has a distinct sharp bend. The Hall is named, and the main road appears wide, perhaps showing the presence of a small green here.

Post Medieval (1540 – 1901)

In 1814 the roof and clerestory of the church collapsed and as a result the church was refurbished c.1870s. This work was undertaken by Charles Pertwee, the brother of the Vicar. The clerestory was not rebuilt. The tower was used as a guiding light for fishermen; it is recorded that Rev. Canon Arthur Pertwee, vicar 1872-1912, even in old age climbed the tower to give lantern light to the fishing fleet entering the harbour.⁵

Within the church is a notable installation which began in the 1870s. A frieze of ceramic tiles lines the walls, commemorating local residents whose lives were lost at sea.⁶ This tradition is well known locally and was begun in 1873 by Rev. Pertwee.

5 Historic England, <https://historicengland.org.uk/listing/the-list/list-entry/1337182?section=official-list-entry>
 6 Barbara Vesey, The Hidden Places of East Anglia Travel Publishing (2003), p77



Figure 5 Ceramic tiles, begun by Rev. A. Pertwee, to commemorate residents whose lives were lost at sea



Figure 6 Timeline depicting the historic context of All Saints, displayed within the church

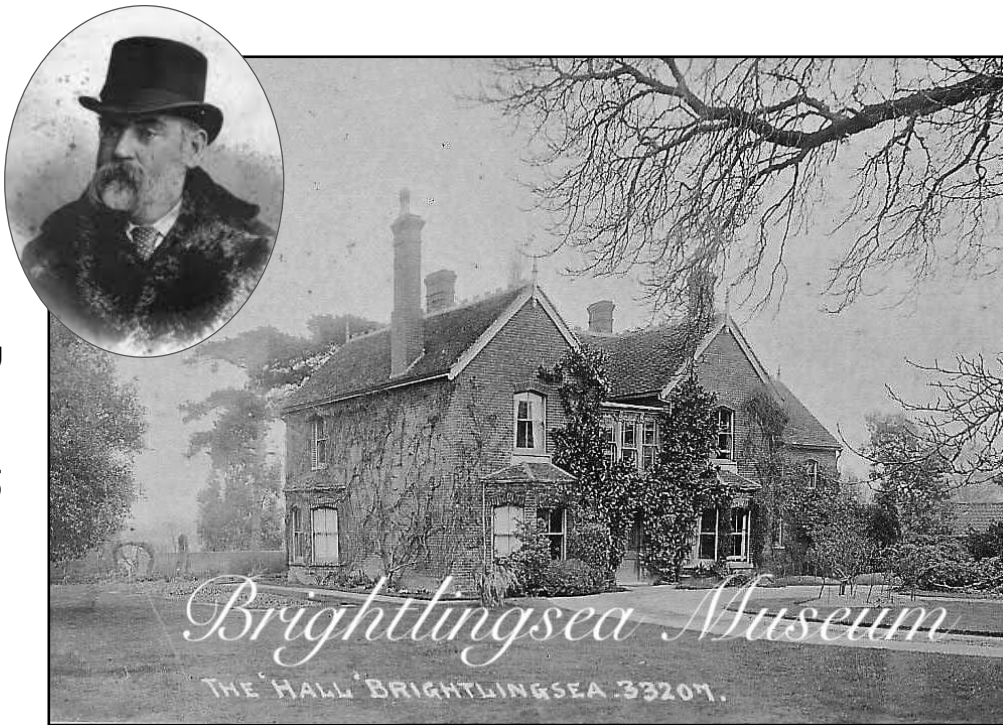


Figure 7 Top left: John Bateman, Above: Brightlingsea Hall, shown in 1908, during the time of John Bateman's occupation (source Brightlingsea Museum)

The existing Brightlingsea Hall was built in the latter half of the nineteenth century. One of its most notable residents was a Mr John Bateman, a renowned horticulturalist, who bought the hall and its estate in 1871. On his arrival in Brightlingsea, Bateman introduced new ideas in agriculture, establishing maize, silage, and tobacco. Within the grounds of Brightlingsea Hall he also introduced the Eucalyptus Gunnii (or the "Blue Gum"); Bateman introduced the Eucalyptus tree from seeds sent from Argentina.⁷ He is regarded as one of Brightlingsea's most loved benefactors, known as the "Old Squire". In 1883, he built a folly known as Bateman's Tower located on Promenade Way in the town which is now Grade II Listed. After the revival of the Cinque Port Liberty, Bateman became Brightlingsea's first Deputy and held the office for seven years, from 1887 to 1891, and again in 1899 and 1903. In 1893, he presented Brightlingsea with the Deputy's badge and chain of office, a large opal carved with a seascape on a solid silver chain with alternate links of oysters and crossed sprats, which is still worn by the Deputy today. Bateman died at Brightlingsea Hall on 12 October 1910 and his wife, Mrs Jessie Bateman, died in October 1925 at the age of 89.⁸

⁷ Leslie, Andrew, Mencuccini, Maurizio and Perks, Mike P. (2011) Eucalyptus in the British Isles. Quarterly Journal of Forestry, 105 (1). pp. 43-53.

⁸ Tom Moulton, 'Tom Bateman', The Cinque Port Library (2008) <<http://www.cinqueportliberty.co.uk/johnbateman.htm>>

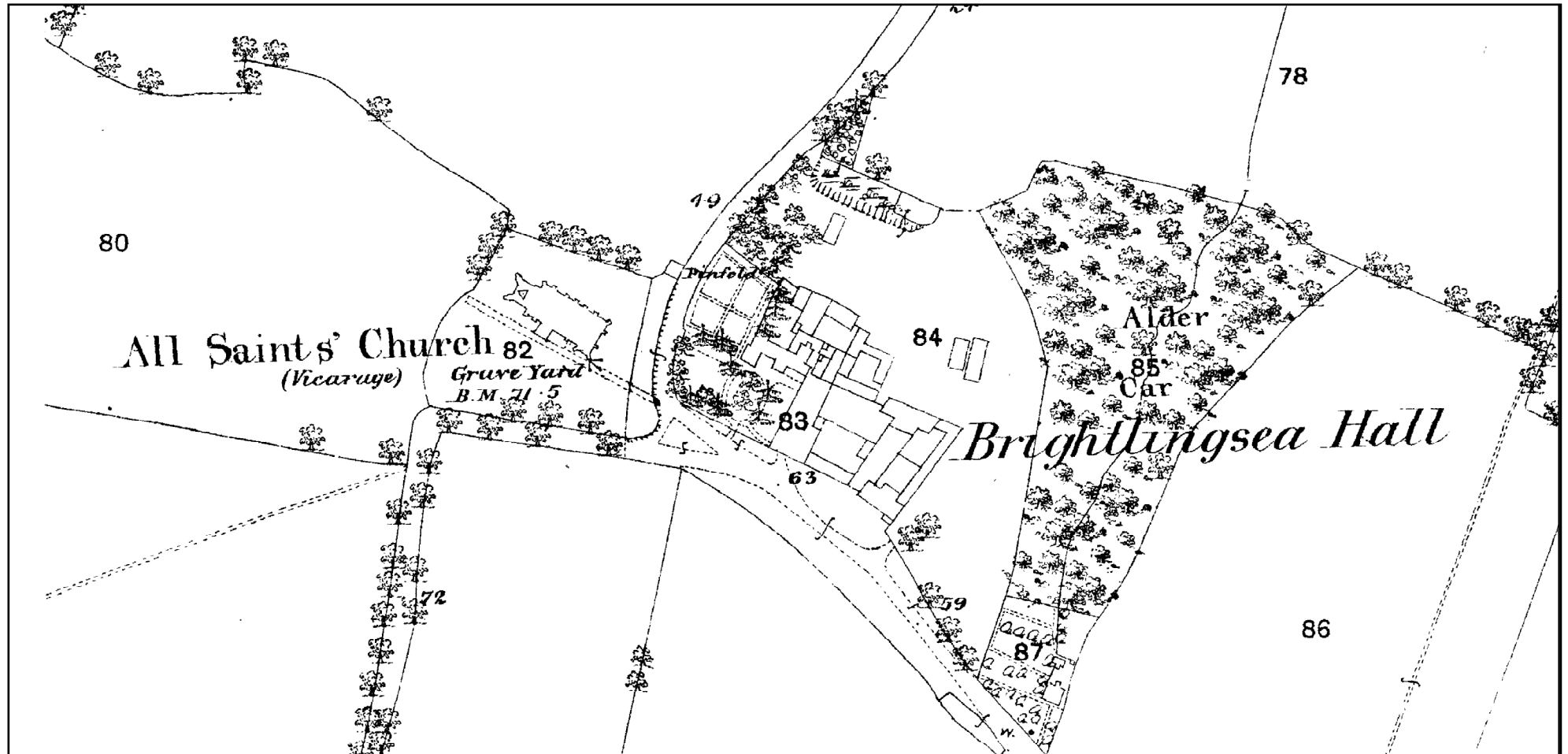


Figure 8 First Edition Ordnance Survey Map, c.1881, showing All Saints Church, Brightlingsea Hall and the historic barn complex. The historic buildings to the south of the Church, previously shown on the Chapman and Andre Map, have been removed. 'Alder Car' suggests a watery area of woodland to the east of the Conservation Area at this time.

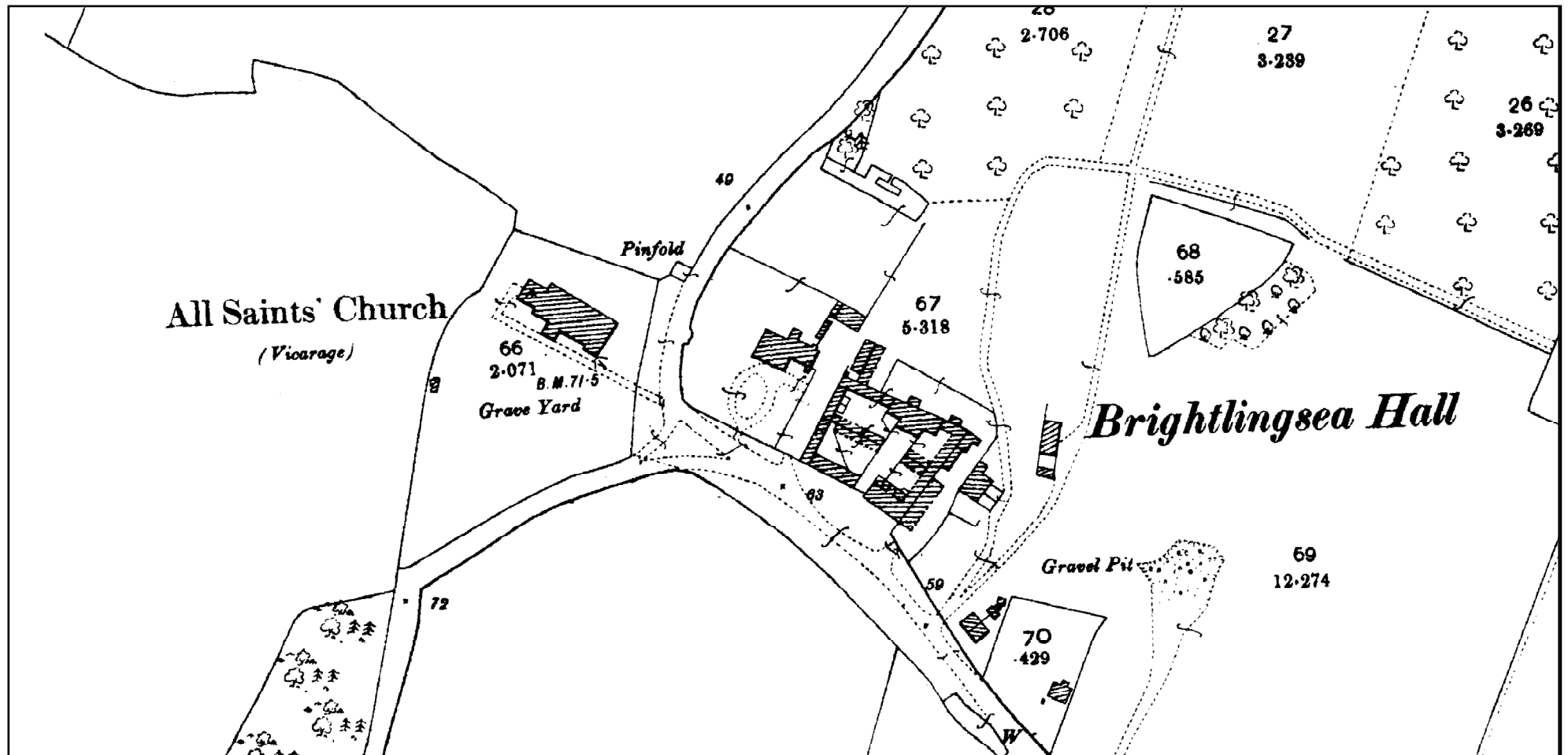


Figure 9 Second Edition Ordnance Survey Map, c1897, showing little change to the area, except for the additional cottages to the south, loss of woodland, and new gravel pit.

There is a pinfold shown on historic maps (Figure 7 and 8) to the north east of the Church. These were spaces where animals could be tethered and are located at the edges of towns and cities. This demonstrates the fact that this area marks the gateway into Brightlingsea.

Modern (1901 – now)

There have been some small-scale changes to the area throughout the twentieth century.

The lych-gate of the church dates from around the end of the First World War. The lych-gate is a memorial to Canon Arthur Pertwee, Vicar from 1872-1917. The gate was damaged in 2018 by a car collision and was restored in 2019.

Brightlingsea Hall was for a time used as a hotel in the twentieth century. It gained permission for conversion to residential home for retirees and a nursing home in 1992.⁹ It was used residentially until it was subdivided into separate properties in 2016.¹⁰

Within All Saints Church, the chapel has been completely refurbished for worship in recent years. The modern glass in the east window, by Caroline Swash, represents Mary's contribution as the Mother of Jesus. Work to All Saints Church is currently being undertaken, and will span 2022- 2023. This work is part of a £498,000 grant from the National Lottery Heritage Fund and includes an extension to house a lavatory. The work aims to allow the building to function as a host for music, arts, and other community events, and make more of its maritime history.¹¹

The Church is still used as the place where the Freemen of the town meet to elect the Cinque Port Deputy, as part of a historic tradition.

9 Planning application reference 92/00662/FUL
10 Planning application reference 15/01636/FUL
11 Planning application reference 20/00169/FUL

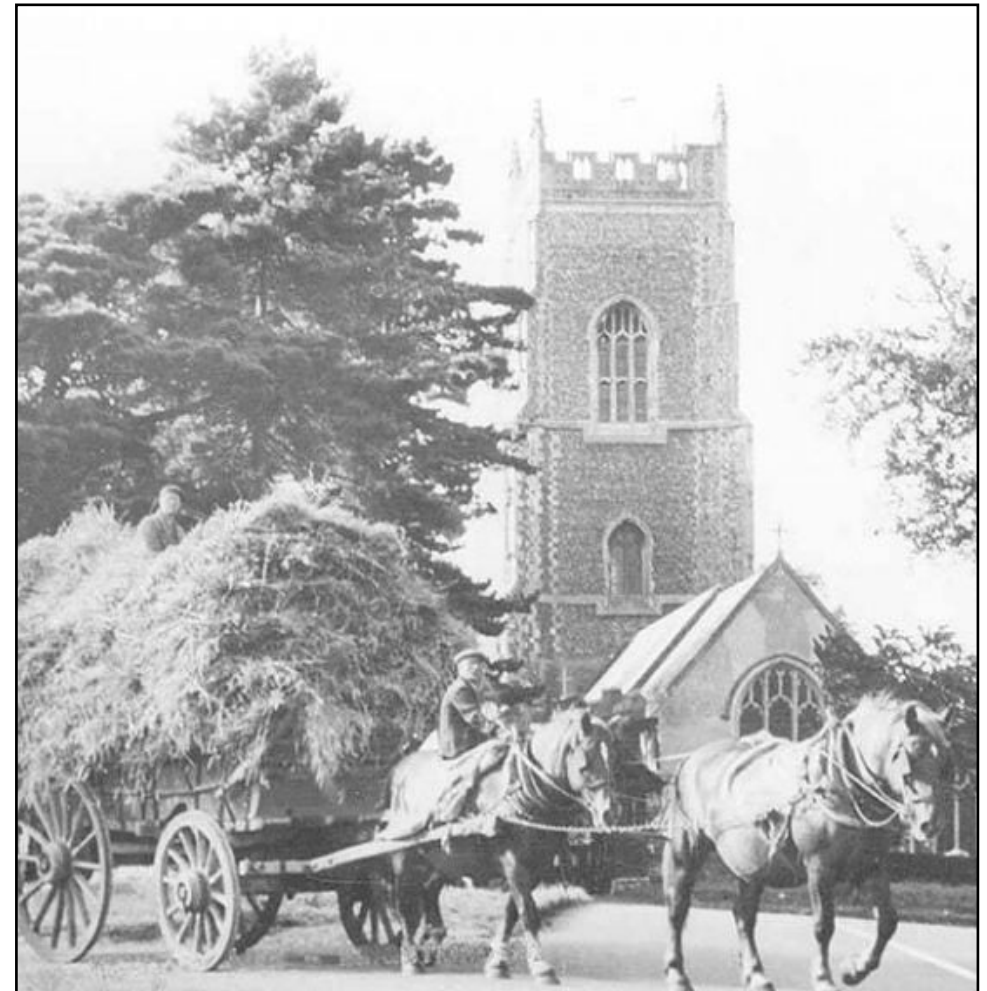


Figure 10 View of All Saints Church, 1940



Figure 11 Historic images of the barn complex at Brightlingsea Hall, all taken in 1985 (Essex County Council)

2.3 Designated Heritage Assets

There is one designated heritage asset within the Brightlingsea Hall and All Saints Church Conservation Area, the Grade I listed Church of All Saints (List UID: 1337182).

This building has been listed due to its special architectural and historic interest under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Further information about the listing process can be found on the Historic England [website](#).

Listed buildings are protected by government legislation and there are policies in place to ensure that any alterations to a listed building will not affect its special interest. It is possible to alter, extend or demolish a listed building but this requires listed building consent and sometimes planning permission.

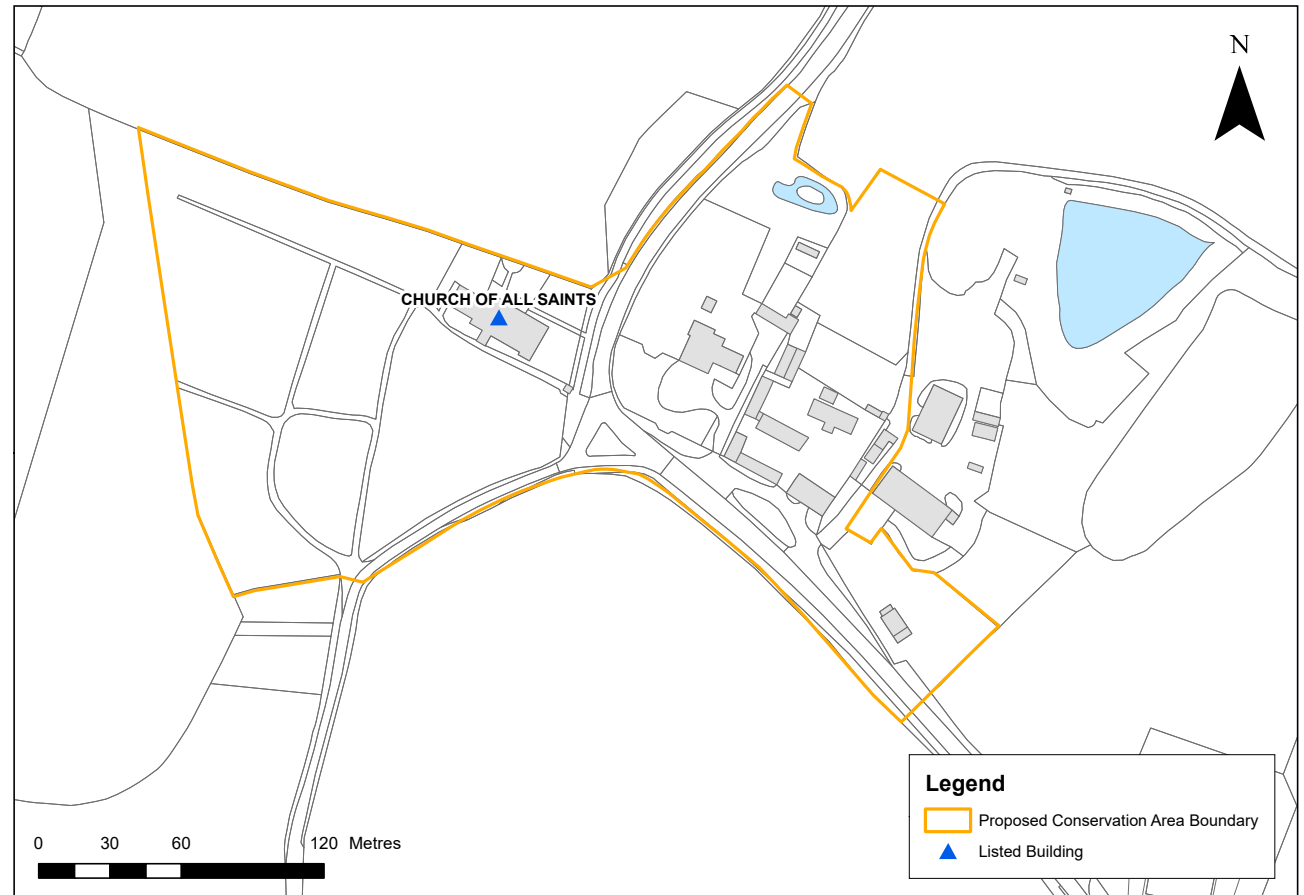


Figure 12 Map showing location of the only designated heritage asset within the Conservation Area

Non-Designated Heritage Assets

Every building, space, and feature within a conservation area makes a contribution to its character and special interest, be it positive, neutral or negative.

Heritage assets are defined in Planning Policy as 'A building, monument, site, place, area, or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.'

Not all heritage assets are listed, and just because a building is not included on the list does not mean it is of no heritage value. Buildings and other structures of the built environment such as fountains, railings, signs, and landscaping can make a positive contribution to the appreciation of an area's historic interest and its general appearance.

Local listing is an important tool for local planning authorities to identify non-listed buildings and heritage assets which make a positive contribution to the locality. This document has identified heritage assets which make a positive contribution to the Conservation Area and could be considered for local listing in the future. This list is not exhaustive, and further buildings may be identified as non-designated heritage assets through the planning application process. Buildings and features within the Conservation Area which are considered to be non-designated heritage assets include:

- Brightlingsea Hall
- All Saints Church Lych-gate



Figure 13 The Lych-gate, an important, non-designated building within the Conservation Area

Heritage at Risk

The Grade I Church of All Saints is included on Historic England's Heritage At-Risk Register, in a 'very bad' condition and at immediate risk of further rapid deterioration or loss of fabric, with no solution agreed. As a key, landmark building of the Conservation Area, it is important that a solution is agreed to work towards taking this building off the register.



Archaeological Potential

Within the Conservation Area there is the potential for the preservation of significant archaeological remains dating from the prehistoric period to post medieval period. The extensive and ongoing excavations, which have taken place over a number of years to the southeast in advance of quarrying, have revealed multi-period archaeological remains. Recent excavations on the outskirts of the settlement suggest this activity is spread across the Brightlingsea Peninsula.

Previous investigations and cropmark evidence have revealed the Conservation Area is located within a widespread ritual landscape dating from the Neolithic period. This landscape was also settled and farmed through to the Anglo-Saxon period. Further remains relating to funerary, settlement and agricultural activity are likely to survive within the Conservation Area. Of greater significance is the known remains of a Roman building below the chancel in the grounds of the existing church and the potential for an earlier Saxon predecessor church to have existed within the Conservation Area.

The Conservation Area primarily comprises the Church and manor. The manor is Saxon in origin and settlement evidence has been revealed to the southwest of the church, it is considered likely that the full extent of the settlement has not yet been revealed and that it may extend northwards towards the church.

The isolated nature of the Church and Hall are a common medieval settlement pattern where they are located at some distance from the main settlement area. The survival of the medieval Church is an important, well preserved resource. The Chapman and Andre map of 1777 depicts buildings south of the Church along the road which has a distinct sharp bend. By the first edition OS map the graveyard

has been extended and the buildings are no longer extant. The road layout south of the church was altered prior to c.1900 and below ground remains of the former buildings along it and the road itself are likely to survive within the area.

The location of the medieval manorial hall is likely to be within the area of the existing hall. A building, identified as Brightlingsea Rectory Hall, is recorded in 1458 before the site became known as Brightlingsea Hall. The Chapman and Andre map of 1777 depict the Hall east of the church set back from the road on the edge of a possible medieval green. The present hall was built in 1874 and so earlier structures are likely to have been located within the same area and below ground remains may exist within the grounds of the current hall. Buildings associated with the hall, as well as agricultural buildings, would have been erected and replaced during the medieval to postmedieval period and evidence for these may also survive.

The recovery of pottery, industrial remains, shell and bone from excavated sites on the periphery of the Conservation Area would suggest good survival of most archaeological remains. Environmental remains, preserved in deeper features, have yielded information on the wider landscape as well as evidence for food and cereal production. Within the areas surrounding the church there is potential for earlier graves associated with a possible Saxon church here.

Much of the Conservation Area surrounding the Church is in use as a graveyard which will have largely truncated any surviving archaeological remains. However survival of archaeological remains is demonstrated closer to the existing church and there is potential in any areas of less disturbance.

3. Assessment of Significance

3.1 Summary

The Brightlingsea Hall and All Saints Church Conservation Area is notable for its location, historic buildings, and rural character. It has small but distinctive spaces, separated in terms of land use and physically by the main arterial road that runs through the area, the B1029. This acts as the main gateway into Brightlingsea town, making it a significant route.

To the north west of the area is All Saints Church, a notable landmark within the Conservation Area, of national significance. The church is a good example, typical of East Anglian style. Surrounding the church is a six-acre churchyard, serving the local community of Brightlingsea, and demonstrating a strong historic connection to the town.

The churchyard is separated from Brightlingsea Hall, and the barn complex to the south east, by the main road into Brightlingsea. Brightlingsea Hall is a significant positive building within the Conservation Area, and is set within a substantial garden, bounded by a historic red brick wall.

Further south east are historic barns, now used as commercial premises. These have been much altered in recent years, which has impacted their significance; however, the site retains a number of historic buildings and is legible as a historic barn complex. The south of the area is terminated by early twentieth century cottages, which make a positive contribution and are prominent in views along the main road.



Figure 14 Planted sign within the Conservation Area, along the main route into Brightlingsea

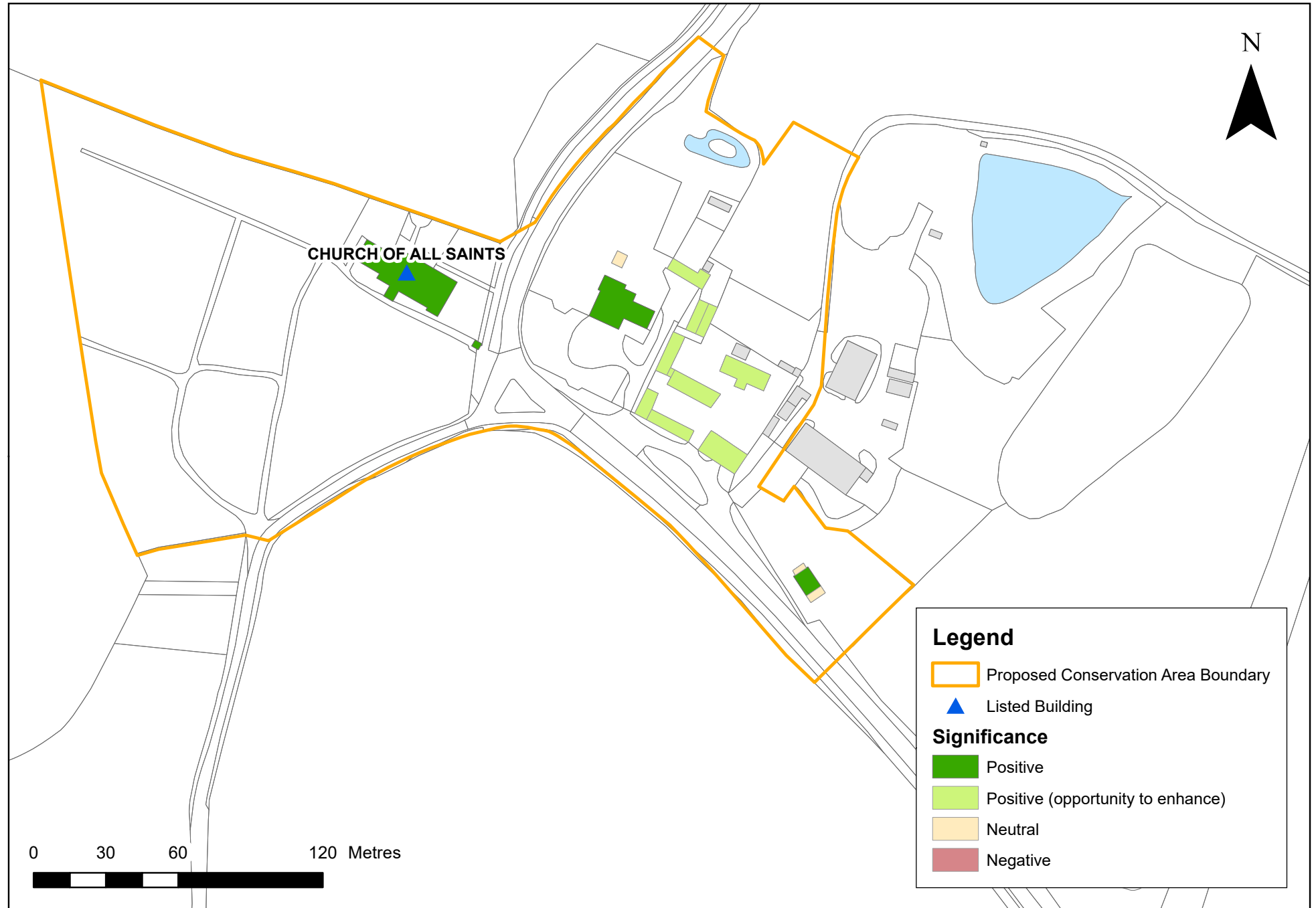


3.2 Significance of buildings

Where visible from areas of public realm, the buildings within the Brightlingsea Hall and All Saints Church Conservation Area have been assessed. The map on page 23 (Figure 15) should be read in conjunction with the key notes opposite. These outline the broad descriptions of positive, neutral and negative attributed to buildings within the Conservation Area. It should be noted that just because a building is positive it does not mean it cannot be enhanced. Some positive buildings may have intrusive aspects (such as inappropriate windows) and are addressed in the management plan. The buildings identified as 'Positive with opportunity for enhancement' tend to have more bespoke or fundamental issues that are not generally observed or widespread across the area.

- **Positive:** these are buildings that have been identified as positive contributors to the character or appearance of the Conservation Area. Whilst identified as positive there are likely to be enhancements which can be made to better reveal the architectural interest of the building and improve its contribution to the character and appearance of the Conservation Area. These general enhancements are noted in the management plan. One example would be the replacement of windows where the buildings have UPVC. The upgrade of these items would be beneficial as a general rule.
- **Positive with opportunity for enhancement:** these are buildings have been highlighted as they are positive contributors, however, they have been compromised due to intrusive alterations or additions. These buildings can be enhanced through the removal, replacement or redesign of intrusive or unsympathetic alterations. In the case of Brightlingsea Hall, buildings have been highlighted which require changes that go further than the widespread issues such as inappropriate windows and can include buildings with unsympathetic roof replacements, replacement windows, doors, and extensions.
- **Neutral:** These buildings make no beneficial or adverse contribution to the character or appearance of the Conservation Area.
- **Negative:** These buildings make an adverse or intrusive contribution to the character or appearance of the Conservation Area. None have been identified within the Conservation Area.

Figure 15 Map showing significance of buildings within the Conservation Area



3.3 Character Analysis

Summary of character

The character of the Conservation Area derives from its small size, low density of buildings, and its secluded position on the highest topographic point of Brightlingsea. Although there are very few buildings within the area, those that are here are varied in character. The buildings range from the historic ecclesiastical landmark of All Saints Church, and the historic nineteenth century Brightlingsea Hall and barn complex to the south-east.

Land Usage

The Church, and its surrounding churchyard, are located to the west of the B1029 and the historic ecclesiastical use of the land here is prominent. The churchyard contains further areas such as the peaceful Remembrance Garden, areas of wild grass, and forest church activity.

To the north east of the B1029 are Brightlingsea Hall and nineteenth century pair of cottages.

Commercial businesses occupy the historic barn complex located between the Hall and cottages. The historic agricultural use of the buildings is still legible in the group of buildings, however, the changes that have occurred have led to some loss of historic features and eroded their character individually.

There are two small areas of public realm space throughout the area, flanking the main arterial route that leads into Brightlingsea town. These are planted.

Landmark Buildings

The area contains the Grade I Listed All Saints Church (Figure 16). Due to its importance, use, and scale, it is a key landmark within the Conservation Area and wider landscape. Its spire is visible from the sea, acting as a way-finder throughout history.

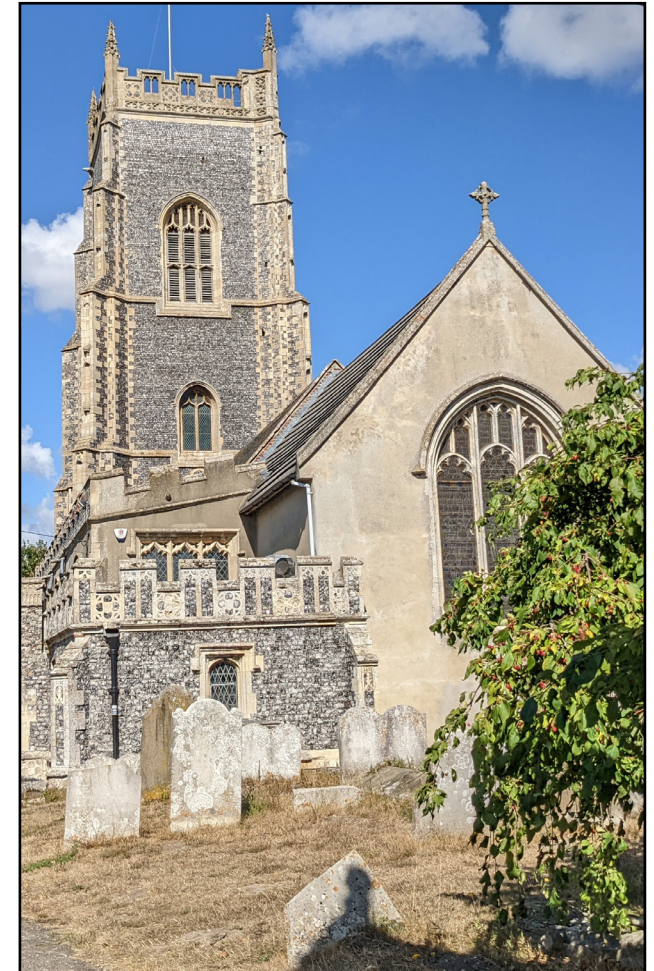


Figure 16 Grade I All Saints Church, a landmark building within the area

Local Building Materials and Details

The Church is built in the perpendicular style. It contains reused materials, notably the roman brickwork in the south aisle wall of the doorway, likely the remaining doorway of the early Norman church. The exterior is in flint rubble walls and flint flushwork to east bay of North Chapel, South Vestry and West Tower. The roofing is predominantly grey slate, with some lead. It has a plastered east wall.

The Churchyard is fronted by a low brick wall, older and with half round coping to the north, more modern and with copings of red engineering brick to the south.

The lych-gate dates from around the end of the First World War and is a traditional open structure in black stained timber.

Brightlingsea Hall is a Victorian building of two storeys, with red brick elevations under a clay tiled roof. It displays detail such as the polychromatic diamond brickwork, and decorative ridge tiles. The sash windows are in arched openings. To the rear is a simply detailed single storey modern property with rendered walls under a concrete tiled roof.

The historic barns within the area are weatherboarded, the one adjacent to the road has a pantile roof. The modern additions are of varying construction and facing materials.

The cottages to the south east of the area are red brick with a simple polychromatic diamond on the front elevation, and flat headed arches to windows. It has a modern concrete roof, and modern windows.



Figure 17 Material palette showcasing buildings and structures within the Conservation Area



Landscaping, Open Spaces and Public Realm

Surrounding the plots and road are wide, planted grass verges, that contribute to the green character, and sense of low building density within the Conservation Area.

Outside the churchyard there is a small triangular green, its floral display linking with the Brightlingsea name board on a small grassed area on the other side of the road.

The garden surrounding Brightlingsea Hall is a notable open space within the Conservation Area and is of significance due to its historic association with the horticulturalist John Bateman. Historic maps demonstrate that there was once a fairly substantial garden, with a drive, planting and walled garden. In front of the Hall are traces of Victorian planting, particularly in the remains of the circular bed in the centre of the drive, and in the conifer by the vehicular entrance.

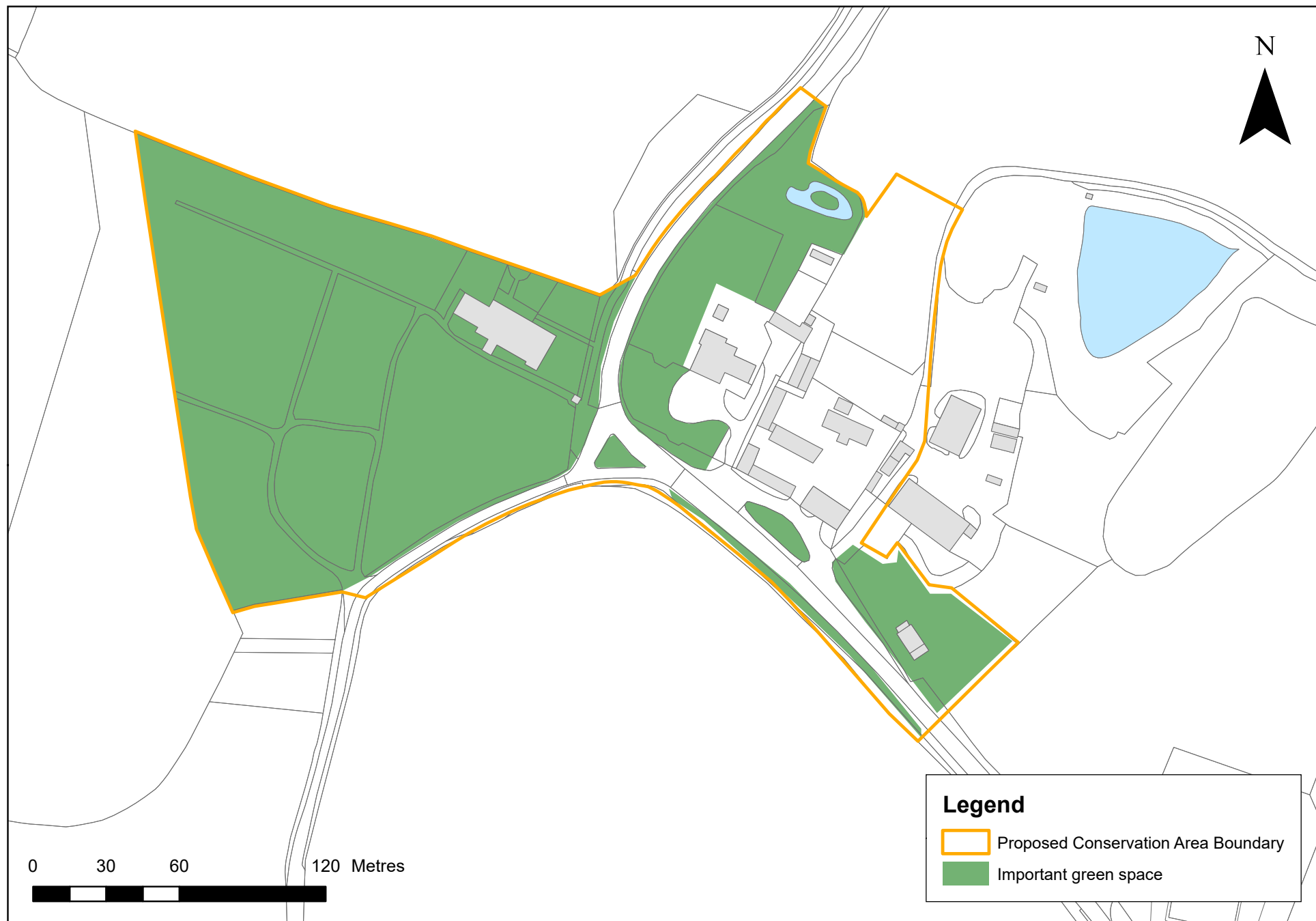


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Figure 18 Examples of landscaping, open space and public realm within the area, including street furniture and sculptures

Figure 19 Map showing important green space within the Conservation Area





Contribution by Key Un-Listed Buildings

Brightlingsea Hall makes a key contribution to the character and appearance of the Conservation Area. It is a fairly large hall, with simple but well preserved architectural detailing, set within its grounds which are largely visible from public areas. The site, opposite the Church, is prominent within the Conservation Area and along the main route into Brightlingsea. It shares a historic connection with John Bateman, a key figure in the local community.

Key Views

Key views are identified on Figure 20. The views included in this assessment are not exhaustive; for example, there are also glimpsed and kinetic views informal glimpsed views that contribute to the character and appearance, particularly those to the south towards the core of Brightlingsea and towards the church spire. Any proposals for development within the Conservation Area, or its environs, should consider the views below and any others which may be relevant or highlighted as part of a bespoke assessment of that proposal.

Views of All Saints Church

The principal views of All Saints Church are from Brightlingsea Road and Church Lane. The views take in the Grade I listed landmark within the Conservation Area, and highlight its prominent location on high ground along the main route into Brightlingsea. The church tower in particular is a very prominent feature in views towards the area; the tower acts as a waymark in the landscape, for the local community as well as for those at sea.

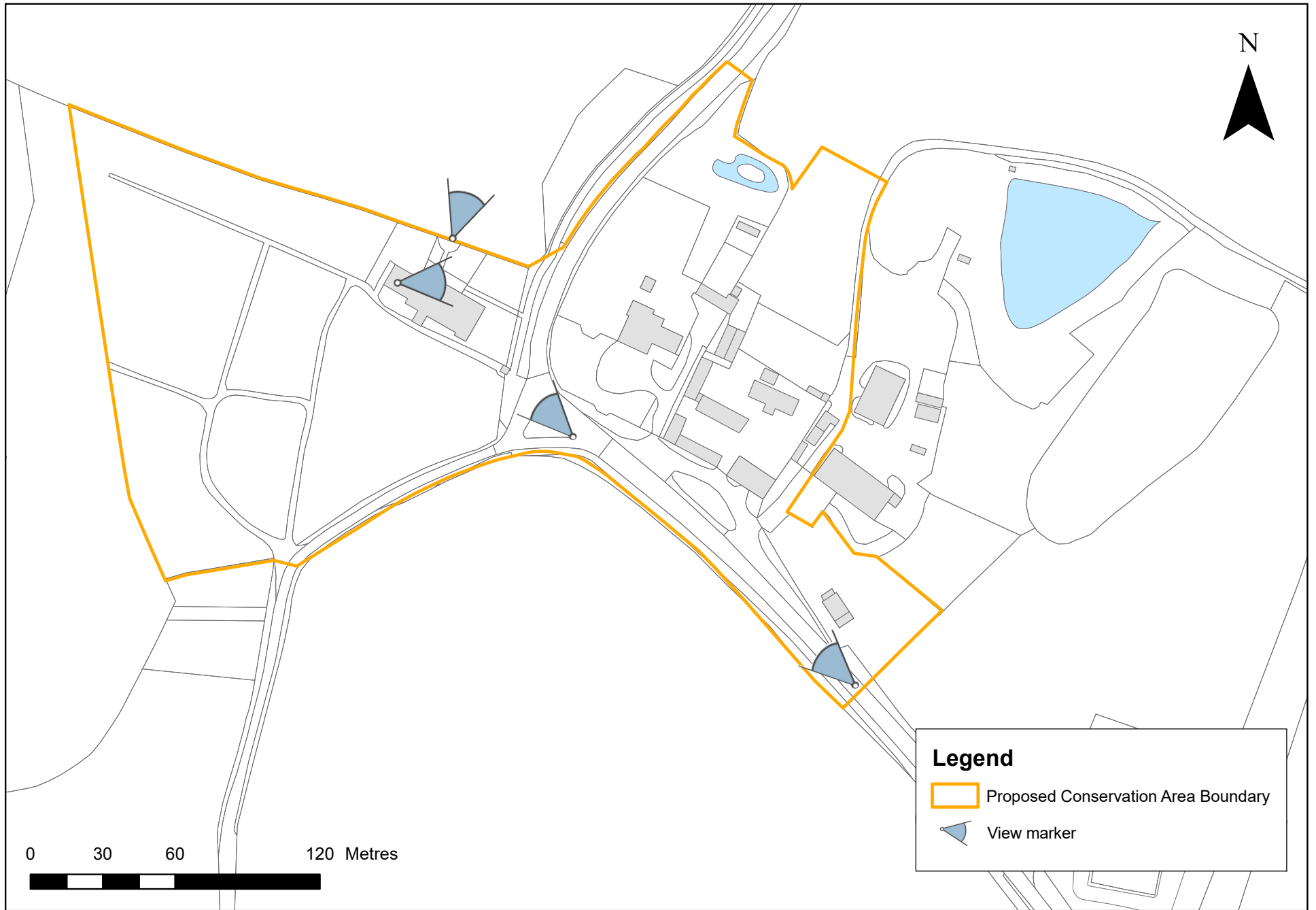
Views from All Saints Church

The views from the spire towards the sea are particularly significant, as they historically were used to guide fishermen.

Views into the surrounding landscape

The views into the surrounding rural landscape, towards the town centre and sea make a positive contribution to the conservation area. They give the small rural area context, and highlight its important position within the landscape topographically.

Figure 20 Map showing key views identified within the Conservation Area



0 30 60 120 Metres



3.4 Character areas

Given the scale of the Conservation Area, there are no defined character areas identified. However, descriptions derived by historic land use have been included below, to aid understanding of any variance in characteristics across the area as a whole.

The Church

The church and its large churchyard are distinct in character. The churchyard is well planted with mature trees and hedgerows, which creates a sense of tranquillity. Glimpsed views into the wider landscape also contribute to a sense of isolation here.

The church itself is a fine example of the East Anglian perpendicular church, incorporating earlier materials. It is constructed in flint rubble and flushwork with freestone dressings. The tall tower is crenelated and is prominent in wider views. The churchyard is bounded by a low brick wall and hedgerows. It is accessed by the twentieth century lych-gate, constructed in timber under a tile roof with decorative ridge tiles.

The churchyard comprises a small, formal memorial garden to the north of the church, with burial ground to the west and south. The memorial garden to the north has open views towards the creek, with benches orientated to take in the views. The burial ground area is traversed by wide paths lined with trees, giving the space a formal character. There is a small forest school area to the west of the churchyard, in use by the local community. Memorial benches are located throughout the churchyard, providing space for quiet reflection.

The Hall

Brightlingsea Hall and its grounds are another distinct area. The garden is bounded by a low buttressed brick wall with more substantial walls fronting the churchyard. The hall is a Victorian building of two storeys, with red brick elevations under a clay tiled roof. The sash windows are in arched openings with straight-sided heads. To the rear is a simply-detailed single storey modern property with rendered walls under a concrete tiled roof.

The square forecourt in front of the Hall shows traces of Victorian planting, particularly in the remains of the circular bed in the centre of the drive, and in the notable conifer by the current vehicular entrance.

Barns

The outbuildings of the hall are now the premises of independent businesses. The most prominent buildings are a historic weatherboarded barn with a red pantiled roof on the road frontage, and a similarly-scaled though heavily-altered former agricultural building to the rear of the premises, now of two storeys with modern windows.

The remaining buildings are largely modern single storey, of varying construction and facing materials, and of very limited visual value.

To the rear of the building complex, the ground drops relatively sharply into the yards and car park attached to the works.



3.5 Setting of the Conservation Area

The NPPF describes the setting of a heritage asset as:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

Historic England Good Practice Advice Note on the Setting of Heritage Assets (2017) indicates that the setting of a heritage asset is the surroundings in which the asset is experienced. It goes on to note ‘Where that experience is capable of being affected by a proposed development (in any way) then the proposed development can be said to affect the setting of that asset’.

Historic England’s advice note on setting includes a:

“(non-exhaustive) check-list of potential attributes of a setting that may help to elucidate its contribution to significance’. As the advice note states, ‘only a limited selection of the attributes listed will be of a particular relevance to an asset.’”

This checklist has been used to inform this assessment.

The Conservation Area draws its significance from key features outside of its boundary, most notably from the creek, town centre, and sea. Due to the topography of the Conservation Area, the land slopes towards the water and the town of Brightlingsea to the south east; this affords views from high ground into the wider area. The location of the Church and height of its tower means it is visible widely within the landscape; the tower can be seen for seventeen miles out to sea, making it an important landmark that was used to guide fishermen home.

The wider setting is formed of arable farmland and creeks, as well as the town of Brightlingsea. The surrounding fields make a positive contribution to the rural character of the Conservation Area, with the main town separated from the area by arable fields.

The church also shares a strong connection with the town, as it serves the community there. Brightlingsea Hall shares a connection to the town through its association with John Bateman, who became Brightlingsea’s first Deputy and built Bateman’s Tower.



Figure 21 View north towards the Alresford Creek, within the setting of the Conservation Area



4. Opportunities for Enhancement

The following opportunities for enhancement have been identified and are summarised below in brief. The list is in no way exhaustive, and neither are the opportunities identified unique to Brightlingsea Hall and All Saints Church, with many being shared with other Conservation Areas.

Car Parking

Car parking is mostly informal, with a small, gravelled area to the south of the church and further cars parking along Movers Lane and the small layby beside the barn complex.

Car parking surrounding the green space on Movers Lane can become crowded at peak times of use, and impact views towards All Saints Church from the south-east. This can be an issue to the south side of the green, where the lane is single track, so parked cars block access (Figure 22).

Inappropriate alterations and development

Incremental changes have occurred which have impacted the historic character of some of the buildings within the Conservation Area. The changes made to the barn at the back of the complex is perhaps the most notable example of this (Figure 23), as the modern uPVC windows detract from the historic façade in terms of their positioning and material.

Interpretation

There is opportunity to enhance heritage interpretation of Brightlingsea Hall, through digital resources and physical interpretation on site.

Maintenance

Some spaces within the Conservation Area are in need of some routine maintenance to enhance their appearance. For example, the boundary walls at Brightlingsea Hall are cracked, and the mortar is failing in places (Figure 24). Routine maintenance and repairs would prevent further deterioration of this historic boundary wall, and feature of Brightlingsea Hall.

Public Realm

The Conservation Area contains high quality green spaces, which are well maintained and clearly tended for by the local community. There is opportunity to continue to maintain this high standard of planting and maintenance.

There are tracks and routes within the barn complex and courtyard spaces associated with the barns that are surfaced and patched in a variety of materials. There is opportunity to improve the condition and appearance of the tracks.

Green spaces

It is clear from the findings of this appraisal that the gardens at Brightlingsea Hall were once of interest, due to their connection with the notable horticulturalist John Bateman. Some surviving indications of the Victorian drives and gardens can be seen, and the boundary walls remain. However, little maintenance appears to have been carried out for some considerable time. Should there be sufficient investment, there is opportunity to enhance the gardens and provide the Hall with an appropriate setting which reflects its history and significance. There is also potential for this space to be further researched and understood, perhaps through local interest groups such as the Essex Gardens Trust. This may support in the future management of the site.



Figure 22 Crowded parking to the south of the Church



Figure 23 Loss of historic features within the barn complex can be seen with replacement windows, doors and roofing



Figure 24 Damage to Brightlingsea Hall boundary wall



Figure 25 Materials along the approach to Brightlingsea Hall



Figure 26 Opportunity to enhance the gardens of Brightlingsea Hall, currently used for parking



5. Management Proposals

There are a wide range of opportunities for the Conservation Area, many of which share common themes. This section builds on the opportunities identified in Section 4 and seeks to recommend management proposals which address these.

5.1 Positive Management: Short term

The first set of proposals relate to positive management and focus on good practice and improved ways of working with the local planning authority. These are generally low cost and can be implemented within a short timeframe, typically within one or two years.

Enforcement

Where the necessary permission has not been sought for alterations, such as advertising signage and building alterations which are not contained within the General Permitted Development Order, the Local Planning Authority's powers of enforcement should be considered. This could assist in reinstating any lost character or architectural features whose loss may have a negative cumulative effect on the Conservation Area, as well as avoiding a precedence being set for similar, uncharacteristic works. The loss of original windows is a particular concern within the Brightlingsea Hall and All Saints Conservation Area.

Heritage Statements, Heritage Impact Assessments and Archaeological Assessments

In accordance with Paragraph 194 of the NPPF, applicants must describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

All applications and development proposals within the Conservation Area and its setting require an appropriately detailed Heritage Statement. Any application without a Heritage Statement should not be validated.

The key views analysed within this document are in no way exhaustive. The impact of any addition, alteration or removal of buildings, structures or trees on key views should be considered to aid decision making. This includes development outside the Conservation Area. Where appropriate, views must be considered within Design and Access or Heritage Statements. This should be in accordance with Historic England's Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (2019). Applications which fail to have assessed any impact upon views and setting should not be validated.



Local Heritage List

A Local List identifies buildings and structures of local architectural and/or historic interest, and these are considered to be 'non-designated heritage assets' under the provisions of the NPPF. Local Lists can be beneficial in ensuring the upkeep and maintenance of historic buildings that contribute to the character of the settlements.

There are some buildings and features within the Conservation Area which make a positive contribution to the special interest of the area, which indicates that a Local List may be beneficial to ensure the upkeep of buildings which are significant to Brightlingsea's history and character.

There are buildings within the Conservation Area which are of sufficient quality to be considered for local list status, as highlighted in Section 2.5. These are Brightlingsea Hall and the Lych-gate (which is curtilage listed).

The exercise of creating a Local List is currently underway by Tendring District Council. It will also facilitate a greater understanding of the area and could be utilised as a public engagement strategy to improve awareness and understanding.

Neutral and Negative Elements

Tendring Council must not allow for the quality of design to be impacted by the neutral and negative elements of the built environment. Officers must, where possible, seek schemes which enhance the built environment and look to conserve and reinstate historic features. It is also considered that poor quality or unsympathetic schemes do not preserve the special interest of the Conservation Area and therefore are discouraged, both within the Conservation Area and its setting; this is due to the potential impact to the character and appearance of the area.

New Development

To be successful, any future development needs to be mindful of the local character of the Conservation Area, while at the same time addressing contemporary issues such as sustainability.

Successful new development will:

- Relate to the geography and history of the place and the lie of the land;
- Sit happily in the pattern of existing development and routes through and around it (including public footpaths);
- Respect important views;
- Respect the scale of neighbouring buildings; and
- Use materials and building methods which as high in quality of those used in existing buildings.

Tendring District Council should guide development in a positive manner by:

- Engaging with developers at an early stage through the Pre-Application Process to ensure modern development is high quality in design, detail and materials.
- Ensuring large scale development schemes are referred to a Design Review Panel (or similar) to ensure that new buildings, additions and alterations are designed to be in sympathy with the established character of the area. The choice of materials and the detailed design of building features are important in making sure it's appropriate to a conservation area.



- Seeking opportunities for developers to make a positive contribution to the wider historic environment through Section 106 Agreements.

Public resources

The preservation and enhancement of private properties can be improved through the publishing of resources aimed to inform property owners and members of the public. An introductory summary of the Conservation Area Appraisal in the form of a leaflet or factsheet(s) is a simple way to communicate the significance of the area and ensure members of the public are aware of the implications of owning a property within a conservation area. In addition, a maintenance guide would assist property owners in caring for their property in an appropriate manner. A single Good Practice Design Guide on standard alterations such as signage, shopfronts, windows, doors, rainwater goods, boundaries and roof extensions will ensure inappropriate development does not continue to be the accepted norm.

- Provide guidance on appropriate design and materials for windows and doors and encouraging the retention or reinstatement of historic glazing patterns and door designs and the use of appropriate materials.
- Provide guidance on the traditional form of boundary treatments and encourage their reinstatement where they have been removed or compromised.
- Provide guidance on traditional roofing materials and encouraging the reinstatement of good quality slate and the removal of unsympathetic modern materials such as interlocking concrete tiles.

- Provide and update guidance relating to signage. This should address appropriate size and design, the extent and amount and associated lighting. All further planning applications and advert consent applications should be required to comply, where possible, with this standard, designed to help to restore the character and appearance of the Conservation Area.

Poor maintenance leads to the deterioration of the fabric of the built environment and results in a loss of architectural details. Improved awareness of simple maintenance and repair would be conducive with the preservation of the areas built heritage. At present there is some interpretation (information boards, signage, webpages) within the Conservation Area, located within the Church, aimed at improving understanding and awareness. These must continue to be maintained and updated where appropriate to ensure awareness and establish the identity of Brightlingsea as a historic settlement and its close connections with the Church and Hall.

Tree Management

In line with the Town and Country Planning Act, all trees in Conservation Areas are afforded the same protection as a Tree Preservation Order. Trees which have a trunk diameter of more than 75mm, at a height of 1.5m from the ground, may not be felled or lopped unless six weeks written notice has been given to the Council. Six weeks' notice has to be given to the council under S211 of the Act.

It is also considered that any prominent trees, and trees with amenity value on private land throughout the Conservation Area should be monitored and maintained appropriately, particularly those within the grounds of Brightlingsea Hall and the churchyard. This will maintain the green character of the area. Any tree that makes



a positive contribution to the area should be retained, maintained and, if felled (only if dead, dying or dangerous) replaced with an appropriate new tree.

5.2 Positive Management: Longer Term

The second set of proposals are also focussed around positive management but either take longer to implement or are better suited to a longer time frame.

Character Appraisal and Management Plan

The Conservation Area Appraisal and Management Plan should be reviewed every five years to monitor change and inform management proposals.

Conservation Area Boundary

The Conservation Area boundary has been revised within this appraisal in accordance with the NPPF (2019) and Historic England Advice Note 1: Conservation Area Appraisal, Designation and Management (2018). The boundary now includes the late nineteenth-century cottages to the south east of the area, due to the positive contribution they make to the area. The boundary should continue to be assessed as part of future reviews of the Management Plan to ensure it is robust and adequately protects the significance of the area.

Interpretation: Improved Understanding and Awareness

There are areas of physical interpretation across the Conservation Area, predominantly found within the Church. There are also resources available digitally which promote understanding and awareness of All Saints Church and Brightlingsea Hall. There is scope for further interpretation within the Conservation Area aimed at improving understanding, particularly surrounding Brightlingsea Hall.

Opportunity Sites

There are some opportunity sites across the Conservation Area which, if sensitively addressed, may enhance the character and appearance of the Conservation Area. Sites which may provide opportunity for enhancement include the historic barn complex. This is due to the erosion of historic features, such as doors, windows and roofing materials. Should there be an opportunity to reinstate these features in the future, this would benefit the character and appearance of the Conservation Area.

Public Realm

Investment to improve the wider public realm can be achieved through continuing to improve and rationalise existing surfacing, and the continued maintenance of existing, high-quality street furniture.



5.3 Funding Opportunities

There are three main funding opportunities which would assist in the execution of these plans:

National Heritage Lottery Fund

The National Heritage Lottery Fund is the single largest dedicated funder of heritage in the UK and therefore is the most obvious potential source of funding. Funding is often targeted at schemes which preserve, enhance and better reveal the special interest of the area whilst also improving public awareness and understanding. Grant opportunities and requirements change overtime, for up-to-date information on NHLF schemes Tendring Council should consult their appointed Heritage Specialist.

Section 106 Agreements

Planning obligations, also known as Section 106 agreements, can be used by the local authority to ensure any future development has a positive impact upon Brightlingsea. These agreements could be used to fund public realm or site specific improvements.

Partnership Schemes in Conservation Areas (Historic England)

Partnership Schemes in Conservation Areas is a programme run by Historic England to target funding for the preservation and enhancement of conservation areas. As the name suggests, the scheme forms partnerships with local authorities (along with any additional funding partners) to facilitate the regeneration of an area through the conservation of its built heritage. The scheme makes funds available to individuals to enable them to carry out repairs or improvement works to their property to enhance the area. This would be suitable to preserve and enhance architectural detailing.



6. Appendices

6.1 Bibliography

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Archives

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6.2 Legislation, Policy and Guidance

LEGISLATION/POLICY/GUIDANCE	DOCUMENT	SECTION/POLICY
Primary Legislation	Planning (Listed Buildings and Conservation Areas) Act 1990	All sections are relevant, although the following pertain to Conservation Area Appraisals and Management Plans: 66: General duty as respects listed buildings in exercise of planning functions. 72: General duty as respects conservation areas in exercise of planning functions.
National Planning Policy	National Planning Policy Framework (2021) DCLG	Chapter 16; Annex 2
National Guidance	National Planning Practice Guidance (2019) DCLG	ID: 18a
National Guidance	Historic England Good Practice Advice in Planning Note 1 (2015) The Historic Environment in Local Plans	
National Guidance	Historic England Good Practice Advice in Planning Note 2 (2015) Managing Significance in Decision-Taking in the Historic Environment	
National Guidance	Historic England (2017) Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets	
National Guidance	Historic England Advice Note 1 (2019) Conservation Area Appraisal, Designation and Management	
National Guidance	Historic England (2017) Traditional Windows	
National Guidance	Historic England, High Streets for All (2018) Advice for Highway and Public Realm Works in Historic Places	
National Guidance	Historic England (2017) Repointing Brick and Stone Walls Guide for Best Practice	
Local Supplementary Planning Document	Tendring District Local Plan 2013-2033 and Beyond (2022)	Section 2



6.3 Glossary

Term	Description
Archaeological interest	There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them.
Conservation (for heritage policy)	The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.
Designated heritage asset	A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.
Heritage asset	A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).
Historic environment	All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.
Historic environment record	Information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined geographic area for public benefit and use.
Local List	Local listing is a concept that is designed to ensure that the historic and architectural interest of buildings that are of local importance but do not meet the criteria for being nationally listed is taken account of during the planning process. Local lists can be used to identify significant local heritage assets to support the development of Local Plans.
Non-Designated heritage asset	Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets. Only a minority of buildings have enough heritage significance to merit identification as non-designated heritage assets.
Setting of a heritage asset	The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
Significance (for heritage policy)	The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

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A.3 APPENDIX A

PLANNING POLICY AND LOCAL PLAN COMMITTEE

23 JANUARY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.4 CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLAN – BRIGHTLINGSEA HALL AND ALL SAINTS CHURCH

(Report prepared by William Fuller)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To report to Planning Policy and Local Plan Committee the Brightlingsea Hall and All Saints Church Conservation Area Appraisal and Management Plan prepared for the Council by Essex Place Services, and for the Committee to agree a recommendation to Cabinet that this be published for consultation.

EXECUTIVE SUMMARY

As Members will recall, the third tranche Conservation Area Appraisals were considered at this Committee on 10th October 2022 where a decision was made to progress these appraisals to Cabinet and then to public consultation. Those third set of Conservation Area Appraisals were those of Kirby-le-Soken and Great Oakley.

This report asks Members to consider the next Conservation Area Appraisal of Brightlingsea Hall and All Saints Church. The Committee is asked to consider this appraisal and to agree a recommendation to Cabinet to publish it for consultation.

RECOMMENDATIONS

That the Planning Policy and Local Plan Committee:

- a) endorses the new Conservation Area Appraisal and Management Plan for Brightlingsea Hall and All Saints Church (Appendix 1);**
- b) recommends to Cabinet that the above document be published for consultation with the public and other interested parties; and**
- c) notes that Conservation Area Appraisal and Management Plans for the District’s remaining Conservation Areas will be brought before the Committee in due course and before the new financial year.**

PART 2 – IMPLICATIONS OF THE DECISION

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DELIVERING PRIORITIES

The Conservation Area Appraisals will support the Corporate Plan 2020-24 (aligned with the core themes of Tending4Growth and Community Leadership) through delivery of interventions aimed at:

- Delivering High Quality Services
- Community Leadership Through Partnerships
- Building Sustainable Communities for the Future
- Strong Finances and Governance
- A Growing and Inclusive Economy

RESOURCES AND RISK

Resources: TDC Officers are leading on this project with the input of Essex County Council Place Services under a service level agreement.

Adoption of the Conservation Area Appraisals will assist in attracting external funding for heritage related activity in the District. Potential sources of funding include:

- National Heritage Lottery Fund
- Section 106 Agreements
- Partnership Schemes in Conservation Areas with Historic England

Risks: The adoption of the Conservation Area Appraisals supports the Council's duties to maintain and enhance heritage assets and so reduces the risk of the district's heritage assets being diminished or lost.

LEGAL

National Planning Policy Framework (February 2019), paragraph 185 states:

Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

- (a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
- (b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- (c) the desirability of new development making a positive contribution to local character and distinctiveness; and
- (d) Opportunities to draw on the contribution made by the historic environment to the character of a place.

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Consideration of any legal implications of actions proposed in the strategy will be needed in due course.

OTHER IMPLICATIONS

Crime and Disorder: Heritage assets are, unfortunately, vulnerable to crime. Having a strategy for promoting heritage assets in the district should contribute positively to their maintenance.

Equality and Diversity: The recommendations in this report are aimed at benefitting all who live, shop, work and visit the District.

Health Inequalities: There is a growing wealth of evidence that demonstrates the role heritage plays in improving mental wellbeing and physical health. People who visit heritage sites reported higher life satisfaction and happiness scores, as well as lower anxiety (Department for Culture Media and Sport 2015). Across Essex there are a number of schemes and organisations to encourage and support healthy activity, such as Active Essex and Healthy Life Essex. Tendring's heritage provides a positive platform to encourage people to enjoy the outdoors and take positive steps for their personal health and wellbeing. Heritage Trails, for example, are already established in Harwich and Dovercourt, Frinton-on-Sea, Clacton- on-Sea, Jaywick Sands and Walton- on-the-Naze, they encourage walkers to take routes through the historic environment. Promoting these to new groups and partnering with healthy organisations can open heritage to new audiences and increase wellbeing.

Area or Ward affected: All, with a focus on those where Conservation Areas are being reassessed.

Consultation/Public Engagement: Members will recall that it was agreed at the October Committee meeting to send the first five Conservation Area Appraisals to public consultation. That public consultation took place over the summer and the results of which are being collated and analysed by Place Services and Council Offices.

The second set of Conservation Area Appraisals and Management Plans are due to go out to public consultation at the end of September for a period of six weeks. The third set of Conservation Area Appraisals and Management Plans (attached at Appendix 1 and 2 will be consulted on toward the end of the year for a period of no less than six weeks.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Members will recall that the Council's Heritage Strategy was considered by the Local Plan and Planning Policy Committee on 29th October 2019. At that meeting it was resolved that the Committee noted the Strategy and comments made by Members at the meeting.

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On the 20th March 2020 Cabinet agreed to formally adopt the Council's Heritage Strategy. This Strategy contained a number of actions which were envisaged to be carried out by the Council and its partners throughout the lifetime of the Strategy. Two of these actions were for Officers to update Conservation Area Appraisals and prepare a 'Local List' of non-designated heritage assets within the District.

After identifying the first five Conservation Areas to be assessed in October 2021, Members then agreed the second set of Appraisals in May of this year, a third set of two was also agreed in October of this year. Members are now presented with the next two draft Conservation Area Appraisals; Brightlingsea Hall and All Saints Church.

Officers intend to review the seven remaining Council's Conservation Areas before the new tax year. The next two (Lawford and Great Clacton) are at final draft and the last five have already been commissioned from Place Services.

CONSERVATION AREA APPRAISALS

Members will recognise general structure of this Appraisal as being very similar to others presented at this Committee. At the start of this Appraisal a section detailing the context and general character of the Conservation Area and the evolution of the Conservation Area is given. There are however a number of elements specific to this Appraisal which are of note.

Alterations To Boundaries

The boundary currently includes the listed church, its surrounding churchyard, and the Hall with historic barn complex which is now occupied by businesses.

It is proposed that the area is extended to include the pair of early nineteenth century dwellings to the south of the area. They contribute positively to the historic character and appearance of the area. Their location and proximity to the road creates a sense of a gateway for the Conservation Area. They are prominent in views towards the Church to the north west. The building is red brick with details such as the flat headed arches at ground floor level, and single polychromatic diamond above the original central entrance. The simple but decorative detail adds to the quality and character of the building and Conservation Area. Although some changes have occurred, such as the loss of original windows and roofing, and timber lean to extensions on both sides, the building still makes a positive contribution. It is considered, therefore, that the Conservation Area and building would both benefit from inclusion within the boundary.

Designated Heritage Assets

There is one designated heritage asset within the Brightlingsea Hall and All Saints Church Conservation Area, the Grade I listed Church of All Saints (List UID: 1337182).

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This building has been listed due to its special architectural and historic interest under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Proposed Non-designated heritage assets

Local listing is an important tool for local planning authorities to identify non-listed buildings and heritage assets which make a positive contribution to the locality. This Appraisal has identified heritage assets which make a positive contribution to the Conservation Area and could be considered for local listing in the future. This list is not exhaustive, and further buildings may be identified as non-designated heritage assets through the planning application process. Buildings and features within the Conservation Area which are considered to be non-designated heritage assets include:

- Brightlingsea Hall
- All Saints Church Lych-gate

Heritage at Risk

The Grade I Church of All Saints is included on Historic England's Heritage At- Risk Register, in a 'very bad' condition and at immediate risk of further rapid deterioration or loss of fabric, with no solution agreed. As a key, landmark building of the Conservation Area, it is important that a solution is agreed to work towards taking this building off the register.

Archaeology

Throughout the Conservation Area there is the potential for a multitude of below-ground heritage assets yet to be discovered. In general the appraisal promotes a cautious approach to development which might disturb or destroy these assets.

Assessment of significance

A detailed assessment of significance of the Conservation Area is then presented. The assessment considers the following features:

- Layout
- Building materials and boundary treatments
- Listed buildings and non-designated heritage assets
- Other buildings
- Landscaping and open spaces
- Views

Opportunities for Enhancement

This section of the Appraisal identifies the issues facing the Conservation Area. A large number of the issues are common to all Conservation Areas throughout the District, but where they are unique, that is also highlighted.

- The Conservation Area could use better interpretation to complement that already in place within the Church building.

A.3 APPENDIX A

- On-street parking detracts from the historic character of the Conservation Area.
- The Conservation Area suffer from the loss of or inappropriate use of architectural detailing such as UPVC windows and doors, rainwater goods and external paintwork.
- The public realm and green spaces could be better utilised.

Management Proposals

As outlined above, there are a wide range of issues facing this Conservation Area, many of which share common themes with other Conservation Areas seen by this Committee. This section recommends management proposals which address these issues in both the short and long term.

- The preparation a Local Heritage List of non-designated heritage assets is suggested for this Conservation Area.
- The Council is encouraged to use its enforcement powers to prevent inappropriate development.
- The monitoring of trees and additions to tree planting within public open space is recommended.
- Publishing guidance for homeowners and businesses in Conservation Areas could help owners identify appropriate alterations to their properties within Conservation Areas.
- The timely renewal of these Conservation Area Appraisals could help to monitor change within the Conservation Areas more accurately.
- Further interpretation could help with legibility.

Funding Opportunities

- Heritage lottery fund
- S106 Agreements
- Partnership Schemes in Conservation Areas

CONCLUSION

Taking into account the discussion had at this meeting, Members of the Planning Policy and Local Plan Committee are asked to recommend to Cabinet that this Conservation Area Appraisal is to be put to a six week public consultation.

APPENDICES

Appendix 1 – Brightlingsea Hall and All Saints Church Conservation Area Appraisal

BACKGROUND DOCUMENTS

None

CABINET

17 FEBRUARY 2023

REFERENCE FROM THE PLANNING POLICY & LOCAL PLAN COMMITTEE

A.4 JAYWICK SANDS DESIGN GUIDE SUPPLEMENTARY PLANNING DOCUMENT

(Report prepared by Ian Ford, Committee Services Manager)

PURPOSE OF THE REPORT

To enable the Cabinet to consider the recommendations made to it by the Planning Policy & Local Plan Committee in relation to the Jaywick Sands Design Guide Supplementary Planning Document.

EXECUTIVE SUMMARY

The Planning Policy & Local Plan Committee (“the Committee”), at its meeting held on 23 January 2023 (Minute 31 refers), considered a comprehensive report (and appendices) of the Director (Planning) which had reported to it the Jaywick Sands Design Guide Supplementary Planning Document (SPD). The report had also sought the Committee’s recommendation to Cabinet that the SPD be formally adopted.

The Committee’s decision at its meeting held on 23 January 2023 was as follows:-

“RESOLVED that the Planning Policy and Local Plan Committee –

a) endorses the Jaywick Sands Design Guide Supplementary Planning Document (SPD) with the Officers’ recommended alterations; and

b) recommends to Cabinet that the SPD (forming Appendix 1 to item A.3 of the Report of the Director (Planning)) be adopted, subject to the fourth bullet point of guidance “2A: Landscape character and visual impact” being amended to read as follows:-

*“Visual separation between Tudor Estate and Village/Brooklands & Gardens **should must** be maintained.”*

c) further recommends to Cabinet that the Director (Planning) be authorised to make any necessary minor, or consequential, amendments to the SPD before the final adopted version is published.”

Planning Portfolio Holder’s Comments

“I thank the Planning Policy and Local Plan Committee for its consideration and constructive comments on the Jaywick Sands Design Guide which has progressed through the mandatory planning process of public consultation and can now be formally adopted as a Supplementary Planning Document. For many years property owners, developers and our Planning Officers have needed to grapple with the dilemma of trying to work out what form of development might help to regenerate the area and improve the lives of residents whilst addressing flood risk and safety concerns and achieving an appropriate form of development that avoids overlooking and other design problems. This guidance will supplement our Local Plan and provide a helpful and practical template for

how to redevelop existing properties and vacant plots, either on a one-for-one-basis or across a number of plots.”

RECOMMENDATION

That, subject to Cabinet’s consideration of the recommendations of the Planning Policy & Local Plan Committee arising from its meeting held on 23 January 2023, Cabinet resolves that –

- (a) the Jaywick Sands Design Guide Supplementary Planning Document (SPD) (Appendix 1) be formally adopted, subject to the fourth bullet point of guidance “2A: Landscape character and visual impact” being amended to read as follows:-**

“Visual separation between Tudor Estate and Village/Brooklands & Gardens must be maintained.”

- (b) the Director (Planning) be authorised to make any necessary minor, or consequential, amendments to the SPD before the final adopted version is published.**

CURRENT POSITION

Cabinet is now requested to consider the recommendations submitted to it by the Planning Policy & Local Plan Committee.

The Director (Planning)’s Report and accompanying Appendices which were considered by the Planning Policy & Local Plan Committee at its meeting held on 23 January 2023 are attached as Appendices to this report.

BACKGROUND PAPERS

Published Minutes of the meeting of the Planning Policy & Local Plan Committee held on 23 January 2023.

APPENDICES

A4 Appendix 1 – Jaywick Sands Design Guide Supplementary Planning Document

A4 Appendix 2 - Jaywick Sands Design Guide Supplementary Planning Document Consultation Statement

A4 Appendix A – Report of the Director (Planning) (item A.3) to the meeting of the Planning Policy & Local Plan Committee held on 23 January 2023.

Jaywick Sands Design Guide

Supplementary Planning
Document

January 2023

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Appendix: Worked examples of design guidance in practice	

1. Introduction

Jaywick Sands is a unique and resilient community with a distinctive sense of place. It is a rare example of a plotlands development where the original small plots, gridded street pattern and chalet-style buildings survives largely unchanged since it was founded in the 1930s. Jaywick Sands' position by the sea is both its greatest asset and also its greatest challenge as the community now faces an increasing risk of flooding, which is particularly concerning as many homes in Jaywick Sands are now in very poor condition. It is therefore vital to encourage the replacement and upgrading of homes in Jaywick Sands to a flood safe standard while also enhancing the character of the area and supporting its regeneration.

The Jaywick Sands Design Guide Supplementary Planning Document provides guidance to support the following policies within the Tendring Local Plan (2013 - 2033):

- PP 14 Priority Areas for Regeneration
- SPL 3 Sustainable Design
- LP 3 Housing Density and Standards
- LP 4 Housing Layout
- PPL 5 Water Conservation, Drainage and Sewerage

This SPD applies to all development within the Priority Area for Regeneration as defined in Policy PP14. It does not apply to development in the northern part of Jaywick Sands (the Tudor Estate). The SPD has been developed to address the design issues relating to replacement dwellings and new development within the existing built-up area, but the design requirements apply to all development within the PP14 area, including undeveloped land. It supports the policy aims of transforming housing quality and the built environment in Jaywick Sands, providing flood resilient homes built to modern building standards.

The Design Guide shows how the Local Plan policies should be interpreted within the specific context of Jaywick Sands, with regard to its character, layout and setting as well as the requirement to develop flood resistant and resilient buildings. It demonstrates how the essence of the settlement's design characteristics can be maintained while also delivering much-needed improvements in safety from flooding. The Design Guide has been developed in dialogue with the Environment Agency and other stakeholders, to show how flood safe development should be designed so that it creates a high quality living environment for residents of the development itself and the wider community of Jaywick Sands.

Who should use this guide?

This Design Guide is a tool for:

- Property owners and developers, and their design and planning consultants, in producing proposals for their sites
- Community members when commenting on planning applications or early stage proposals
- Planning officers in determining planning applications and pre-application submissions

Status of this document

This Design Guide Supplementary Planning Document has been published for adoption in January 2023.

Achieving betterment of housing quality in Jaywick Sands

Jaywick Sands contains a large number of homes which were not originally designed or built for year round, permanent inhabitation. Although many have been upgraded over time, most still have features of their design and/or construction which impact the health and wellbeing of their residents, including:

- Lack of flood resistance or resilience, combined with poor structural performance, which could endanger life in a severe flood event
- Poor energy performance leading to higher energy bills and health impacts
- Poor internal and external space standards leading to overcrowding, internal fire hazards and mental and physical health impacts.

The Design Guide has been developed to assist applicants, agents, and planning officers in balancing design requirements with the wider regeneration aims of PPL14. The Council wish to encourage the replacement of poor quality homes with better quality, more resilient homes that provide a safer and better quality environment for their residents. However within the Priority Area for Regeneration, many plot sizes are very small and a strict adherence to every standard usually applied to residential development in Tendring would prevent some owners of single plot homes from upgrading them to a better standard, as it would not be possible to design a fully compliant replacement home.

Tendring Council recognises that proposals to replace existing homes with new, better quality homes, but which do not increase the number of people living within the area of flood risk, will increase the safety and resilience of the community even if they do not meet every design standard in full. This SPD therefore sets out which design standards can be relaxed for proposals of this nature, which include the required floor level for habitable rooms, and minimum parking requirements. It provides clear guidance and worked examples to assist applicants in preparing compliant proposals.

Proposals that will increase the number of people living in Jaywick Sands and at risk of flooding, must meet all the design standards and requirements that would apply in other locations in Tendring. The SPD also sets out worked examples to show how these standards should be applied in the context and built form pattern of Jaywick Sands, to create good quality development that contributes to the regeneration of Jaywick Sands.

Checklist of design standards

	Proposals resulting in no net increase in bedspaces on the site	Proposals resulting in a net increase in bedspaces on the site
Internal floor levels for habitable rooms – refer to section 3A	Must be higher than existing floor levels in the property being replaced; must not result in more than 0.3m internal flooding in a 0.5% AEP present day event.	Must be set above the design flood level which is the 0.5% AEP flood level plus lifetime climate change allowance and appropriate freeboard.
Massing, scale and building form	All requirements set out in chapter 4 must be met.	All requirements set out in chapter 4 must be met.
Parking standards – refer to section 5B	A minimum of 1 car parking space for a 1 or 2-bedroom unit must be provided; a minimum of 2 car parking spaces for a 3 or 4 bedroom unit must be provided.	Essex Parking Standards must be met in full.
Internal and external space standards	All internal and external space standards set out in chapter 6 must be met.	All internal and external space standards set out in chapter 6 must be met.
Accessibility	All accessibility requirements set out in chapter 7 must be met.	All accessibility requirements set out in chapter 7 must be met.
Climate change and biodiversity	All requirements set out in chapter 8 must be met.	All requirements set out in chapter 8 must be met.

2. Characterisation

2.1 History and character areas

Jaywick Sands is located on the Essex coast, in Tendring District. The village of just under 4,800 residents (2,600 households) is sited along the seafront a few miles south west of Clacton-on-Sea.

Jaywick Sands has a unique history which is reflected in its distinctive layout and architectural character. A century ago the village did not exist - the community was founded as a 'plotlands' development of holiday chalets in 1928 and most of the estate was not purpose built for permanent year round occupation. A unique combination of social, political, economical and geographic factors have meant that Jaywick Sands has retained its distinctive low-rise, self-built character of small plots and gridded streets. It is one of the sole remaining examples of a plotlands development which retains this form, and this has been widely recognised by architectural and social historians.

Jaywick Sands is made up of four distinct areas, which are shown on Fig. 1. These correspond to different stages of development of the settlement.

- Brooklands and Grasslands have the smallest plots and were the earliest areas to be developed. These areas are almost all single storey or 1.5 storey (room in the roof) chalet-type dwellings.
- The Village has slightly larger plots and includes the commercial shopfronts of the village centre, which have flats above them.
- The Tudor Estate is the only part of Jaywick Sands to be planned as permanent year-round dwellings. The street layout is more conventionally suburban, with large plots, a school and GP surgery.
- The Guinness Trust social housing to the north of Brooklands was developed in the early 2000s and does not follow the typical street layout or characteristics of the rest of the settlement.

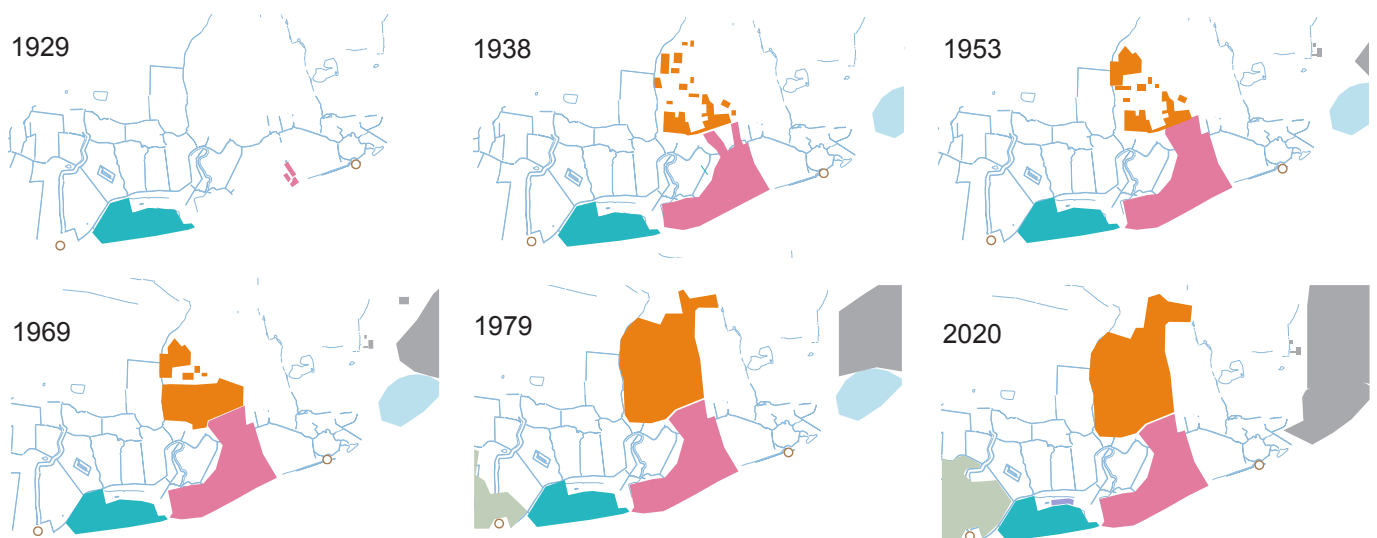


Fig. 1. Historical development of Jaywick Sand derived from historic OS maps.

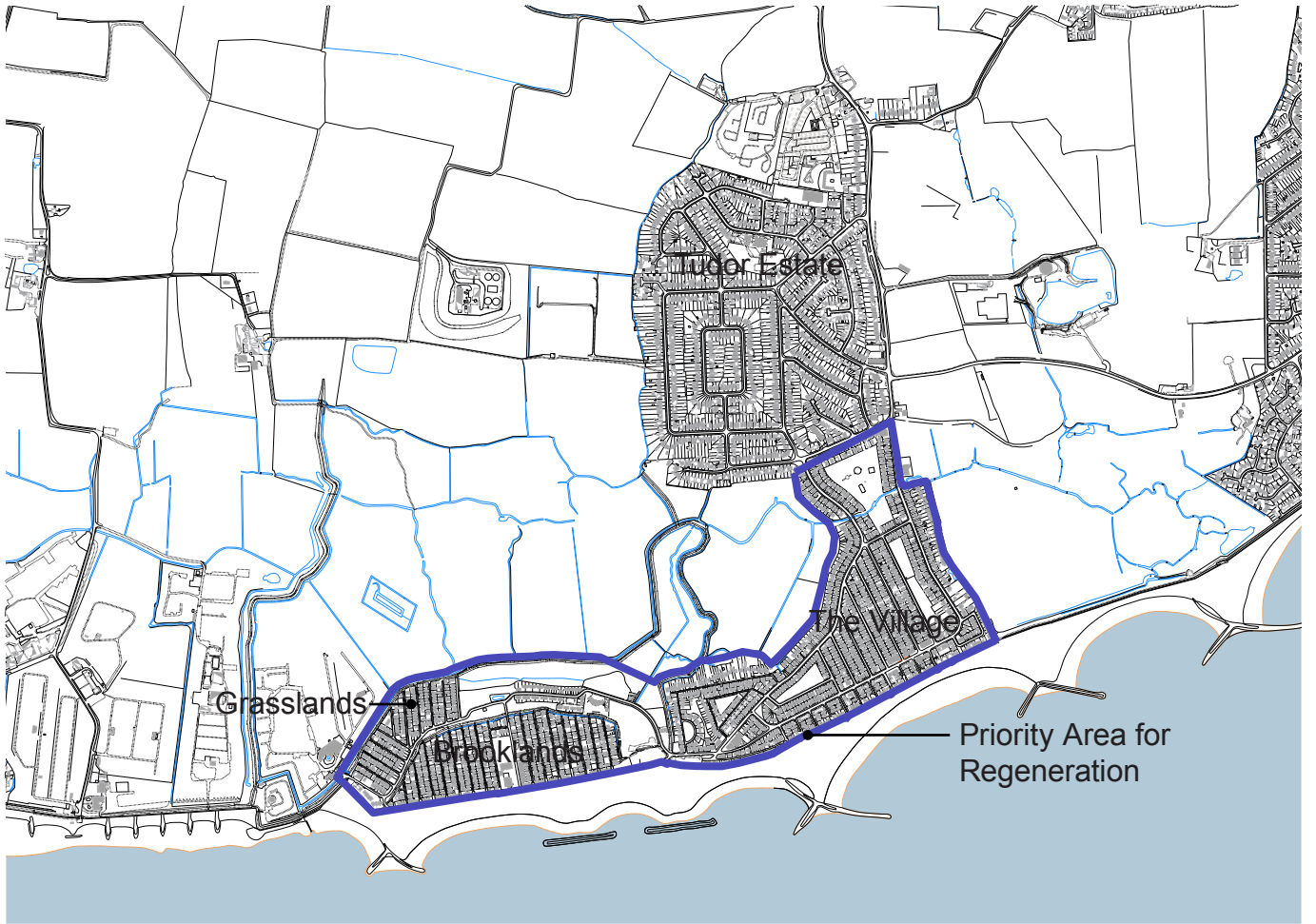


Fig. 2. Plan of Jaywick Sands showing character areas

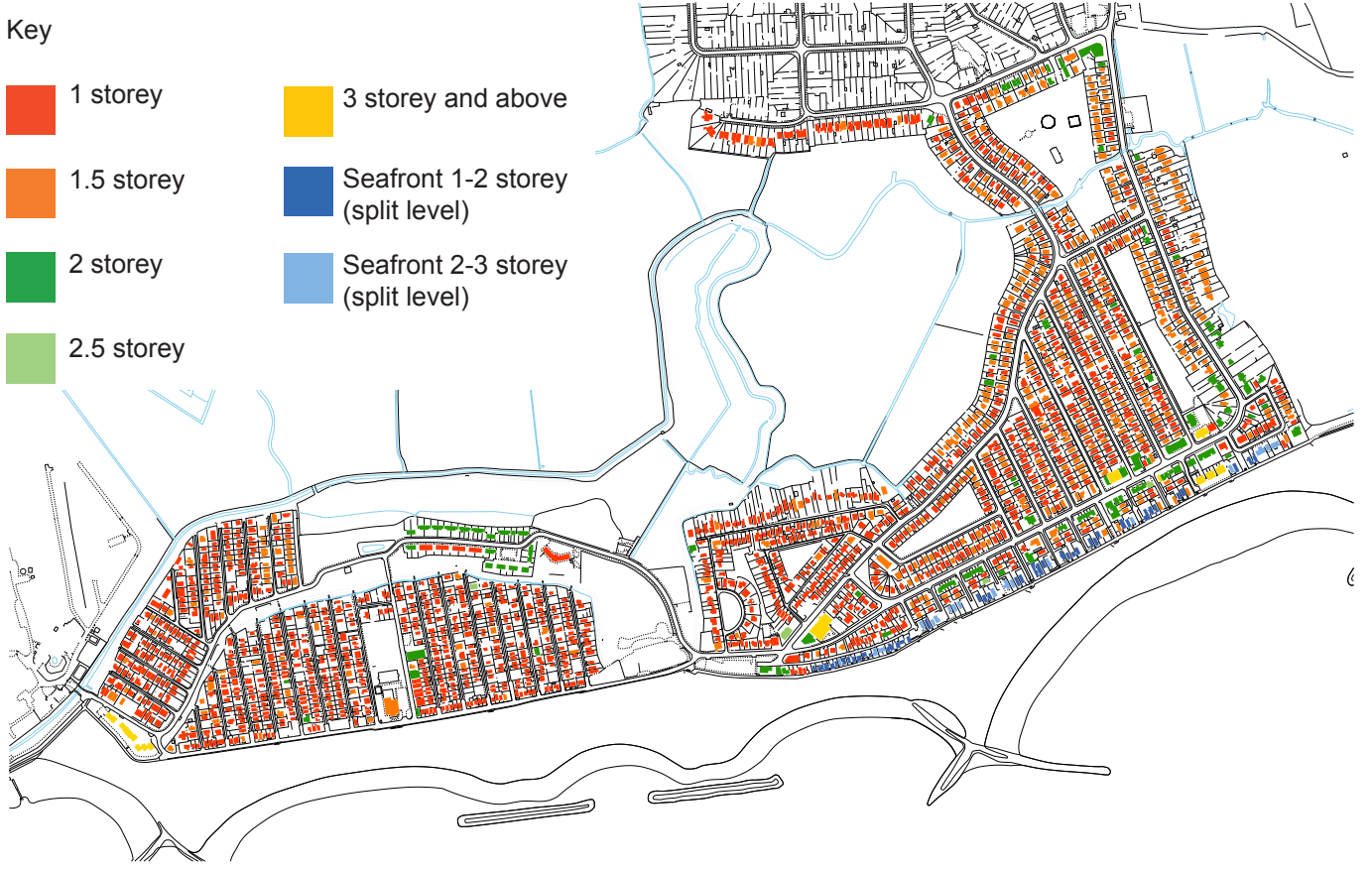


Fig. 3. Storey heights in Jaywick Sands (HAT Projects survey 2019)

2.2 Landscape setting

Jaywick Sands is set on former grazing marshland typical of the Essex coastline. The flat landscape rises up to the north out of the coastal floodplain and the Tudor Estate sits on this raised area. Views both from and to the settlement are therefore expansive - very slight changes in height and topography register significantly on the skyline, particularly as there are no mature tree belts screening the village. Elevations with light colours are particularly visible at long range, while closer up, boundary treatments are varied and do not always create a positive transition from the settlement to the surrounding landscape.

The predominantly low-rise character of Jaywick Sands preserves these expansive views and stops the relatively large settlement having a disproportionate visual impact on the surrounding landscape. The heritage asset of the Martello Tower retains its visual separation from the community and its sense of scale and presence, appropriate to its original purpose and siting.

2A: Landscape character and visual impact

- New development must maintain the low-rise skyline of Jaywick Sands when seen from the surrounding rural areas, but taller buildings may be appropriate if carefully designed.
- The colour of elevations facing the countryside should be carefully considered.
- Boundary treatments to open landscapes must create an appropriate and high quality edge, close boarded fencing does not achieve this.
- Visual separation between Tudor Estate and Village/Brooklands/Grasslands should be maintained.
- An appropriate setting for the Martello Tower must be preserved. Proposals must preserve visual separation around the Tower and not dominate it in terms of scale.
- Seafront development must present a high quality frontage when seen from the beach, which does not appear out of scale with the neighbouring built form.



Fig. 4. 1895 Ordnance Survey map showing the site of Jaywick Sands as grazing marsh and saltings - the sea wall runs around the north of what is now Brooklands.



Fig. 5. View from the south of the Tudor Estate, looking towards the tandem plots along Meadow Way



Fig. 6. View from the south of the Tudor Estate, looking towards Lotus Way



Fig. 7. View looking east from Seawick towards Jaywick Sands and the Martello Tower

2.2 Brooklands and Grasslands

Brooklands and Grasslands have the smallest plot sizes and the smallest existing homes. These areas have the well-known 'radiator grille' layout of narrow streets running north-south.

Density

- The area contains around 710 homes, excluding Guinness Trust and Belsize Avenue flatted development (HAT Projects Survey, 2018)
- Including roads and pavements but excluding areas of public open space (i.e. Brooklands Gardens), the area has a density of 49 dwellings per hectare.
- If all empty plots were occupied with a dwelling, this would rise to around 60 dwellings per hectare.

Mix and tenure

- Most homes in the area have one or two bedrooms only. (2011 census data for LSOA 018A)
- Proportion of privately rented homes is high, at 48% (2011 census data for LSOA 018A)
- The area contains the only (purpose built) social housing in Jaywick Sands - the Guinness Trust homes developed in the early 2000s.
- The area is highly overcrowded, with 94% of all households judged to have insufficient space to meet the household's needs according to the Index of Multiple Deprivation (2019).
- The area has the highest proportion of children of all the Jaywick areas. (2011 census data for LSOA 018A)

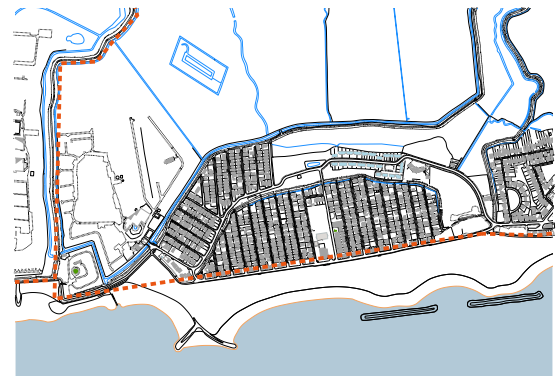
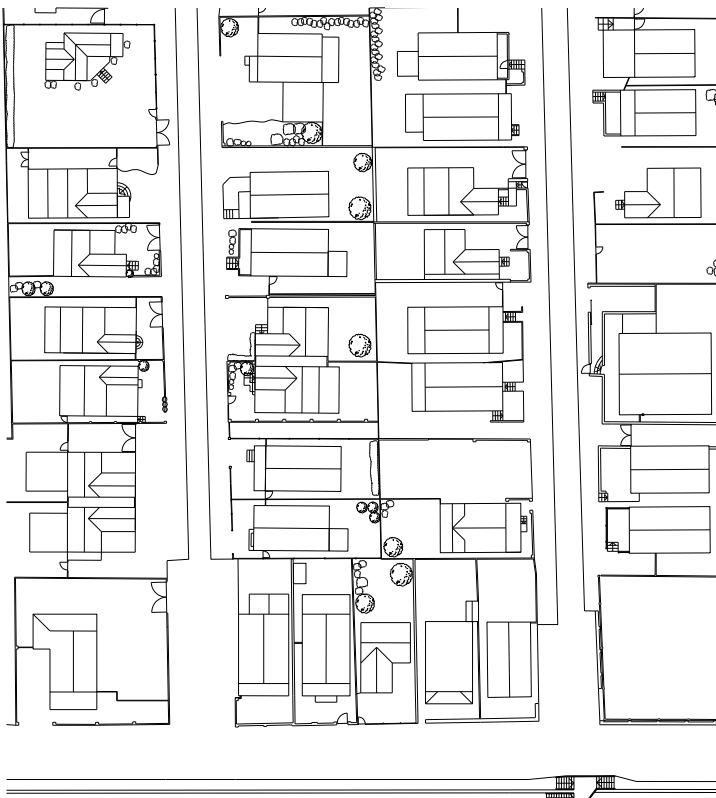


Fig. 8. Plan showing location of Brooklands and Grasslands in Jaywick Sands

Fig. 9. Plan showing seafront and typical plot arrangements in Brooklands



Fig. 10. View looking west on Brooklands seafront



Fig. 11. Brooklands in the 1930s



Fig. 12. View looking west on Brooklands seafront following the 1953 east coast tidal flood

Brooklands and Grasslands: typical plots

Typically, plots in Brooklands and Grasslands are:

- 15m long
- 6-8m wide

Setbacks of buildings from plot boundaries are typically:

- 0.7-1m from side boundaries
- 2.5-3.5m from front boundaries
- 3.5-4.5m from rear boundaries.

Buildings are almost all single storey, or 1.5 storey (room in the roof) with gable ends facing the street. Many of the original 1930s chalets remain: although in most cases they have been overclad and altered, their distinctive form is still recognisable. Ground floors are typically raised around 0.1-0.7m from street level. 2022 flood levels in a 0.5% AEP event reach up to 0.3m above ground level in some parts of Brooklands.

Typical Brooklands streets have been resurfaced to form an asphalt carriageway with a level concrete pavement without a kerb on either side. This is due to the narrowness of the streets which does not permit a full compliant carriageway and pavement, so cars need to be able to overrun the pavement to pass each other. However this streetscape design has been sensitively achieved and gives a distinctive character to the streets akin to a 'home zone' or 'shared surface' approach.

Typically parking takes place informally on-plot at the front of buildings, or on-street where plot sizes don't allow for on-plot parking. On-street parking narrows the carriageway further and creates a challenge for the safe flow of traffic.



Fig. 13. Typical street in Brooklands.



Fig. 14. Typical junction between Brooklands and north-south streets.



Fig. 15. Typical street in Grasslands

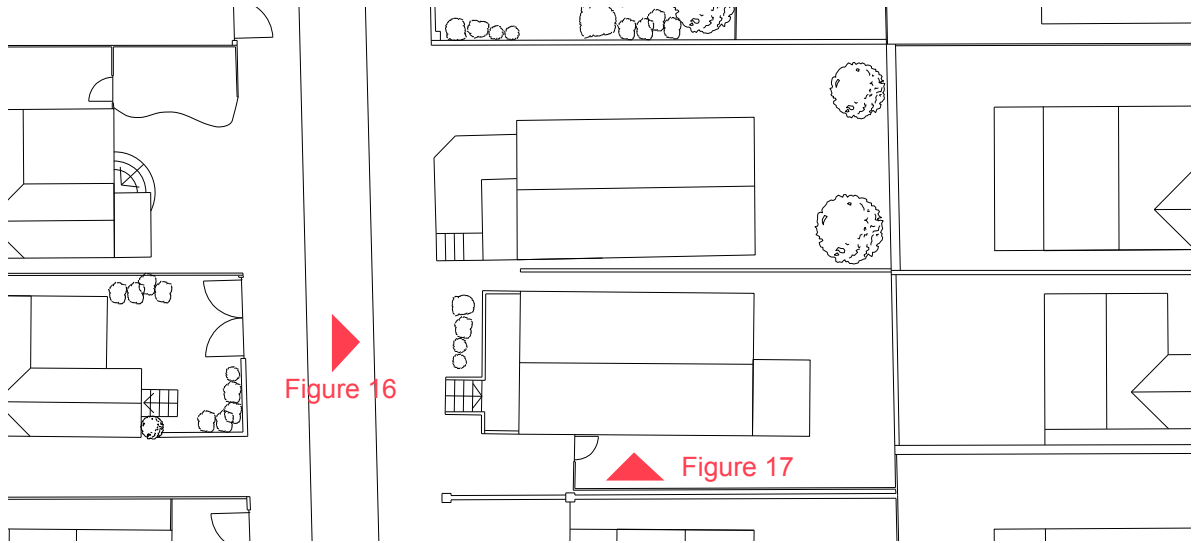


Fig. 16. Plan of typical plots in Brooklands

0m 2m 5m 10m



Fig. 17. Typical street elevation of Brookland plots.

0m 2m 5m 10m

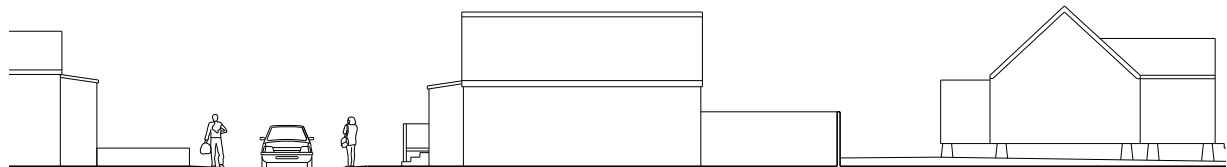


Fig. 18. Typical side elevation of Brooklands plots

0m 2m 5m 10m

Brooklands: Seafront plot characteristics

Seafront plots in Brooklands are typically:

- 15.5-16.5m long
- 5-6m wide

Setbacks of buildings from plot boundaries are typically:

- 0.7-1m from side boundaries
- 2.5-3.5m from front boundaries
- 4.5-5.5m from rear boundaries.

Buildings are typically single storey, or 1.5 storey (room in the roof) with gable ends facing the seafront. Ground floors are typically raised around 0.1-0.7m from street level. As in the rest of Brooklands, most of the original 1930s chalets remain but are overclad.

Brooklands Avenue does not have a pavement - the asphalt road surface runs right up to plot boundaries. This is unacceptable from a safety and accessibility perspective and the aspiration is to remedy this in the future.

Typically parking takes place informally on-plot at the front of buildings, or on-street where plot sizes don't allow for on-plot parking. On-street parking narrows the carriageway further and creates a challenge for the safe flow of traffic which is particularly critical as Brooklands Avenue is a bus route.



Fig. 19. View showing Brooklands seafront plots and the steps to access the beach.



Fig. 20. Historic postcard photo of Brooklands seafront.

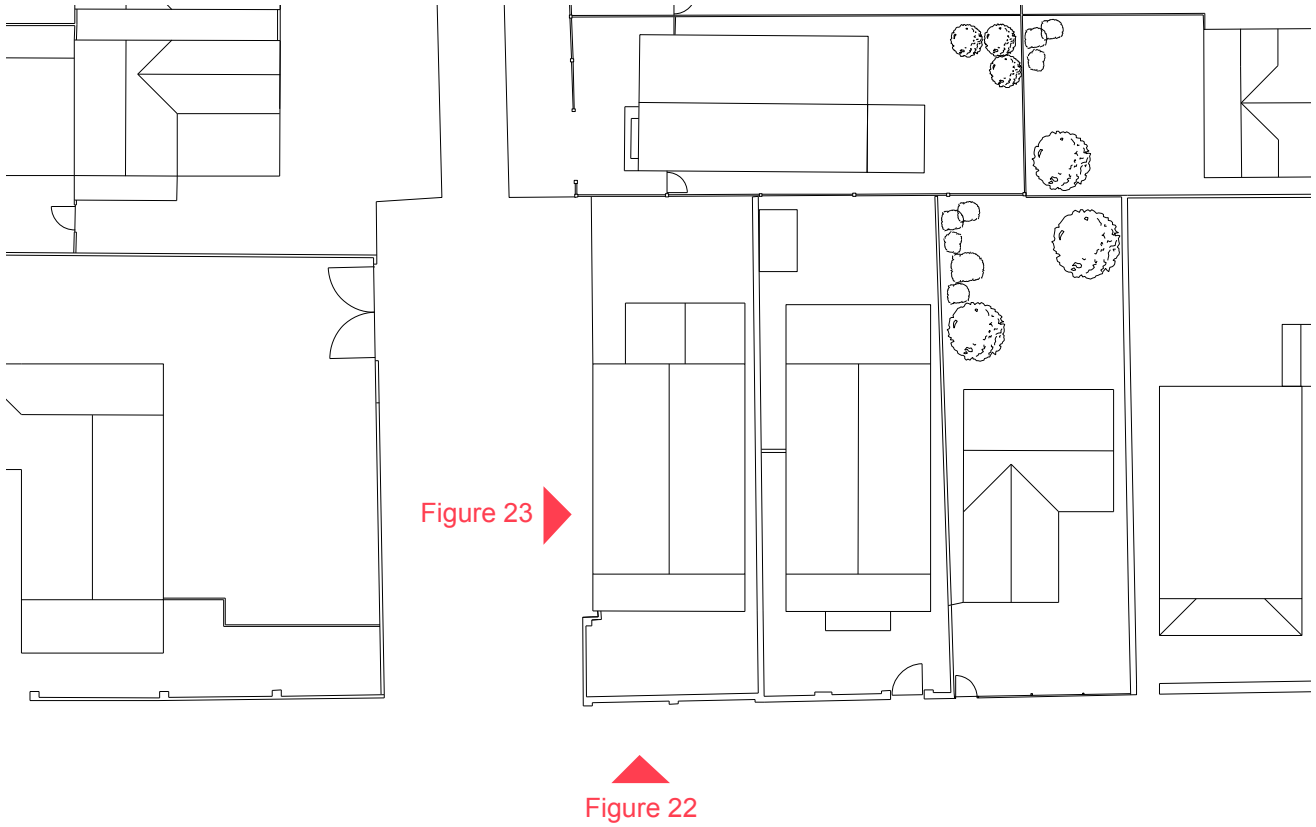


Fig. 21. Plan of typical seafront plot in Brooklands



Fig. 22. Typical seafront (south) elevation of seafront plots.

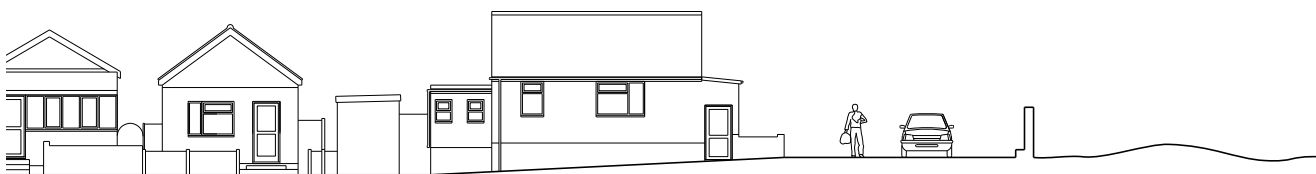


Fig. 23. Typical side elevation of seafront plots



2.3 The Village

The Village is the central area of Jaywick Sands, including Broadway, Meadow Way and the plots between. It has a more varied character than Brooklands including:

- A number of green spaces of different scales;
- Plots at the western end of the Village which are similar in scale to Brooklands plots;
- Typical inland plots on north-south streets, but of a larger size than Brooklands;
- Broadway itself has a number of commercial premises with flats over, and was designed from the start as the commercial heart of the settlement. There are some three-storey buildings.
- The Village seafront is a pedestrian promenade at a higher level to the rest of the streets, resulting in split-level dwellings on the seafront, often of a highly individual design;
- Along Golf Green Road, Meadow Way and Crossways there are a number of 'tandem plots'.

Density

- The area contains around 1134 homes, with few plots vacant.
- Including roads and pavements but excluding areas of public open space, the area has a density of around 30 dwellings per hectare.

Mix and tenure

- The Village has a more varied mix of unit sizes.
- Proportion of privately rented homes is lower than in Brooklands - 17% of households (2011 census data for LSOA 018C).
- Overcrowding and the proportion of households with children is lower, despite more green spaces and larger dwellings (2011 census data for LSOA 018C).

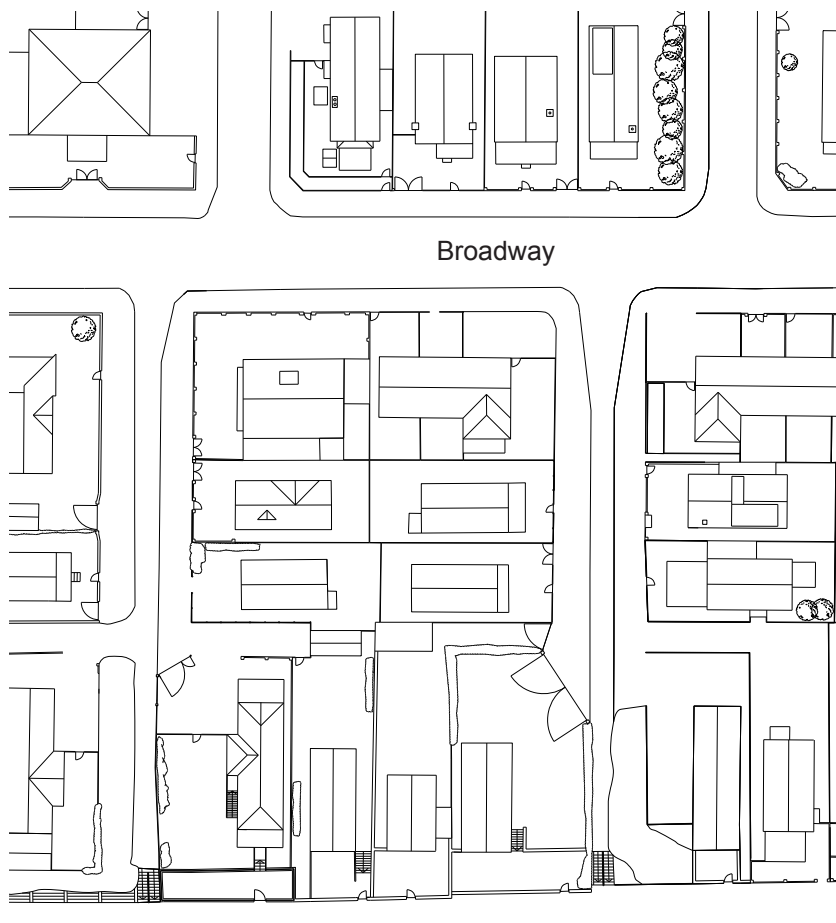


Fig. 24. Plan showing location of the Village in Jaywick Sands

Fig. 25. Plan of typical area of the Village, either side of Broadway



Fig. 26. Village seafront



Fig. 27. The Village has several distinctive 'greens' within the street pattern.



Fig. 28. The Village seafront as depicted on a 1950s postcard

Village: typical plots

Most plots in the Village along the north-south streets are typically:

- 20m long
- 7.5-8.5m wide

Setbacks of buildings from plot boundaries are typically:

- 1-2m from side boundaries
- 3-4m from front boundaries
- 5m from rear boundaries.

Buildings are typically single storey, or 1.5 storey (room in the roof) with gable ends facing the road. Ground floors are typically raised around 0.2-0.5m from street level. Many original chalets remain, adapted and overclad - some of the most ornate and well-maintained homes can be found in this area. 2022 flood levels in a 0.5% AEP event reach up to 0.5m above ground level in some areas close to the seafront.

Most Village streets have a full pavement, typically 1.5-2m wide. Some plots are arranged to accommodate on-plot parking either at the side or the front but this is not the case for all plots and there is significant on-street parking.

There are a few anomalous areas in the Village, including Beach Way, Sea Way, Lake Way, Fern Way, Yew Way and Gorse Way, where roads are still unsurfaced and are very narrow, similar to Brooklands streets. These are particularly challenging areas for redevelopment of plots and must be considered carefully in the assessment of suitable design.



Fig. 29. View along the north-south Willow Way in the direction of Meadow Way

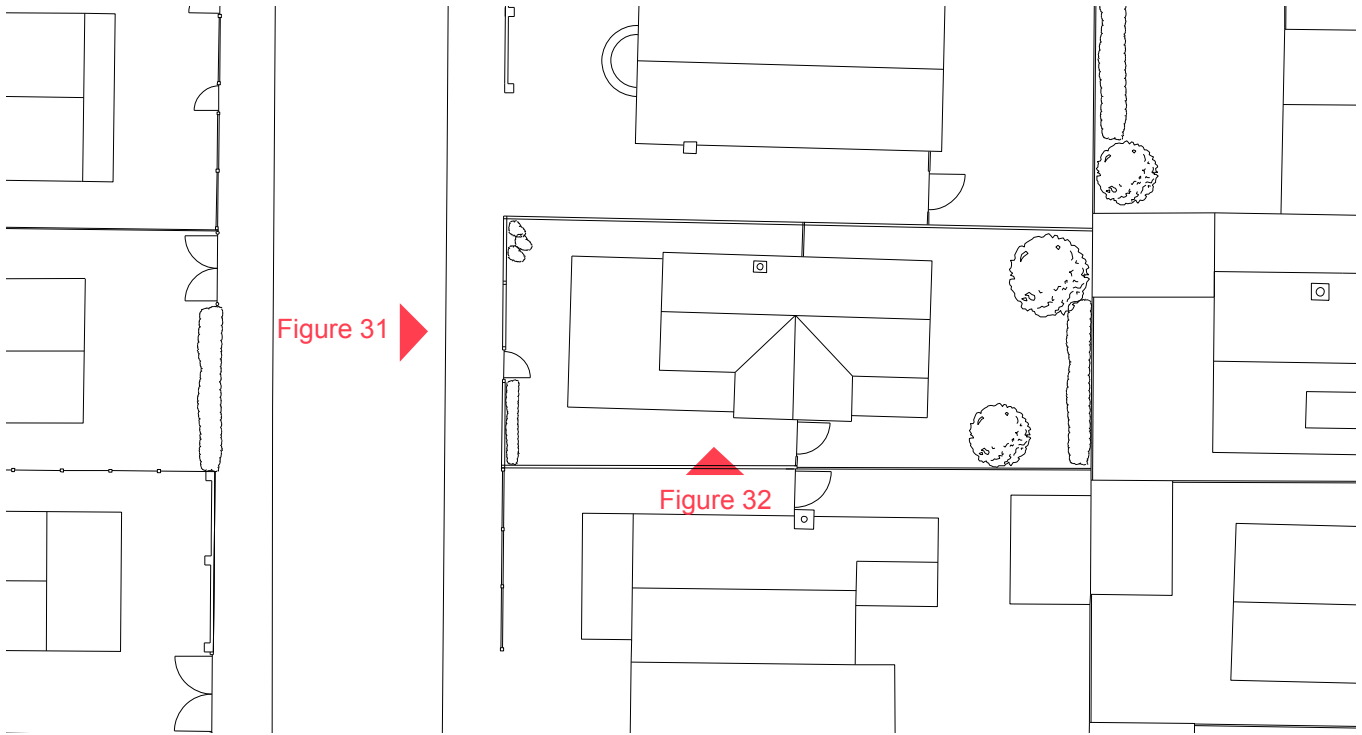


Fig. 30. Plan of typical plot in the Village (on north-south street)



Fig. 31. Typical street elevation of Village plots

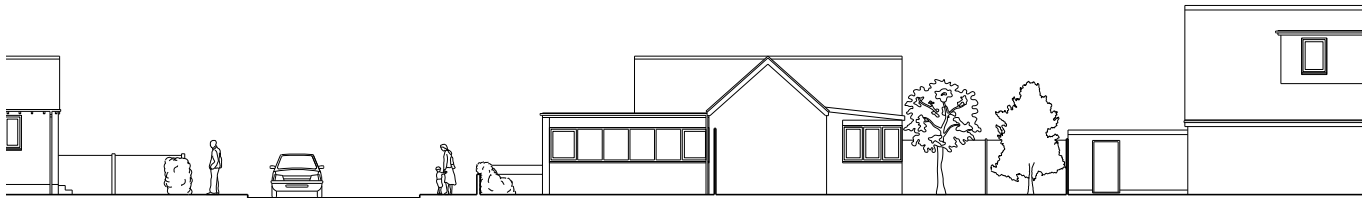


Fig. 32. Typical side elevation of Village plots.



Village seafront plots

Seafront plots in the Village are typically:

- 24.5-25.5m long
- 7-10m wide

Setbacks of buildings from plot boundaries are typically:

- 0-2m from side boundaries
- 3-4m or 10-11m from front boundaries
- 6-11m from rear boundaries

Buildings are typically single/two storey, or two/three storey (due to the change of ground level from the Broadway to the seafront) with gable ends facing the seafront. The first floor level is typically around 0.2-1m from the seafront street level. Homes exhibit a great variety of design which adds to the charm and character of the area - many take advantage of the south-facing aspect and quiet car-free location to have extensive balconies and terraces overlooking the sea.

There is access from the higher seafront level and the lower north facing level. The lower north facing level provides amenity and car parking space.



Fig. 33. View of the Village seafront promenade



Fig. 34. View of the Village seafront plots showing the level difference between the seafront & the inland plots

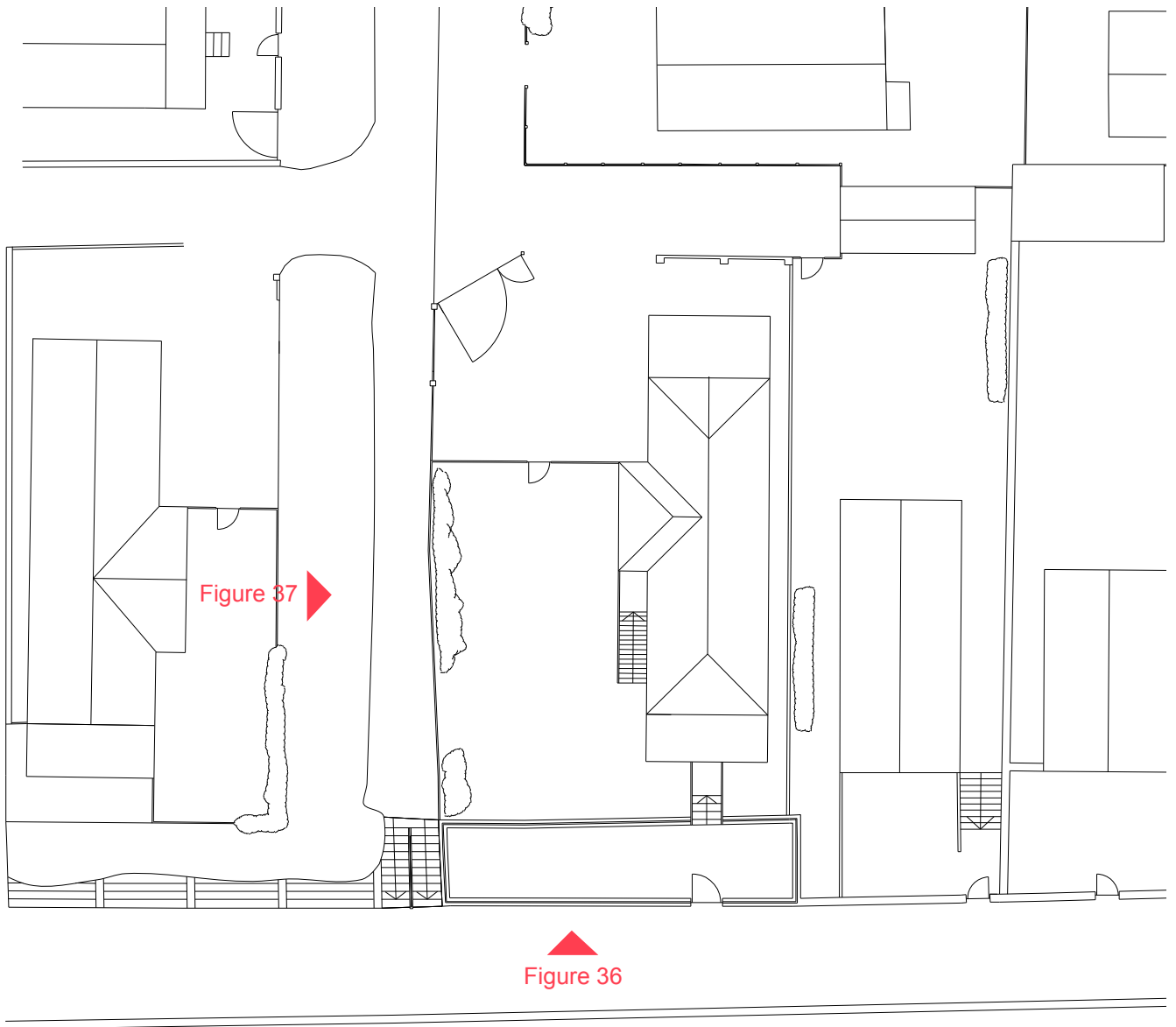


Fig. 35. Plan of typical seafront plot in the Village

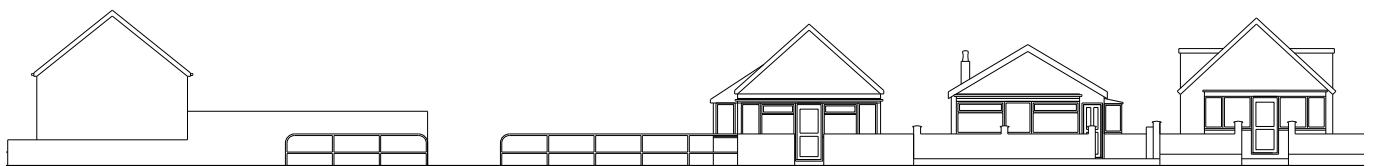


Fig. 36. Elevation of typical seafront plot in the Village



Fig. 37. Side elevation / cross-section of seafront plot and level change to promenade



Broadway

Broadway has a mix of residential and commercial properties along the street. The eastern end is mostly residential, and the west has a mix of shops, eateries and residential properties, often with flats at first floor level. The street itself is wide with generous pavements both sides.

The western end was designed from the outset as the commercial heart of the settlement and the mixed-use buildings were originally designed in a modernist style - flat-roofed and stucco-fronted - in contrast to the chalet architecture of the residential pattern book. Some buildings were even more architecturally flamboyant, such as the former 'Cafe Morrocco' which was designed in a Hollywood-inflected North African style.

Residential plots on the eastern end of Broadway vary in character. Originally they were narrow plots, with four plots between each cross street, but many have been combined into larger plots, each occupying a corner. Some blocks have been rebuilt as a terrace of homes fronting Broadway. This has resulted in a shift in density and character that is appropriate to the wide and more urban 'high street' setting.

Broadway itself has a generous pavement and plots typically have front and side gardens, but side gardens do not always present a positive frontage to the street, as where dwellings are set back considerably from the street, the side 'garden' is frequently occupied by informal sheds or enclosed with high close boarded fences.

Typically parking is accommodated on-plot at the front of the dwelling but where houses form a terrace, plots lack space for parking so cars are parked on-street.



Fig. 38. Former amusement arcade building along Broadway, with flats above.



Fig. 39. Historic photo of Broadway showing Café Morocco



Fig. 40. Historic photo of Broadway - the building on the right is now Wonderland



Fig. 41. Historic photo of Broadway
Page 111

Tandem plots

Tandem plots are found along Meadow Way, Golf Green Road, and the southern side of Crossways. Each plot in the tandem arrangement is typically:

- 18-19m long
- 6.5-7.5m wide

Setbacks of buildings from plot boundaries are typically:

- 1m from side boundaries
- 3-4m from front boundaries
- 4-5m from rear boundaries.

Buildings are typically single storey, or 1.5 storey (room in the roof) with gable ends facing the road. Ground floors are typically raised around 0.25m from street level.

The area has pavements and front gardens and some plots have side gardens. The front plots are accessed directly from the street and some, but not all, have on-plot parking at the front or in a garage. The rear plots are accessed by shared driveways between the front plots - one driveway serves two rear plots. Rear plots typically have garages/carports or park cars in the space between the two front plots. There is typically some on-street parking as plot layouts rarely accommodate two cars per household.



Fig. 42. View between the tandem plots along Meadow Way



Fig. 43. Example of the relationship between the front and rear houses on the tandem plots

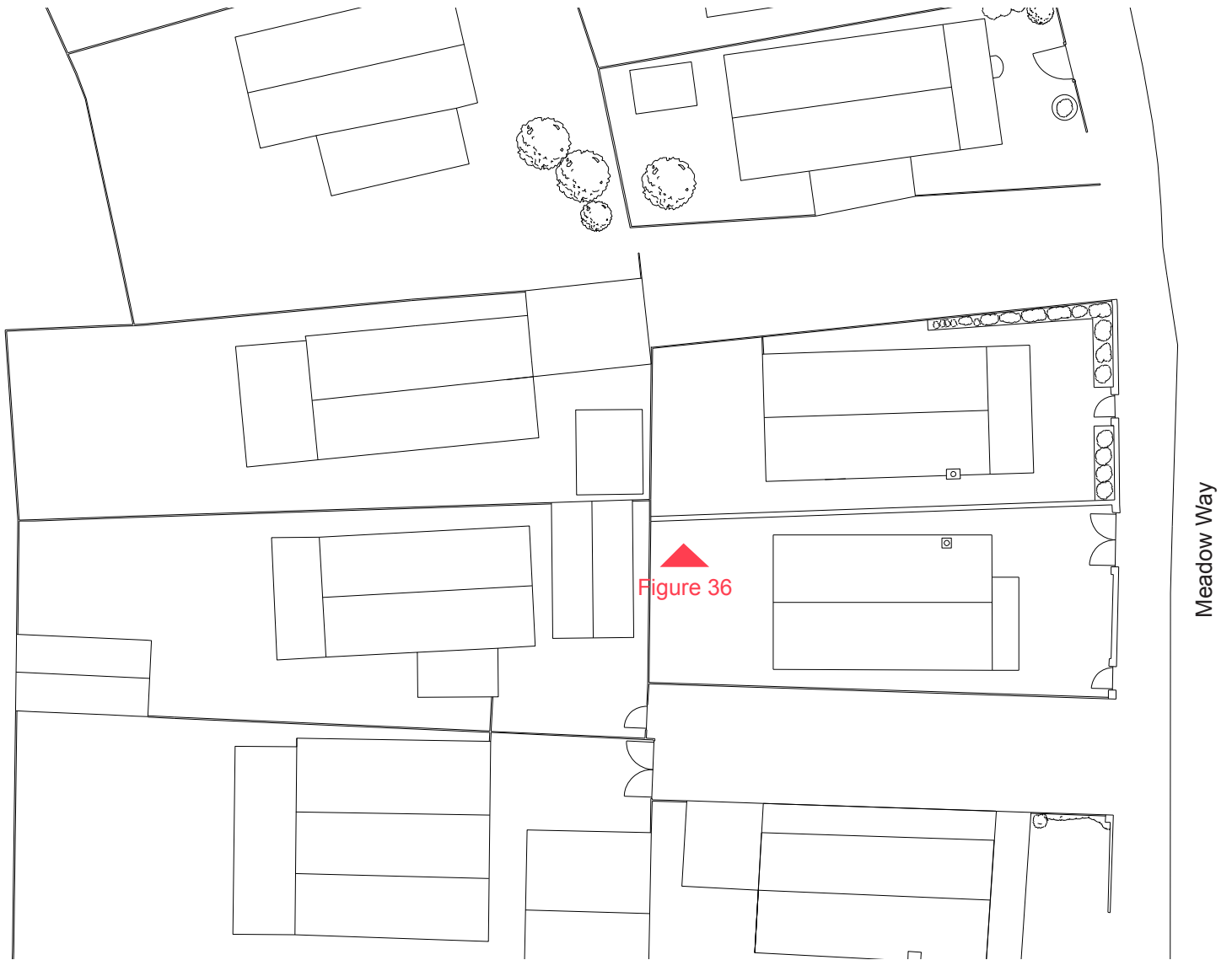


Fig. 45. Plan of typical Tandem plots

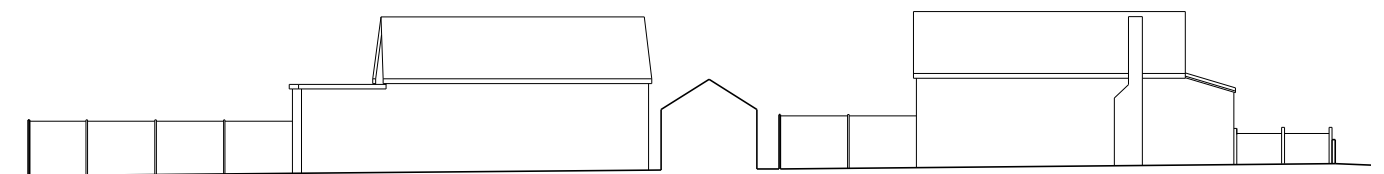


Fig. 44. Typical side elevation / cross-section of Tandem plots



2.4 Architectural character and detail

Jaywick Sands has an original and distinctive character which differs from other parts of Essex and indeed is notable nationally as it retains its plotland architecture.

Its uniqueness stems from the gridded layout and uniformity of scale across the community, in contrast to the almost limitless individuality of dwellings in their use of materials, colour, detail and architectural style. Although many started life as chalets from the catalogues of the plotlands development company, they have been heavily modified and in many cases almost entirely rebuilt in ways which represent the personalities of their owners. The recent over-cladding of many chalets in pebble-dashed render has had a negative effect on this variety, and redevelopment or replacement dwellings should be designed to restore the “charm of an indigenous vernacular”¹ which has been recognised as special to Jaywick Sands, while meeting the need for safe and flood resilient dwellings.

The generally north-south oriented street pattern allows sunlight down the narrow streets and ensures almost all terminate in a sea view. This orientation also assists in avoiding overshadowing of back gardens by buildings and as a result, although the sizes of the gardens are small, the amenity they offer is relatively high.

The original chalets typically have a linear or L-shaped plan and many were designed originally to have a sun-deck at roof level. Many of the chalets are raised above ground level on piers, which provides some protection from surface water flooding to property, but will not withstand tidal flooding. All the chalet dwellings were pitched roof - some models have mansard/gambrel type roofs with either gable or eaves to street - and this still strongly influences the character of Jaywick Sands. Larger homes exhibit varied architectural styles but the ‘chalet’ roof where the eaves line is below the head of the first floor windows, creating a 1.5 storey home, is the predominant type and highly characteristic of Jaywick Sands. Overhanging roofs, balconies and other whimsical flourishes are also typical.

Commercial buildings were originally in a 1930s seaside modernist architecture and some individual homes also adopted this aesthetic.

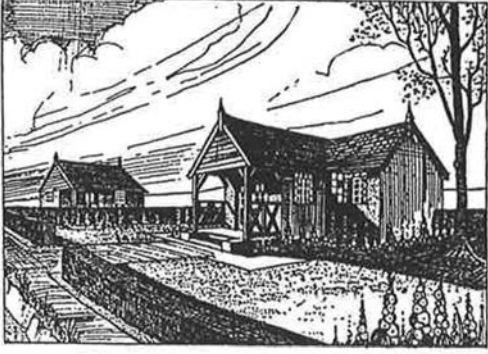
The marine environment is challenging for weathering and maintenance of external materials must be considered. A variety of materials are appropriate but render and the recent painted pebbledash has not aged well due to its monolithic nature. Timber and board cladding and brick are seen to have aged better.

2B: Sustaining local character and distinctiveness

- The distinctive gridded street pattern and plot pattern of Jaywick Sands should be maintained, including the primary north-south orientation of the streets.
- Developments of multiple homes should achieve variety and visual interest along the street. Groups of more than eight identical homes should be avoided. Custom build and custom finish should be considered to allow occupiers to individualise their properties.
- Pitched roof buildings should seek to use chalet roof forms to create ‘rooms in the roof’ where the eaves line is below the head of first floor windows, flat roofed designs may be appropriate if carefully designed, including parapet detailing.
- External materials should be resilient to the marine environment and easily maintained.

1 Colin Ward, *Arcadia for All*, p161 Page 114

Jaywick Sands Estate

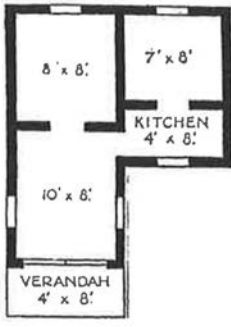


Type No. 4

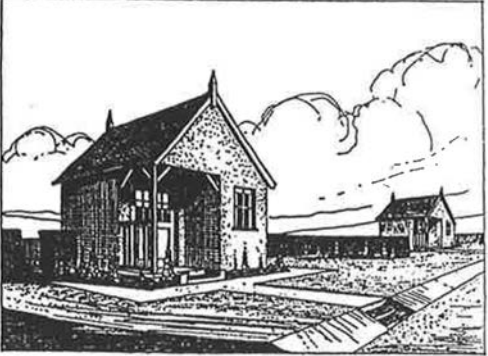
Price - £74
including concreting over site and complete erection. Rough-cast asbestos. Contains two bedrooms, sitting-room, kitchenette and verandah.

OR

Price built in brick £92



Jaywick Sands Estate



Type No. 3

Price - £52
including concreting over site and complete erection. Rough-cast asbestos. Contains two bedrooms, lounge and verandah.

OR

Price built in brick £66

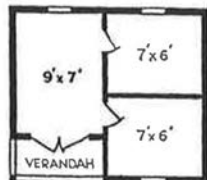


Fig. 46. Advertisements for the original chalets that could be purchased as kits to be erected on plots.

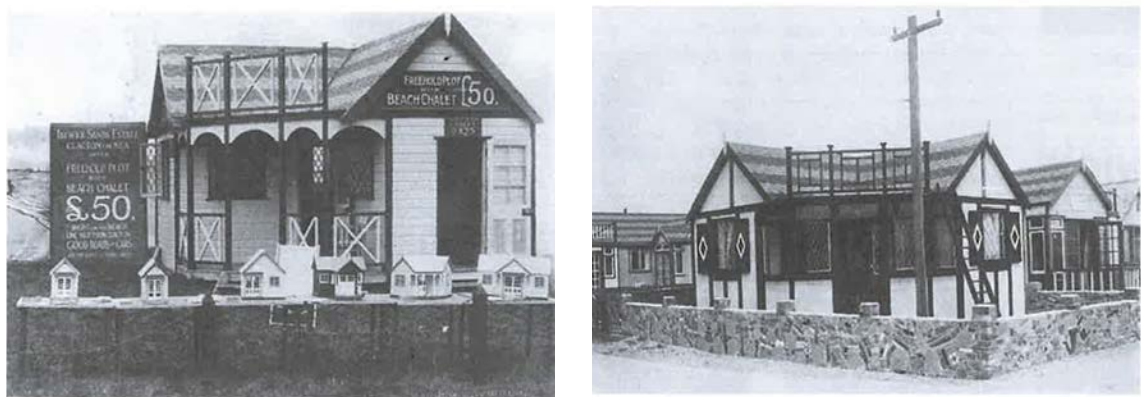


Fig. 47. 'Show chalets' exhibited for prospective purchasers to see.



Fig. 48. The original chalet forms can still be found but in these examples, the overcladding in pebbledash has removed much of their charm and detail.

Examples of positive and distinctive architecture in Jaywick Sands



Fig. 49. Simple single storey home with generous glazing



Fig. 50. Distinctive former estate office



Fig. 51. Articulated frontage using setbacks and relief



Fig. 53. Newer homes articulated with balconies to reduce visual impact of garages



Fig. 52. Decorative frontage with deep roof overhang



Fig. 54. Mansard/gambrel roof form typical to many Village homes



Fig. 55. Seafront home with generous glazing oriented to maximise sea views



Fig. 56. Seafront home with balcony set back in walled garden

Examples of new-build house design that could be suitable in Jaywick Sands



Fig. 57. Gable end to street with room in the roof



Fig. 58. Semi-detached gabled homes with varied materials



Fig. 59. Use of brickwork neatly detailed



Fig. 60. Simple extruded gabled form made distinctive by choice of cladding



Fig. 61. House raised slightly above ground level



Fig. 62. New self-build homes in Almere, Netherlands showing how variety can be achieved while regulating scale.

3. Designing flood safe buildings

Brooklands, Grasslands and the Village lie within Flood Zone 3 and therefore flooding issues represent a major consideration for the design of new development. Actual flood risk today includes flood depths of 500mm (0.5m) for some homes along the seafront in the (0.5% AEP), and rises to depths of 3m and above for the same AEP, taking into account climate change over the next 100 years. Not only the residential areas, but also the only road in and out of the settlement at present, are predicted to be severely inundated in both over-topping and breach scenarios, when climate change is taken into account.

It is therefore essential that new development - whether a replacement dwelling or more comprehensive schemes - is designed to an appropriate level of safety, flood resistance and flood resilience. It is also important to ensure that substandard homes which are not currently flood safe, can be rebuilt or replaced with on-plot with homes that offer a better standard of safety and quality. Tendring District Council has worked closely with the Environment Agency to establish this guidance regarding designing for betterment and flood safety.

Current standard of protection

In the 2015 Shoreline Management Plan (SMP), Jaywick Sands falls into Policy Development Zone C4. The SMP states that the short and medium term (epochs 1 and 2, up to 2055) policy is

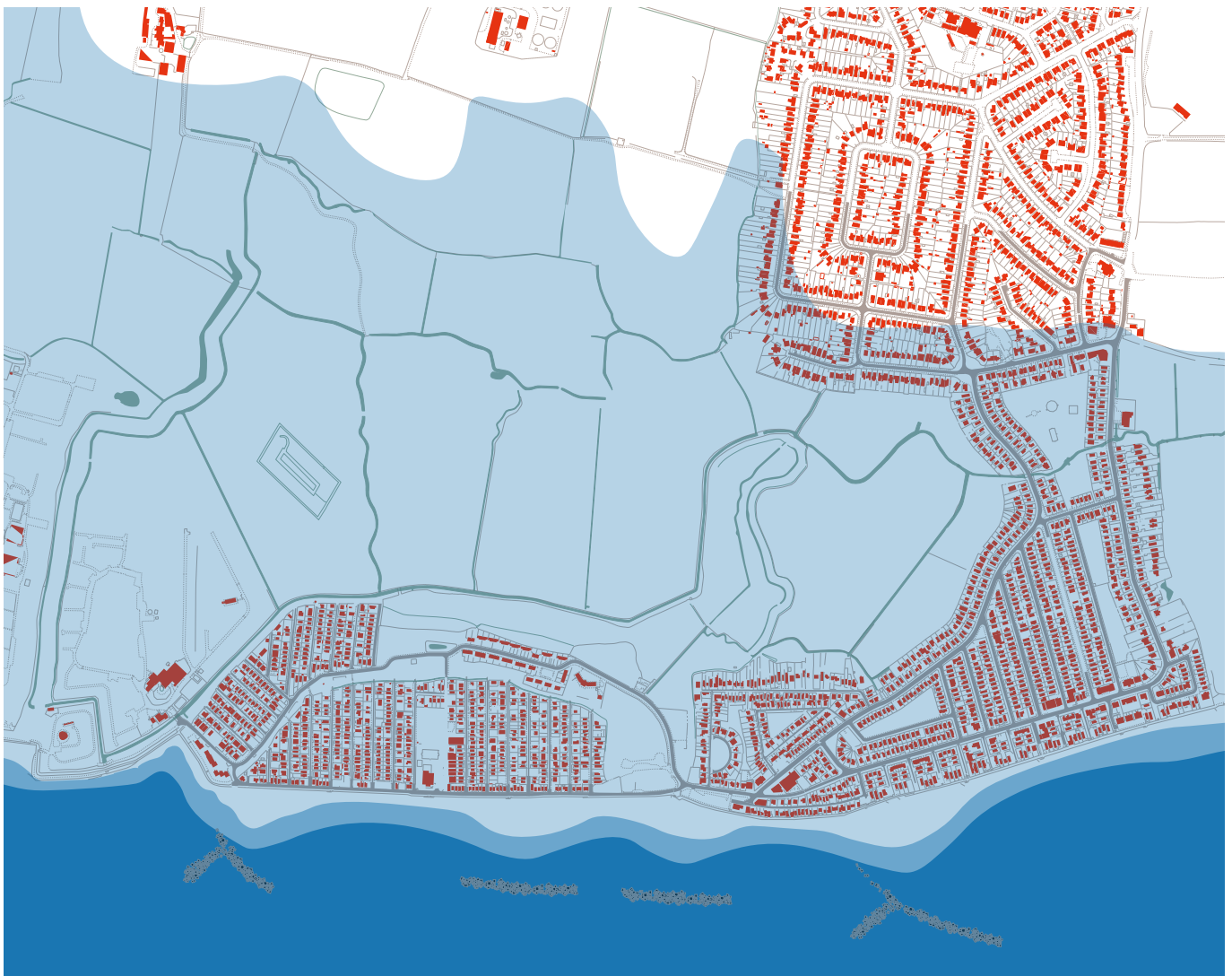


Fig. 63. Map showing flood extent in a 0.5% AEP + 100 years of climate change event (2122)

for Hold the Line, with a dual policy for epoch 3 (up to 2105) of Managed Realignment (breach of frontline defence after building landward defence) and Hold the Line, dependent on further work as part of the Local Development Framework.

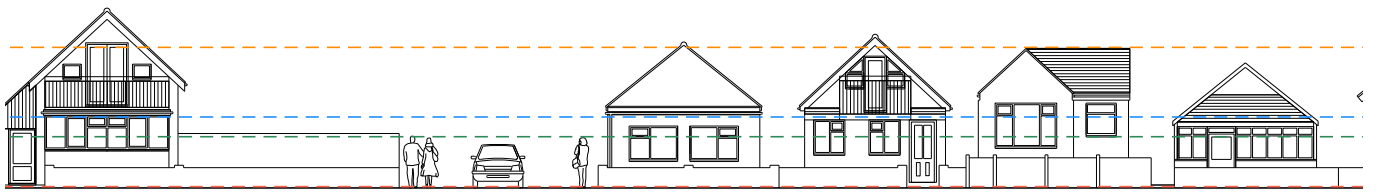
In late 2018, the Environment Agency indicated that they were recommending moving towards a full Hold the Line policy for epoch 3, however a revised Shoreline Management Plan has not yet been published. A Hold the Line policy would maintain defences to the current standard of protection - approximately equivalent to a 0.5% AEP event. Annual Exceedance Probability (AEP) is the expression of a likelihood of a flood event in a given year as a percentage.

Hold the Line is an aspirational policy within the SMP as no funding has yet been sought or allocated for maintaining defences to current standards. Its delivery will require continued partnership working, and significant partnership funding. While uncertainties regarding funding and viability exist, it is important that any new development is designed to be both resilient to flooding (should there be any delay to the delivery of improved coastal flood defences) as well as being safe for the future occupants.

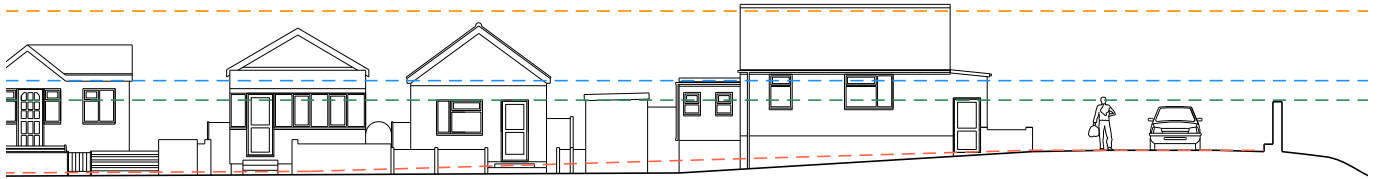
As the design life of the current defences is limited and sea level rise occurs continuously, there is significant actual risk of flooding today, which increases year on year. Sea level rise due to climate change means that, during the lifetime of a home built today, some areas of Jaywick Sands will see over 3m of floodwater above ground level if sea defences are not built higher. The primary risk is from over-topping of the sea wall, but breach events - similar to the 1953 flood,



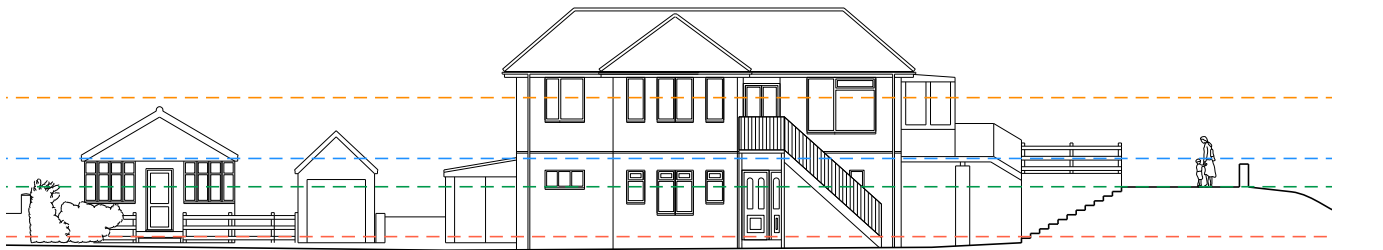
Fig. 64. Photograph of flooding along Golf Green Road in 1953.



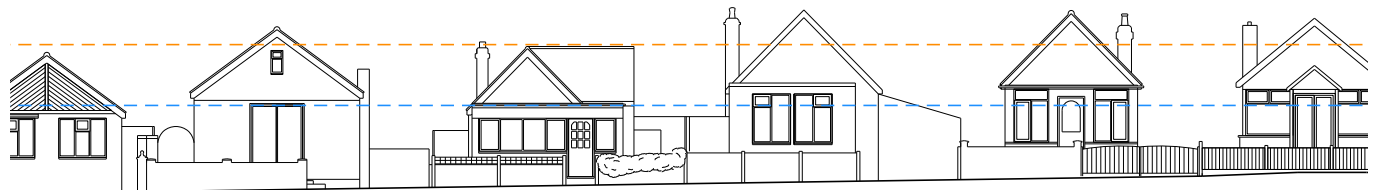
Brooklands seafront



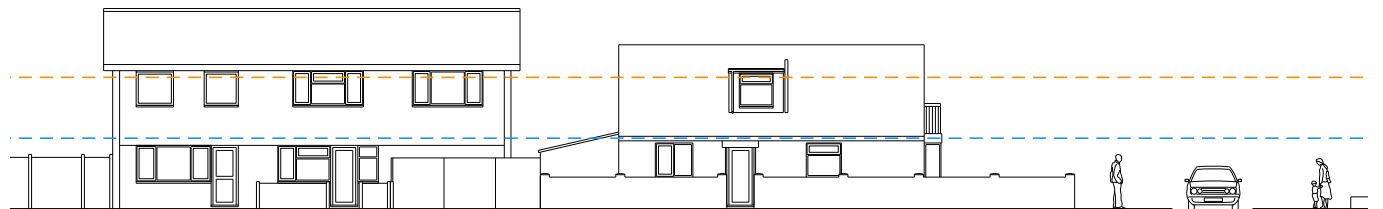
Brooklands north-south streets and cross-section through Brooklands seafront



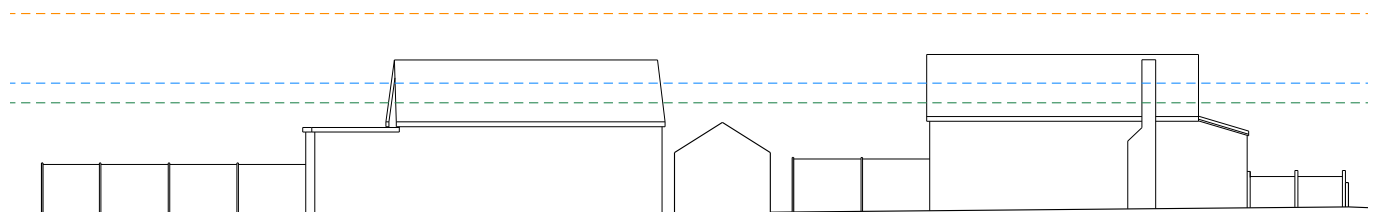
Village seafront



Village north-south streets.



Broadway (residential areas)



Tandem plots off Meadow Way



- | | | |
|-----|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Key | ----- Minimum internal ceiling height above refuge level (allowing 2.3m floor to ceiling height) | ----- Flood level - 0.5% AEP + 100 years of climate change + 300mm freeboard |
| | ----- Refuge level - 0.1% AEP + 100 years of climate change + 300mm 'freeboard' | ----- Flood level - 0.5% AEP |

Fig. 65. Indicative flood levels for different areas in Jaywick Sands (2022 baseline for present day AEP)

where the counterwall to the east of Jaywick Sands failed - could also result in similar levels of flood water. This represents a serious risk to life as well as to property, as in a breach scenario there is very little time to evacuate. Due to the topography of Jaywick Sands, flooding spreads quickly and to considerable depths once defences are overtopped or breached.

Developers of new homes, whether replacement dwellings or entirely new dwellings, must design in physical safeguards to ensure flood resilience, safe areas of refuge are provided, as well as putting in place robust emergency plans. Frontline defences do not assure residents that there will be no flooding in Jaywick Sands - they only reduce the risk, but flood events can still occur and when they do, the consequences will be severe.

Requirements of the National Planning Policy Framework

All new development within Flood Zone 3 should demonstrate that it has passed the sequential and the exception tests where required and as set out in the National Planning Policy Framework and Planning Practice Guidance: Flood Risk and Coastal Change. <https://www.gov.uk/guidance/flood-risk-and-coastal-change>.

The National Planning Policy Framework (paragraph 159) states that: “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

The sequential test is a method to test if a suitable alternative location for the development is available. The exception test is a method to test if a proposal will provide wider sustainability benefits to the community that outweigh the flood risk; and be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will



THE ESSEX BUNGALOW TOWN OF JAYWICK, NEAR CLACTON, AFTER THE SEA HAD SWEEPED OVER IT: 600 PEOPLE HAD TO TAKE REFUGE ON ROOFS AND SUN BALCONIES UNTIL THEY WERE RESCUED BY SMALL BOATS, AFTER THE FLOOD-WATER HAD SWIRLED INTO THEIR HOUSES; AND THIRTY-FOUR WERE ON FEB. 2 REPORTED DEAD.

Fig. 66. Chalets displaced in the aftermath of 1953 flooding.

reduce flood risk overall.

Both tests may need to be passed in order for the proposal to comply with the NPPF. Planning Practice Guidance sets out the process for applying the sequential and exception tests, in order to comply with the National Planning Policy Framework position. A guidance note has been published by Tendring District Council, advising on the application of the sequential and exception tests in the specific circumstances of Jaywick Sands¹.

It is the preferred approach of Tendring Council and the Environment Agency for new properties not to flood internally in a design flood event, given that it may be many years before the defences are renewed and raised. However, it is recognised that, due to the unusual plot pattern and land ownership in Jaywick Sands, replacing a single dwelling on-plot is highly challenging to achieve, without detrimental impacts on future residents and neighbouring occupiers. In effect this means that replacing existing individual dwellings on the smallest plots, if required to have all habitable space above the design flood level, would not be possible without consolidating multiple plots into a single property holding. This could act as a barrier to improving housing quality and flood resilience in Jaywick Sands and would therefore work against the aims of Policy PP14 of the Tendring Local Plan, and NPPF paragraphs 152, 153 and 161c.

The Environment Agency has indicated that a holding objection will not be raised for proposals in the areas of Jaywick Sands which lie within Flood Zone 3, if the following criteria are met in full by proposals.

3A: Designing for flood safety

- A site-specific Flood Risk Assessment must be submitted with all planning applications for new development
- Floor levels for habitable space in replacement dwellings must be higher than the floor levels of the property being replaced;
- Floor levels for habitable space should be set, if possible, above the design flood level of 0.5% AEP flood level plus lifetime climate change allowance and appropriate freeboard. If this is not possible without contravening the other design guidance within this SPD regarding parking, internal and external space standards, amenity, daylight, sunlight and overlooking, **and only in circumstances where the proposal results in no net increase in bedspaces on the site**, floor levels can be set so that internal flooding in a 0.5% AEP present day event would be no greater than 0.3m (the FD2320 matrix threshold for 'danger to some').
- Flood resistant and/or flood resilient construction measures (as appropriate) are used to minimise damage to the property in a flood event, and to allow the re-occupancy of the building quickly;
- A secure and accessible area of refuge is provided above the flood level of a 0.1% AEP event, plus the appropriate climate change allowance and freeboard;
- Buildings and their foundations are designed to withstand the hydrostatic and hydrodynamic pressures of flood water so that they will remain standing during flood conditions when refuge is relied on.
- An escape window or hatch is provided from the refuge level to facilitate communication with neighbours and emergency response authorities and to provide options for rescue should this become necessary. An external escape stair is not required.

¹ https://www.tendringdc.gov.uk/sites/default/files/documents/planning/Planning_Policy/TDC%20SequentialExceptionTest.pdf Page 122

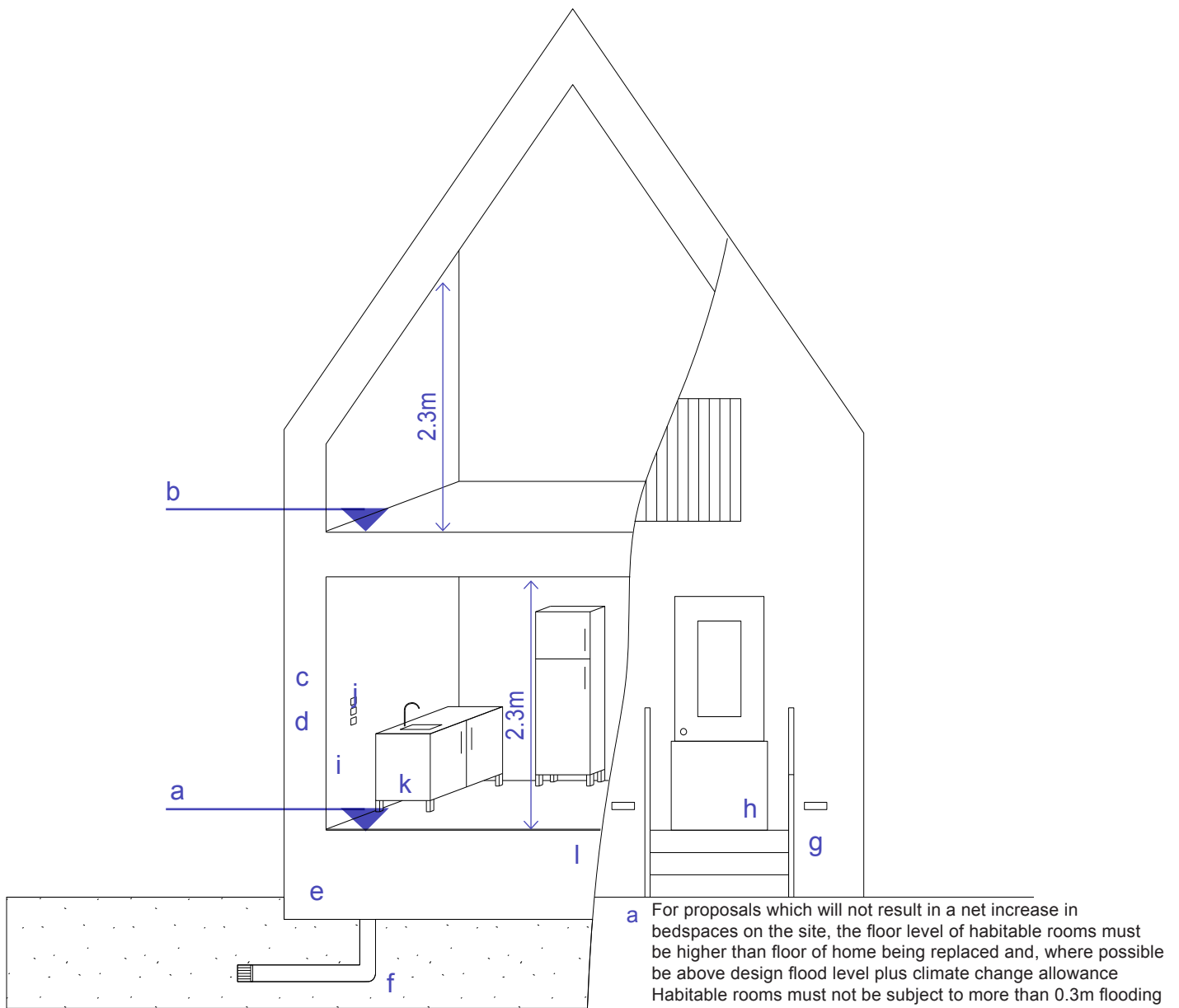


Fig. 67. Diagram of flood resilient design and construction

The diagram above shows the principles of flood resilient design and construction, and the requirements for floor and refuge levels as set out in this guidance.

More detailed guidance on flood resilient construction can be found at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7730/flood_performance.pdf

- a For proposals which will not result in a net increase in bedspaces on the site, the floor level of habitable rooms must be higher than floor of home being replaced and, where possible be above design flood level plus climate change allowance. Habitable rooms must not be subject to more than 0.3m flooding in a present day 0.5% AEP (design flood) event. Development which results in a net increase in bedspaces on the site must have all habitable space set above the lifetime design flood event - 0.5% AEP + 100 years climate change allowance + 300mm freeboard.
- b Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm freeboard
- c Masonry structure up to 0.5% AEP + 100 years climate change level (lifetime design flood event)
- d Closed cell insulation to masonry structure
- e Flood proof foundation design and structure able to withstand hydrostatic pressure from lifetime design flood event
- f One way valves in drains to stop sewage backflow into the home
- g Air brick covers
- h Door flood guards/flood barrier (only effective up to 600mm of floodwater above ground - for flooding above this level, water should be allowed to enter and flow through the home)
- i Water resistant internal lining materials up to 0.5% AEP + 100 years climate change level - e.g. magnesium oxide boards
- j Sockets and switches higher on the wall
- k Kitchen units made from water resilient materials and higher above floor

4. Massing, scale and building form

Jaywick Sands has a distinctive scale and massing of predominantly 1 and 1.5 storey (room in the roof) buildings. Taller buildings are only found along Broadway and in a few locations along the seafront.

The small plot sizes and the requirement to create a safe refuge space above the flood datum, mean that all new dwellings will be at least 1.5 storeys high above street level. Scale, massing and building form must therefore be very carefully considered to ensure adequate amenity and privacy for existing and new residents.

Key considerations for the siting, massing and scale of new development include:

- Creating usable and private outdoor amenity areas (garden, terrace, and/or balcony space) which enjoy an adequate amount of sunlight. Rear gardens become unusable and dark if they become too shallow, and new dwellings therefore need to be set back adequately from rear boundaries.
- Safeguarding the privacy of existing and new residents. First floor living areas or balconies significantly overlook neighbouring rear gardens, and internal rooms in neighbouring properties, in the high density layout of Jaywick Sands.
- Maintaining sunlight to existing private gardens. While the generally north-south street pattern helps introduce sunlight to rear gardens, seafront buildings can significantly overshadow gardens to their north. Steps in the general building line can also compromise sunlight to private amenity space of neighbouring dwellings.
- Back-to-back distances, and overall scale and massing, must ensure that internal spaces of existing and new dwellings receive adequate daylight and sunlight.
- Spaces between the side (flank) walls of buildings, and the property boundary becomes overgrown and litter-filled if it is not wide enough to allow for easy access and maintenance.



Fig. 68. View of green space in the Village character area

4A: Building footprint

Front setbacks

- Dwelling frontages should maintain the general building line along frontages facing the street, or facing the landscape to the rear of tandem plots. Small steps in the frontage line, up to 1.5m forward or back from the line of frontages either side, will be permitted subject to other design considerations. Massing which steps out beyond the building line at the rear of plots must demonstrate that it does not compromise sunlight to adjacent private amenity spaces.
- Development on corner plots can extend beyond the general building line up to the pavement edge on the side frontage to avoid unmaintained open space within the building curtilage.

Side setbacks

- Dwellings can be built hard up against the property boundary line (i.e. creating a party wall condition, where the side walls can have no windows and can only be maintained by access from the neighbouring property.)
- However, if dwellings are not to create a party wall condition, a minimum gap of 1m must be created between the inside face of the boundary wall or fence, and the side of the building, to allow for maintenance access to the side wall.

Rear setbacks

- Setbacks from the rear boundary (and in the case of corner plots, both boundaries to adjacent plots) should be a minimum of 4m. Where new development creates living spaces or balconies on upper floors which will overlook the private gardens of neighbouring properties, the building line should be set back from the rear boundary by a minimum of 15m as recommended by the Essex Design Guide.

4B: Scale and massing

- Building scale and massing must be designed to allow at least 50% of the private or communal garden space, for new and existing dwellings, to receive at least 2 hours of sunlight on 21 March. For existing dwellings this standard may already not be met. In this case new development should not worsen the existing level of sunlight received.
- New development across multiple plots creating apartments or maisonettes may be permitted up to 4 storeys, subject to other design considerations. Taller development must ensure that existing dwellings and private gardens receive adequate daylight and sunlight, and that their privacy is safeguarded. This should be evidenced by sunpath modelling based on measured topographic survey information. Alternatively the 25° rule of thumb can be utilised.
- For this reason, 4-storey development is unlikely to be acceptable except on the Village seafront or Broadway, unless comprehensive development of a full block is proposed.
- Balconies are not permitted to the rear of buildings, unless they are a minimum of 15m from facing properties, to safeguard the privacy of existing private gardens. Balconies are not permitted to extend more than 1.5m beyond the line of the building frontages to either side of the development plot, and may not overhang the pavement.

5. Streetscape and parking

Jaywick Sands has a distinctive pattern of gridded streets, many of which are narrow. Creating active and attractive street frontages is key to maintaining and enhancing the quality and character of the area, as well as creating natural surveillance and a sense of safety.

On-street parking on most streets narrows the carriageway and has a negative impact on pedestrian and cyclist safety, smooth flow of traffic including buses, safe access for emergency vehicles, and the visual appearance of the street. All parking should therefore be provided off-street and to the ratios stated in 5B.

Boundary treatments in Jaywick Sands are varied and are a significant factor for both safety and visual appearance. Typically plots in Jaywick Sands had visually permeable boundary treatments such as post and rail fencing, picket fencing, or railings. In many cases no boundary fence at all was created at the front of properties. New boundary treatments should create a safe and attractive frontage which maximises natural surveillance of the street from front windows while providing adequate screening and privacy, and which reinforces the character of the settlement. Boundary treatments along the pathways leading up to the seafront promenade in the Village are particularly important.

5A: Creating safe and attractive streets

- Detached and terraced houses can include ground floor garages or carports accessed from the street but must also have front doors facing the street.
- 'Half in half out' parking spaces are not acceptable. Garages or carports must be sited so that a vehicle can wait safely off the street while opening garages, except on Brooklands plots where the front door of the garage is less than 2m from the rear of the footway.
- Apartment buildings must have active ground floors and rows of garages facing the street are not acceptable. Parking should preferably be provided at the rear of the building and front doors and communal or private living areas should front the street to ensure active frontages and natural surveillance of the street.
- Waste storage within dedicated enclosures must be provided. It is acceptable for waste bins to be kept to the rear of dwellings and brought out for collection.
- Boundary treatments to streets and greens should comprise low fences, walls or hedges facing the street (not over 1.1m in height). Close boarded fences to boundaries to the public realm do not create an acceptable environment.

5B: Vehicle and cycle parking standards

- Car parking for proposals which will not result in a net increase in bedspaces on the site, can be provided at the following minimum ratios: 1 space for 1 or 2-bedroom unit; 2 spaces for 3/4 bedroom unit.
- Car parking for development which will result in a net increase in bedspaces on the site, to meet full Essex Parking Standards including unallocated/visitor parking.
- Secure dedicated cycle storage must be provided, which could be in the form of a cycle hangar or cycle garage, and should include electric bike charging facilities, in line with the Essex Design Guide and Essex Parking Standards.
- All new dwellings to be equipped with an electric car charging point.



Fig. 69.
 Left: Boundary treatment which does not have a positive impact on the public realm.
 Right. Appropriate and positive boundary treatment.



Fig. 70. Boundary treatments to the Greens comprise both 'front' and 'back' conditions. Ensuring all are high quality as well as secure, will enhance these public green spaces and their safety.



Fig. 71. Boundary treatments leading up to the seafront promenade should create a safe and welcoming gateway to the seafront.

6. Internal and external space standards

Existing homes in Jaywick Sands, particularly within Brooklands and Grasslands, are very small and overcrowded, with 94% of homes within the worst areas being officially overcrowded, defined as having insufficient space to meet the household's needs. Overcrowding impacts residents' physical and mental health; the ability of children to study, and family relationships.

The level of overcrowding in Jaywick Sands contributes to its poor ranking in the national Index of Deprivation and a key policy goal for Tendring District Council and stakeholder partners is to reduce the level of deprivation experienced by the community. Replacing substandard, cramped accommodation with better quality homes is an important part of achieving this aim.

The dimensions of the smallest plots require careful planning in order to accommodate replacement homes which provide good quality internal and external space as well as a flood safe design. However, even the smallest plots can accommodate a 1 bedroom home which meets the Nationally Described Space Standards, alongside a reasonable provision of external amenity space, and therefore there is no requirement to relax these standards in order to secure good quality dwellings to replace existing substandard homes.

6A: Internal space standards

- No relaxation on Nationally Described Space Standards for minimum internal areas or floor-to-ceiling heights.

External private amenity space to existing dwellings is limited by the small plot sizes and ad hoc extension of dwellings which has encroached on rear gardens. There is also an underprovision of public open green space, particularly in Brooklands and Grasslands. A lack of adequate external space impacts residents' health and wellbeing and as there is little mitigating provision of communal or public open space, it is important that sufficient private amenity space is provided for all dwellings, proportionately to the occupancy of the dwelling.

The Tendring Local Plan states that private amenity space must be provided of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and the character of the area. The Essex Design Guide suggests that 40-50m² may be appropriate for one or two-bedroom homes in medium density areas, and 25m² as a small walled yard for homes in high density areas.

In Jaywick Sands, due to the density, scale and layout of plots, it is reasonable that relatively low levels of private amenity space may be provided for smaller dwellings, but this should be safeguarded through withdrawing Permitted Development rights to extend the dwelling.

If dwellings are not designated as unextendable, amenity space should be provided in line with the Essex Design Guide standards for size, layout, sunlight and overlooking of amenity space. This may mean that the number of bedrooms per home is limited by the size of the overall development plot.

6B: External private amenity space

- The following minimum size of private external amenity space must be provided where homes are designated as unextendable through withdrawal of Permitted Development rights:
 - One bedroom homes - 25m² private amenity space
 - Two bedroom homes - 40m² private amenity space.
 - Three or more bedroom homes - 75m² private amenity space
 - For flats, a minimum of 5m² private balcony space must be provided, along with private shared amenity space to Essex Design Guide standards (a minimum of 25m² per dwelling)
- If new homes are not designated as unextendable, Essex Design Guide standards for the provision of private garden space apply.
- Private amenity space must be provided in a single area, not divided between front and back gardens, and must have adequate privacy, daylight and sunlight. Balconies from upper floor flats must not overlook private amenity space to maisonettes below.

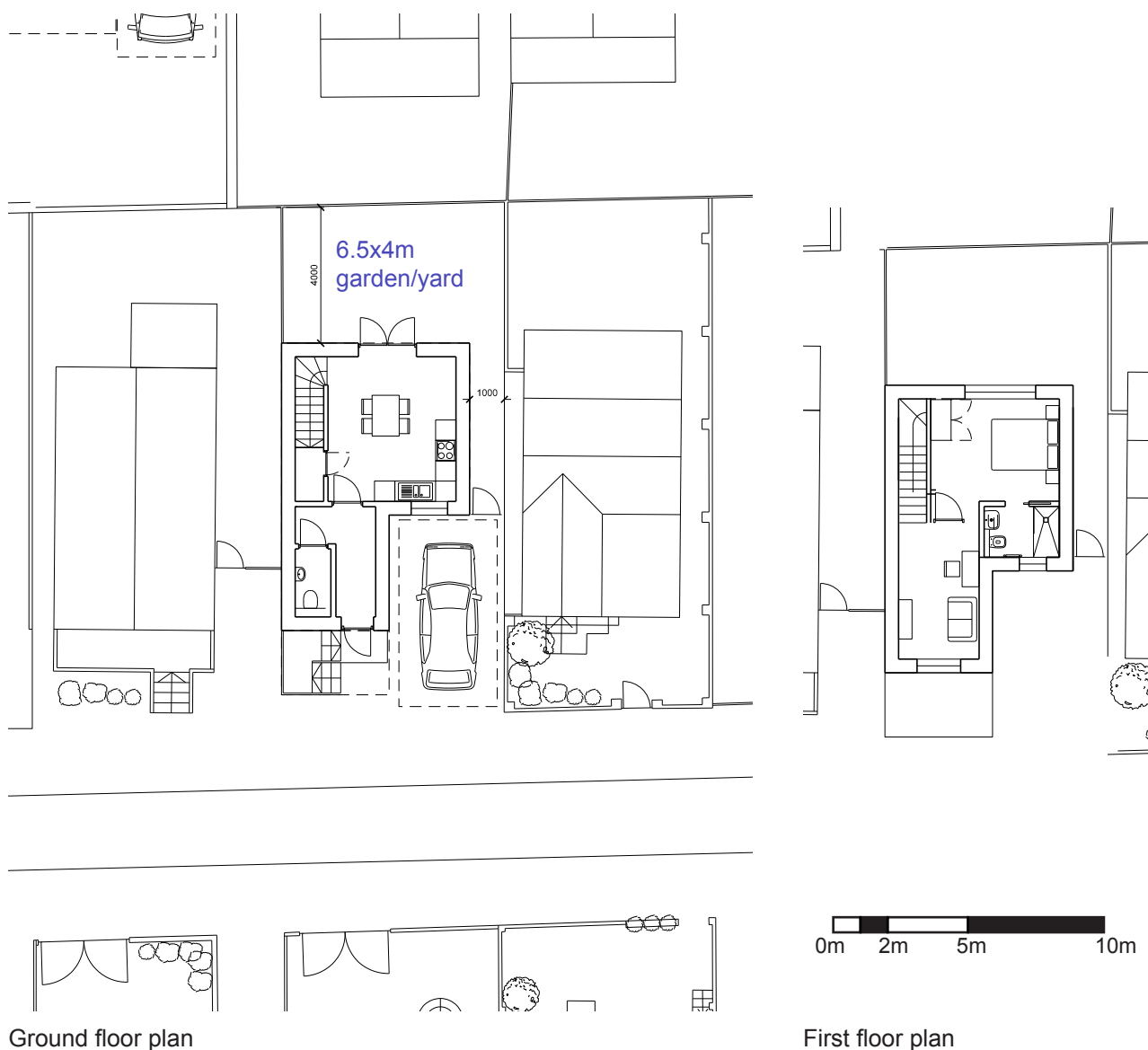


Fig. 72. Sample 1 bedroom house plan on small Brooklands plot, demonstrating compliance with internal and external space standards as a **Page 129** compliance within this SPD

7. Accessibility

Jaywick Sands has a high proportion of people in poor health, disabled people and families among its residents. Brooklands and Grasslands residents experience rates of poor health almost five times higher than the national average (2011 census data). Brooklands has the highest proportion of households with children out of all the Jaywick neighbourhoods, despite having the smallest homes and a high proportion of households with children are single-parent families (2011 census data). Ensuring homes are designed suitably for all users is important to meeting the needs of local residents and maintaining a balanced and stable community. Policy SPL3 in the Tendring Local Plan requires that “the design and layout of the development maintains and/or provides safe and convenient access for people with mobility impairments”

External access stairs, of more than a small number of risers, do not provide this in the exposed marine environment of Jaywick Sands. They are not suitable for people with limited mobility; for small children or for those carrying car seats or children in their arms. External access stairs also do not permit parents or carers to safely place children at the doorstep while unlocking doors. When used to access private garden space, external stairs do not encourage parents to allow children to access gardens independently and play outside unsupervised, with the consequent health and wellbeing benefits.

The design and construction of external access stairs is very important. External access stairs constructed with open risers present a risk to babies and young children who may trap limbs. Steps with metal treads and handrails can easily become slippery in rain and icy in cold weather. Metal handrails can become extremely hot or cold to the touch, causing discomfort and in some instances injury.

It is therefore important that new and replacement dwellings do not rely on long flights of external access stairs as the primary access to the front doors of dwellings, nor as the only access from habitable rooms to private gardens, and that external stairs are suitably designed.

Policy LP3 in the Tendring Local Plan states “On housing developments of 10 or more dwellings, 10% of market housing should be to Building Regulations Part M4(2) ‘adaptable and accessible’ standard. For affordable homes, 10% should be to Building Regulations Part M4(2) and 5% should be to Part M4(3) ‘wheelchair-user’ standards.” Where required to meet this standard, internal lift access must be provided to the entrance level of dwellings in order to satisfy the requirement for living space to be located on the entrance level.

7A: Access to front doors and habitable spaces from ground level

- External access stairs should not be the means of access to the external entrance door to a dwelling or block of dwellings, unless they consist of 6 risers or fewer.
- External access stairs should be constructed from suitable, non-slip materials and avoid open risers, uncoated metal handrails and use of metal for treads.
- External access stairs should not be the only means of access from the primary living spaces of a dwelling, to its private garden or yard space, unless they consist of 6 risers or fewer.
- For developments where a proportion of M4(2) or M4(3) dwellings is required to meet policy LP3 of the Tendring Local Plan, internal lift access should be provided to the entrance level of dwellings where habitable space is required to be raised above ground level.

8. Climate change and biodiversity

Tendring District Council has declared a climate emergency and national government also requires all areas to achieve net zero carbon by 2050. Ensuring new development limits its climate impacts from construction and in-use is a key part of achieving the aim of mitigating climate change and transitioning to net zero carbon. Households in Jaywick Sands experience high levels of fuel poverty, with 29% of households in Brooklands and Grasslands fuel poor, so ensuring energy efficient homes is a key aim in reducing deprivation in the community.

National planning policy and the Tendring Local Plan require new development to minimise the production of greenhouse gases and all new residential development to be fitted with electric vehicle charging points and, where appropriate, roof solar panels. Applicants should consider climate change adaptation measures and technology from the outset including reduction of emissions, renewable and low carbon, passive design and green infrastructure techniques. Minimising overheating is a particular priority for small homes, and passive design techniques, including orientation and external shading of windows and cross-ventilation, must be used to avoid the need for artificial cooling.

Development in Jaywick Sands should also ensure that surface water drainage is adequately considered to avoid worsening existing issues with surface water drainage. The ground conditions in Jaywick Sands do not generally permit the use of soakaways, so on-plot attenuation must be used with permeable surfaces to avoid rainwater run-off onto streets and footways, or into mains drainage. Essex Country Council are the Lead Local Flood Authority responsible for surface water management and are advised by the Essex Climate Action Commission (ECAC). They should be consulted on all development proposals.

Jaywick Sands is adjacent to a designated Local Wildlife Site and exhibits good biodiversity, in particular with high levels of invertebrates, bats and an exceptional number of house sparrows as well as reptiles on undeveloped land. All bats and their roosts are legally protected, so appropriate levels of survey will be required to confirm if bats are present, prior to any demolition. Restrictions on the timing and methods of work, and requirements for mitigation and enhancement, will depend on the outcomes of survey work. House sparrow nests, as with all birds, are protected against damage or destruction while in use, so appropriate mitigation must be provided. On larger developments, the requirement for biodiversity net gain will apply.



Fig. 73. View of the Village seafront

8A: Design for climate change adaptation and mitigation

- New development should demonstrate that it has been designed to limit overheating through use of passive environmental design.
- Roof mounted photovoltaic and solar thermal panels are encouraged. New development must avoid overshadowing onto existing solar panels.

8B: Design for water management

- All surface water drainage must be retained and drained away on-site. Surface water entering mains drainage must be limited to 1-year greenfield rates, or 1 litre/second, whichever is greater. Development must have regard to the Essex SuDS Design Guide when designing sustainable drainage systems.
- Development should incorporate rainwater harvesting and grey-water recycling where possible

8C: Design for biodiversity

- All proposals involving the demolition of existing structures must be accompanied by bat survey reports and, if required, proposals to mitigate loss of roosting sites.
- All proposals involving the demolition of existing structures must either demonstrate through surveys that no bird nesting sites will be disturbed, or if a survey is not provided, must provide a minimum of one house sparrow terrace as mitigation for likely nesting sites, and will be subject to a general condition that no demolition works can take place within house sparrow nesting season.
- All proposals must enhance biodiversity within the site, and this can be achieved through providing two of the following: bat box; house sparrow terrace; bee brick.
- Developers must demonstrate that plant species are appropriate for the coastal climate, support invertebrates, and are climate change resilient.



Fig. 74. View of Jaywick Sands in its landscape setting

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2011 Census. Office for National Statistics (2012): 2011 Census data. All of the data files and supporting documents for the English Indices of Deprivation 2019 are available from <https://www.ons.gov.uk/census>

2019 IODM. Office for National Statistics (2021): 2019 IODM data. All of the data files and supporting documents for the English Indices of Deprivation 2019 are available from: www.gov.uk/government/statistics/english-indices-of-deprivation-2019.

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Jaywick Sands Design Guide Supplementary Planning Document

Appendix: Worked examples of application of design guidance

January 2023

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About this appendix

This appendix demonstrates how the Jaywick Sands Design Guide would be applied in practice, by showing worked examples of house designs for replacement dwellings in a range of configuration and plot types.

Worked examples A-J are designed to the standards for betterment in cases where no net increase in bedspaces is proposed. Habitable space is therefore accepted below the 0.5% AEP + climate change + freeboard level, but must not be at risk of internal flooding of more than 0.3m in a present day 0.5% AEP scenario. In all cases habitable floor levels must be set higher than the floor levels of the home being replaced, and refuge space must be created above the 0.1% AEP plus climate change plus freeboard level.

The final worked examples show notional potential approaches for more comprehensive development of a group of plots, with a potential increase in bedspaces. In these scenarios, all habitable floorspace must be above the design flood event level of 0.5% AEP plus an allowance for lifetime climate change (100 years) and the appropriate freeboard (typically 300mm). More onerous requirements are also placed on this form of comprehensive redevelopment with regard to parking and amenity space standards.

Flood resilient construction measures are required for developments in areas of flood risk. The principles of flood resilient design appropriate to a typical dwelling are shown on Fig. 67 of the main SPD document. Flood resilient construction measures must be integrated with the spatial and other requirements listed in the worked examples.

1. Brooklands/Grassland plots

Typical Brooklands and Grasslands plots are very small and therefore pose the greatest challenges in designing compliant replacement dwellings. The small plot size makes privacy, daylight and sunlight, and parking challenging, and Brooklands also has the highest predicted present day flood risk for a 0.5% AEP event. This means that habitable floor levels need to be raised up as much as 0.5m in some places in order to avoid more than 300mm of internal flooding.

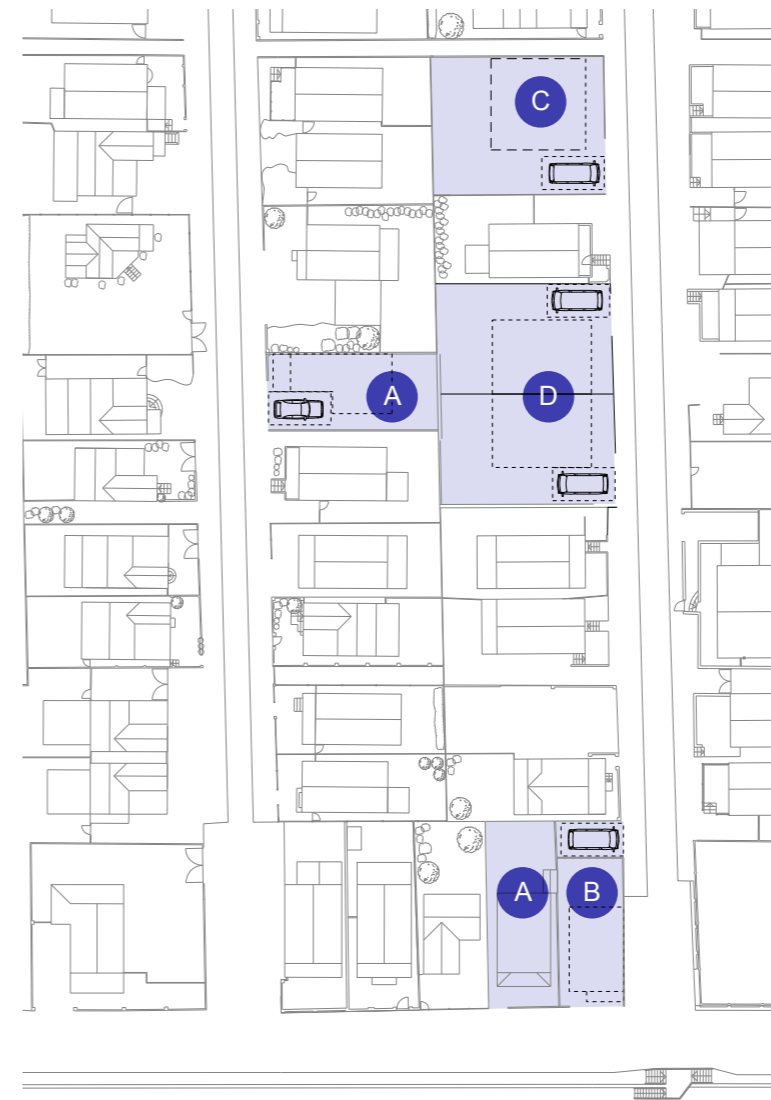
Achieving large gardens is restricted by plot sizes so where a one-bedroom home is replaced with another one-bedroom home, a minimum of 25m² private rear amenity space will be accepted.

Typical plots on north-south streets - primary design constraints

- Car parking must be accommodated on-plot in either a garage, carport or an uncovered parking space. Due to the small size of plots it will be acceptable for garages and carports not to have a full waiting area in front so long as the front of the garage or carport is less than 2.5m from the back of pavement as this will dissuade inappropriate parking that blocks the footway.
- To ensure daylight and sunlight to existing homes and gardens, unless multiple plots are consolidated for comprehensive redevelopment, new homes must be a maximum of 1.5 storeys.
- Eaves levels must be kept as low as possible to ensure new dwellings relate successfully in scale to existing homes.

Seafront plots - primary design considerations

- Scale of existing homes along seafront, and plot depths, are small. To avoid visual discontinuity and to ensure adequate daylight to existing gardens north of the seafront plots, new dwellings will be limited to 1.5 storeys.
- Taller development could be acceptable if a larger parcel of plots is acquired and developed, allowing more space to the rear of seafront homes and adequate distance from the nearest adjacent garden.
- Parking must be accommodated on-plot and where possible, should be accessed from the side street, not Brooklands.



- A: One-bedroom replacement dwelling on a single plot
- B: One-bedroom replacement dwelling on a seafront corner plot
- C: Two plots combined, two one-bedroom homes replaced with one two-bedroom (four bedspace) home
- D: Three plots combined, three one-bedroom homes replaced with two two-bedroom (three bedspace) homes

Fig. 1. Plan showing indicative locations for worked example layouts
Scale 1:500

A: One-bedroom replacement dwelling on a single plot

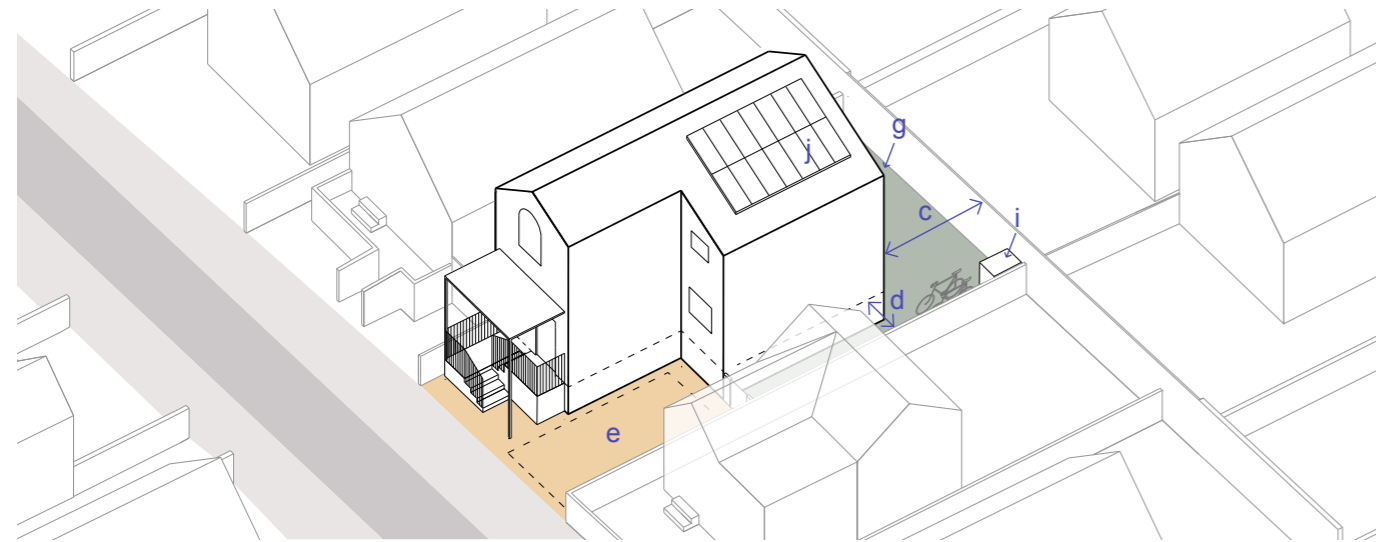


Fig. 2. Isometric view

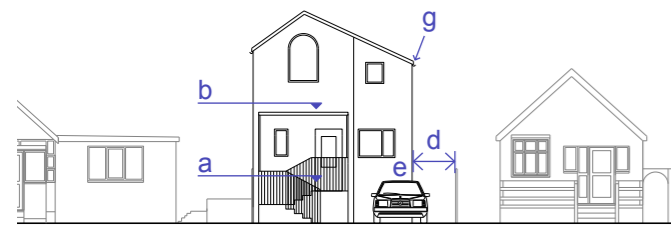


Fig. 3. Front elevation

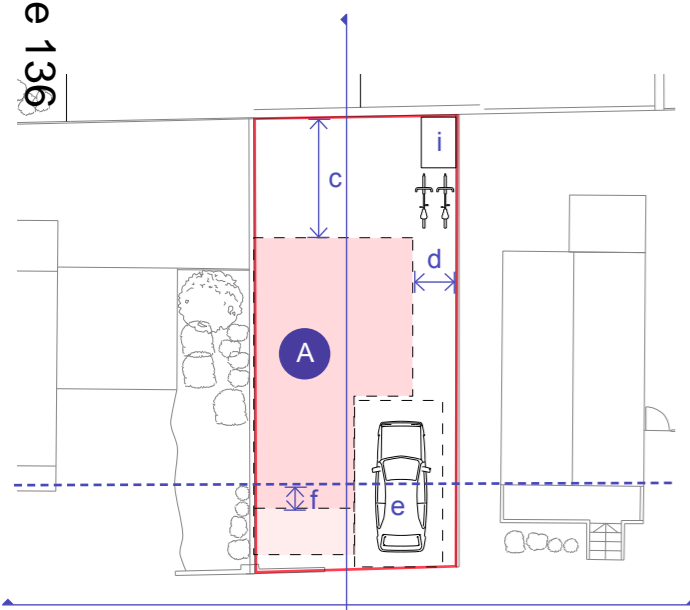


Fig. 4. Plan

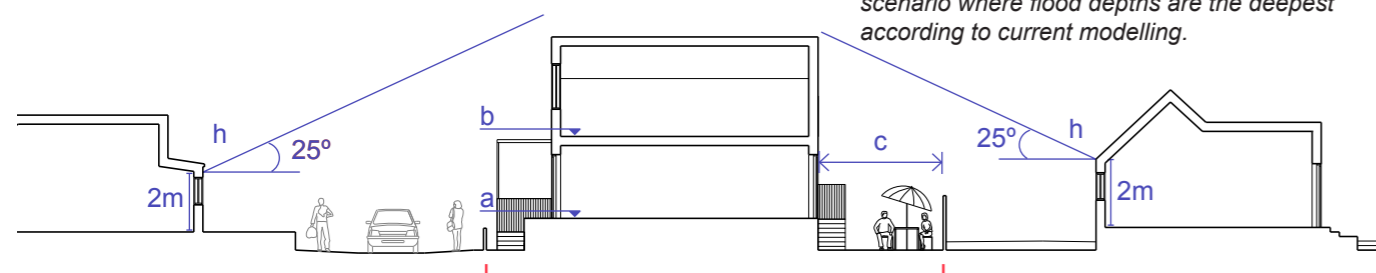


Fig. 5. Cross-section

- Plot boundary
- Parking/external circulation
- Notional building footprint
- Private amenity space

- a** Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
- b** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
- c** 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 25m² of private yard/garden to be provided.
- d** 1m setback from side boundary unless party wall is created.
- e** Parking on-plot - 2.9x5.5 minimum parking bay size.
- f** Maintain building line to within 1.5m forward or back from the line of frontages either side.
- g** Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.
- h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.
- i** Refuse and cycle storage.
- j** Use roof for photovoltaic or solar thermal panels.

This example shows a notional worst case scenario where flood depths are the deepest according to current modelling.

B: One-bedroom replacement dwellings on seafront corner plot

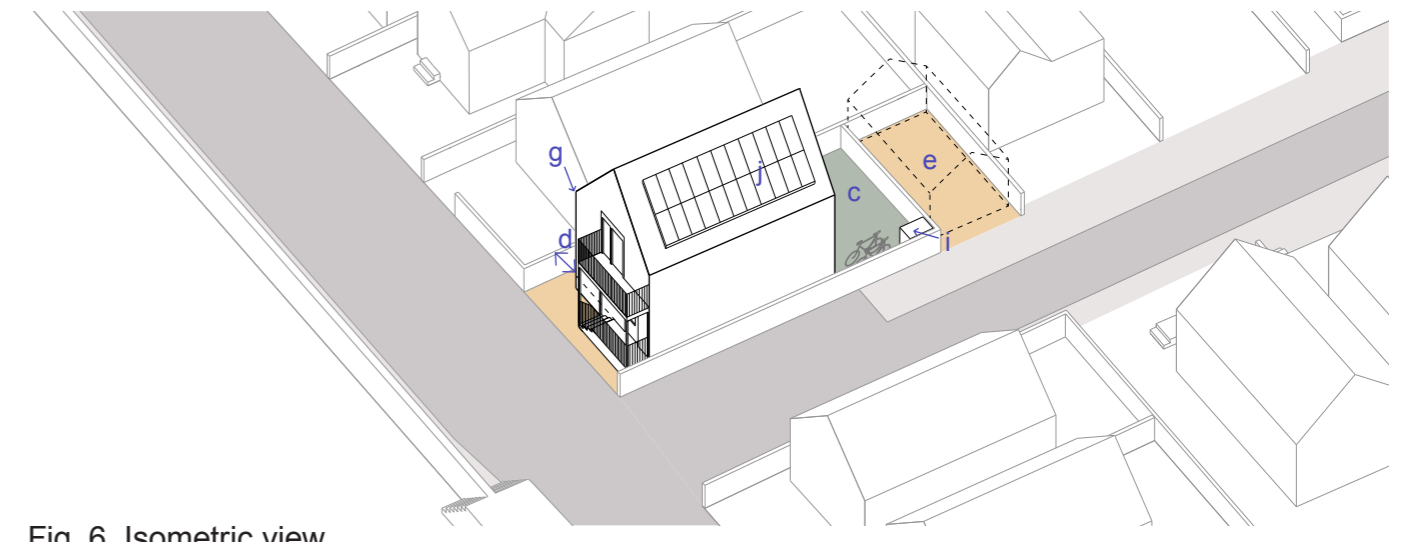


Fig. 6. Isometric view

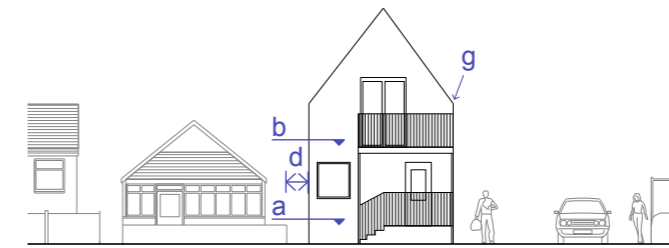


Fig. 7. Front elevation

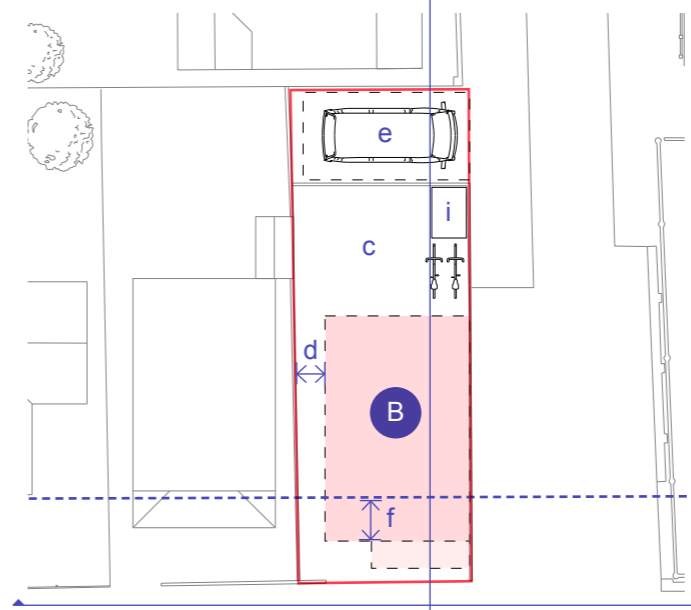


Fig. 8. Plan

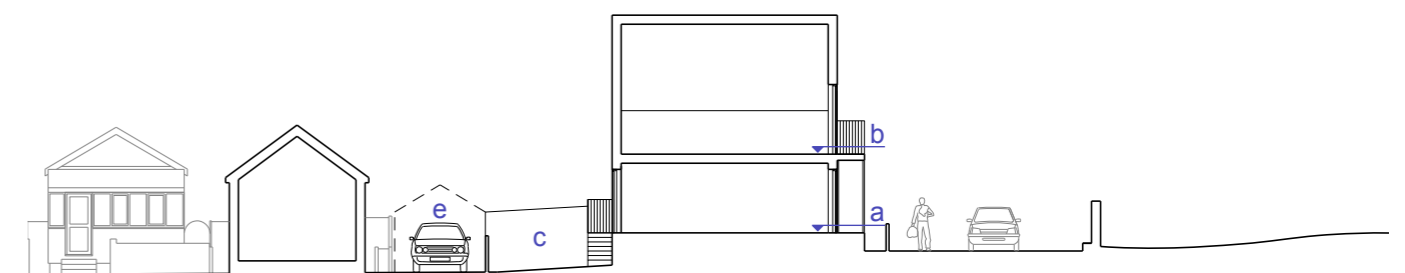


Fig. 9. Cross-section

- Plot boundary
- Parking/external circulation
- Notional building footprint
- Private amenity space

- a** Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
- b** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
- c** 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 25m² of private yard/garden to be provided.
- d** 1m setback from side boundary unless party wall is created.
- e** Parking on-plot and accessed from side street - 2.9x5.5 minimum parking bay size.
- f** Maintain building line to within 1.5m forward or back from the line of frontages either side.
- g** Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.
- h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.
- i** Refuse and cycle storage.
- j** Use roof for photovoltaic or solar thermal panels.

0m 2m 5m 10m

C: 2 plots combined, 2 one-bedroom homes replaced with 1 two-bedroom (four bedspace) home.

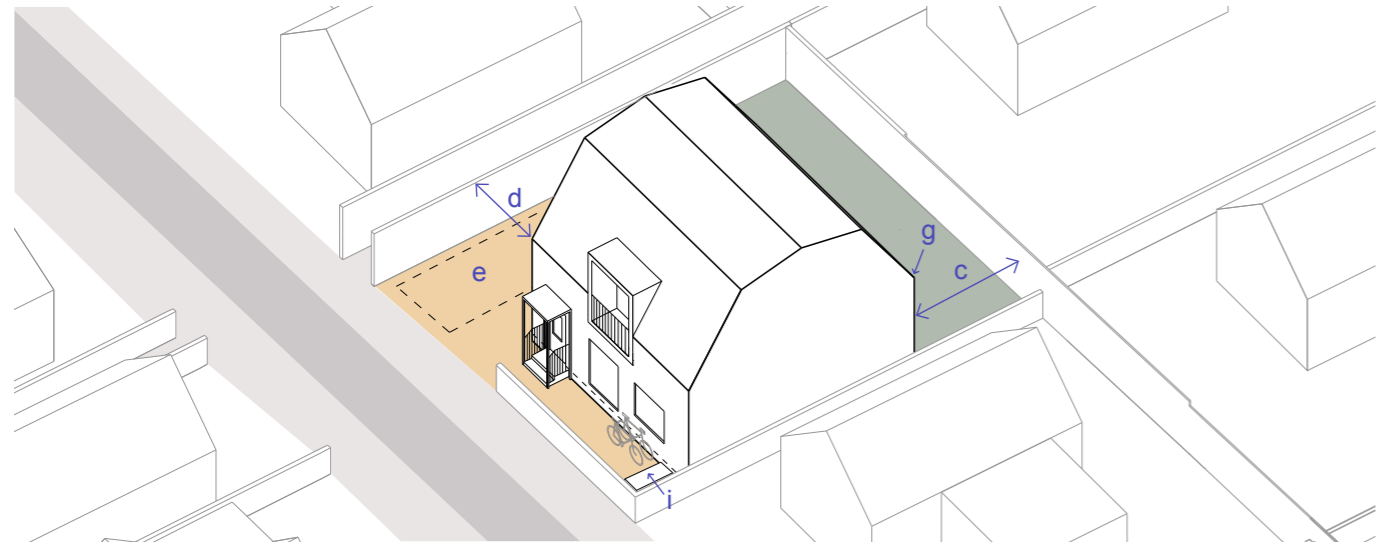


Fig. 10. Isometric view



a Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.

b Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.

c 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 40m² of private garden to be provided for a two bedroom home.

d 1m setback from side boundary unless party wall is created.

e Parking on-plot - 2.9x5.5 minimum parking bay size.

f Maintain building line to within 1.5m forward or back from the line of frontages either side.

g Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.

h 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.

i Refuse and cycle storage.

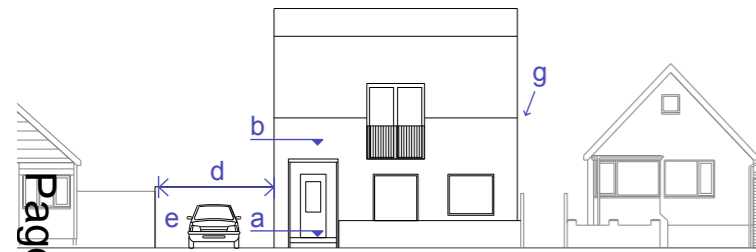


Fig. 11. Front elevation

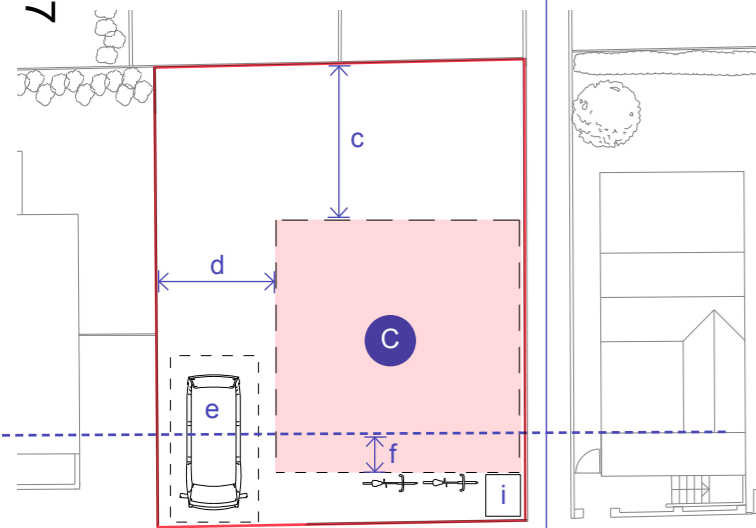


Fig. 12. Plan

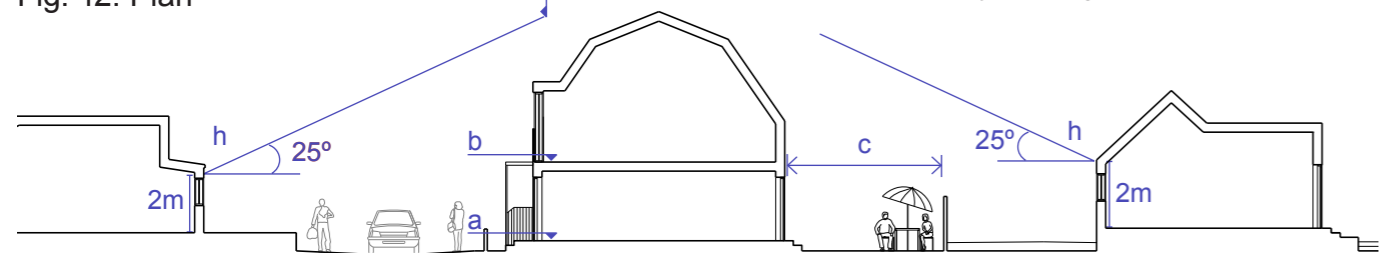


Fig. 13. Cross-section

D: 3 plots combined, 3 one-bedroom homes replaced with 2 two-bedroom (three bedspace) homes

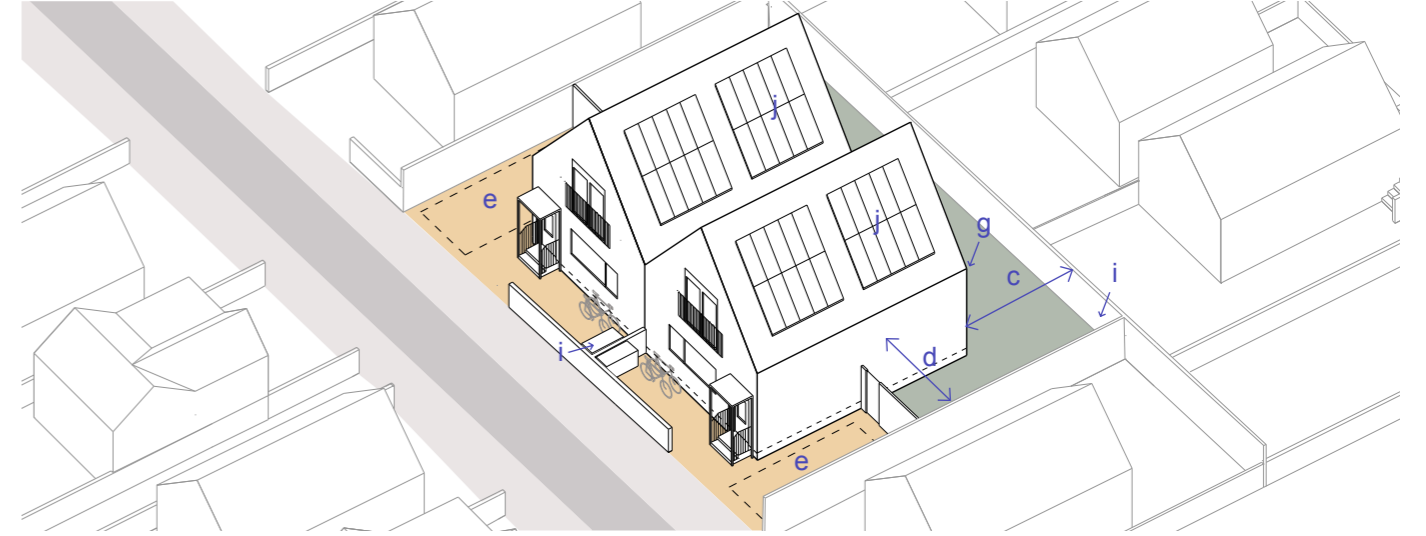
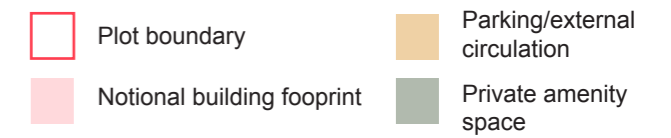


Fig. 14. Isometric view



a Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.

b Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.

c 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 40m² of private garden to be provided for a two bedroom home.

d 1m setback from side boundary unless party wall is created.

e Parking on-plot - 2.9x5.5 minimum parking bay size.

f Maintain building line to within 1.5m forward or back from the line of frontages either side.

g Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.

h 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.

i Refuse and cycle storage.

j Use roof for photovoltaic or solar thermal panels.

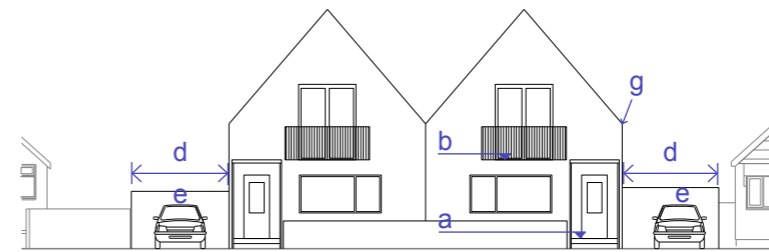


Fig. 15. Front elevation

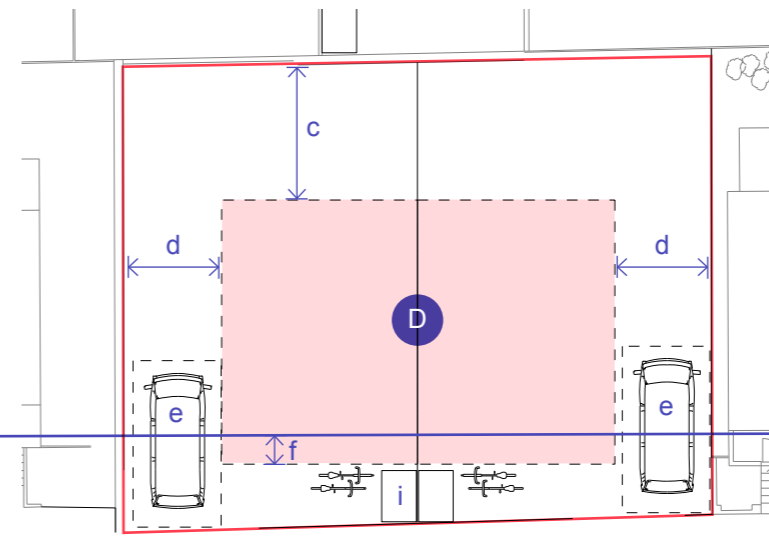


Fig. 16. Plan

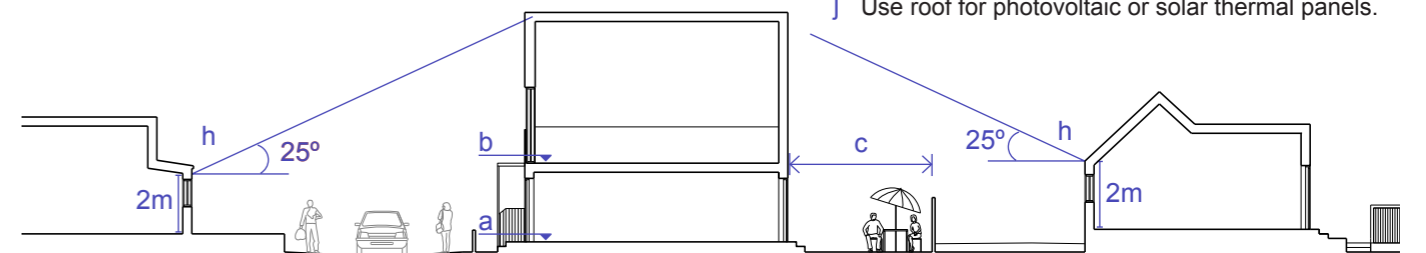


Fig. 17. Cross-section



2. Village seafront/Broadway plots

For typical Village plots on north-south streets, the design principles demonstrated in the worked examples for Brooklands plots apply. The larger plot size allows more flexibility in terms of dwelling size and layout.

The blocks between the seafront and Broadway exhibit varied constraints and new development must be carefully designed to ensure a high quality streetscene as well as adequate privacy, daylight and sunlight to existing properties. Worked examples are shown to demonstrate the following parts of the design guidance:

- At corner plots, the building line can be brought out to the back of pavement to avoid unsightly side garden spaces and create a secure edge to the street.
- A high quality frontage to the seafront must be maintained - dwellings should have direct access to the promenade and parking should not be located on the seafront side of dwellings. All seafront plots have vehicle access to the rear from the side street.
- Taller buildings may be achieved on the seafront plots so long as daylight and sunlight to existing properties behind is not compromised.

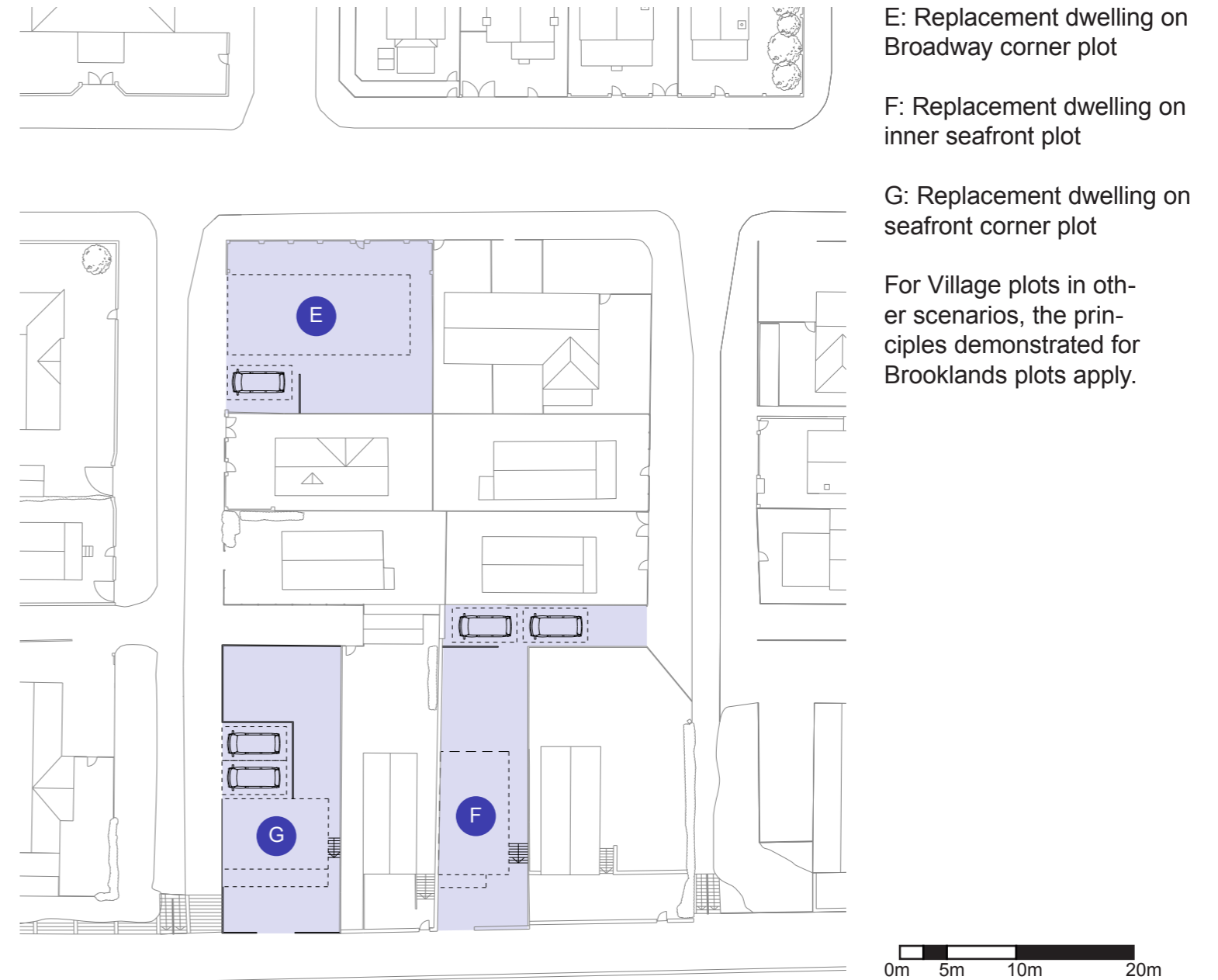


Fig. 18. Plan showing notional locations of worked examples.
Scale 1:500

E: Replacement dwelling on Broadway corner plot

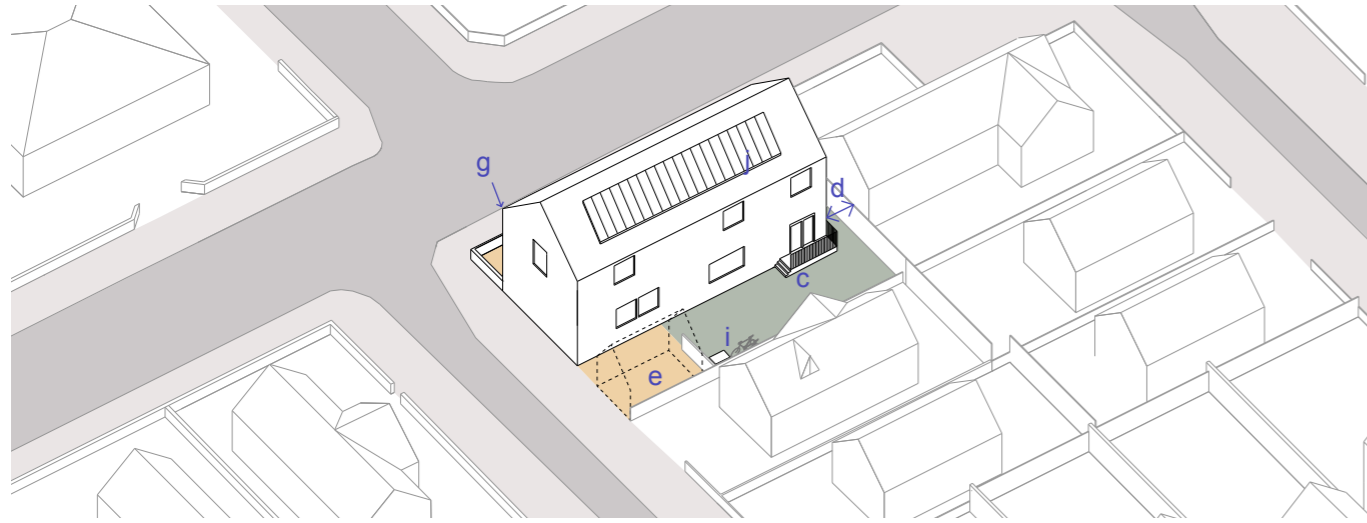


Fig. 19. Isometric view

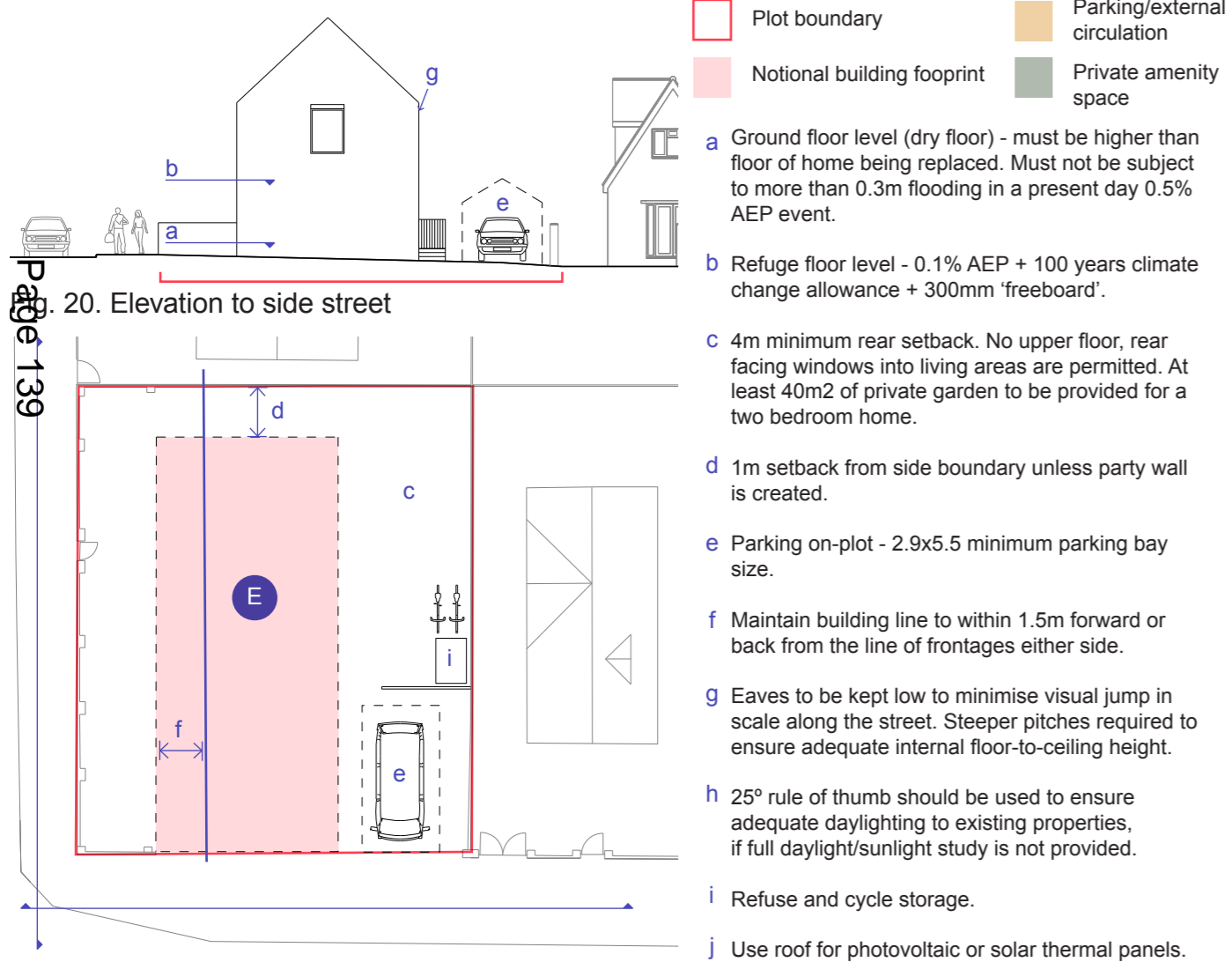


Fig. 21. Plan

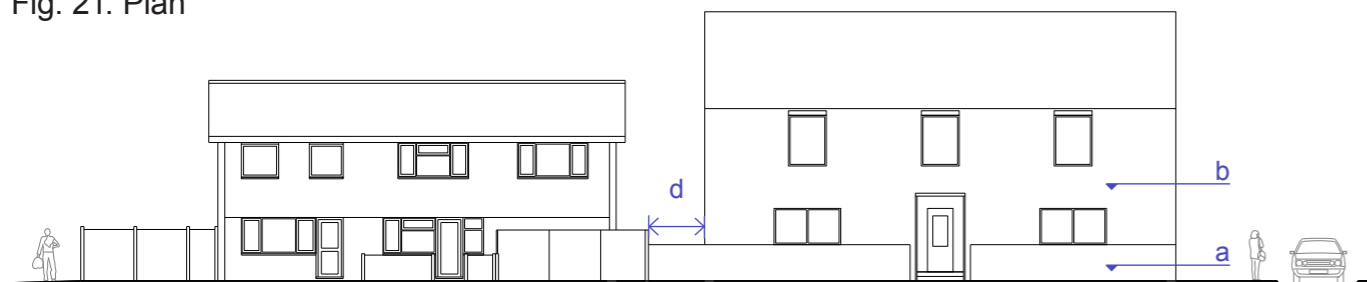


Fig. 22. Elevation to Broadway

F: Single plot replacement dwellings for typical Village seafront

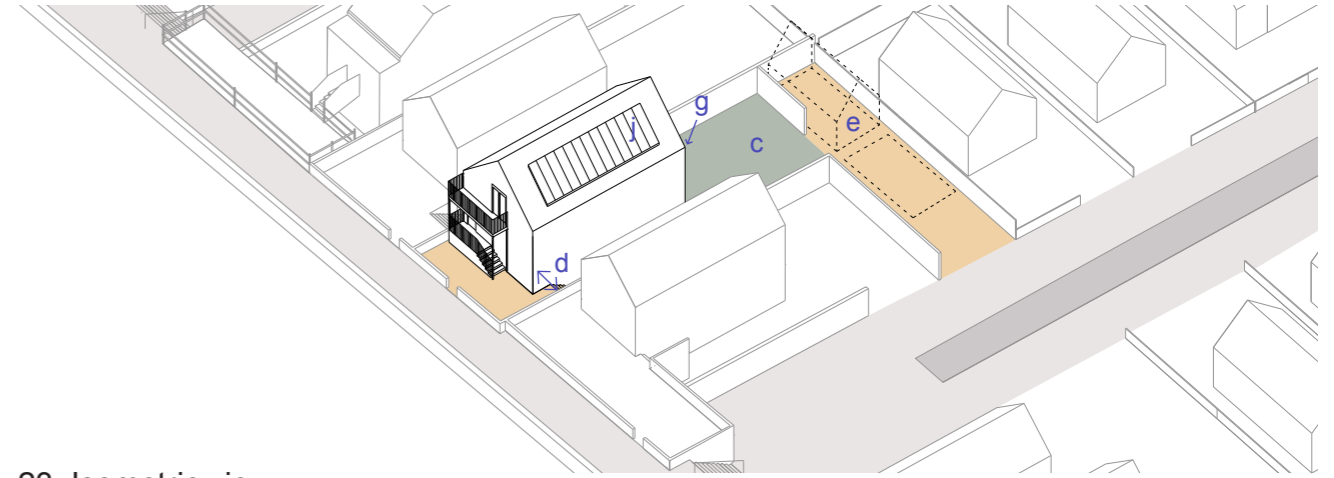


Fig. 23. Isometric view

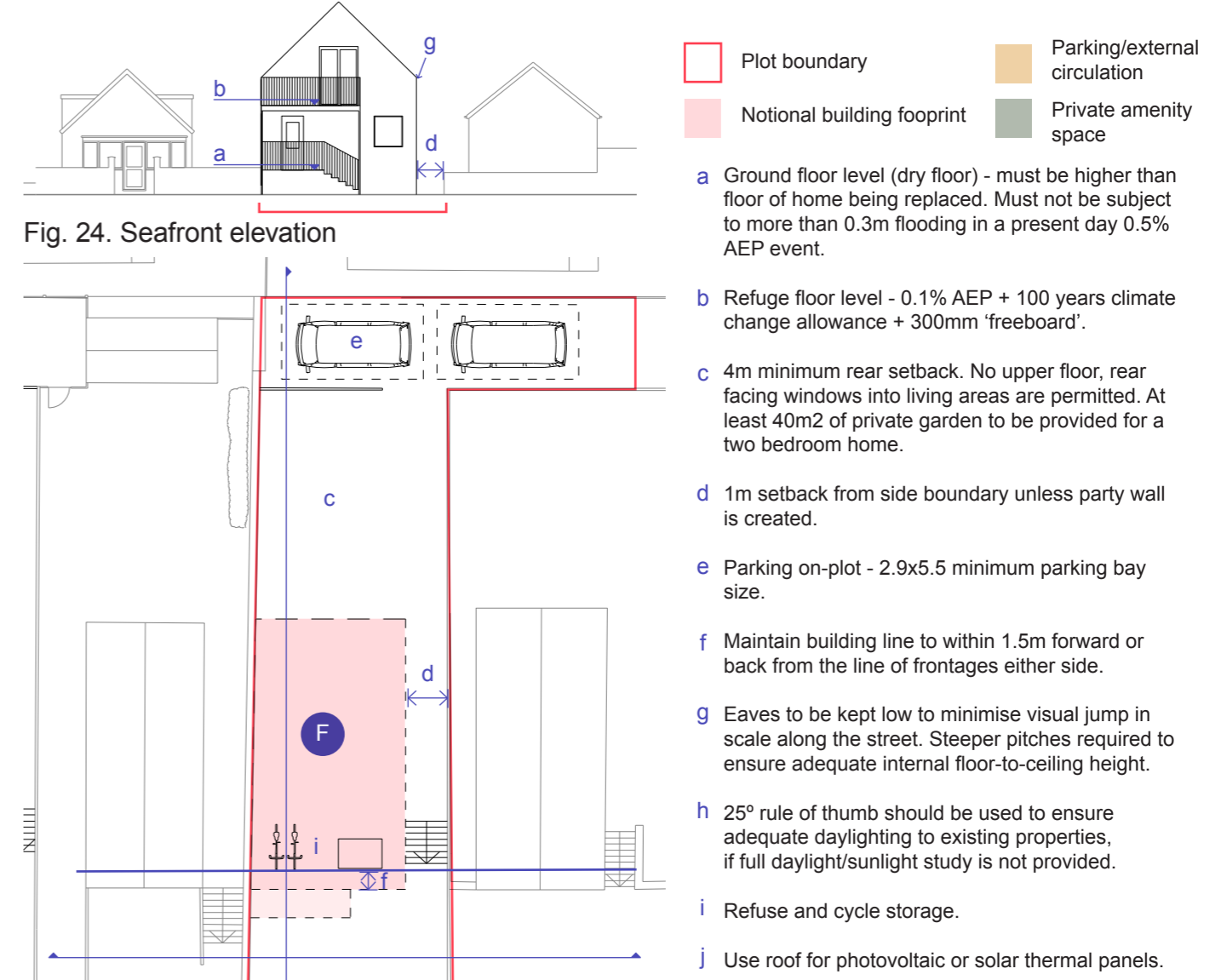


Fig. 25. Plan

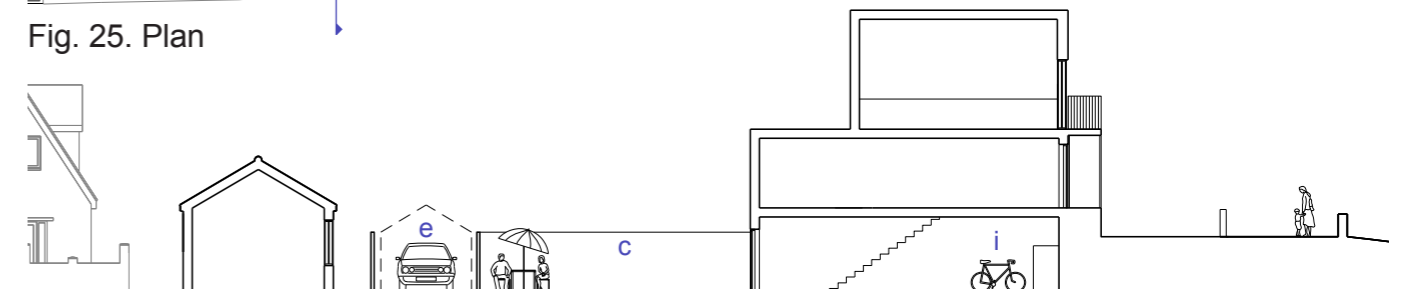
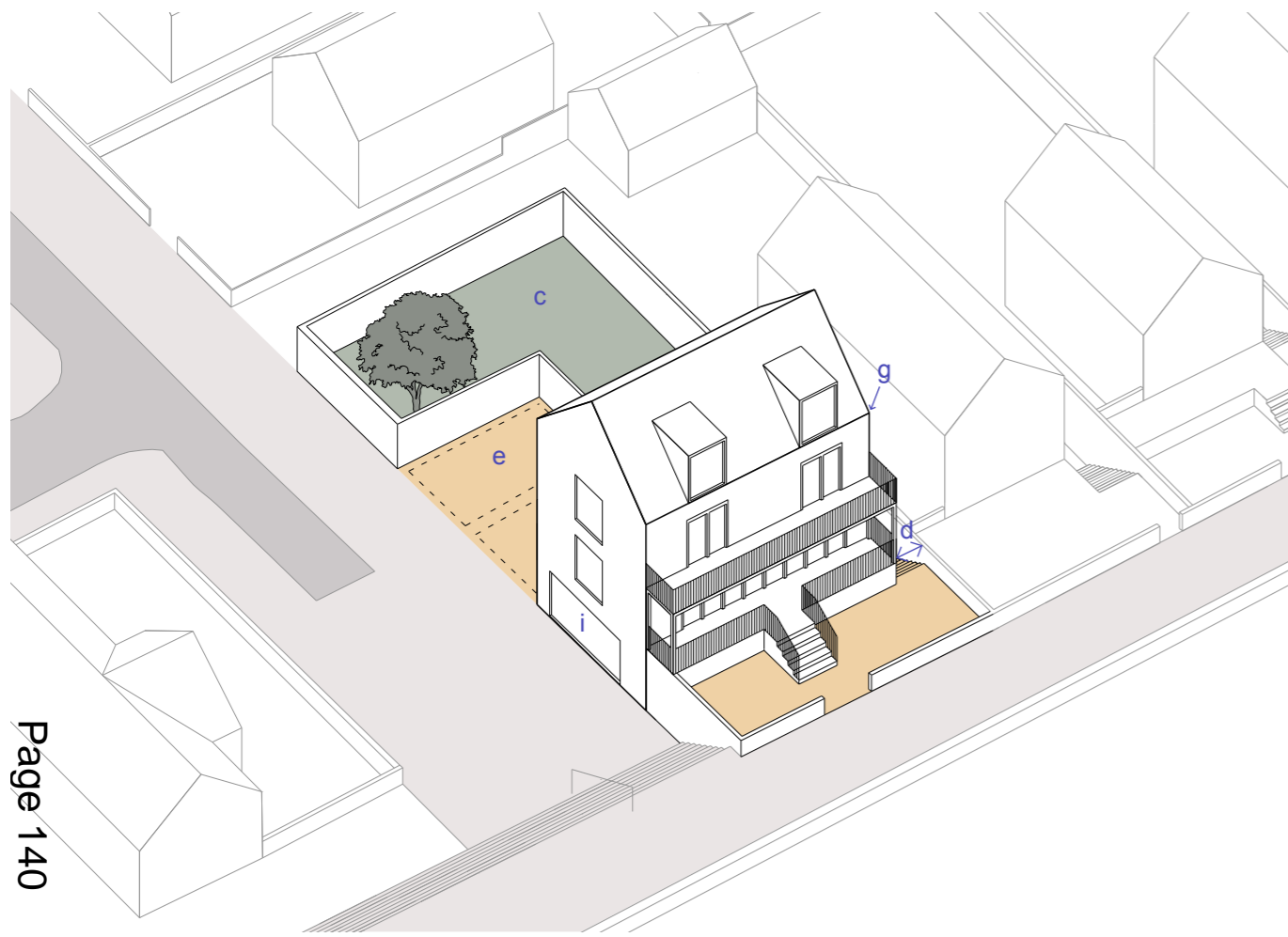


Fig. 26. Cross-section

G: Single plot replacement dwellings for typical Village seafront



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Fig. 27. Isometric view





- | | |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
|  Plot footprint |  Front garden/parking area |
|  Notional building footprint |  Private amenity space |
- a** Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
 - b** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
 - c** 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 40m² of private garden to be provided for a two bedroom home.
 - d** 1m setback from side boundary unless party wall is created.
 - e** Parking on-plot - 2.9x5.5 minimum parking bay size.
 - f** Maintain building line to within 1.5m forward or back from the line of frontages either side.
 - g** Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.
 - h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.
 - i** Refuse and cycle storage.
 - j** Use roof for photovoltaic or solar thermal panels.



Fig. 28. Seafront elevation

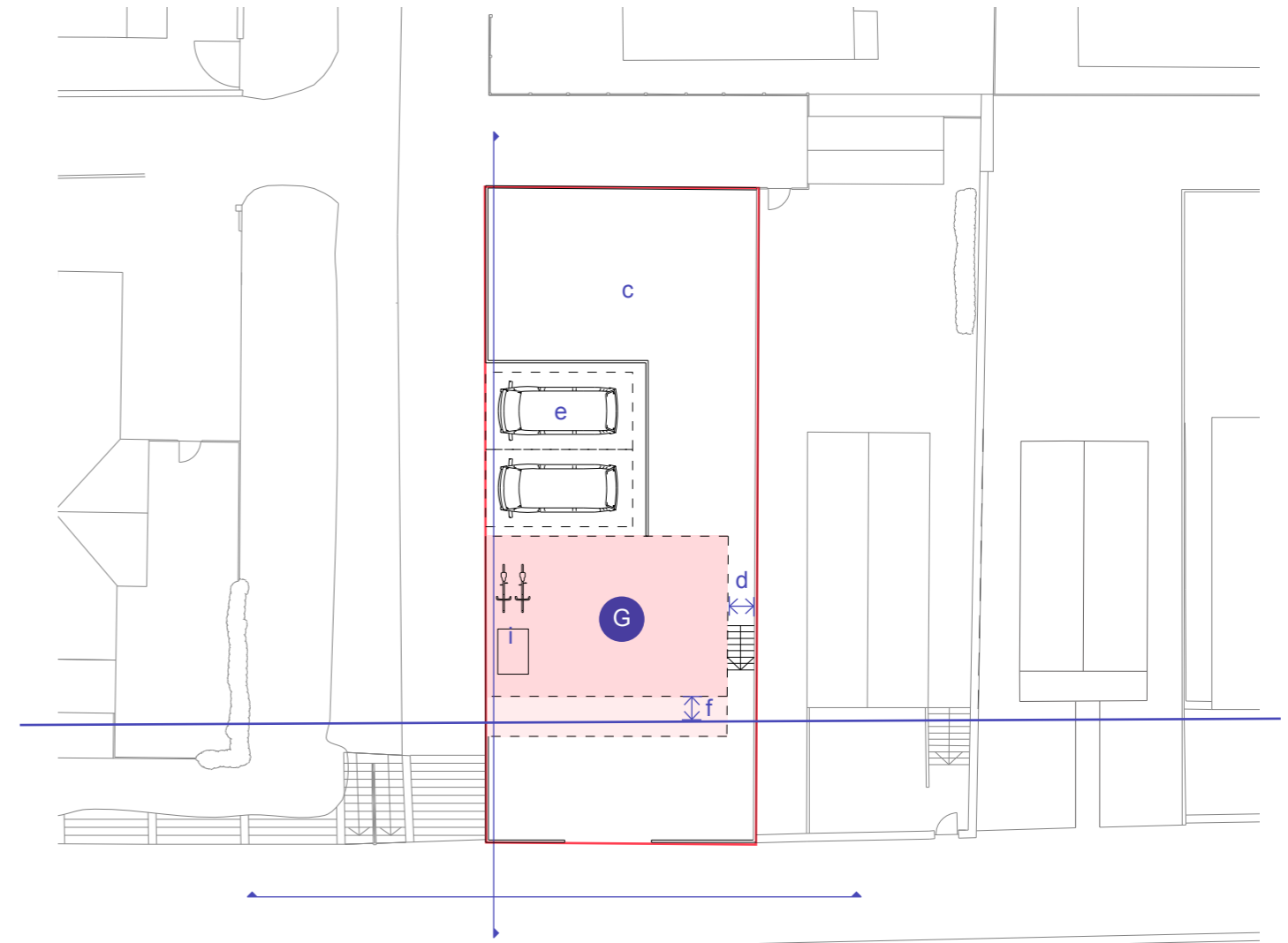


Fig. 29. Plan

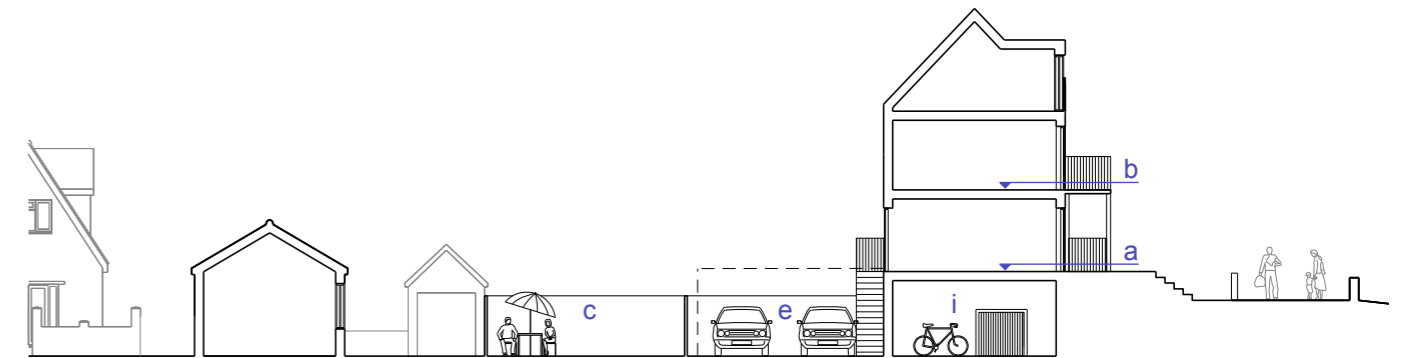


Fig. 30. Cross-section

0m 2m 5m 10m

3. Tandem plot replacement dwellings

- Tandem plots require careful design due to the close-knit layout, which creates privacy challenges, and, along Meadow Way, the height of the flood datum relative to the ground level.
- Rear tandem plots are highly visible from the surrounding landscape and must present a positive, high quality aspect. Rear boundary treatments must be of an appropriate design and materiality, close boarded fencing is not appropriate.
- Due to the height of the flood datum, along Meadow Way a 1.5 storey dwelling which creates the required refuge space, will be much taller than elsewhere in Jaywick Sands. For this reason, to reduce the visual dominance of buildings along the settlement's edge, three-storey dwellings are not appropriate.
- Parking must be dealt with on-plot and adequate private garden/amenity space must be created.

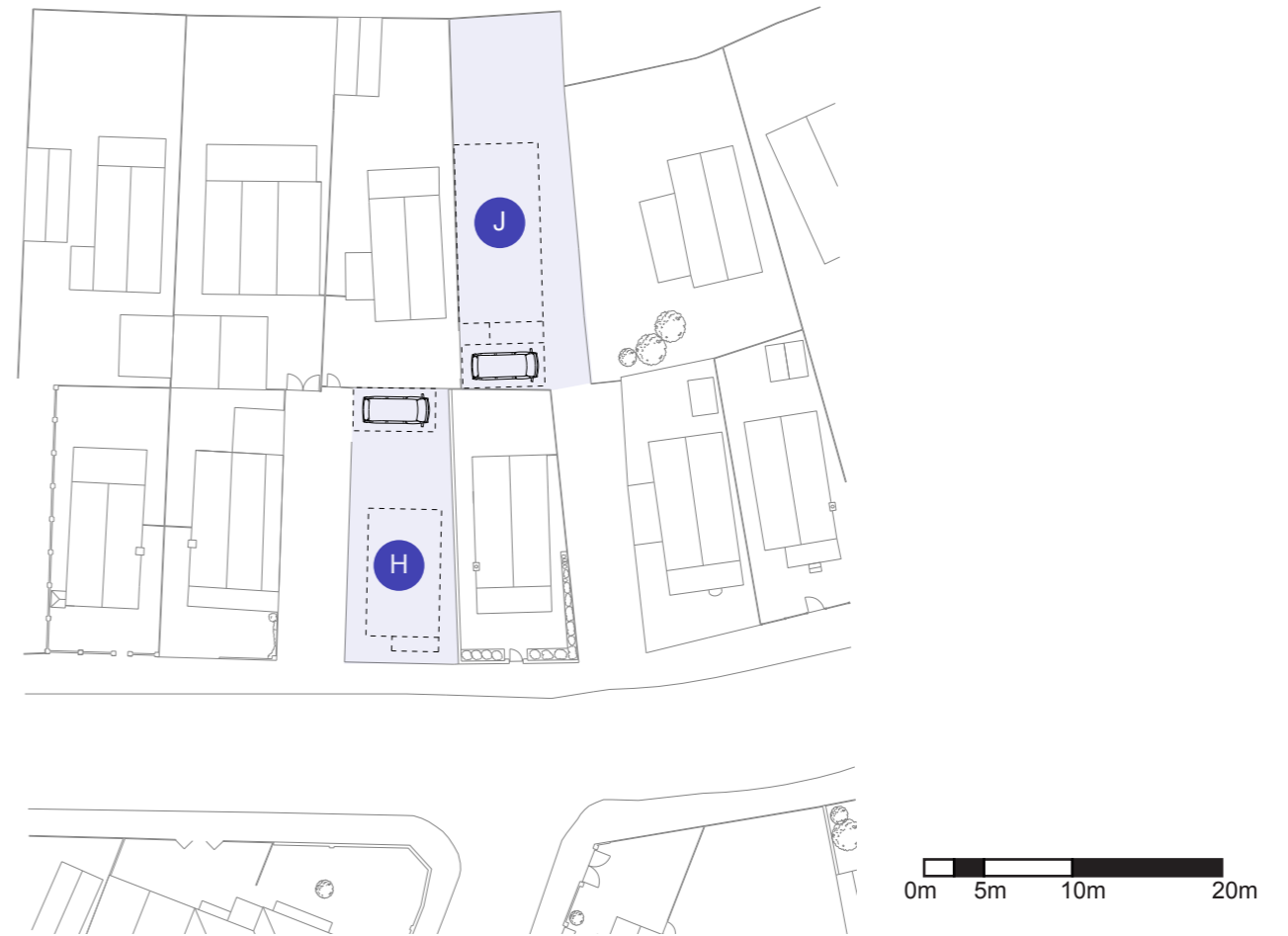


Fig. 31. Plan showing application of guidance to typical tandem plots. Scale 1:500

H: Replacement dwelling on front tandem plot

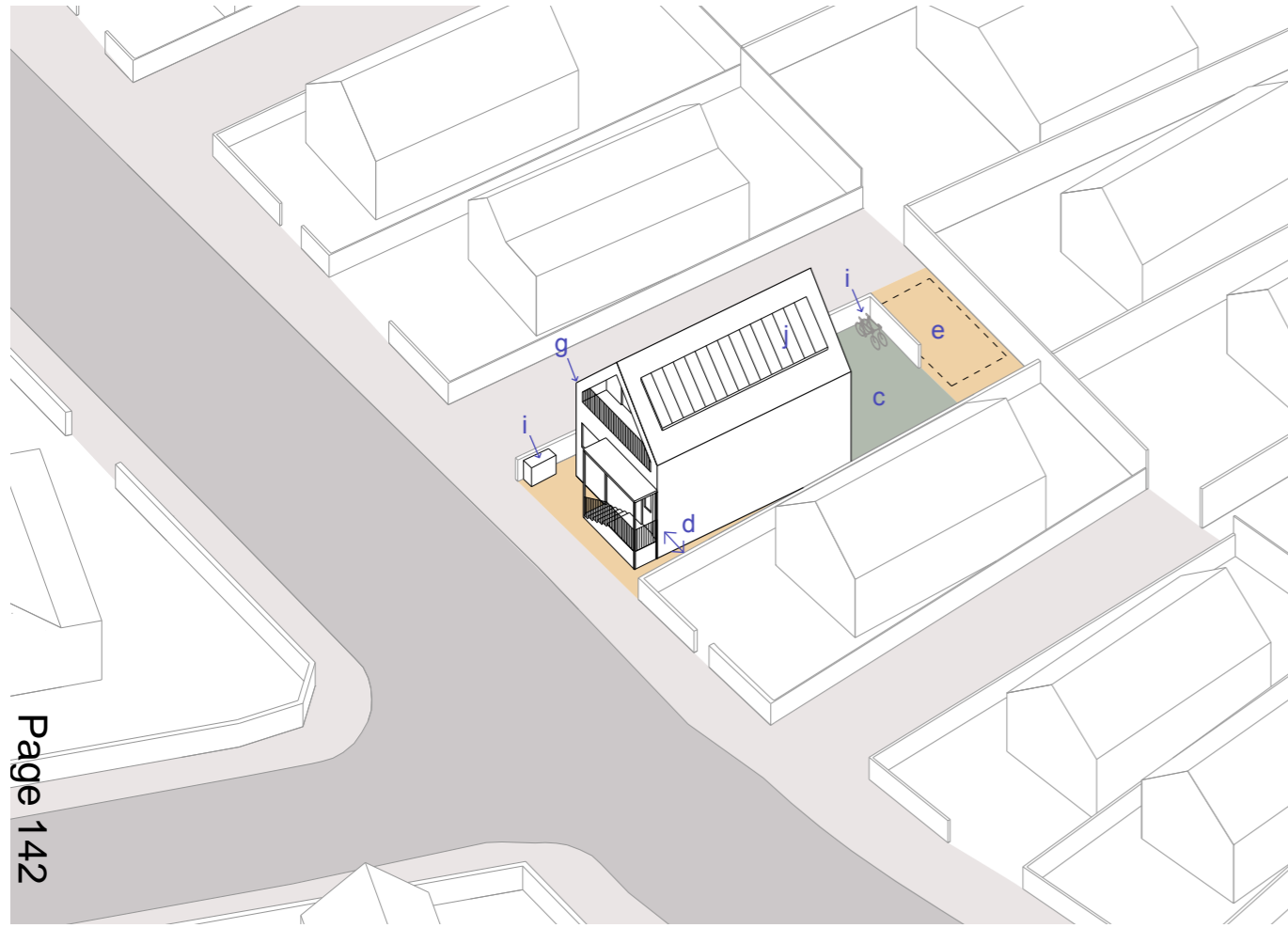






Fig. 32. Isometric view

- | | |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
|  Plot footprint |  Parking/external circulation |
|  Notional building footprint |  Private amenity space |
- a** Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
 - b** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
 - c** 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 40m² of private garden to be provided for a two bedroom home.
 - d** 1m setback from side boundary unless party wall is created.
 - e** Parking on-plot - 2.9x5.5 minimum parking bay size.
 - f** Maintain building line to within 1.5m forward or back from the line of frontages either side.
 - g** Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.
 - h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.
 - i** Refuse and cycle storage.
 - j** Use roof for photovoltaic or solar thermal panels.

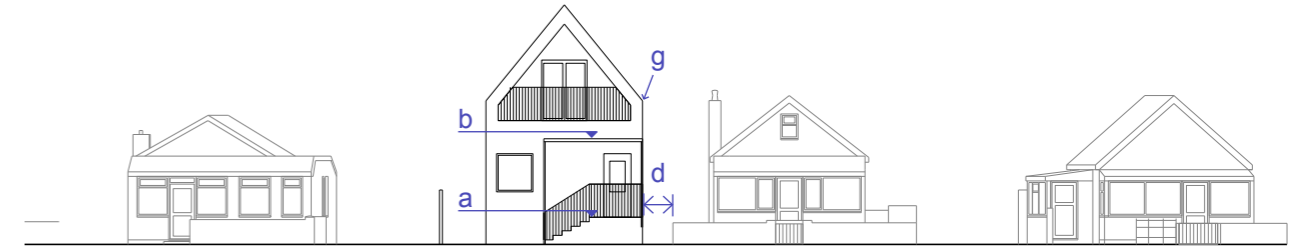


Fig. 33. Front elevation

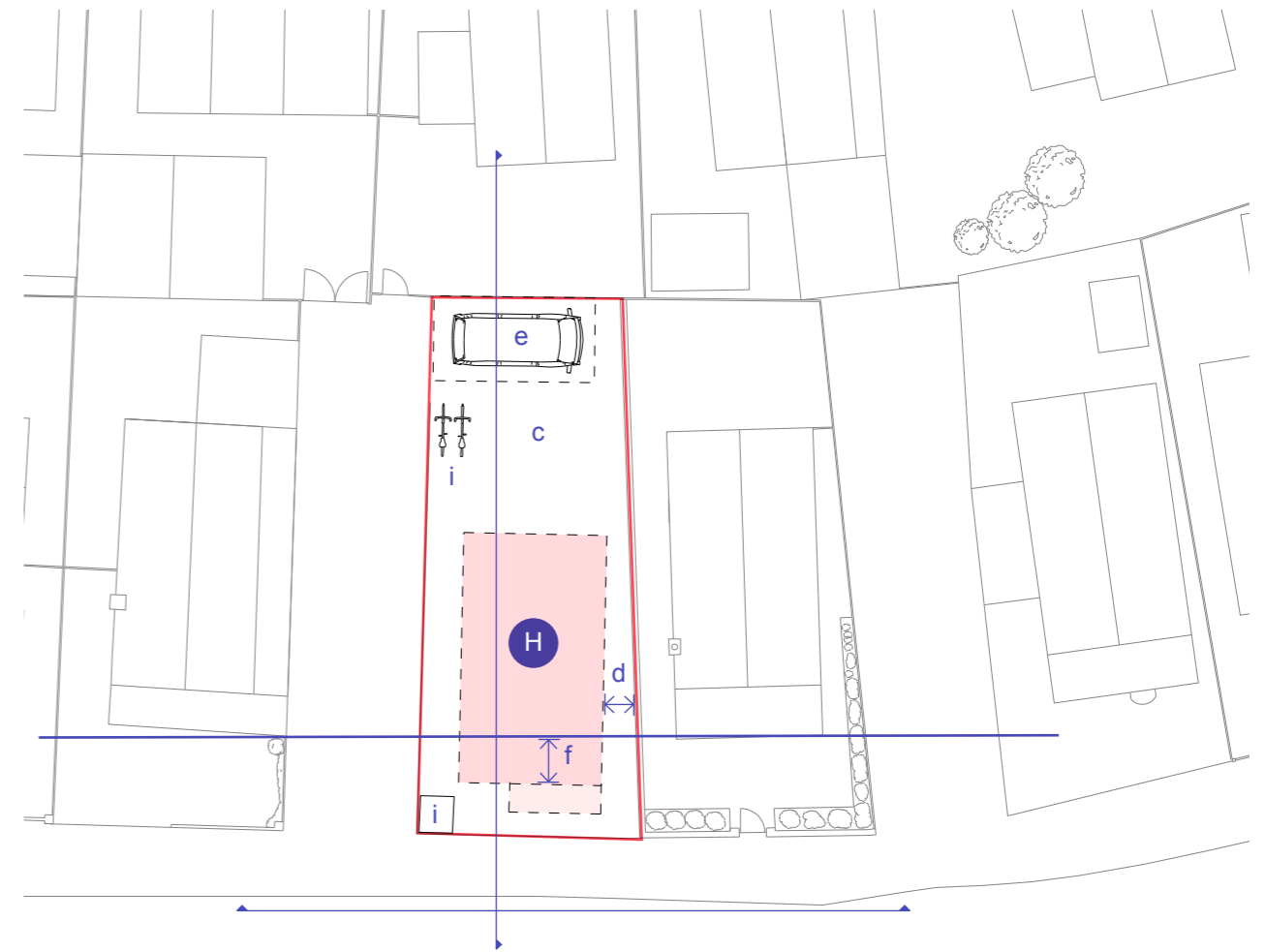


Fig. 34. Plan

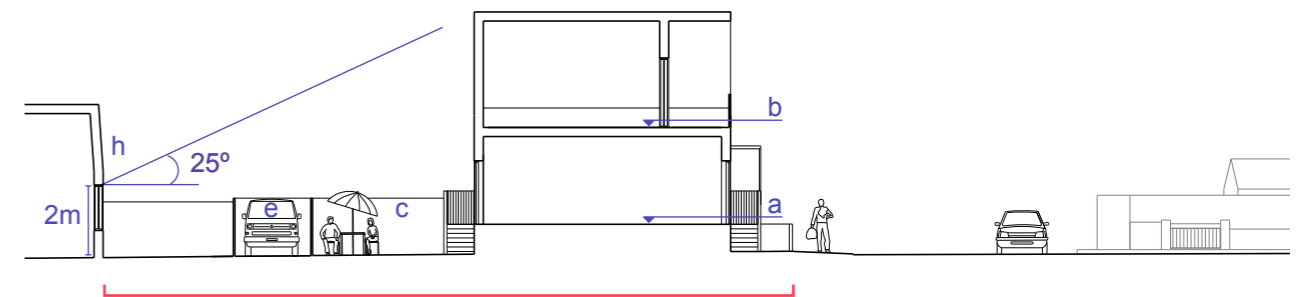


Fig. 35. Cross-section



J: Replacement dwelling on rear tandem plot

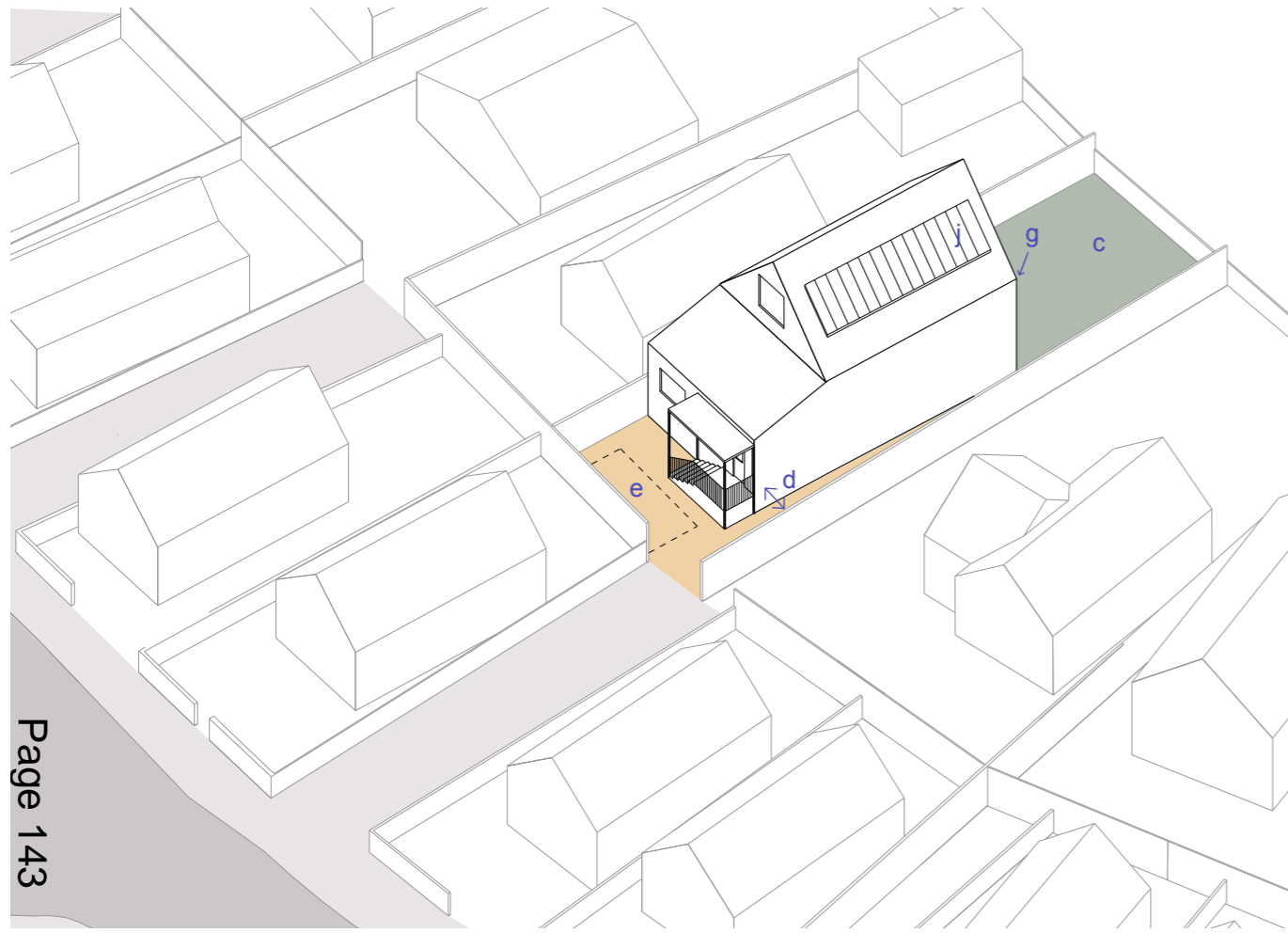






Fig. 36. Isometric view

- | | |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
|  Plot footprint |  Parking/external circulation |
|  Notional building footprint |  Private amenity space |
- a** Ground floor level (dry floor) - must be higher than floor of home being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
 - b** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
 - c** 4m minimum rear setback. No upper floor, rear facing windows into living areas are permitted. At least 40m² of private garden to be provided for a two bedroom home.
 - d** 1m setback from side boundary unless party wall is created.
 - e** Parking on-plot - 2.9x5.5 minimum parking bay size.
 - f** Maintain building line to within 1.5m forward or back from the line of frontages either side.
 - g** Eaves to be kept low to minimise visual jump in scale along the street. Steeper pitches required to ensure adequate internal floor-to-ceiling height.
 - h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties, if full daylight/sunlight study is not provided.
 - i** Refuse and cycle storage.
 - j** Use roof for photovoltaic or solar thermal panels.

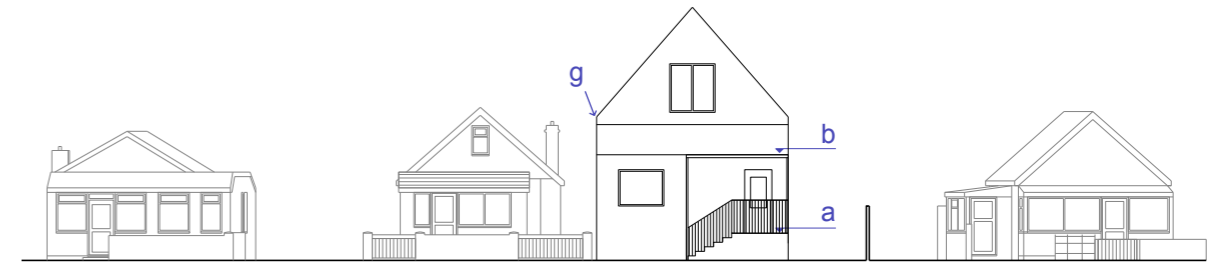


Fig. 37. Front elevation

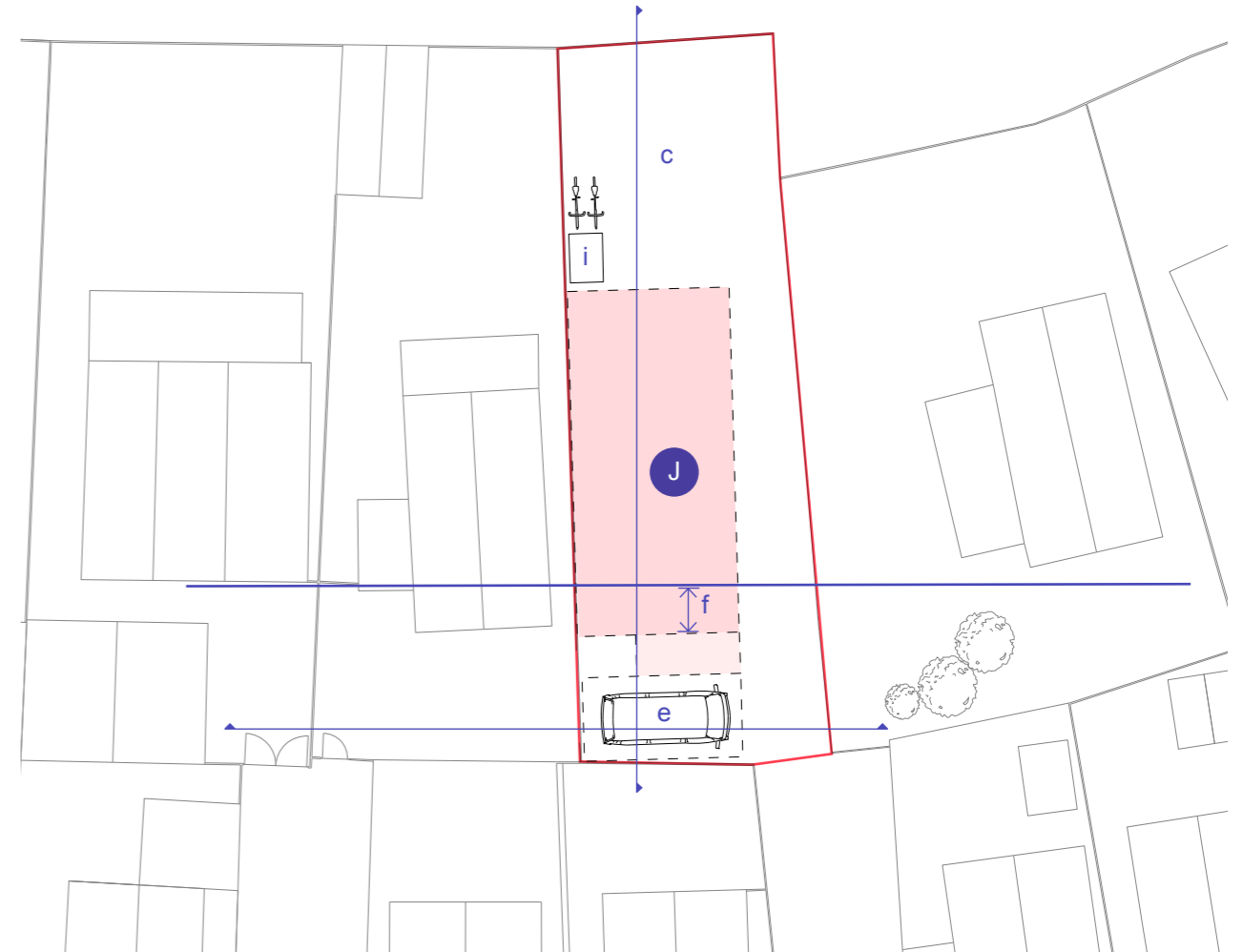


Fig. 38. Plan

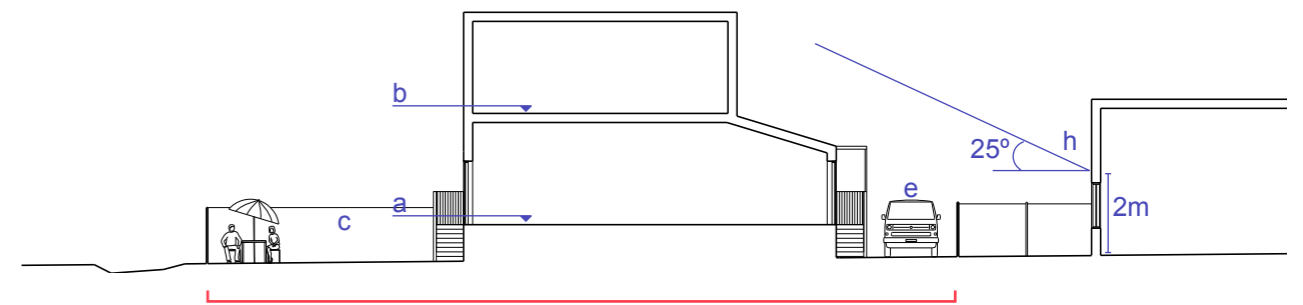


Fig. 39. Cross-section



4. Comprehensive redevelopment of multiple plots - up to 3 storeys

Comprehensive redevelopment of plots can provide efficiencies and allow for taller buildings and larger homes. However, care must be taken that the amenity of existing residents neighbouring the site remains protected, particularly in terms of daylight, sunlight and overlooking of what are already very small gardens and yards. In addition, new development must create a positive street frontage and provide adequate, good quality amenity space for new residents which should also enjoy sunlight in line with accepted BRE standards.

The following design requirements should be considered for all multi-plot comprehensive development:

- If a net increase in bedspaces is proposed, all habitable space must be set above the 0.5% AEP + climate change + freeboard level, meaning that living spaces will be at first floor level at minimum. This can create potentially difficult relationships with neighbouring homes with regard to overlooking. Rear setbacks should be increased in line with Essex Design Guide standards.
- If taller development is proposed, greater care must be taken to ensure that daylight and sunlight to neighbouring properties is not unreasonably impacted. It is recommended that a daylight/sunlight study is undertaken.
- Parking must be accommodated off-street to the full requirements of ECC's parking standards, including visitor parking. If garages are proposed, a full waiting space must be provided in front of garage doors, which does not obstruct the footway.
- Boundary treatments to the rear will form a 'front' to the street and must therefore be of high quality as well as secure. Close boarded fencing will not be an acceptable boundary treatment.
- Private gardens, balconies and/or shared private garden space must be provided to Essex Design Guide standards..
- Flat or pitched roof forms may be used but designs of 3 or more stories must be of very high quality due to their visibility within the landscape in long range as well as close up views.
- Comprehensive development of seafront plots can create the opportunity for three storey development if plots to the rear are incorporated within the development area.
- The seafront street (Brooklands) must retain an active frontage and parking courts should therefore be accessed from the side streets. Rows of garages facing Brooklands are not acceptable. Front doors should open onto Brooklands and ground floor space that cannot be used for habitable accommodation should be designed to incorporate other non-vulnerable uses such as co-working, meeting room, shared laundry, storage, cycle storage and similar. E class commercial uses are also suitable along Brooklands although servicing access must be carefully considered.
- In practice, seafront comprehensive redevelopment will require a large number of plots to be consolidated into a single site, in order to provide adequate amenity space and parking for both future and existing residents.

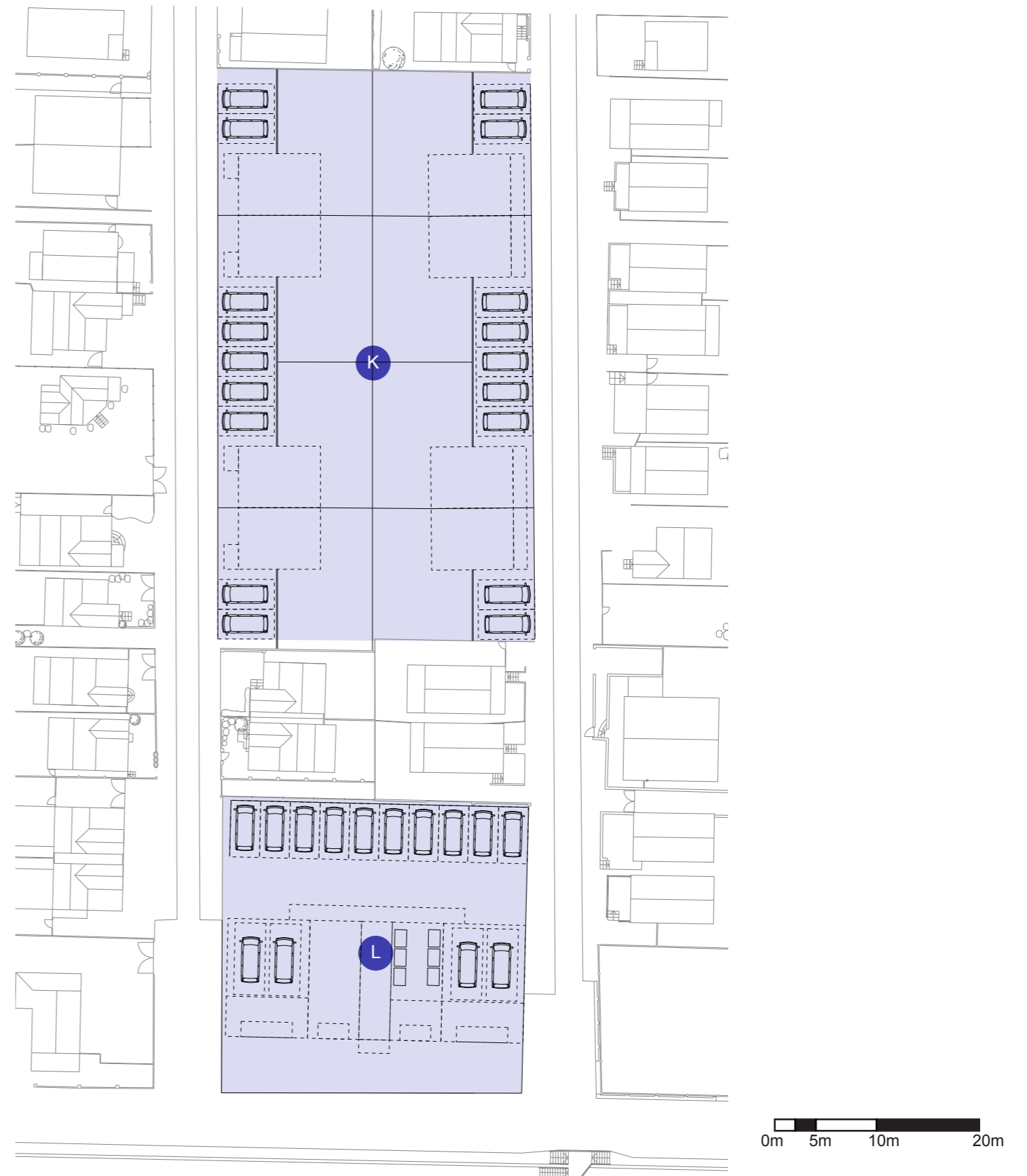


Fig. 40. Map showing notional locations of worked examples of comprehensive redevelopment. Scale 1:500

K. Indicative approach to acceptable three-storey development on a typical Brooklands street.
 16 plots redeveloped to 8 new homes, assuming a betterment approach (no net increase in bedspaces)

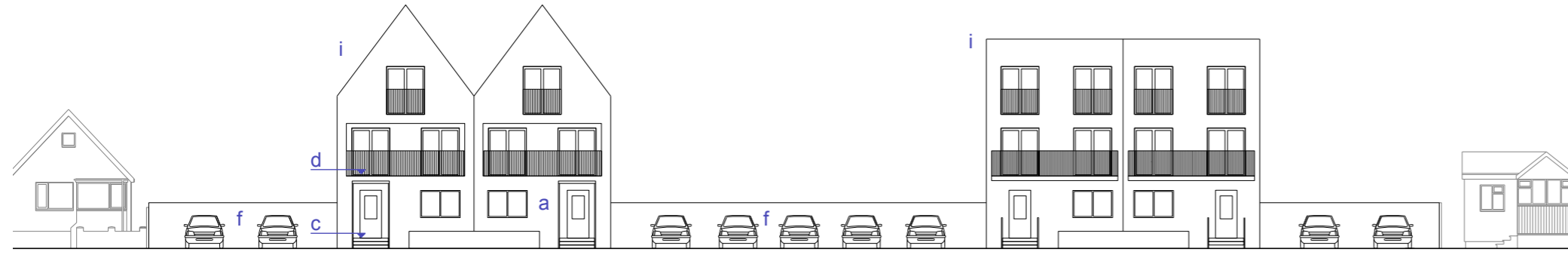


Fig. 41. Front Elevation

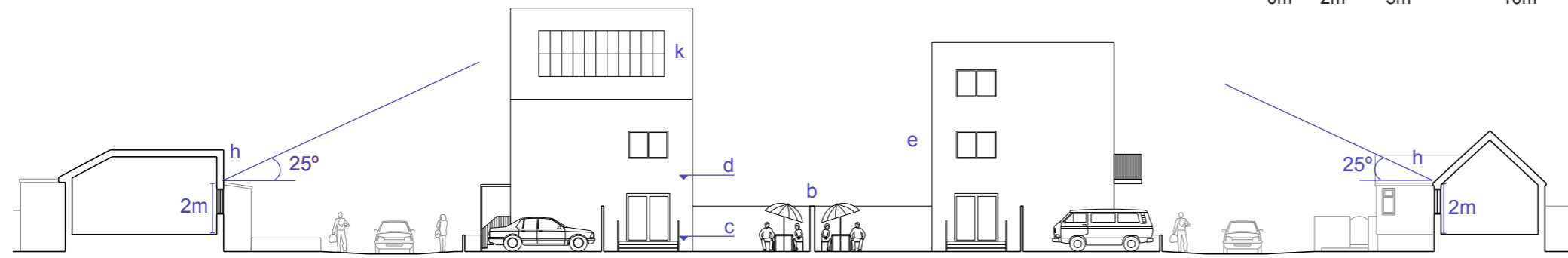


Fig. 42. Side Elevation

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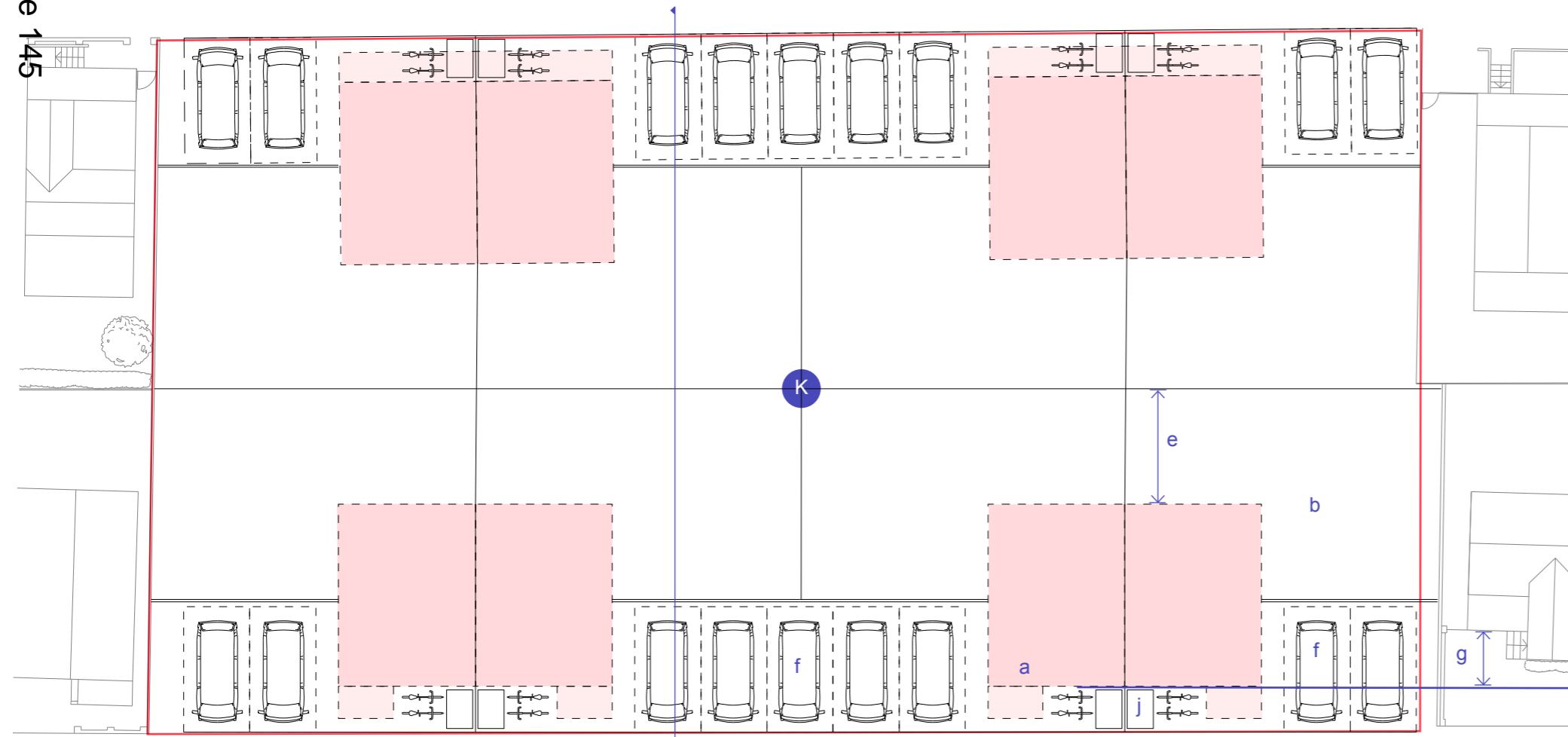


Fig. 43. Plan



- Plot boundary
- Notional building footprint

- a** Layout ensures active frontages to both streets and avoids overlooking and overshadowing of existing and new gardens.
- b** New gardens enjoy good quality sunlight and meet minimum standards of 75m² for a 3/4 bedroom home.
- c** Ground floor level (dry floor) - for a betterment proposal as shown, must be higher than floor of all homes being replaced. Must not be subject to more than 0.3m flooding in a present day 0.5% AEP event.
- d** Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
- e** 4m minimum rear setback to plot boundary. Any first floor living spaces to face the street or the side of the property and not to the rear, to avoid overlooking of gardens.
- f** Parking on-plot - comprehensive development requires visitor parking to ECC highways standards. 1 space for 4 dwellings is shown.
- g** More flexibility in building line in relation to existing frontages can be accommodated due to more spacious layout.
- h** 25° rule of thumb should be used to ensure adequate daylighting to existing properties unless daylight/sunlight study is submitted. With more spacious layout as shown, daylight/sunlight study is likely to demonstrate that taller buildings will not have unacceptable impacts.
- i** Flat or pitched roof forms can work as more spacious layout means that change in scale from neighbouring properties is less problematic.
- j** Refuse and cycle storage.
- k** Use roof for photovoltaic or solar thermal panels where possible.

L. Three storey comprehensive development on seafront
 5 seafront plots with four rear plots (nine total) redeveloped as 4 two-bedroom and 4 one-bedrom flats.
 Net increase in bedspaces, no habitable ground floor space

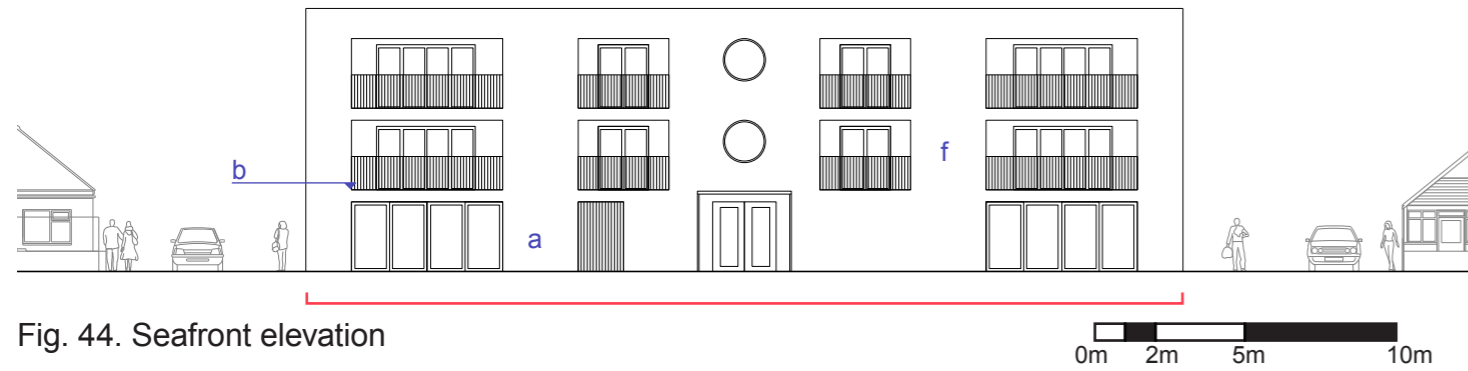


Fig. 44. Seafront elevation

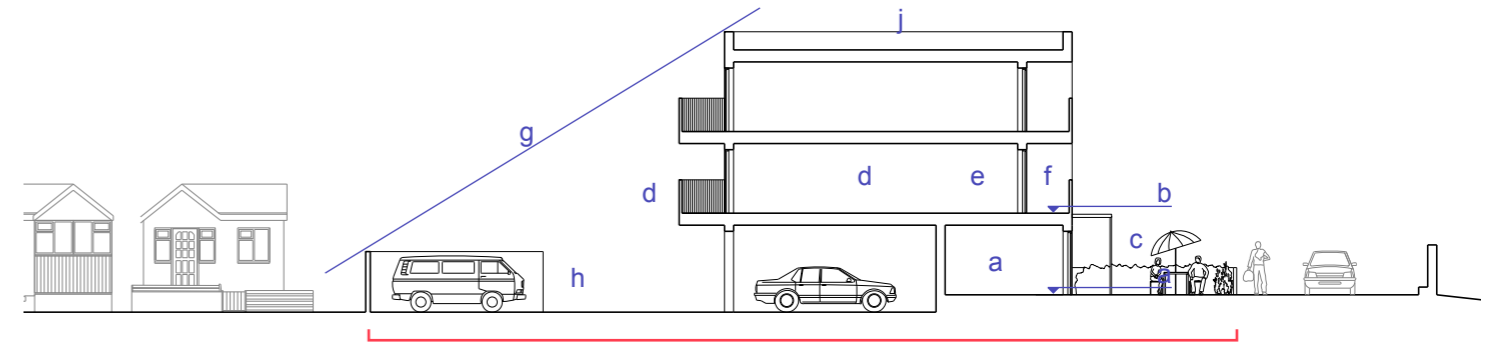


Fig. 46. Cross-section

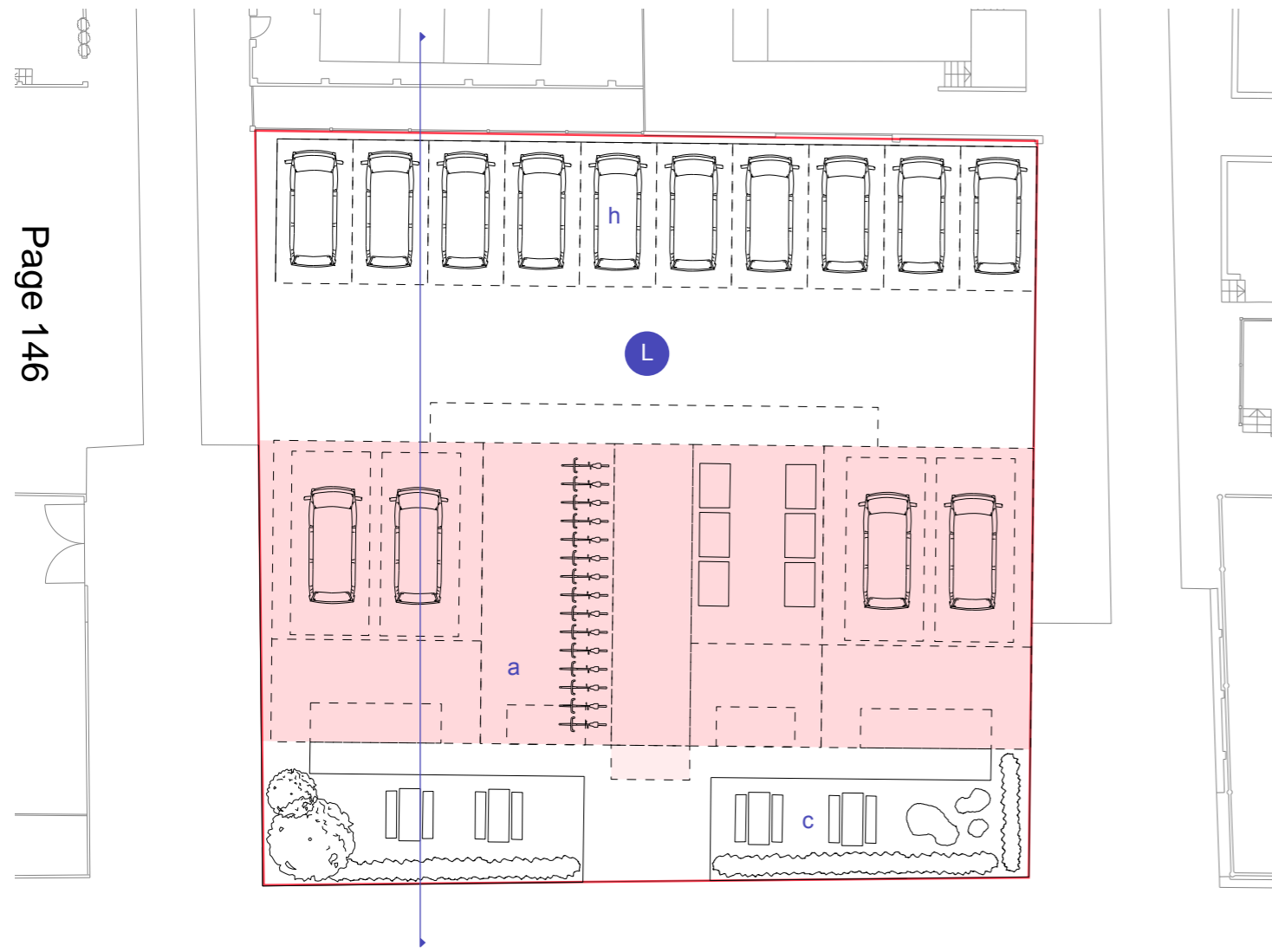


Fig. 45. Plan

- Plot footprint
- Notional building footprint

- a** For proposals resulting in a net increase in bedspaces, no ground floor habitable space is permitted. Ground floor to be designed for non-habitable uses only. Ensure active frontage with front doors to street. Ground floor space can be used for non-habitable purposes such as Class E uses, shared resident facilities such as co-working or laundry, cycle storage, refuse storage, garaging (accessed from rear only) or plant.
- b** Floor level for all habitable space - 0.5% AEP + 100 years climate change allowance + 300mm 'freeboard'. Refuge floor level - 0.1% AEP + 100 years climate change allowance + 300mm 'freeboard'.
- c** Resident shared outdoor amenity space (garden/courtyard) to be provided to Essex Design Guide Standards. Amenity space to be located and designed to receive direct sunlight in line with BRE guidelines. North-facing amenity space will not be acceptable.
- d** Apartments to be dual aspect to provide good daylighting and cross-ventilation to reduce overheating. Consider use of gallery access at rear.
- e** Living spaces to face the street to avoid overlooking of neighbouring gardens to the rear. If rear-facing living spaces are proposed, setbacks to neighbouring gardens must meet Essex Design Guide standard.
- f** Private balconies to all units, minimum 5m² with depth of not less than 1.5m. Inset balconies preferred on south and west-facing elevations to prevent overheating and provide privacy.
- g** Daylight and sunlight analysis should be provided to demonstrate that neighbouring gardens will continue to receive adequate sunlight.
- h** Parking to be on-plot and accessed from side street. Vehicle access from Brooklands is not acceptable due to the narrowness of the road, lack of footway, and requirement to retain active frontages. Resident and visitor parking must meet or exceed ECC minimum standards.
- i** Policy compliant provision of M4(2) and M4(3) units required, lift access required due to non-habitable ground floor.
- j** Use roof space for PV or solar thermal panels where possible.

Jaywick Sands Design Guide Supplementary Planning Document (SPD)

Consultation Statement

January 2023

(Town and Country Planning (Local Planning) (England) Regulations 2012 (Regulation 12))

Introduction

Under Regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012 it is a requirement to prepare and make available a Consultation Statement setting out:

- i. the persons the local planning authority consulted when preparing the supplementary planning document;
- ii. a summary of the main issues raised by those persons; and
- iii. how those issues have been addressed in the supplementary planning document;

This statement is a record of consultation undertaken during the production and formal consultation stages of producing the Jaywick Sands Design Guide Supplementary Planning Document.

The Jaywick Sands Design Guide Supplementary Planning Document provides guidance to support policies within the Tendring Local Plan (2013 - 2033), and the regeneration of Jaywick Sands. It specifically supports the following policies:

- PP 14 Priority Areas for Regeneration
- SPL 3 Sustainable Design
- LP 3 Housing Density and Standards
- LP 4 Housing Layout
- PPL 5 Water Conservation, Drainage and Sewerage

It applies specifically to development within Flood Zone 3 and the Priority Area for Regeneration as defined in Policy PP14, and not to development in the norther part of Jaywick Sands (the Tudor Estate)

Preparation of the draft SPD

Jaywick Sands is a unique and resilient community with a distinctive sense of place. It is a rare example of a plotlands development where the original small plots, gridded street pattern and chalet-style buildings survives largely unchanged since it was founded in the 1930s. Jaywick Sands' position by the sea is both its greatest asset and also its greatest challenge as the community now faces an increasing risk of flooding, which is particularly concerning as many homes in Jaywick Sands are now in very poor condition. It is therefore vital to encourage the sympathetic replacement and upgrading of homes in Jaywick Sands to a flood safe standard while also enhancing the character of the area and supporting its regeneration.

The need for design guidance for Jaywick Sands was identified through the work to develop the Jaywick Sands Place Plan and analysis of planning applications submitted, and consents granted, over the last several years. The draft SPD was developed by HAT Projects as consultants to Tendring District Council, and in consultation with a range of stakeholders.

Early drafts of the SPD were produced in spring 2020 and shared iteratively with key stakeholders including the Environment Agency and Essex County Council, ecology specialists engaged to support the Place Plan work, and the development management team within Tendring District Council as the Local Planning Authority, who would be using and applying the guidance in pre-application discussions and the determination of applications. The following feedback was received:

- Strongly positive feedback from the TDC development management team, that the document was helpful and easy to use
- TDC development management team requested that further information on flood resilience measures be included in the design guide
- Environment Agency supported the principle of developing design guidance in a SPD form for Jaywick Sands, and the majority of the design principles set out in the draft SPD.
- Environment Agency commented that the level of actual present day flood risk in their latest coastal modelling was not fully represented, and that dry finished floors for present day flood risk would be expected. Clear evidence of betterment would be supported.
- Environment Agency also submitted detailed comments on various aspects of the SPD wording.
- Essex County Council as the highways authority supported the principle of developing design guidance in a SPD form for Jaywick Sands, and the majority of the design principles set out in the draft SPD.
- ECC as the highways authority confirmed what reduced parking standards would be acceptable for replacement dwellings.
- Woodfield Ecology commented on the specific ecological sensitivities in Jaywick Sands, in particular bats and house sparrows.

Work on the draft SPD was paused during the Covid-19 pandemic and restarted in December 2021. This included a review of updated national policy and guidance and updates to reflect the final adopted Tendring Local Plan, which was adopted in January 2022. An updated draft of the SPD was prepared and shared with the above consultees for further review and input. Further work was undertaken with the Environment Agency to ensure full clarity around the sequential and exception test, and the design issues that would trigger a holding objection from the Environment Agency as a statutory consultee. Updated modelling of flood levels, including updated climate change allowances, were provided by the Environment Agency and incorporated into the design guidance.

SEA and HRA Screening was undertaken as part of the evidence gathering and engagement stage of draft Jaywick Sands Design Guide SPD preparation to determine if the draft SPD is likely to have any significant effects on the environment and therefore require SEA and HRA.

A Screening Statement was produced and sent to the relevant statutory consultees (Environment Agency, Historic England and Natural England) for comment. This statement set out the reasons why the Council had determined that SEA and HRA are not required. The responses from the statutory consultees agreed with this conclusion, therefore in accordance with Regulation 9 (3) of the SEA Regs, a final version of the Screening Statement is being prepared which confirms that SEA and HRA are not required for the draft SPD

Consultation on the draft Jaywick Sands Design Guide SPD

The consultation was held from 9am on 5th September 2022 to 5pm on 27th October 2022. This consultation period was extended from the original six-week period due to the unforeseen national mourning period for Queen Elizabeth II which fell during the consultation period. The consultation combined the formal consultation on the SPD with informal consultation on the Jaywick Sands Place Plan, the regeneration framework for Jaywick Sands also being developed by Tendring District Council.

The Strategic Environmental Assessment and Habitats Regulations Assessment screening reports, and the Equalities Impact Assessment, were made available alongside the Consultation Statement.

The draft SPD and other supporting documents were available for inspection during the consultation period at the following locations:

- online on the Council's website;
- in hard copy at the Council's offices and libraries through the district

In accordance with statutory requirements, a Public Notice was placed on the Council's website. An advertisement was also placed in the Clacton Gazette (with associated on-line advertisement) and a press release was issued to raise awareness of the consultation through local media outlets.

The local planning authority maintains a Planning Policy consultations database, which currently contains 874 consultees. All of these consultees were notified of the consultation and invited to make representations. A list of organisations on the LPAs consultation database is included in appendix 1. Please note that the individuals on this database have not been listed in the appendix.

In addition, drop-in events were held during the consultation period, in liaison with community groups and venues in Jaywick Sands and in conjunction with the planned consultation on the Jaywick Sands Place Plan. Times and venues for drop-in events were publicised on the Council's website and social media as well as through flyers distributed to all households in Jaywick Sands.

The drop-in and online events held were:

- Saturday 24th September: Inclusion Ventures
- Wednesday 28th September: online webinar
- Friday 30th September: Inclusion Ventures (senior lunch club – not open to the general public)
- Friday 7th October – Martello Tower
- Thursday 13th October – Community Resource Centre
- Saturday 22nd October – Community Resource Centre

A press release was issued to raise awareness of the consultation through local media outlets.

Comments could be made using:

- an online questionnaire, which is available via the Council's website
- a paper response form, which will be available at drop-in events, as a download on the Council's website and on request to the Planning Policy team at consultationfeedback@tendringdc.gov.uk

Who did we reach with the consultation?

Mailing lists: 638 email notifications and 236 letters sent out.

Around 115 people attended in-person drop-in events during the consultation period.

Social media posts reached over 12,000 people over the consultation period, generating up to 71 link clicks per post and a substantial amount of online engagement.

There were 222 views of the webinar (including asynchronous viewings of the recording).

The consultation survey gained 1 response online, 3 email responses, and 4 substantive responses from statutory consultees. While this appears to be a low response rate, many comments were received at in-person drop-in events and in responses to the wider Place Plan consultation which were relevant to the SPD. The material planning matters raised have been included in the summary of feedback.

Consultation representations and feedback

Public and non-statutory body responses via email and online/paper response form:

- Cycle parking – cycle garage, cycle hangars, security of cycling storage should be included
- Section 106 payments towards improving the Jaywick-Clacton cycle route
- Seafront development must include disabled access to the sea wall and promenade
- Designs of buildings should be flood proof and have aesthetic design in keeping with a seaside resort
- Consideration should be made to make the new properties wheelchair accessible allowing for appropriate access in case of flooding
- 4 story buildings are not conducive with a seaside town
- Building companies should install solar panels as standard
- Limited and in many cases impossible access for disabled people to local amenities shops dental surgeries and doctors. Disabled access must be fully considered in the future

Public feedback at in-person drop-in events:

- Strong support for design guidance to secure high quality design in Jaywick Sands
- Strong appreciation for the existing character and built form of Jaywick Sands, including that it was charming; had a lot history; was easy to find your way around; and that the uniqueness of all the homes was part of its distinctive and positive identity.
- Strong support for ensuring new buildings do not overlook and overshadow existing properties
- Support for ensuring flood safety through raised ground floors, but the level to which they should be raised was felt to be too high in recently design properties due to accessibility concerns.
- Support for building measures to address climate change, including solar panels and green roofs
- Support for combining two or more plots into a single plot as a single plot was felt to be too small to build a good quality home on without compromising other aspects of design
- Significant concerns about accessibility of new flood safe properties for disabled people and people with babies and children, with strong views expressed that all properties should be accessible without many or any steps.
- Significant concerns about external stairs as a means of access due to safety in wet and icy conditions
- Concerns over refuse storage and collection arrangements
- Concerns over height of new buildings with many comments that new dwellings should be bungalows/chalet style dwellings and no taller than 2 storeys.

Statutory consultees responses:

- Affinity Water – no specific comments, welcome mention and continued consistent application of Policy PPL5 – Water Conservation, Drainage and Sewerage from the Tendring Local Plan
- Coal Authority – no comments
- Historic England – no specific comments
- Marine Management Organisation – no specific comments, standard advice regarding the Coastal Concordat reiterated
- National Highways – no comments
- Natural England – no specific comments
- Essex County Council:
 - o Would like to see Local Plan policies referred to in each guidance section (Shaded box)
 - o Introduction - Refer to Local Plan Policies PPL1 and PPL10
 - o Page 4 - Note that car and cycle parking standards are not 'Essex County Council' standards but are 'Essex Parking Standards'
 - o Page 7 - Further define 'High quality frontage'
 - o Page 29 – clarify that the Shoreline Management Plan is a government document and the responsibility of the Environment Agency
 - o Page 32 – update reference to PPG 3 to reflect new PPG referencing
 - o Page 37 – Essex parking standards and electric charging point (typo)
 - o Page 39 – clarify whether TDC seeks, or has sought, to withdraw permitted development rights

- Page 41 - The introductory text to this section in the third paragraph should refer to ECC as the Lead Local Flood Authority (LLFA) responsible for surface water management. The Essex SuDS Design Guide should also be referenced, which development must have regard to. Include reference to the Essex Climate Action Commission (ECAC), which is a formal independent cross-party commission established in October 2019. The ECAC's formal role is to:
 - identify ways where we can mitigate the effects of climate change, improve air quality,
 - reduce waste across Essex and increase the amount of green infrastructure and biodiversity in the county; and
 - explore how we attract investment in natural capital and low carbon growth.
 ECC's comment seeks to see the following requirements included in the SPD:
 - development is built to the highest standards of energy efficiency, water efficiency and renewable energy generation;
 - all buildings are net zero carbon;
 - proposals must demonstrate the application of the 'energy hierarchy' to reduce energy demand for heating, lighting, and cooling and minimise carbon dioxide emissions using an energy assessment tool proportional to the scale of the development;
 - proposals must minimise carbon emissions associated with operational energy and construction, including materials; and
 - all buildings must be designed to reduce energy demand and maximise fabric energy efficiency including such measures as: building orientation; high levels of insulation of roofs, floors, and walls; maximising airtightness; and using solar gain through window/door orientation whilst avoiding overheating.
- Section 7B: should state that all new development should incorporate SuDS and have regard to the Essex SuDS Design Guide. Reference should be made to rainwater harvesting, grey-water recycling etc to mitigate surface water flood risk. Further, all minor developments should manage runoff off using porous surfaces or otherwise discharge from the site should be limited to 1-year greenfield rates or 1 l/s, whichever is greater.
- Section 7C: ECC seek wording similar to the below to be included regarding green infrastructure:
 - Proposals will be encouraged that seek to conserve, and where appropriate enhance the green infrastructure of Jaywick Sands, demonstrating how they:
 - Conserve and where appropriate enhance designated green spaces and/or create new green/open spaces where appropriate.
 - Improve the connectivity between wildlife areas and green spaces through green corridors and/or improvements to the Public Rights of Way (PRoW) and cycle and footpath networks.
 - Enhance the visual characteristics and biodiversity of green spaces in close proximity to the development through biodiversity/environment net gain.
 - Ensure their landscape schemes, layouts, access and public open space provision and other amenity requirements contribute to the connectivity, maintenance and improvement of the Green Infrastructure Network.
 - Take into consideration the principles of Sustainable Drainage (SuDS) and natural flood management techniques, which will enhance biodiversity and ecosystems.
 - Consider the multi-functional use and benefits of local green spaces as part of the Green Infrastructure network.

Environment Agency:

- Comments on the stated flood depths are from most recent modelling. Ensure source of modelling is included in notes

- Does not support any net increase in people living within the areas of Jaywick Sands within Flood Zone 3
- Appendix worked examples should mention flood resilient construction
- Minor comments on referencing to updated Planning Practice Guidance and other minor wording changes (not substantive)
- Suffolk and North East Essex integrate care Board (SNEE ICB)
 - No specific comment on SPD, support measures to reduce flood risk.
- Essex County Fire and Rescue Service
 - We note the design guide discusses and considers climate change over the longer term. ECFRS agree climate change is a vital consideration due to the increased vulnerability in the Jaywick area, and the possible range of impacts arising for vulnerable residents in the area, from climate change and supports engagement with communities on this.
 - Advise consideration of
 - suitable principles in design to avoid deliberate fire setting.
 - road widths to be accessible whilst not impeding emergency service vehicle response through safe access routes for fire appliances including room to manoeuvre (such as turning circles).
 - The inclusion of electric vehicle charging points is welcomed, however the position of the charging points should be considered in relation to fire spread to properties in the event of a fire in an electric vehicle
 - support the proposed provision of off street (on plot) parking
 - The location of storage of refuse should consider the potential for fire spread in event of an accidental or deliberate fire within stored refuse.

Schedule of changes

Page/section ref	Change	Reason
Page 4, Page 37,	Replaced 'Essex County Council Highways standards' with 'Essex Parking Standards' throughout	Using correct terminology following comment from Essex County Council
Page 7, section 2A	Amended guidance on what a 'high quality frontage'.	Comment from Essex County Council
Page 32	Changed reference to Planning Practice Guidance 3 to Planning Practice Guidance: Flood Risk and Coastal Change and added hyperlink to https://www.gov.uk/guidance/flood-risk-and-coastal-change	For accuracy
Page 37	Changed 'car charging point' to 'electric car charging point'	For clarity following comment from Essex County Council
Page 37	Changed 'Secure dedicated cycle storage' to 'Secure dedicated cycle storage, which could be in the form of a cycle hangar or cycle garage, and should include electric bike charging facilities'	Comment from Colchester Cycling Campaign
Page 41	Third paragraph –reference added to Essex County Council as the Lead Local Flood Authority (LLFA) responsible for surface water management. Included reference to the Essex Climate Action Commission (ECAC)	Comment from Essex County Council
Page 42 section 7B	Amended first guidance point to read 'Surface water entering mains drainage must be limited to 1-year greenfield rates, or 1 litre/second, whichever is greater. Added guidance point to read 'Development	Comment from Essex County Council

	must have regard to the Essex SuDS Design Guide when designing sustainable drainage systems.’ Added guidance point to read ‘Development should incorporate rainwater harvesting and grey-water recycling where possible.’	
Generally	Many community members raised concerns about accessibility to properties with raised ground floors. Further guidance on this has been included, i.e. how to meet and interpret requirements of Part M of the Building Regulations.	Community comments
Generally	EA provided further detailed data and flood levels for 0.5% AEP in text and diagrams have been updated accordingly. Source of modelling included in references.	Comment from Environment Agency
Generally	Section 1 has been updated to clarify how guidance applies to development that results net increase and development that would result in no net increase.	Comment from Environment Agency (response to EA request adapted to align with wider Place Plan strategy)
Appendix	Statement regarding flood resilience construction added to appendix.	Comment from Environment Agency

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PLANNING POLICY AND LOCAL PLAN COMMITTEE

23 JANUARY 2023

REPORT OF THE DIRECTOR OF PLANNING

A.3 JAYWICK SANDS DESIGN GUIDE SUPPLEMENTARY PLANNING DOCUMENT

(Report prepared by Anthony Brindley)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
<p>To seek the Planning Policy and Local Plan Committee's comments on the Jaywick Sands Design Guide Supplementary Planning Document (SPD) Draft April 2022 consultation exercise. To seek the Committee's approval to recommend to Cabinet that the document is adopted with the proposed alterations.</p>
EXECUTIVE SUMMARY
<p>The regeneration of Jaywick Sands currently comprises two key work streams:</p> <ul style="list-style-type: none">- The Jaywick Sands Place Plan SPD (outlined in a separate committee report); and- The Jaywick Sands Design Guide SPD. <p>A corporate priority is supporting the community in Jaywick Sands, in particular, with more and better housing. The Jaywick Sands Design Guide SPD will provide key guidance to developers, helping to speed up the planning process and facilitate the re-development of poor quality housing.</p> <p>The Design Guide is divided into a number of chapters covering characterisation; flood resistance and resilience; massing, scale and building form; streetscape and parking; internal and external space standards; and climate change and biodiversity. The appendices provide worked examples of designs so the applicant can understand the practical implementation of the requirements. The document has been produced in consultation with the Environment Agency and other stakeholders.</p> <p>The consultation attracted 1 response online, 3 email responses and 3 substantive responses from statutory consultees. While this appears to be a low response rate, more comments were received at in-person drop-in events and in responses to the associated Place Plan consultation. There were no formal objections to the document; however, there were detailed comments from the public, particularly on accessibility to properties, accessibility to the beach and the design and size of new dwellings.</p> <p>There were no formal objections from statutory consultees, however, comments were received from Essex County Council which included the requirement for net zero carbon dwellings, high design and</p>

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environmental standards and the need for green infrastructure. There were also detailed comments in relation to the text. The Environment Agency did not object to the document, however, its main comment was that it does not support any net increase in people living within the areas of Jaywick Sands within Flood Zone 3.

All the above comments have been taken into account in the Council's response outlined below.

RECOMMENDATIONS

That the Planning Policy and Local Plan Committee:

- a) **endorses the Jaywick Sands Design Guide Supplementary Planning Document (SPD) with Officers' recommended alterations; and**
- b) **recommends to Cabinet that the above document (forming Appendix 1) be adopted with the Director of Planning given delegated powers to make any necessary minor or consequential amendments to the document before the final adopted version is published.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Jaywick Sands Design Guide Supplementary Planning Document Consultation, referred to hence as the "Design SPD", will support the Corporate Plan 2020-24 (aligned with the core themes of Tendring4Growth and Community Leadership). A corporate priority is supporting the community in Jaywick Sands, in particular, with more and better housing. The Design Guide will provide key guidance to developers, helping to speed up the planning process and facilitate the re-development of poor quality housing.

RESOURCES AND RISK

Resources: TDC Officers are managing this project with HAT Projects Ltd producing the document.

Risks: the adoption of the Design SPD will assist in the replacement of poor quality housing with properties built to appropriate standards taking into account environmental factors such as flood risk. The adoption of the standards contained in the Design SPD will improve the safety and amenity of residents.

LEGAL

Policy PP14 of the Tendring Local Plan states that 'Brooklands', 'Grasslands' and 'the Village' areas of Jaywick Sands are Priority Areas for Regeneration. Paragraph 6.10.5 explains that that the

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Council will produce a Design Guide SPD to guide replacement dwellings and small infill development. The Design Guide SPD will fulfil this commitment in the Local Plan.

The Design SPD is being prepared under the terms of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (Regulations 11-16).

The process for preparing an SPD is similar to a Local Plan document. However, an SPD is not subject to an independent examination by the Planning Inspectorate. There are four main stages in their production:

1. Preparation and informal consultation;
2. Statutory consultation (four to six weeks);
3. Consideration of representations and completion of final draft of the SPD; and
4. Adoption of the SPD.

The Committee report requests permission from the Committee that it recommends to Cabinet to proceed with Stage 4 of the process.

There is not a legal requirement for an SPD to be accompanied by a Sustainability Appraisal and this is reinforced in national planning guidance. However, in exceptional circumstances, there may be a requirement for Strategic Environmental Assessment (SEA) where it is considered likely that the document could have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been undertaken and concludes that further such assessment is not necessary. A screening exercise has also been carried out to determine whether the document gives rise to the need for an Appropriate Assessment (under the Habitats Regulations). This similarly concludes that such an assessment is not necessary. The SPD is supported by an Equality Impact Assessment. This concludes that the Design SPD will not have a significant adverse impact on persons sharing any of the characteristics protected under the Equality Act 2010.

Once adopted, the Design Guide SPD will be formal planning guidance and will be considered as a material consideration when assessing planning applications.

OTHER IMPLICATIONS

Crime and Disorder: the replacement of poor quality housing with more secure accommodation should lead to less crime and disorder. The Police service was also consulted as part of the consultation exercise.

Equality and Diversity: The Design Guide SPD has been subject to an Equalities Impact Assessment (EQIA) which raises no issues that would suggest the SPD should not be adopted.

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Health Inequalities: The general health in Jaywick Sands is poor, with over 20% of residents in bad health or very bad health according to 2011 census data. Across Jaywick Sands, only 25% of residents are in very good health, while Tendring district averages at just under 40% and nearly 50% nationally. There is not much variation, though Brooklands and Grasslands are worse, with poor health almost five times higher than the national average. As this area actually has the youngest age profile of all the Jaywick Local Super Output Areas, it is particularly concerning that the concentration of poor health is found in this area. This also correlates with the Index of Multiple Deprivation data on health. The improvements in housing will improve the living standards of residents and result in less health inequalities.

Area or Ward affected: West Clacton and Jaywick Sands Ward

Consultation/Public Engagement: The consultation was held from 9am on 5th September 2022 to 5pm on 27th October 2022. The draft SPD and other supporting documents were available for inspection during the consultation period at the following locations:

- online on the Council's website; and
- in hard copy at the Council's offices and libraries through the District.

In addition, drop-in events were held during the consultation period, in liaison with community groups and venues in Jaywick Sands and in conjunction with the planned consultation on the Jaywick Sands Place Plan. Times and venues for drop-in events were publicised on the Council's website and social media as well as through flyers distributed to all households in Jaywick Sands.

The drop-in and online events held were:

- Saturday 24th September: Inclusion Ventures;
- Wednesday 28th September: online webinar;
- Friday 30th September: Inclusion Ventures (senior lunch club – not open to the general public);
- Friday 7th October – Martello Tower;
- Thursday 13th October – Community Resource Centre; and
- Saturday 22nd October – Community Resource Centre.

In accordance with statutory requirements, a Public Notice was placed on the Council's website. An advertisement was also placed in the Clacton Gazette (with associated on-line advertisement) and a press release was issued to raise awareness of the consultation through local media outlets.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The regeneration of Jaywick Sands currently comprise two key work streams:

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- The Jaywick Sands Design Guide SPD; and
- The Jaywick Sands Place Plan (outlined in a separate committee report)

The Design Guide SPD aims to guide the development of new and replacement dwellings within the existing residential areas of Brooklands, Grasslands and the Village.

This Design SPD is a tool for:

- Stakeholder and community members when commenting on planning applications or early stage proposals;
- Property owners and developers, and their design and planning consultants, in producing proposals for their sites; and
- Planning officers in determining planning applications and pre-application submissions.

Much of the site, including existing residential development, is within an area at high risk of flooding. Public safety is the highest priority and the Council has worked, in particular with the Environment Agency, to identify a strategy to safeguard and improve public safety as well as achieve wider regeneration benefits. It has already been accepted that regeneration of the area presents an opportunity to improve the safety of existing residents. The agreed approach is to allow new development, including new dwellings, in the area and to manage risk from flooding through bespoke building design rather than by resisting development as a the standard 'sequential test' in the National Planning Policy Framework would do.

JAYWICK SANDS DESIGN GUIDE SPD

Consultation Responses

The consultation attracted 1 response online, 3 email responses, and 4 substantive responses from statutory consultees. While this appears to be a low response rate, many comments were received at in-person drop-in events and in responses to the wider Place Plan consultation that were relevant to the SPD. The material planning matters raised have been included in the summary of feedback.

Consultation

The following feedback was received:

Public and non-statutory bodies

The comments from the public and non-statutory body response can be summarised as the following:

- Seafront development must include disabled access to the sea wall and promenade;
- Designs of buildings should be flood proof and have aesthetic design in keeping with a seaside resort;

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- Consideration should be made to make the new properties wheelchair accessible allowing for appropriate access in the case of flooding;
- 4 storey buildings are not conducive with a seaside town;
- Building companies should install solar panels as standard;
- Limited and in many cases impossible access for disabled people to local amenities, shops, dental surgeries and doctors;
- Disabled access must be fully considered in the future;
- Cycle parking – cycle garage, cycle hangars, security of cycling storage should be included; and
- Developer contributions should be used towards improving the Jaywick-Clacton cycle route.

A list of the informal comments mentioned at the consultation event is outlined in the Consultation Statement.

Statutory consultees responses:

- Affinity Water: no specific comments, welcome mention and continued consistent application of Policy PPL5: Water Conservation, Drainage and Sewerage from the Tendring Local Plan;
- Coal Authority: no comments;
- Historic England: no specific comments;
- Marine Management Organisation: no specific comments, standard advice regarding the Coastal Concordat reiterated;
- National Highways: no comments; and
- Natural England: no specific comments.
- Police: no comment

Essex County Fire and Rescue Service (ECFRS) submitted a number of detailed comments, the key issues in relation to this document being:

- Noted that the design guide discusses and considers climate change over the longer term. ECFRS agree climate change is a vital consideration due to the increased vulnerability in the Jaywick area and the possible range of impacts arising for vulnerable residents in the area from climate change. ECFRS supports engagement with communities.
- ECFRS advise consideration of:
 - suitable principles in design to avoid deliberate fire setting;
 - road widths to be accessible whilst not impeding emergency service vehicle response through safe access routes for fire appliances including room to manoeuvre (such as turning circles);
 - the inclusion of electric vehicle charging points is welcomed, however, the position of the charging points should be considered in relation to fire spread to properties in the event of a fire in an electric vehicle;
 - support the proposed provision of off street (on plot) parking;
 - the location of storage of refuse should consider the potential for fire spread in event of an accidental or deliberate fire within stored refuse.

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The NHS Suffolk and North East Integrated Care Board supported the objectives of the SPD. However, they made the following comments:

- The need to ensure the community is fully engaged in future plans, particularly, people impacted by inequalities;
- NHS England will not support new health facilities within a flood risk zone, however, a health hub, possibly using community infrastructure, may be possible;
- Significant new development of houses would require section 106 contributions to mitigate the impact on the local surgery.

Essex County Council (ECC) was supportive of the document but made a series of detailed comments and suggested changes to each section of the document:

- Would like to see Local Plan policies referred to in each guidance section (Shaded box);
- Introduction - Refer to Local Plan Policies PPL1 and PPL10;
- Page 4 - Note that car and cycle parking standards are not 'Essex County Council' standards but are 'Essex Parking Standards';
- Page 7 - Further define 'High quality frontage';
- Page 29 – clarify that the Shoreline Management Plan is a government document and the responsibility of the Environment Agency;
- Page 32 – update reference to PPG (Planning Practice Guidance) 3 to reflect new PPG referencing;
- Page 39 – clarify whether TDC seeks, or has sought, to withdraw permitted development rights; and
- Page 41 - The introductory text to this section in the third paragraph should refer to ECC as the Lead Local Flood Authority (LLFA) responsible for surface water management. The Essex SuDS Design Guide should also be referenced. Include reference to the Essex Climate Action Commission (ECAC), which is a formal independent cross-party commission established in October 2019. The ECAC's formal role is to identify ways where we can mitigate the effects of climate change, improve air quality, reduce waste across Essex and increase the amount of green infrastructure and biodiversity in the county; and explore how we attract investment in natural capital and low carbon growth.

ECC's comments seek to see the following requirements included in the SPD:

- Development is built to the highest standards of energy efficiency, water efficiency and renewable energy generation;
All buildings are net zero carbon;
- Proposals must demonstrate the application of the 'energy hierarchy' to reduce energy demand for heating, lighting, and cooling and minimise carbon dioxide emissions using an energy assessment tool proportional to the scale of the development;
- Proposals must minimise carbon emissions associated with operational energy and construction, including materials; and

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- All buildings must be designed to reduce energy demand and maximise fabric energy efficiency including such measures as: building orientation; high levels of insulation of roofs, floors, and walls; maximising air tightness; and using solar gain through window/door orientation whilst avoiding overheating.
- Section 7B: should state that all new development should incorporate SuDS (Sustainable Urban Drainage Systems) and have regard to the Essex SuDS Design Guide. Reference should be made to rainwater harvesting, grey-water recycling etc to mitigate surface water flood risk. Further, all minor developments should manage runoff off using porous surfaces or otherwise discharge from the site should be limited to 1-year greenfield rates or 1 l/s, whichever is greater.
- Section 7C: ECC seek wording similar to the below to be included regarding green infrastructure. Proposals will be encouraged that seek to conserve, and where appropriate enhance the green infrastructure of Jaywick Sands, demonstrating how they:
 - conserve and where appropriate enhance designated green spaces and/or create new green/open spaces where appropriate.
 - Improve the connectivity between wildlife areas and green spaces through green corridors and/or improvements to the Public Rights of Way (PRoW) and cycle and footpath networks.
 - enhance the visual characteristics and biodiversity of green spaces in close proximity to the development through biodiversity/environment net gain.
 - ensure their landscape schemes, layouts, access and public open space provision and other amenity requirements contribute to the connectivity, maintenance and improvement of the Green Infrastructure Network.
 - take into consideration the principles of Sustainable Drainage (SuDS) and natural flood management techniques, which will enhance biodiversity and ecosystems.
 - consider the multi-functional use and benefits of local green spaces as part of the Green Infrastructure network.

The Environment Agency is supportive of the document but had the following detailed comments:

- Comments on the stated flood depths are from most recent modelling. Ensure source of modelling is included in notes;
- Does not support any net increase in people living within the areas of Jaywick Sands within Flood Zone 3;
- Appendix worked examples should mention flood resilient construction; and
- Minor comments on referencing to updated Planning Practice Guidance and other minor wording changes (not substantive).

The proposed Council response to the above comments are outlined below:

Page/section ref	Change	Reason

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Page 4, Page 37,	Replace 'Essex County Council Highways standards' with 'Essex Parking Standards' throughout.	Using correct terminology following comment from Essex County Council
Page 7, section 2A	Amended guidance on what a 'high quality frontage	Comment from Essex County Council
Page 32	Change reference to Planning Practice Guidance 3 to Planning Practice Guidance: Flood Risk and Coastal Change and add hyperlink to https://www.gov.uk/guidance/flood-risk-and-coastal-change	For accuracy
Page 37	Change 'car charging point' to 'electric car charging point'.	For clarity following comment from Essex County Council
Page 37	Change 'Secure dedicated cycle storage' to 'Secure dedicated cycle storage, which could be in the form of a cycle hangar or cycle garage, and should include electric bike charging facilities'.	Comment from Colchester Cycling Campaign
Page 41	Third paragraph –reference added to Essex County Council as the Lead Local Flood Authority (LLFA) responsible for surface water management. Included reference to the Essex Climate Action Commission (ECAC)	Comment from Essex County Council
Page 42 section 7B	Amendment to first guidance point to read '...engineering mains drainage must be limited to 1-year greenfield rates, or 1 litre/second, whichever is greater. Add guidance point to read 'Development must have regard to the Essex SuDS Design Guide when designing sustainable drainage systems.' Add guidance point to read 'Development should incorporate rainwater harvesting and grey-water recycling where possible.'	Comment from Essex County Council
Generally	Many community members raised concerns about accessibility to properties with raised ground floors. Further guidance on this has been included, i.e. how to meet and interpret requirements of Part M of the Building Regulations and to require: <ul style="list-style-type: none"> - Internal stairs where required to access habitable space above a certain level. - Lift access for multi-family development (i.e. flats). - Design of external stairs to be non-slip and not to use metal handrails or steps. 	Community comments

A.4 APPENDIX A

Generally	EA provided further detailed data and flood levels for 0.5% AEP in text and diagrams have been updated accordingly. Source of modelling included in references.	Comment from Environment Agency
Generally	Section 1 has been updated to clarify how guidance applies to development that results net increase and development that would result in no net increase.	Comment from Environment Agency (response to EA request adapted to align with wider Place Plan strategy)
Appendix	Add reference to flood resilience construction to worked examples	Comment from Environment Agency

CONCLUSION

Taking into account the discussion held at this meeting, Members of the Planning Policy and Local Plan Committee are invited to recommend to Cabinet that the Design SPD be adopted.

APPENDICES

Appendix 1 - Jaywick Sands Design Guide Supplementary Planning Document
Appendix 2 - Jaywick Sands Design Guide Supplementary Planning Document Consultation Statement

BACKGROUND DOCUMENTS

- [Strategic Environmental Assessment and Habitats Regulation Assessment Screening Opinion](#)
- [Equalities Impact Assessment December 2022](#)
- [Jaywick Sands Sequential Exception Test - Guidance for builders & developers \(2022\)](#)

CABINET

17 FEBRUARY 2023

REFERENCE REPORT FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE

A.5 SCRUTINY OF THE COUNCIL'S PROPOSALS TO REVIEW THE BEACH HUT STRATEGY

(Report prepared by Keith Durran and Keith Simmons)

BACKGROUND

At the meeting of the Resources and Services Overview and Scrutiny Committee on 1 February 2023, it considered a report submitted by its own T&FG (Task and Finish Group) on Beach Huts.

The T&FG sought to understand the proposals to be included for implementation in the emerging Beach Hut Strategy and make recommendations to Cabinet prior to adoption in February 2023.

Throughout the enquiry, the Task and Finish Working Group investigated the issues which the emerging Beach Hut Strategy was proposing to address. To understand how the various issues would impact on the Council, residents, Beach Hut Licence Holders and other stakeholders they spent time listening and asking questions of various stakeholders.

In preparation for Cabinet considering the emerging Beach Hut Strategy, the Task and Finish Working Group understand that the Council have consulted on the key issues included in the draft document. The Task and Finish Working Group reviewed each of those items to establish a view and make recommendations where appropriate.

For clarity, the eight points which formed the consultation are listed below, together with what the Council is minded to implement once the strategy is adopted. The Task and Finish Working Group's findings and comments are listed below each item:

1. RENTING OF BEACH HUTS

What is the Council considering?

The Council is proposing to issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year, which will regulate the market for rentals. It is proposed that commercial agreements are issued to those requesting them, but based on a criteria. This will cover key points such as accessibility and safety of huts, to ensure those with commercial agreements are able to provide a high quality service and support the appropriate points set out in the Council's Tourism Strategy. New agreements would be through a lease and not a licence and as such, the cost would be identified by establishing a market value, which would increase the amount paid. A specific clause will be included on all other agreements to prohibit renting for more than 10 days per year. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Comments from the Task and Finish Working Group

- The Task and Finish Working Group expressed concern about the potential cost of the lease and the proposed terms and conditions, which are yet unknown. The Task and Finish Working Group requested that Cabinet ensure future charges are set at a fair and reasonable level.
- The Task and Finish Working Group were originally concerned with the requirement to tender (in the original proposal which was consulted), but agreed with the new proposal for an application process.
- The Task and Finish Working Group expressed concern about the significant administration processes that may be involved in implementing the strategy and the subsequent cost to the Council of processing leases.

2. OWNING BEACH HUTS

What is the Council's considering?

The Council is considering whether to limit new beach huts licences to one per household. The Council is considering honouring multiple existing licences to one household. However, if a household already has a beach hut, then they would not be able to apply for a second licence. This would ensure that Beach Hut are more accessible to local people.

Comments from the Task and Finish Working Group

- The Task and Finish Working Group agree to the principal of this point.

3. THE CURRENT BEACH HUT SPECIFICATION

What is the Council's considering?

The Council is minded to work through a review of the current specification and consider adding new products, such as modern cladding which do not currently meet the specification. This can also consider how beach huts could support the Council's carbon neutral agenda:

Comments from the Task and Finish Working Group

- The Task and Finish Working Group were supportive of bright colours and vibrant designs for Beach Huts. This followed their visit to Beach Hut locations during the enquiry.
- The Task and Finish Working Group requested that Cabinet acknowledge the differences in locations along the Tendring seafronts and their respective unique features, such as cliff slopes. Following the enquiry, the Task and Finish Working Group noted that appropriate adaptations in parts of the District were essential for reasons of access and should be included in the revised specification, e.g. appropriate access steps on cliff slopes. This should be considered on a location by location basis.
- The Task and Finish Working Group requested that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council. During the enquiry, they noted that some Beach Hut locations were located on private land and were not under the jurisdiction of the Council.
- The Task and Finish Working Group were minded to note and request that no designs should be permitted that are contrary to current or emerging legislation.
- The Task and Finish Working Group requested that high standards were maintained on Beach Huts and dilapidated Beach Huts should be subject to appropriate enforcement action. This should be proportionate to the

agreement holders personal circumstances, but ensure the design specification standards are maintained.

4. BEACH HUT ADAPTATIONS

What is the Council considering?

Following a review of the specification, the Council is minded to work with licence holders to ensure a removal of those adaptations which fall outside of the revised specification.

Comments from the Task and Finish Working Group

- The Task and Finish Working Group requested that Cabinet were mindful of their previous comments on the revision of the specification.
- The Task and Finish Working Group requested that Cabinet set a reasonable timescale for adaptations to be removed, which fall outside of the revised specification. The timescales recommended is a period of two years.

5. MONITORING OF BEACH HUT LICENCE CONDITIONS & COMPLAINT MANAGEMENT

What is the Council considering?

The Council is considering additional staffing resources to ensure licence conditions are adhered to and taking appropriate enforcement action where necessary. The Council will also need to consider how this would be funded to ensure complaints are acted upon in a timely manner.

Comments from the Task and Finish Working Group

- Where conditions are included in Beach Hut agreements, the Task and Finish Working Group asked that there should be appropriate resources to take action when they are not being adhered to. They were mindful that it is not good practice to allow conditions to be ignored and they cannot be addressed without appropriate resources.

6. AN IMPROVED DIGITAL SERVICE FOR LICENCE HOLDERS

What is the Council's considering?

The Council is considering installing new software to improve services to licence holders and allow them to complete processes online. This would also be used to gather and record appropriate information about conditions, including which huts are licenced to rent and to make complaints easier to report and manage.

Comments from the Task and Finish Working Group

- The Task and Finish Working Group asked that those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient resources should be in place.

7. BUILDING NEW BEACH HUTS

What is the Council's considering?

The Council is considering whether to build new beach huts around the District, which will be accessible through a lease. The amount of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people.

Comments from the Task and Finish Working Group

- The Task and Finish Working Group requested that any new Beach Huts were made available through an affordable set of fees and charges.
- The Task and Finish Working Group requested that any Council built Beach Huts built which are sold in the future are done so directly and through an equitable process; and not to use third parties.

8. A MOVE FROM LICENCES TO LEASES

What is the Council considering?

It is suggested that licences are phased out over the next year and are replaced by leases from 1 April 2024. Leases will also provide those with beach huts on Council land with additional security of tenure, which they do not currently have with a licence agreement. The cost of a lease will increase the annual amount paid by those with beach huts, which will be identified by establishing the market value once the strategy has been adopted. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Further to this, consideration has been given as to how the revised specification could be embedded into Beach Hut Agreements. As such, the conditions for which beach hut users have to comply with for design, would form part of the agreement.

Comments from the Task and Finish Working Group

- Concern was expressed by the Task and Finish Working Group about the potential cost of lease agreements and the proposed terms and conditions – which are as yet unknown. The Task and Finish Working Group requested that Cabinet ensure future charges are set at a fair and reasonable level.

RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE'S RECOMMENDATION(S) TO CABINET

That Cabinet takes into account, prior to its consideration of the draft Beach Hut Strategy, that -

- a) the Committee recommends that future charges for lease agreements are set at a fair and reasonable level. This is relevant for both commercial and mainstream leases. This should also be appropriate for any new Beach Huts made available for purchase or lease in the future;**
- b) it is recommended that terms and conditions included in lease agreements are fair and equitable and in consultation with Beach Hut owners;**
- c) the Committee recommends that appropriate resources are put in place for administration involved in implementing the strategy. That consideration be given to the subsequent cost to the Council of processing leases and that subsequent costs are reported back to the Committee;**

- d) the Committee recommends that bright colours and vibrant designs be included in the revised design specification for Beach Huts, when this is produced following adoption;**
- e) the Committee recommends that there is acknowledgement of the differences in seafront locations along the Tendring District and their respective unique features, such as cliff slopes and how they impact Beach Hut design for the emerging specification review;**
- f) noting the point above, it is recommended that certain limited Beach Hut adaptations in parts of the District be included in the future specification for reasons of access, e.g. appropriate access steps on cliff slopes. This should be considered on a location-by-location basis;**
- g) it is recommended that a map be attached to the emerging strategy to clearly define which land is owned by Tendring District Council;**
- h) it is recommended that no Beach Hut designs should be permitted that are contrary to current or future legislation;**
- i) to ensure high standards are maintained on Beach Huts and their use, it is recommended that adequate resources should be in place for appropriate enforcement action;**
- j) the Committee recommends that a reasonable timescale for adaptations to be removed which fall outside of the revised specification, is agreed. The timescale recommended is a period up to two years;**
- k) the Committee recommends that the Council continues to support those without access or ability to use digital platforms so that they are still able to deal with a member of staff. As such, sufficient resources should remain in place; and**
- l) the new Beach Hut Strategy returns to the Resources and Services Overview and Scrutiny Committee for review in 12 months' time.**

PORTFOLIO HOLDER COMMENT(S) AND RECOMMENDATION(S) TO CABINET

PORTFOLIO HOLDERS' COMMENTS

Please refer to item A.10 of the Report of the Portfolio Holder for Leisure and Tourism elsewhere on the Agenda.

RECOMMENDATIONS TO CABINET:

That the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted and that it be further noted that the response of the Portfolio Holder thereto will be considered as part of the Cabinet's deliberations on the related report of the Leisure and Tourism Portfolio Holder (A.10) which will be considered later on in the meeting.

APPENDICES

A.5 Appendix - Final Report of the Resources and Services Overview and Scrutiny Committee Task & Finish Group following its Inquiry into the Council's Emerging Beach Hut Strategy Review

A.5 APPENDIX

FINAL REPORT OF THE RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE TASK & FINISH GROUP FOLLOWING ITS INQUIRY INTO:

THE COUNCIL'S EMERGING BEACH HUT STRATEGY REVIEW

1 FEBRUARY 2023

TERMS OF REFERENCE OF THE TASK & FINISH GROUP

The Group was set up to review the work on the Council's emerging Beach Hut Strategy.

THE AIMS AND OBJECTIVES OF THE INQUIRY

To understand the proposals to be included for implementation in the emerging Beach Hut Strategy and make recommendations to Cabinet prior to adoption in February 2023.

MEMBERSHIP OF THE TASK & FINISH GROUP

Cllr. Gary Scott (Chairman)
Cllr Bill Davidson
Cllr Delyth Miles
Cllr James Codling
Cllr Gina Placey

OFFICER SUPPORT FOR THE TASK & FINISH GROUP

The Economic Growth and Leisure Team were the lead service for the inquiry, which was supported by the Council's Democratic Services team. The key personnel were as follows:

Mike Carran, Assistant Director, Economic Growth and Leisure
Kieran Charles, Sport and Leisure Operations Manager
Lee Heley, Corporate Director, Place and Economy
Keith Durran, Committee Services Officer

The Task and Finish Group, asked that Officers were thanked for their input into the process in developing this report.

INVITEES AND PARTICIPANTS

The Task and Finish Group discussed the emerging strategy review with the following invitees and participants:

Cllr Alex Porter, Portfolio Holder for Leisure and Tourism

Further to this, the invited representatives from the District's 5 Beach Hut Associations, as representatives of licence holders. The representatives who attended were as follows:

Peter Dias, Frinton Beach Hut Association
Melanie Whitehead, Walton Beach Hut Association
Sheila Crow, Brightlingsea Beach Hut Association

The Task and Finish Group have also considered representation from Beach Hut licence holders

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who have formed a group of those who have rented their huts to visitors.

EXPECTED OUTCOME(S) OF THE INQUIRY

That the approved scope of the enquiry identified that following a review of the Council's proposals for the Beach Hut Strategy Review, the Task and Finish g Group will look to make proposals for the Resources and Services Overview and Scrutiny Committee (RSOSC) to consider. Following that, the RSOSC, can determine whether to request that Cabinet subsequently take those points into consideration prior to adoption of the strategy expected to be on 17 February 2023.

ACTUAL OUTCOME(S) OF THE INQUIRY

The Task and Finish Group have provided recommendations for the Resources and Services Overview and Scrutiny Committee to consider on the draft proposals, for consideration prior to Cabinet adopting the Beach Hut Strategy.

RECOMMENDATION(S)

The Task and Finish Group recommends the following to the Resources and Services Overview and Scrutiny Committee, to subsequently request that Cabinet take into account prior to consideration of the draft Beach Hut Strategy, on 17 February 2023:

- **The Committee recommends that future charges for lease agreements are set at a fair and reasonable level. This is relevant for both commercial and mainstream leases. This should also be appropriate for any new Beach Huts made available for purchase or lease in the future.**
- **It is recommended that terms and conditions included in lease agreements are fair and equitable for Beach Hut owners.**
- **The Committee recommends that appropriate resources are put in place for administration involved in implementing the strategy. They asked for consideration be given to the subsequent cost to the Council of processing leases.**
- **The Committee recommends that bright colours and vibrant designs be included in the revised design specification for Beach Huts, when this is produced following adoption.**
- **The Committee recommends that there is acknowledgement of the differences in seafront locations along the Tendring District and their respective unique features, such as cliff slopes and how they impact Beach Hut design for the emerging specification review.**
- **Noting the point above, it is recommended that Beach Hut adaptations in parts of the District were included in the future specification for reasons of access, e.g. appropriate access steps on cliff slopes. This should be considered on a location by location basis.**
- **It is recommended that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council.**
- **It is recommended that no Beach Hut designs should be permitted that are contrary to current or emerging legislation.**
- **To ensure high standards were maintained on Beach Huts, it is recommended that adequate resources should be in place for appropriate enforcement action.**
- **Noting the point above, any future enforcement action should be proportionate to the the agreement holders personal circumstances, but ensure the design specification standards are maintained.**
- **The Committee recommends that a reasonable timescale for adaptations to be removed which fall outside of the revised specification, is agreed. The timescale recommended is a period of two years.**
- **The Committee recommends that those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient**

A.5 APPENDIX

resources should be in place.

- It is recommended that any Council built Beach Huts which are sold in the future, are done so directly and through an equitable process; and not to use third parties, e.g. Estate Agents.
- Subject to a legal review, it is recommended that consideration be given to including a condition in future agreements, that third party Estate Agents are no longer able to sell Beach Huts on behalf of their respective owners.

CHRONOLOGY

The Task and Finish Group Meetings have taken the following form:

Date	Key Themes	Stakeholder Involvement
21 September 2022	Exploration into draft Beach Hut Strategy, the related consultation process and other linked issues	Corporate Director, Place and Economy Sport and Leisure Operations Manager
29 September 2022	Continued exploration into the draft Beach Hut Strategy and appropriate issues. To include the views of Beach Hut owners	Beach Hut Association Representatives Assistant Director, Economic Growth and Leisure
6 October 2022	Continued exploration into the draft Beach Hut Strategy and appropriate issues. To include discussion on strategic issues.	Portfolio Holder, Leisure and Tourism Assistant Director, Economic Growth and Leisure Sport and Leisure Operations Manager
28 October 2022	Visit to Beach Hut Sites in Frinton and Walton on the Naze. For the Task and Finish Group to view Beach Hut designs and discuss adaptations.	Assistant Director, Economic Growth and Leisure
15 December 2022	The Task and Finish Group met with Beach Hut Licence Holders who have rented their huts to visitors	Representatives of Beach Hut Renters
24 January 2023	The Task and Finish Group met to deliberate on their findings and discuss recommendations and the final report	Assistant Director, Economic Growth and Leisure

DETAILED FINDINGS OF THE INQUIRY

Throughout the enquiry, the Task and Finish Group looked into the issues which the emerging Beach Hut Strategy was proposing to address. In order to understand how the various issues would impact on the Council, residents, Beach Hut Licence Holders and other other stakeholders they spent time listening and asking questions of various stakeholders.

In preparation for Cabinet considering the emerging Beach Hut Strategy, the Task and Finish Group understand that the Council have consulted on the key issues included in the draft document. The Task and Finish Group reviewed each of those items to establish a view and make recommendations where appropriate.

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For clarity, the eight points which formed the consultation are listed below, together with what the Council is minded to implement once the strategy is adopted. The Task and Finish Group's findings and comments are listed below each item:

1. RENTING OF BEACH HUTS

What is the Council considering?

The Council is proposing to issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year, which will regulate the market for rentals. It is proposed that commercial agreements are issued to those requesting them, but based on a criteria. This will cover key points such as accessibility and safety of huts, to ensure those with commercial agreements are able to provide a high quality service and support the appropriate points set out in the Council's Tourism Strategy. New agreements would be through a lease and not a licence and as such, the cost would be identified by establishing a market value, which would increase the amount paid. A specific clause will be included on all other agreements to prohibit renting for more than 10 days per year. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Comments from the Task and Finish Group

- The Task and Finish Group expressed concern about the potential cost of the lease and the proposed terms and conditions, which are as yet unknown. The Task and Finish Group requested that Cabinet ensure future charges are set at a fair and reasonable level.
- The Task and Finish Group were originally concerned with the requirement to tender (in the original proposal which was consulted), but agreed with the new proposal for an application process;
- The Task and Finish Group expressed concern about the significant administration processes that may be involved in implementing the strategy and the subsequent cost to the Council of processing leases.

2. OWNING BEACH HUTS

What is the Council's considering?

The Council is considering whether to limit new beach huts licences to one per household. The Council is considering honouring multiple existing licences to one household. However, if a household already has a beach hut, then they would not be able to apply for a second licence. This would ensure that Beach Hut are more accessible to local people.

Comments from the Task and Finish Group

- The Task and Finish Group agree to the principal of this point

3. THE CURRENT BEACH HUT SPECIFICATION

What is the Council's considering?

The Council is minded to work through a review of the current specification and consider adding new products, such as modern cladding which do not currently meet the specification. This can also consider how beach huts could support the Council's carbon neutral agenda;

Comments from the Task and Finish Group

- The Task and Finish Group were supportive of bright colours and vibrant designs for

A.5 APPENDIX

Beach Huts. This followed their visit to Beach Hut locations during the enquiry.

- The Task and Finish Group requested that Cabinet acknowledge the differences in locations along the Tendring seafronts and their respective unique features, such as cliff slopes. Following the enquiry, the Task and Finish Group noted that appropriate adaptations in parts of the District were essential for reasons of access and should be included in the revised specification, e.g. appropriate access steps on cliff slopes. This should be considered on a location by location basis.
- The Task and Finish Group requested that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council. During the enquiry, they noted that some Beach Hut locations were located on private land and were not under the jurisdiction of the Council
- The Task and Finish Group were minded to note and request that no designs should be permitted that are contrary to current or emerging legislation.
- The Task and Finish Group requested that high standards were maintained on Beach Huts and dilapidated Beach Huts should be subject to appropriate enforcement action. This should be proportionate to the the agreement holders personal circumstances, but ensure the design specification standards are maintained.

4. BEACH HUT ADAPTATIONS

What is the Council considering?

Following a review of the specification, the Council is minded to work with licence holders to ensure a removal of those adaptations which fall outside of the revised specification.

Comments from the Task and Finish Group

- The Task and Finish Group requested that Cabinet were mindful of their previous comments on the revision of the specification.
- The Task and Finish Group requested that Cabinet set a reasonable timescale for adaptations to be removed, which fall outside of the revised specification. The timescales recommended is a period of two years.

5. MONITORING OF BEACH HUT LICENCE CONDITIONS & COMPLAINT MANAGEMENT

What is the Council considering?

The Council is considering additional staffing resources to ensure licence conditions are adhered to and taking appropriate enforcement action where necessary. The Council will also need to consider how this would be funded to ensure complaints are acted upon in a timely manner.

Comments from the Task and Finish Group

- Where conditions are included in Beach Hut agreements, the Task and Finish Group asked that there should be appropriate resources to take action when they are not being adhered to. They were mindful that it is not good practice to allow conditions to be ignored and they cannot be addressed without appropriate resources.

6. AN IMPROVED DIGITAL SERVICE FOR LICENCE HOLDERS

What is the Council's considering?

The Council is considering installing new software to improve services to licence holders and allow them to complete processes online. This would also be used to gather and record appropriate information about conditions, including which huts are licenced to rent and to make complaints easier to report and manage.

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Comments from the Task and Finish Group

- The Task and Finish Group asked that those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient resources should be in place.

7. BUILDING NEW BEACH HUTS

What is the Council's considering?

The Council is considering whether to build new beach huts around the District, which will be accessible through a lease. The amount of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people.

Comments from the Task and Finish Group

- The Task and Finish Group requested that any new Beach Huts were made available through an affordable set of fees and charges
- The Task and Finish Group requested that any Council built Beach Huts built which are sold in the future are done so directly and through an equitable process; and not to use third parties.

8. A MOVE FROM LICENCES TO LEASES

What is the Council considering?

It is suggested that licences are phased out over the next year and are replaced by leases from 1 April 2024. Leases will also provide those with beach huts on Council land with additional security of tenure, which they do not currently have with a licence agreement. The cost of a lease will increase the annual amount paid by those with beach huts, which will be identified by establishing the market value once the strategy has been adopted. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Further to this, consideration has been given as to how the revised specification could be embedded into Beach Hut Agreements. As such, the conditions for which beach hut users have to comply with for design, would form part of the agreement.

Comments from the Task and Finish Group

- Concern was expressed by the Task and Finish Group about the potential cost of lease agreements and the proposed terms and conditions – which are as yet unknown. The Task and Finish Group requested that Cabinet ensure future charges are set at a fair and reasonable level.
- The Task and Finish Group requested that consideration be given to including a condition in future agreements, that third party Estate Agents are no longer able to sell Beach Huts on behalf of their respective owners. This will enable the Council to maintain a control on this process and ensure future sales are not priced excessively; and as such be unaffordable to many local people.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

[Beach Hut Strategy Revisited Report, Cabinet Nov 2022](#)

APPENDICES

A.5 APPENDIX

None

REPORT CONTACT OFFICER(S)

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CABINET

17 FEBRUARY 2023

REFERENCE REPORT FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE

A.6 SCRUTINY OF CYBER SECURITY FOR THE COUNCIL

(Report prepared by Keith Durran and Keith Simmons)

BACKGROUND

At the meeting of the Resources and Services Overview and Scrutiny Committee (RSOSC) on 1 February 2023, it considered a report submitted by its own Task and Finish Group (T&FG) on Cyber Security.

In accordance with the RSOSC mandate the Cyber Security T&FG were tasked to:

- 1) To challenge/ better understand the cybersecurity risks, defences, and mitigations the Council has in place.

Following Full Council 22nd November 2022, the T&FG mandate was extended to additionally:

- 2) Review different proposals of Members' access to emails and the current practice of auto-forwarding to personal email accounts, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings.

During its first meeting the Cyber Security T&FG agreed to use the Department of Levelling Up Housing and Communities (DLUHC) Cyber Assessment Framework (CAF) document template as a self-assessment, auditing, and reporting framework template to review council cyber-security as referenced above.

The DLUHC CAF proved relevant to the review of Members' access to emails, auto-forwarding of council official business emails to personal devices and council data stored on personal devices as it includes a number of National Cyber Security Centre (NCSC) compliance statements covering: data security and understanding, data protection in transit across the UK network, data storage security, mobile device data security, media equipment sanitisation and disposal, secure device configuration.

CAF Explanatory Notes

The DLUHC Cyber Assessment Framework (CAF) provides the pragmatic basis to 'self-assess' the Council's own cyber security performance across the following activities:

- 1) Managing Cyber Security (organisational structures, policies, processes, understanding).
- 2) Protecting Against Cyber Attack - security measures to protect networks and systems.
- 3) Detecting Cyber Security Events ensuring effective security defences/ event detection.
- 4) Minimising The Impact of cyber security Incidents and their adverse impact.

The self-assessment CAF is a National Cyber Security Centre (NCSC) assessment document that has been a mandatory cyber-security 'readiness state audit' document for critical UK national infrastructure providers since 2021. During 2022 the CAF has become mandatory for every central government department and whilst CAF completion is currently

voluntary for local government DLUHC have repeatedly advised that it will become mandatory during 2023/24.

In this sense the CAF will replace the now defunct Public Services Network (PSN) IT Health Check annual audit/ certification process reporting local government cyber-security capabilities and fitness to remain securely connected and sharing data with central government Department of Works & Pensions (DWP). The reader should note that several council statutory service functions are completely reliant upon this connectivity, for example: Council Tax, Housing Benefit administration. Loss/ exclusion from central government connectivity would quickly stop these services from functioning.

With regards to the outcome, outlined recommendations were made by T&FG Members with due regard and consideration to:

- The Full Council background information report.
- All Members' subject matter comments received considered 23rd Jan'23.
- A newly published Information Commissioner's Office Freedom of Information (FOI) guidance note considered 23rd Jan'23.
- The four costed options provided and their respective financial, cyber-security and Member-user working practicality satisfaction and non-satisfaction implications considered 23rd Jan'23.
- A full copy of the Council's Cyber Assessment Framework (CAF). For simplicity, CAF compliance was reviewed utilising 'traffic light' red, amber and green representing non-compliance, improvements required and full compliance respectively.

Following CAF cyber-security compliance self-assessment, the T&FG identified that the council generally has robust cyber-security arrangements and working practices in place to manage, protect and safeguard the data that it holds to deliver both statutory and non-statutory services.

Its cyber-security event(s) detective arrangements utilising business industry-standard multi-vendor best-of-breed products are similarly robust and well managed.

However, the cyber-security self-analysis review also identified some areas of CAF cyber-security non-compliance, some areas where improvements could be made to further strengthen the Council's cyber-security.

The T&FG recommendations reflect improvements necessary to resolve CAF self-assessment key areas of non-compliance. Key areas considered by the T&FG were:

- **Recruitment and resourcing** key IT vacancies.
- **Risks unresolved** for prolonged periods.
- **Information retention** with data (including personal and sensitive data) stored for long periods of time with no clear business need.
- **Generic account used** or shared or default name accounts.
- **Training and understanding** individuals' contribution to essential cyber security.
- **Formal Adoption** of the new Cyber Incident Response Plan (CIRP).
- **Members' email auto-forwarding to personal/ mobile devices**, including; identification and data management, data security in transit, physical and/or technical security protection against unauthorised access, lack of knowledge around which

mobile devices hold data, allowing data to be stored on devices not managed by your organisation or to at least equivalent standard, lack of security on mobile devices, device disposal without data sanitisation, security builds that conform to your baseline or the latest known good configuration version.

RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE'S RECOMMENDATION(S) TO CABINET

That Cabinet –

- a) requests, that as soon as is possible, the Human Resources and Council Tax Committee with appropriate officers looks at the salaries being offered for the advertised and unfilled senior IT posts, including cyber security senior technical positions;**
- b) endorses that by 31 March 2023 a Portfolio Holder Cyber Security Working Group be established to periodically review the Council's cyber security performance against the Cyber Assessment Framework (CAF) and/or emerging mandatory security improvements and requirements;**
- c) requests that by 31 July 2023 the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018 data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation;**
- d) requests that by 31 May 2023 individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres where numerous users sharing a terminal due to a retail environment operational need;**
- e) requests that, commencing no later than May 2023 following the election of the new Council, Cyber Security and Information Governance training for all Members after every election and for staff in their inductions be introduced with periodic refresher training for both which will be made mandatory;**
- f) requests the Council's Monitoring Officer to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account;**
- g) endorses that as soon as possible the new Cyber Incident Response Plan (CIRP) be adopted.**

That Cabinet recommends to Full Council that –

- h) post-May 2023 local elections under the newly elected Council that Members' practice of auto-forwarding of emails be ceased;**

- i) subject to the associated funding of £8,000 being identified, that the preferred Option 2 i.e. the provision of a standard council-managed mobile Smartphone in addition to a council-managed laptop be provided to those Members that want one to access emails and to be contactable when mobile; or
- j) as an alternative to i above, that should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone be asked to fund the cost from their Allowances (circa two hundred pounds per annum).

PORTFOLIO HOLDER COMMENT(S) AND RECOMMENDATION(S) TO CABINET

PORTFOLIO HOLDER'S COMMENTS AND RECOMMENDATIONS TO CABINET:

The response of the Corporate Finance and Governance Portfolio Holder, together with his recommendations to Cabinet, will be circulated to Members prior to the meeting.

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FINAL REPORT OF THE RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE TASK & FINISH GROUP FOLLOWING ITS INQUIRY INTO:

THE COUNCIL'S CYBER SECURITY AND MEMBERS' E-MAIL AUTO-FORWARDING AND USE OF PERSONAL EMAIL ACCOUNTS

1 FEBRUARY 2023

TERMS OF REFERENCE OF THE TASK & FINISH GROUP

As part of its work programme for 2022/23, the Resources and Services Overview and Scrutiny Committee (RSOSC) established a Cyber Security Task and Finish Group to investigate and challenge the Council's cyber-security arrangements and preparedness. Full Council approved the proposed work programme for the RSOSC at Full Council 12 July 2022 (minute 29 refers) *"RESOLVED that Council – (a) approves the proposed work programmes for the Community Leadership and the Resources & Services Overview and Scrutiny Committees for the 2022/23 Municipal Year"*.

For the purposes of this report Full Council agreed that the item forenquiry would be; *"Cyber Security for the Council. Looking at the threats, our approach to those threats and the future vulnerabilities. There was agreement that this might be a good subject for scrutiny."*

Resources and Services Overview and Scrutiny Committee 6 September 2022 (minute 23 refers) approved the membership of that T&Fgs. *"the Committee RESOLVED to approve the Membership/Chairman details in the list circulated at the meeting for Task and Finish groups identified and, consequently, authorised Task and Finish groups to commence the scrutiny enquires concerned as approved by Council"*.

Subsequently, on 22 November 2022, Full Council considered an Information Governance Report that set out the background to the review of Members access to emails and the risks associated with forwarding emails to personal email addresses. This report is attached as *Appendix A*. It was resolved by Full Council 22 November 2022 (minute 55 refers) *"RESOLVED that – "the Resources and Services Overview & Scrutiny Committee extend its work programme of cyber security to include reviewing the different proposals of Members' access to emails, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings"*.

THE AIMS AND OBJECTIVES OF THE INQUIRY

In accordance with Resources and Services Overview and Scrutiny Committee mandate the Cyber Security Task and Finish Group (T&FG) were tasked to;

- 1) To challenge/ better understand the cybersecurity risks, defences and mitigations the Council has in place.

Following Full Council 22nd November 2022, the T&FG mandate was extended to additionally;

- 2) Review different proposals of Members' access to emails and the current

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practice of auto-forwarding to personal email accounts, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings.

During its first meeting the Cyber Security T&FG agreed to use the Department of Levelling Up Housing and Communities (DLUHC) Cyber Assessment Framework (CAF) document template as a self-assessment, auditing and reporting framework template to review council cyber-security as referenced above (see *CAF explanatory notes*).

The DLUHC CAF proved relevant to the review of Members' access to emails, auto-forwarding of council official business emails to personal devices and council data stored on personal devices as it includes a number of National Cyber Security Centre (NCSC) compliance statements covering: data security and understanding, data protection in transit across the UK network, data storage security, mobile device data security, media equipment sanitisation and disposal, secure device configuration.

CAF Explanatory Notes

The DLUHC Cyber Assessment Framework (CAF) provides the pragmatic basis to 'self-assess' the Council's own cyber security performance across the following activities;

- 1) Managing Cyber Security (organisational structures, policies, processes, understanding).
- 2) Protecting Against Cyber Attack - security measures to protect networks and systems.
- 3) Detecting Cyber Security Events ensuring effective security defences/ event detection.
- 4) Minimising The Impact of cyber security Incidents and their adverse impact.

The self-assessment CAF is a National Cyber Security Centre (NCSC) assessment document that has been a mandatory cyber-security 'readiness state audit' document for critical UK national infrastructure providers since 2021. During 2022 the CAF has become mandatory for every central government department and whilst CAF completion is currently voluntary for local government DLUHC have repeatedly advised that it will become mandatory during 2023/24.

In this sense the CAF will replace the now defunct Public Services Network (PSN) IT Health Check annual audit/ certification process reporting local government cyber-security capabilities and fitness to remain securely connected and sharing data with central government Department of Works & Pensions (DWP). The reader should note that a number of council statutory service functions are completely reliant upon this connectivity, for example: Council Tax, Housing Benefit administration. Loss/ exclusion from central government connectivity would quickly stop these services from functioning.

MEMBERSHIP OF THE TASK & FINISH GROUP

Membership of the Task and Finish Group (T&FG) was as follows;

Cllr. Paul Clifton (Chair)	Cllr. Chris Amos	Cllr. Ann Wiggins
Cllr. Alan Coley	Cllr. Chris Griffiths	

OFFICER SUPPORT FOR THE TASK & FINISH GROUP

Officers providing technical, financial, legal and/or administrative support to the Group were as follows;

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Richard Barrett – Assist. Director Finance and IT
John Higgins – Head of Digital & Assurance Services
Sam Wright – Cyber-security & Systems Support Manager
Keith Durran – Committee Services Officer
Lisa Hastings – Deputy Chief Executive & Monitoring Officer (Attended 23/01/23 meeting)

Non-attendee technical, information governance and CAF review support was additionally provided by;

Dan Pobjoy - Digital Operations Manager
Judy Barker - Information Governance & IT Services Manager and nominated Council Data Protection Officer.
Dr. Rupert Ogilvie – Specialist Consultant, Intergence Systems Ltd.

INVITEES AND PARTICIPANTS

As previously outlined, having agreed to use the Department of Levelling Up Housing and Communities (DLUHC) Cyber Assessment Framework (CAF) document template as an audit and self-assessment reporting tool to review council cyber-security. The Council's CAF self-assessment completion was additionally supported in the 'back-office' by officers J.Barker and D.Pobjoy together with specialist consultant Dr. R. Ogilvie.

At the 22nd November 2022 Full Council meeting considering the Information Governance Report setting out the background to the review of Members access to emails and the risks associated with forwarding emails to personal email addresses, Members were invited to submit any comments or thoughts on the subject of cyber security and email forwarding for the Resources and Services Overview and Scrutiny Committee Task and Finish Group to take into consideration. A small number of Members responded.

The Member comments received along with key points are set out in *Appendix B*. As requested, the Monitoring Officer has provided her responses and included a newly published Guidance Note produced by the Information Commissioner's Officer (ICO) on the applicability of the Freedom of Information Act 2000 to official information held in private email accounts. The Note clearly sets out the position that where information is held relating to local authority business in a Councillor's private email account this may be subject to the FOIA and is included as *Appendix C*.

EXPECTED OUTCOME(S) OF THE INQUIRY

In accordance with the Resources and Services Overview and Scrutiny work programme adopted by full council the value of the enquiry was; *"To challenge/ better understand the cybersecurity risks, defences and mitigations the council has in place."*

As previously outlined, the T&FG elected to adopt the DLUHC CAF self-assessment document as a means to self-assess and record the council's cyber-security strengths and weaknesses and make recommendation reference identified areas requiring improvement.

When additionally mandated by Full Council to consider different proposals for Members' access to emails, auto-forwarding in line with the council's risk management framework and consider costed options, this became a second and important point of T&FG

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discussion/ consideration with the resultant recommendation to Resources and Services Overview and Scrutiny Committee, Cabinet and Full Council.

ACTUAL OUTCOME(S) OF THE INQUIRY

With regards to the expected outcomes previously outlined recommendations were made by T&FG Members with due regard and consideration to;

- **Appendix A** - the Full Council background information report.
- **Appendix B** - all Member's subject-matter comments received considered 23rd Jan'23.
- **Appendix C** - a newly published Information Commissioner's Office Freedom of Information (FOI) guidance note considered 23rd Jan'23.
- **Appendix D** - the four costed options provided and their respective financial, cyber-security and Member-user working practicality satisfaction and non-satisfaction implications considered 23rd Jan'23.
- **Appendix E** - a full copy of the council's Cyber Assessment Framework (CAF). For simplicity, CAF compliance was reviewed utilising 'traffic light' red, amber and green representing non-compliance, improvements required and full-compliance respectively.
- **Appendix F** - for completeness, this report also includes a copy of the council's new Cyber Incident Response Plan (CIRP) which the T&FG recommends for adoption.

Note: All of the above documentation is included as appendices to this report

Following CAF cyber-security compliance self-assessment, the T&FG identified that the council generally has robust cyber-security arrangements and working practices in place to manage, protect and safeguard the data that it holds to deliver both statutory and non-statutory services.

Its cyber-security event(s) detective arrangements utilising business industry-standard multi-vendor best-of-breed products are similarly robust and well managed.

However the cyber-security self-analysis review also identified some areas of CAF cyber-security non-compliance, some areas where improvements could be made to further strengthen the Council's cyber-security.

The T&FG recommendations reflect improvements necessary to resolve CAF self-assessment key areas of non-compliance. Key areas considered by the T&FG were;

- **Recruitment and resourcing** key IT vacancies.
- **Risks unresolved** for prolonged periods.
- **Information retention** with data (including personal and sensitive data) stored for long periods of time with no clear business need.
- **Generic account used** or shared or default name accounts.
- **Training and understanding** individuals' contribution to essential cyber security.
- **Formal Adoption** of the new Cyber Incident Response Plan (CIRP).

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- **Members' email auto-forwarding to personal/ mobile devices**, including; identification and data management, data security in transit, physical and/or technical security protection against unauthorised access, lack of knowledge around which mobile devices hold data, allowing data to be stored on devices not managed by your organisation or to at least equivalent standard, lack of security on mobile devices, device disposal without data sanitisation, security builds that conform to your baseline or the latest known good configuration version.

RECOMMENDATION(S)

The T&FG recommendation(s) to the Resources and Services Overview and Scrutiny Committee and Cabinet in respect of Cyber Assessment Framework (CAF) cyber-security non-compliance that;

- As soon as is possible the Human Resources and Council Tax Committee with appropriate officers look at the salary(s) being offered for the advertised and unfilled senior IT posts and including cyber security senior technical positions.**
- By 31/03/23 a Member & Officer Cyber Security Working Group be established to periodically review the Council's cyber security performance against the Cyber Assessment Framework (CAF) and/or emerging mandatory security improvements and requirements.**
- By 31/07/23 the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018 data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation.**
- By 31/05/23 individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres where numerous users sharing a terminal due to a retail environment operational need.**
- Commencing no later than May 2023 following the election of the New Administration Cyber Security and Information Governance training for all members after every election and for staff in their inductions with periodic refresher training for both be made mandatory.**
- As soon as possible in consultation with the Council's Monitoring Officer, to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account.**
- As soon as possible the new Cyber Incident Response Plan (CIRP) included as Appendix F to this report be adopted.**

In reviewing the different options of Members' access to emails, reflecting the Council's Risk Management Framework, the recommendations to Full Council that the T&FG are submitting to the Resources and Services Overview and Scrutiny Committee and onwards to Cabinet are;

- That post-May 2023 local elections under the New Administration, that the Member practice of auto-forwarding of emails be ceased; and**
- that subject to the associated funding of £8,000 being identified that the**

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preferred Option 2 (*Appendix D refers*) - provision of a standard council-managed mobile Smartphone in addition to a council-managed laptop - be provided to those Members that want one to access emails and be contactable when mobile; or

- j) as an alternative to 'i above', that should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone will be asked to fund the cost from allowances (circa two hundred pounds per annum).**

CHRONOLOGY

- 12th July Full Council set the initial scope for the Cyber Security Task & Finish Group.
- 27th October 2022 first meeting of the Cyber Security Task & Finish Group
- 8th November 2022 second meeting of the Cyber Security Task & Finish Group.
- 22nd November 2022 Full Council considers the report of Deputy Leader & Portfolio Holder for Finance and Corporate Services Information Governance report reporting an update on proposals for IT changes and including consideration of different proposals for Members' access to emails.
- 8th December 2022 third meeting of the Cyber Security Task & Finish Group.
- 23rd January 2023 fourth and final meeting of the Cyber Security Task & Finish Group.
- 1st February 2023 Cyber Security Task & Finish Group report and recommendations to the Resources and Services Overview and Scrutiny Committee and onwards to Cabinet and Full Council.

DETAILED FINDINGS OF THE INQUIRY

It has always been fully acknowledged that Members need to be provided with information that allows them to fulfill their councillor duties, with any proposals put forward to date reflecting best practice and risk rather than a legal obligation or otherwise.

One of the key Member points raised related to the legal context of ceasing the auto-forwarding of emails. As highlighted in *Appendix B*, from a legislative perspective the UK General Data Protection Regulation (GDPR), particularly Article 5, Paragraph 1(f), requires personal data to be processed in a manner that ensures appropriate security of the personal data. The Council is unable to demonstrate compliance in this regard where the forwarding of emails is to a personal email account, which is outside of the control and management of the Council.

The published Information Commissioner's Office (ICO) guidance note (*Appendix C*) relating to official information held in private email accounts is intended to clarify the legal status under FOIA of information relating to the business of a public authority held in private email accounts, and other media formats and confirms that information held in non-work personal email accounts (e.g. Hotmail, Yahoo and Gmail) may be subject to FOIA if it relates to the official business of the public authority.

In addition to the request for comments mentioned previously, at the meeting of Full Council on 22 November 2022 Officers were asked to explore opportunities / options relating to Member's access to emails given the various issue raised. Although this piece of work had already been largely undertaken as part of previous activities, it has been

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revisited following this recent request by Members. *Appendix D* sets out this review in more detail, which includes the following 4 main options:

OPTION 1 - Restrict access to the Council's network / systems to only those devices owned and managed by the Council.

This represents the basis for the original recommendation of ceasing the forwarding of emails to personal devices reflects the existing arrangements where laptops were provided to all 48 Members along with mobile phones issued to specific members. However, it was noted via the discussions at Full Council on 22 November 2022 that some Members needed to continue using personal IT devices and especially personal mobile phones to react quickly to emails from residents, fellow members, officers and partner organisations.

Legally and constitutionally, only the Leader and Cabinet are Members who have the authority to make decisions urgently / individually, which reflects the issuing of mobile phones to specific Members as highlighted above.

OPTION 2 - Council owned / managed mobile phones issued to Members who request one (in addition to OPTION 1).

This option would meet the needs expressed by some Members to react quickly to emails from residents, fellow members, officers and partner organisations. Similarly, it accords with officer recommendations to optimise cyber-security through the use of council-managed-devices only protected within the council's cyber-security domain. Subject to how these devices are funded there may be additional cost implications.

OPTION 3 – Members continue to use their own personal devices but the Council installs and manages software on those devices.

This option meets the needs expressed by Members BUT to meet NCSC cyber-security standards will require loading council protective software on personal devices. This is known as 'Bring Your Own Device, or BYOD. Loading of council cyber-security management software onto Member's personal device(s) may be unpopular and/ or seen as invasive by some individuals, and there is a risk of outright refusal. Additionally, with the myriad of different devices and applications used by Members it is not possible to guarantee that faults and security/ personal application incompatibility issues won't occur nor possible loss of personal data held on devices e.g. photos.

There will be a requirement for additional council IT technical and administrative resources to adequately support this option with resultant additional and unbudgeted costs.

OPTION 4 – Members continue to use their own personal devices and access systems / emails via a web based Member 'Portal'

Again, this option meets the needs expressed by Members but increases instead of reduces the attack vectors available to cyber-criminals and therefore increases the council's risk of cyber-attack (bearing in mind that the council is notably already the third most attacked organisation in the East of England). The portal would need to be configured on a "one size fits all basis" so the user-experience quality would differ between different devices and could not be individually tailored.

To deploy and maintain this option securely will require additional specialist cyber-security resources and council IT technical and administrative resources and incur additional

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licensing costs. All of which means that adoption will result in additional and unbudgeted costs.

As set out in *Appendix D*, in determining a way forward a balance needs to be made between cost, convenience, compliance with data protection requirements, resources and the risk of a cyber-attack, with a summary of some of the key points as follows:

- Meeting Member's home-based and mobile working requirements
- User satisfaction
- Cost vs. risk
- Strength of the Council's Cyber Security position
- Members information governance arrangements
- Complexity and resources requirement
- Adequacy of the management of risk

The T&FG detailed findings together with the relevant CAF references and their recommended remediation actions are as follows and reflected in the recommendations set out previously;

Cyber Assessment Framework Module	Issue	Recommendation(s)
Managing Security Risk and Detecting Cyber Security Events: CAF Ref A1.b Roles and Responsibilities- <i>"Your organisation has established roles and responsibilities for the security of networks and information systems ."</i> AND CAF REF: C1.e Monitoring Tools and Skills AND C2.b Proactive Attack Discovery	Recruitment and resourcing	That the Human Resources and Council Tax Committee and/or appropriate officers look at the salary(s) being offered for the advertised and unfilled senior IT posts and including cyber security senior technical positions.
Managing Security Risk CAF Ref: A2.a Risk Management Process – <i>"Your organisation has effective internal processes for managing risks to the security of network and information systems related to the operation of essential functions and communicating associated activities."</i>	Risks unresolved for long periods.	That a Member & Officer Cyber Security Group be established to periodically review the Council's cyber security performance against the CAF and/or emerging mandatory security improvements and requirements.
Managing Security Risk CAF Ref: A3.a Asset Management – <i>"Information assets, which could include personally identifiable information or other sensitive information, are stored for long periods of time with no clear business need or retention policy."</i>	Information retention management	That the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018 data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation.
Managing Security Risk CAF Ref: B2.c Privileged User Management – <i>"Privileged user access to your essential function is via generic, shared or default name accounts."</i>	Generic Accounts	That Individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres were numerous users sharing a terminal due to a retail environment operational

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		need.
Managing Security Risk and Protecting Against Cyber Attack CAF Ref: B6.a Cyber Security Culture – <i>“You develop and pursue a positive cyber security culture.”</i> And <i>“All people in your organisation understand the contribution they make to the essential function's cyber security.”</i>	Training and understanding	That Cyber Security and Information Governance training for all members after every election and for staff in their inductions with periodic refresher training for both be made mandatory.
Protecting Against Cyber Attack AND T&FG Member comments/ discussions	Training and understanding:	In consultation with the Council's Monitoring Officer, to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account.
Minimising The Impact of Cyber Security Incidents CAF Ref: D1.a Response Plan - <i>“ You have an up-to-date incident response plan that is grounded in a thorough risk assessment that takes account of your essential function and covers a range of incident scenarios.”</i>	Adoption of the new Cyber Incident Response Plan (CIRP).	That the new Cyber Incident Response Plan (CIRP) included as Appendix F to this report be adopted.

With reference to the recommendations regarding Members' access to emails, there are a number of relevant CAF references considered by the T&FG, as follows;

CAF Reference	Compliance Statement Descriptive Text (See Note)
CAF ref B3.a Understanding Data	<i>“You have a good understanding of data important to the operation of the essential function, where it is stored, where it travels and how unavailability or unauthorised access, modification or deletion would adversely impact the essential function. This also applies to third parties storing or accessing data important to the operation of essential functions.”</i>
CAF ref B3.b Data in Transit	<i>“You have protected the transit of data important to the operation of the essential function. This includes the transfer of data to third parties.”</i>
CAF ref B3.c Stored Data	<i>“You have protected stored data important to the operation of the essential function.”</i>
CAF ref B3.d Mobile Data	<i>“You have protected data important to the operation of the essential function on mobile devices.”</i>
CAF ref B3.e Media Equipment Sanitisation	<i>“You appropriately sanitise media and equipment holding data important to the operation of the essential function.”</i>
B4.b Secure Configuration	<i>“You securely configure the network and information systems that support the operation of essential functions.”</i>

Note: To achieve CAF compliance the Council is required to confirm that the above statements reflect the Council's current position which we are unable to do given the current Member auto-forwarding of emails arrangements.

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Background papers and reference materials are included as appendices A-F as outlined below.

APPENDICES

Appendix A: The 22nd November 2022 Full Council background information report .

Appendix B: All Member's subject-matter comments received with the Monitoring Officer response(s).

Appendix C: A newly published Information Commissioner's Office Freedom of Information (FOI) guidance note in relation to emails stored on personal devices

Appendix D: The four costed options provided and their respective financial, cyber-security and Member-user working practicality satisfaction and non-satisfaction implications.

Appendix E: A copy of the council's Cyber Assessment Framework (CAF).

Appendix F: A copy of the council's new Cyber Incident Response Plan (CIRP) which the T&FG recommends for adoption.

REPORT CONTACT OFFICER(S)

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FULL COUNCIL

22 NOVEMBER 2022

REPORT OF DEPUTY LEADER & PORTFOLIO HOLDER FOR FINANCE AND CORPORATE SERVICES

A.9 INFORMATION GOVERNANCE

Report prepared by Richard Barrett and John Higgins

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present to Full Council an update on proposals for IT changes. The ongoing work is aimed at reaching an outcome whereby members can undertake their role effectively, whilst ensuring that information held by the Council, is safe, secure and compliant with relevant legislation. This work will also include looking at various different IT solutions and the associated costs.

EXECUTIVE SUMMARY

Like all modern twenty-first century organisations, the Council is reliant upon information, data and digital services to deliver all our services. The Council securely stores and holds guardianship over some 60 terabytes of residents', customers', visitors', members' and officers' personal and special category data. To put this into context, 60 terabytes of data represents the equivalent of 390 million document pages or 15 million digital photos.

Members are reliant upon access to their emails to undertake their role as a Councillor. Members also have a responsibility to ensure that the sometimes sensitive personal or organisational information they are sent is kept safely and respects its confidentiality.

Throughout 2018-2021 the Council's IT Service implemented and achieved compliance with increasing NCSC technical security standards. The UK adopted its UK Data Protection Act 2018 and UK General Data Protection Regulation (GDPR) legislation on 25 May 2018.

The key Principles of UK Data Protection legislation require that the data is stored: **lawfully, fairly and transparently, adequate and relevant and limited** to what is necessary, **accurate** and where necessary kept up to date, **kept for no longer than is necessary** in a form which permits identification of data subjects, **ensuring 'integrity and confidentiality'** protecting against unauthorised or unlawful processing and against accidental loss/ destruction/ damage **through using appropriate security**.

Processing of personal data - means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

The Department of Levelling Up Housing and Communities (DLUHC) commenced local authority security resilience audits in 2021. In December 2021 the DLUHC 'Health Check' scan identified the Council's auto-forwarding of emails practice and recommended that the practice be phased out as soon as possible. These DLUHC local government cyber-security audits are being rolled-out to all authorities during 2023.

The DLUHC audit was considered and agreed by the Audit Committee and the March 2022 Corporate Risk Register reported the need to cease the practice of auto-forwarding of Councillors' emails. The minutes of the Audit Committee were reported to Full Council in July 2022.

The UK Data Protection legislation (6th Principle) requires that information and data are processed in a manner that ensures appropriate security of the personal data including protection against unauthorised or unlawful processing and against accidental loss/ destruction/ damage through using appropriate technical or organizational measures (integrity and confidentiality). In all matters of council business, the Council is the Data Controller and has legislative responsibility to ensure, and to evidence, that information is being managed and protected in accordance with the principles of the legislation.

The risk of cyber-attack is not new, but it is escalating in terms of frequency, severity and complexity. To counter these sophisticated attacks the Council's protected domain uses a range of best of breed, commercial-grade security services from multiple vendors.

The original proposal of ceasing auto-forwarding of emails was met with concern from some members as they felt it might curtail their ability to access information and fulfil their role. Therefore, the Portfolio Holder has instructed Officers to explore different solutions (including some new processes of creating an app for members to be able to access their emails securely on their own devices), whilst being mindful of ensuring the security of such information and protection against cyber-attacks.

Scrutiny has included Cyber-security in the work programme. In consultation with the Chair of Scrutiny, (Councillor Mark Stephenson), it is proposed that the remit be extended to include the issue of members' access to their information and the alternative solutions available, mindful of the recommendations of Audit Committee and the issues of confidentiality, Data Protection and cyber security. With all members having the opportunity to have an input and recommendations being brought back to a future Council meeting.

The original proposal to cease the auto-forwarding of emails emerged from an information governance / GDPR review undertaken by Internal Audit. The associated review, which supported this approach, was undertaken in line with the Council's existing risk management processes and included input from the Council's Data Protection Officer, S151 Officer, Internal Audit Manager and Senior Information Risk owner (SIRO). The risk management process highlighted above included the Council's Audit Committee, who after considering the matter at its January 2020 meeting, resolved that:

The Committee supports the implementation, as soon as possible, of the proposal set out within the report for providing the necessary IT equipment and training to Members to ensure that only Council equipment is used when conducting Council business in order to reduce the financial and reputational risk associated with processing personal data.

Although in a wider context, the matter also formed part of a report that was considered by the Resources and Services Overview and Scrutiny Committee at its meeting in January 2021.

Whilst this additional work is being explored, Members acknowledge that the ongoing risk of the Council, acting as Data Controller, potentially in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues. Individual Councillors may however voluntarily request that auto-forwarding is ceased for their email account, which is maintaining the status quo and has been adopted by 20 councillors.

The Council has all-out elections in May 2023, so it is proposed that all changes be implemented for the new Council in 2023.

It is also proposed that a workshop be scheduled for all members to highlight the requirements of Data Protection and the prevalent issues cyber breaches and security requirements. This will assist in mitigating the risks of breaches.

In terms of the proposed review by the Resources and Services Overview and Scrutiny Committee, it is worth highlighting the Councils' existing adopted Risk Management Framework seeks to address a number of key elements such as the identification of risks, the analysis of those risks and whether they can be 'tolerated' or need to be 'treated etc., with the latter including reviewing potential options. With the above in mind, it would seem logical / pragmatic to structure the proposed review around these existing risk management principles, which would have formed part of the original work undertaken by Officers and the Audit Committee. This approach would also complement a wider review of various cyber related issues as part of the Cyber Assessment Framework recently published by the National Cyber Security Centre (NCSC) that was considered at the first meeting of the relevant Resources and Services Overview and Scrutiny Committee Task and Finish Group on 27 October 2022.

Subject to the recommendations below, members are invited to submit any comments or thoughts on the subject of cyber security and email forwarding for the Resources and Services Overview and Scrutiny Committee Task and Finish group to take into consideration. This can be done via email to Democratic Services

RECOMMENDATION(S)

It is recommended that:

- 1. Full Council acknowledges that the ongoing risk of the Council, acting as Data Controller, potentially in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues;**
- 2. the Resources and Services Overview & Scrutiny Committee extend its work programme of cyber security to include reviewing the different proposals of Members' access to emails, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings;**
- 3. such proposals to be mindful of the recommendations of the Audit Committee, Data Protection Act requirements and cyber security;**
- 4. a workshop be scheduled for all Members to ensure awareness of the requirements of the Data Protection Act 2018 and cyber security; and**
- 5. the implementation be planned for no later than 1st April 2023 in readiness for the commencement of the new Council, following the elections in 2023 and the new Councillors be given the training as detailed in 3 above.**

BACKGROUND & PREVIOUS DECISIONS

As communicated to Members recently, one of two key actions relating to Members use of IT, which has been deferred, is as follows:

Stopping the practice of auto-forwarding council emails and official data to personal email accounts outside of the Council's protected domain.

The other key action recently implemented was as follows:

Locking down access to all council applications and non-public facing systems to council managed devices only within our council protected domain. (which came into effect on 29 July 2022)

Both actions should be viewed as complimentary actions, as auto forwarding of emails would present an immediate conflict, as emails sent to an official Tending email account would instantly leave the Council's 'protected' domain. This point underpins the recommendation raised via the audit process below which concentrates on the underlying issue of only using a Council managed device when undertaking Council business.

A summary of the background to the associated governance and reporting actions within the Council to date are as follows:

20 January 2020 - Following an information governance / GDPR review, a report of the Head of Internal Audit was considered by the Audit Committee. Within that report, the following issue was set out.

An issue of non-compliance with the Data Protection Act 2018 was identified for consideration along with proposed actions by the Audit Committee.

There have been occasions in the past where personal and special category TDC data has been forwarded to personal emails by both Officers and Members. It is however recognised that this is for

ease of use rather than anything malicious. However Data Protection Act 2018 legislation, particularly Article 5, Paragraph 1(f), requires personal data to be “processed in a manner that ensures appropriate security of the personal data”. We are unable to demonstrate compliance in this regard as personal devices and their cyber-security remain outside of the sphere of Council knowledge, control and management. It is therefore recommended that Officers be reminded of the need to ensure that TDC data be retained within TDC encrypted, secure ‘official’ emails and not forwarded to personal emails. In respect of Members, the recommended control is that only Council issued equipment and email addresses should be used to prevent the need of forwarding data to personal emails and increasing the risk of non-compliance and the wider financial and reputational consequences if personal data is not secure.

Following consideration of the above, the Audit Committee resolved:

The Committee supports the implementation, as soon as possible, of the proposal set out within the report for providing the necessary IT equipment and training to Members to ensure that only Council equipment is used when conducting Council business in order to reduce the financial and reputational risk associated with processing personal data.

The minutes from the above meeting were included within the Full Council agenda on **15 September 2020**.

29 May 2020 – As part of a review of the Council’s Constitution, Cabinet considered an associated report where the following resolution was agreed:

That Cabinet endorses that all Councillors conduct all Council business through their Tending District Council online accounts using the corporate IT kit supplied to them for the smooth facilitating and running of remote meetings.

15 September 2020 – The above was included within the various documents considered by Full Council as part of formally agreeing a number of changes to the Council’s Constitution.

3 December 2020 - Members may also recall various discussions relating to using Council managed devices, when previous devices such as Microsoft Surface GO’s were replaced with laptops, a key action in supporting the move to restricting system access to only Council managed devices. This was a matter that was considered by the Resources and Services Overview and Scrutiny Committee at its meeting its meeting in December 2020.

The record of the discussion as set out in an extract from the minutes of the meeting is as follows:

The emerging digital picture was therefore, perceived as an opportunity to assist councillors in their community leadership role. Through providing each councillor with a standard, managed device backed up by IT training and supported via the Council’s IT service desk intended benefits and improvements were, and remain, as follows:

- *To assist Councillors to improve their efficiency and access to stored digital information.*
- *Strengthen cybersecurity (and cybersecurity awareness) and further reduce any possibility of a data breach and Information Commissioner’s Office (ICO) data loss.*
- *Enhance Councillors’ digital engagement.*
- *Enhance mobile working and flexible working capabilities and thereby work/ life balance*

- *Further reduce reliance (and the costs) of printed information.*
- *Councillor IT equipment standardisation would in turn enable officers council-wide to standardise the range services that they provide which would achieve efficiency savings for both Councillors and Officers.*

Members heard how the strategy had been to purchase high quality Microsoft Surface Go tablets during 2019 and at the beginning of 2020 for Councillors to undertake their council-related duties. With some Councillors struggling with the tablet screen size Officers had additionally offered Councillors: connection hubs, full size keyboards, 24" screens, cabled mouse. This gave Councillors a blend of home-based digital access with the ability to go mobile with their tablets when required.

As a result of COVID-19 and an emerging understanding as to its longevity, officers had become conversant with new face-to-face restrictive working arrangements and the use of virtual Microsoft Skype meetings had become a key 'new working norm'. Likewise, virtual meeting MS Skype capabilities had needed to be extended to Councillors to enable them to perform their duties, which was not an intended original use of the previously purchased tablets.

The Committee was informed that the Council now had a pressing financial, technological and support need to migrate fully from Microsoft Skype to Microsoft Teams. Teams offered a range of additional meeting business functionality benefits over Skype but it was far more demanding in terms of computing processing power. As such, it was close to the limit and was very likely to become beyond the processing capabilities of councillor tablets as Microsoft invested in further enhancing Teams functionality.

With a view to giving Councillors the very best experience possible during multi-party video conference calls, the decision had now been taken to allocate funding to quickly replace Councillors' tablets with the same Lenovo laptops that officers used. Those laptops were tried and tested, high specification devices that had enabled officers to perform the full range of council business demands.

The Committee was also informed in addition, and based upon approaches from several senior Councillors, that providing Members with a council tablet had unintentionally been seen as an 'imposition' by some Councillors, despite Officers' best intentions. Likewise, Officers had now acknowledged Councillors' desire to be increasingly involved in their use of digital technology and how they worked and engaged with council business.

With engagement firmly in mind but reflecting the need to standardise equipment across Officers and Councillors as far as was possible, Councillors would now be asked on an individual basis whether they would benefit more from having a smaller, lighter more portable 13" council laptop, or a larger 15" laptop with a bigger screen and near full-size keyboard. Council provided ancillary devices – keyboards, screens, mice, hubs – would continue to be offered to Councillors and those who already had them would be able to connect and continue to use them with their replacement laptops.

Following the consideration of the above, the Committee resolved:

That the Cabinet be informed that this Committee endorses the principle that Councillors be consulted on the IT kit that is to be provided to them to fulfil their roles as Members.

29 January 2021 - The consultation process was undertaken as highlighted above along with Cabinet considering the above comments from the Resources and Overview and Scrutiny Committee at their meeting in January 2021, where the following comments from the Portfolio Holder for Corporate Finance and Governance were included and endorsed:

I thank the Committee for their comments, and I am delighted to state that all Members of the Council have now been furnished with a brand new device of their individual choice. The roll out of these during the current lockdown has been carried out impeccably by our IT guys, who going by the comments I have personally received and fed back from colleagues, have done this in safest possible manner, and for which I am very grateful."

The Council maintains a Corporate Risk Register that is reviewed on a 6 monthly cycle by the Audit Committee. The two relevant risks included within the register are as follows:

- Ineffective communication / management of information
- Ineffective Cyber Security Physical and Application (software) Based Protection Management

Updates against the Committee's earlier recommendation from their January 2020 meeting have been included within these reports with the following extracts worth highlighting:

27 May 2021 - *Whilst our information governance continues to strengthen, the Information Commissioner's Office (ICO) continues to 'raise the bar' on compliance matters. We are currently reviewing how Councillors access, utilise and manage personal and sensitive information and we must work to introduce changes to Councillor working practices to strengthen this aspect of Council information governance during 2021 or risk being found potentially in breach of General Data Protection Regulation legislation by the ICO. The key issue here is that having provided every councillor with a managed council device we must cease the councillor practice of forwarding council emails to personal email accounts where we have no control over cyber security protective measures. Ongoing vigilance with regard to Information Governance resources and training and budget to minimise the risk of an information breach or failure to comply with legislation as this work area volume increases significantly.*

31 March 2022 – *The above matter was highlighted during a cybersecurity audit by the Department for Levelling Up Housing and Communities (DLUHC) as a significant cybersecurity risk that must be ceased. We will therefore work to achieve this during early 2022 in a supportive manner with additional training provided if required.*

12 July 2022 - The minutes of the above Committees were reported to subsequent Council meetings, with the latest minutes being presented to their meeting in July 2022.

In support of the above, a note was recently sent to all Members as part of the Chief Executive's regular member briefings to provide advance notice of the proposals to cease the automatic forwarding of emails and access to the Council's network from a non-TDC managed device.

The culmination of the above was the email recently sent to Members highlighting the proposed implementation of the two key actions set out at the beginning of this section of the report. The deferral was requested by Members to allow a debate at Full Council to take place.

A.6 APPENDIX B

Comments Received from Members Including Additional Comments / Response

Comments Received	Additional Comments / Response
<p>Councillors are independently elected individuals, they are not employees of the council - as such they are entitled to be provided with information that allows them to fulfill that duty. For clarification, if they were employees and subject to the organisations employee policy then they would also be entitled to pensions, holiday and sick - which they are not.</p>	<p>Agreed. This was acknowledged in the report considered by Full Council on 22 November 2022.</p> <p>The Monitoring Officer has responded that Tendring District Council comprises of 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State. Once elected Members form part of the Council, their roles are different to employees but collectively form the Council and become part of the public authority environment and framework in which local government sits.</p> <p>Article 2.04 of the Council's Constitution states that:</p> <ul style="list-style-type: none"> • Councillors will at all times observe the Members' Code of Conduct and protocols set out in Part 6 of this Constitution. • Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions
<p>They have the right to have that information sent to their own personal devices in order to fulfill their duties - This is a protected right under protocol 1, Article 1 HRA 1998.</p>	<p>Protocol 1, Article 1 protects your right to enjoy your property peacefully - <i>every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.</i></p> <p>Property can include things like land, houses, objects you own, shares, licences, leases, patents, money, pensions and certain types of welfare benefits. A public authority cannot</p>

	<p>take away your property, or place restrictions on its use, without very good reason.</p> <p>This right applies to companies as well as individuals.</p> <p>The Monitoring Officer has responded that it's unclear how the right to own a personal device is impacted upon by this subject area. It is not intending to take away the property, or place restrictions on its use, the Council is considering ceasing automatic forwarding to a personal device, from its own systems. However, the right is not an absolute right and can be interfered with, upon justification, such as compliance with legal requirements. The UK Data Protection legislation (6th Principle) requires that information and data are processed in a manner that ensures appropriate security of the personal data including protection against unauthorised or unlawful processing and against accidental loss/ destruction/ damage through using appropriate technical or organizational measures (integrity and confidentiality). In all matters of council business, the Council is the Data Controller and has legislative responsibility to ensure, and to evidence, that information is being managed and protected in accordance with the principles of the legislation.</p> <p>As part of previous considerations, the recommendation to stop the forwarding of emails has always been based on risk / best practice and compliance. Please see comments elsewhere in this report / appendices that set out the risks of members using their own personal devices.</p> <p>It is also important to highlight that the continuation of allowing the forwarding of emails to personal devices may prevent the Council connecting to the Government's network as this may be deemed a 'failure' against the associated Cyber Assessment Framework (CAF) that is currently being trialled / piloted.</p>
<p>It is down to the Council to make sure no information is shared that would constitute a breach of DPA - it doesn't matter if it is on council equipment or not, they send it to an independent person not in the organisation so have to comply every time an email is</p>	<p>As highlighted in the report to Full Council on 22 November 2022 the UK GDPR 2018 legislation, particularly Article 5, Paragraph 1(f), requires personal data to be processed in a manner that ensures appropriate security of the personal data. The Council is unable to demonstrate compliance in this regard as personal devices and their cyber-security remain outside of the sphere of Council knowledge, control and management.</p>

<p>sent. Those emails then being forwarded is irrelevant to this legal requirement.</p>	<p>The Monitoring Officer has responded, it is important to recognise is the difference between the Council, as Data Controller auto-forwarding, without an assessment of the content of the email, and an individual forwarding manually with intention knowing the content of the email.</p> <p>However, potential alternative options are set out in Appendix D, that may address the wider point.</p>
<p>Officers need to comply because the Council is the data controller for the data they use and they do handle sensitive personal data - councillors generally do not and are their own data controller.</p>	<p>Please see comment above.</p> <p>The Monitoring Officer has responded the proposed recommended action of ceasing auto-forwarding emails was to ensure the Council did not breach the requirements of the Data Protection Act 2018.</p> <p>Paragraphs 3.3 and 3.8 of the Members' Code of Conduct state that Members:</p> <p>3.3 must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so.</p> <p>3.8 Must observe the law</p> <p>The Council received advice and recommended action from the Audit Committee, Portfolio Holder for Corporate Finance and Governance and those Officers responsible for Audit, IT and Governance on a way forward to protect the Council, as Data Controller and mitigating Cyber Security risks. If Members wish to retain auto-forwarding of emails, they are the decision makers setting Policy in this regard on behalf of the Council, as Data Controller.</p>
<p>Most information in emails is in fact in the public domain anyway.</p>	<p>Unfortunately, this is more often not the case. Personal information is included in various emails from the public to Members, which can also be 'repeated' as part of longer email 'strings' if forwarded on more than once. Members are provided with considerable amount</p>

	of confidential information.
Forwarding emails is not a major cyber security issue - it is a perfectly normal and safe activity which has been available for many decades, which is why it's an available function.	Similar to the above, this is no longer the case, which has been highlighted by a recent security incident. As previously discussed, the auto-forwarding of emails can easily create additional points of attack for cyber attackers who can for example 'harvest' information that can be used in various activities, such as social engineering and "Spear phishing" and "Whaling" (digitally enabled fraud through social engineering).
The council system is already overly restrictive with many residents emails being sent to spam or they get emails back saying that their email is undeliverable - councillors need to be able to receive emails from outside the council unhindered.	<p>This has also been an issue raised directly by the Task and Finish Group with recommendations set out in the main body of the report.</p> <p>In the event that the forwarding of emails was ceased, Members can still use their personal email accounts to receive emails from the public for example. They may then wish to forward them onto their TDC account.</p>
Government Department's opinion on the law is no more relevant than anyone else's - they do not make or interpret law and have no powers to enforce their opinion - nothing the background info is relevant.	<p>Please see earlier response.</p> <p>The Monitoring Officer has responded that the information contained within the Background Section of the Report to Full Council in November, included occasions that matters related to this subject has been considered by Members in various meetings, including the Audit Committee and the Resources and Services Overview and Scrutiny Committee.</p> <p>With regards to not following the relevant Government's department for Local Government (currently DLUHC) guidance and policy, this will have an adverse and detrimental impact on the Council's reputation and access information held on the Government's network and to external funding streams to deliver projects for the local area.</p> <p>As the UK's technical authority for cyber security, the National Cyber Security Centre (NCSC) developed the Cyber Assessment Framework (CAF) to support the UK's implementation of the European Union's Network and Information Systems (NIS) Directive in 2018.</p>

	<p>It is mandatory for critical infrastructure providers to achieve CAF latest NCSC cyber-security compliance standards. Similarly during 2022/23 central government departments are working towards CAF compliance. With this in mind, the new Government Cyber Security Strategy set out plans to adopt the CAF as the assurance framework for government, providing a systematic and comprehensive approach to assessing the extent to which cyber risks to essential functions are being managed.</p> <p>The strategy explains how the government will ensure all public sector organisations will be resilient to cyber threats and sets out plans to ensure that the government assesses its cyber resilience consistently and comparably. This includes adopting the NCSC's CAF as a standard way of assessing cyber risk.</p> <p>Whilst CAF compliance is today voluntary for local government, DLUHC have advised that during 2023/24 they are undertaking a number of local government voluntary compliance audits and Tendring is engaged in this process from a feedback perspective. It remains DLUHC's declared intention to mandate local authority CAF completion and compliance submission review and audit annually.</p> <p>This future CAF compliance regime will in essence replace the now defunct annual Public Services Network (PSN) Code of Connection cyber-security certification compliance review. CAF compliance failure and the possibility of disconnection from the PSN (which connects and facilitates data sharing between the council and government departments) would significantly affect and possibly even stop the council's ability to deliver key statutory services.</p>
<p>There is nothing illegal (breach of DPA) in forwarding information to independent elected people that are not part of the organisation and handle their own data - that's the only legal position that matters.</p>	<p>Please see earlier response. Similarly Appendix C, the ICO's note outlining legal responsibilities around the use of personal email accounts and Freedom Of Information (FOI) enquiries is additionally relevant.</p>
<p>The practice of auto-forwarding emails MUST stop, regardless of any arguments put forward by councillors.</p>	<p>The ceasing of the forwarding of emails would reflect best practise.</p> <p>Options to address the associated risks are set out in Appendix D.</p>

<p>I think it was mentioned at an AMB that we are the only Council in Essex to allow it.</p>	
<p>Local Authorities are now experiencing requests for information, emails etc. that are held on 'private devices', where they relate to Council business. This could become an issue going forward, and despite it being said that Councillors are not subject to FOIA, they are if they are conducting Council business from a private device.</p> <p>This is something that might need to be clarified with our FOIA person.</p>	<p>Councillors would not be subject to FOI on their personal emails / devices if it did not relate to Council business, but once they have chosen to use their personal emails to correspond with the Council and act on behalf of the Council, a search of their emails may be necessary to respond to such requests. This is likely to be a matter that is eventually determined by the ICO going forward in the event that a requestor is unsatisfied with a Local Authorities response to withhold such information. Members who continue to have auto-forwarding in place, are in effect accepting that their personal email accounts are being used for Council business.</p> <p>The Monitoring Officer has responded that the Information Commissioner's Office has produced a Guidance Note on the topic of Freedom of Information Act 2000 to official information held in private email accounts and is attached as Annex Bi. The Note is helpful as it refers to a Councillor holding information relating to local authority business in her/her private email account on behalf of the local authority. It would be useful for this note to be circulated to all Members for information.</p>
<p>Council business should not be being done between Councillors on private email, look what happens at government level! There is, in my opinion, no valid reason that anyone needs to have their emails forwarded.</p> <p>Just because it has been done in the past, does not mean that it is still the right thing to be done, as has been highlighted by officers, government, and our own Audit Committee in the last few months</p>	<p>This reflects best practice - please see comments.</p>

<p>Maybe officers should start to refuse to act on any emails that come in from councillors private email addresses. Maybe that could be a recommendation by your Task and Finish Group.</p>	<p>This is covered in previous recommendations that council business should be undertaken on council-managed equipment. Should an email be received from a member's personal email account then officers should routinely respond to their TDC official address.</p>
<p>Whilst I think the IT team do an excellent job I still think there are areas where the use of personal equipment is not addressed. I understand that some councillors are not happy with having to use council equipment as they are use to their own but I think there are ways the council can look at facilitating this if everyone has Microsoft office on their own computers or laptops with inbuilt security.</p> <p>Has the option of using webmail rather than forwarding of emails been used? I have another outlook account accessed this way that I can pick up on my phone as well and I am asked to sign in every 7 days with random requests to verify my id via a code sent to my phone.</p>	<p>Potential alternative options are set out in Appendix C.</p>
<p>I do not think that emails addressed to councillors should be automatically directed to their personal accounts – whilst I doubt there is anything amiss happening I don't think the council should be in a position that there could be.</p> <p>If the use of personal email addresses/equipment is to continue then I</p>	<p>Please see comments above.</p>

feel there should be some sort of signed agreement to mitigate risk.	
There needs to be compulsory initial training for all councillors in the first instance, then those that do/don't need more can be identified?	Training for Councillors is already in place. However further recommendations from the Task and Finish Group are set out in the main body of the report.

Official information held in private email accounts

Freedom of Information Act

The Freedom of Information Act 2000 (FOIA) gives rights of public access to information held by public authorities.

An overview of the main provisions of FOIA can be found in [the Guide to Freedom of Information](#).

This is part of a series of guidance, which goes into more detail than the Guide to FOIA, to help you as a public authority to fully understand your obligations, as well as promoting good practice.

This guidance is intended to clarify the legal status under FOIA of information relating to the business of a public authority held in private email accounts in particular, but also other media formats. This is an emerging area of FOIA compliance and so the guidance may be updated in due course.

This guidance does not deal with exemptions which might be applicable to information held in private email accounts, only whether it may be held for the purposes of FOIA.

Overview

- FOIA applies to official information held in private email accounts (and other media formats) when held on behalf of the public authority. Such information may be exempt and will not necessarily have to be disclosed.
- It may be necessary to request relevant individuals to search private email accounts in particular cases. The occasions when this will be necessary are expected to be rare.
- Adherence to good records management practice should assist in managing risks associated with the use of private email accounts for public authority business purposes.

What FOIA says

Section 3 sets out the two legal principles by which it is established whether information is held for the purposes of FOIA.

3.

(2) For the purposes of this Act, information is held by a public authority if—

(a) it is held by the authority, otherwise than on behalf of another person, or

(b) it is held by another person on behalf of the authority.

Under section 3(2)(a) information will be held by the public authority for the purposes of FOIA if it is held to any extent for its own purposes. Only if information is held solely on behalf of another person will the public authority not hold it for the purposes of FOIA.

Section 3(2)(b) provides that in circumstances where information is held by another person on behalf of the public authority, the information is considered to be held by the authority for the purposes of FOIA. It is this sub-section that is of relevance to information held in personal email accounts.

The Commissioner's approach

Information held in non-work personal email accounts (e.g. Hotmail, Yahoo and Gmail) may be subject to FOIA if it relates to the official business of the public authority. All such information which is held by someone who has a direct, formal connection with the public authority is potentially subject to FOIA regardless of whether it is held in an official or private email account. If the information held in a private account amounts to public authority business it is very likely to be held on behalf of the public authority in accordance with section 3(2)(b).

This can apply to any public authority. For example, a Councillor may hold information relating to local authority business in his/her private email account on behalf of the local authority. The Commissioner is aware that the issue has also arisen in a central government context in relation to the use of non-work systems. There is a need to have a clear demarcation between political and departmental work. In the local government context, there is a

need to have a clear demarcation between Council business and work for individuals as their local representative.

Information in private email accounts that does not relate to the business of the public authority will not be subject to FOIA.

Situations where information legitimately requested under FOIA includes relevant information held on private email accounts will be rare. However, when a request for information is received, public authorities should consider all locations where relevant information may be held. This may include private email accounts.

The ICO recommends that, as a matter of good practice, public authorities establish procedures for dealing with such situations. These should outline the relevant factors to be taken into account in deciding whether it is necessary to ask someone to search their private email account for information which might fall within the scope of an FOI request the public authority has received. Relevant factors are likely to include:

- the focus of the request, indicated by the words used by the requester;
- the subject matter of the information which falls within the scope of the request;
- how the issues to which the request relates have been handled within the public authority;
- by whom and to whom was the information sent and in what capacity (e.g. public servant or political party member); and
- whether a private communication channel was used because no official channel was available at the time.

Where a public authority has decided that a relevant individual's personal email account may include information which falls within the scope of the request and which is not held elsewhere on the public authority's own system, it will need to ask that individual to search their account for any relevant information.

The enquiries made should be directed towards deciding whether any information which is so held was generated in the course of conducting the business of the public authority. If it was, it is likely to be within the scope of the request. It will therefore be held by the individual on behalf of the public authority for the purposes of FOIA.

Where members of staff or other relevant individuals have been asked to search private email accounts for requested information,

there should be a record of the action taken. The public authority will then be able to demonstrate, if required, that appropriate searches have been made in relation to a particular request. The Commissioner may need to see this in the event of a section 50 complaint arising from the handling of the request.

Relevant information in other forms

Although the main emphasis of this guidance is on information held in private email accounts, public authorities should be aware that it applies to information in other forms. The definition of information under FOIA is provided at section 84 and states that “information” ... means information recorded in any form”. Therefore, official information recorded on mobile devices, including text messages on mobile phones, or in any other media, may also be considered to be held on behalf of the public authority in the circumstances outlined in this guidance. Again, this does not necessarily mean that such information will be disclosable, but, on receipt of a valid FOIA request, public authorities should consider all locations where the requested information may be found.

Concealment and deletion

Public authorities should also remind staff that deleting or concealing information with the intention of preventing its disclosure following receipt of a request is a criminal offence under section 77 of FOIA. For example, where information that is covered by a request is knowingly treated as not held because it is held in a private email account, this may count as concealment intended to prevent the disclosure of information, with the person concealing the information being liable to prosecution.

Records Management

The Lord Chancellor’s Code of Practice under section 46 of FOIA stresses the importance, and benefits, of having good records management. As such, public authorities are strongly advised to use their records management policies to clarify the types of information that could be considered as records relating to the public authority’s business. These policies should include clear advice to staff that recorded information held by individuals, regardless of the form in which it is held, and which relates to the business of the authority, is likely to be held on behalf of the authority and so subject to FOIA.

In order to avoid the complications of requesting searches of private email accounts, and other private media, records management policies should make clear that information on authority-related business should be recorded on the authority's record keeping systems in so far as reasonably practicable.

It is accepted, that in certain circumstances, it may be necessary to use private email for public authority business. There should be a policy which clearly states that in such cases an authority email address must be copied in to ensure the completeness of the authority's records. In this way, records management policies will make it easier for public authorities to determine whether information is held and to locate and retrieve it in response to requests. If the information is contained within the public authority's systems it can also be subject to consistently applied retention and destruction policies.

Other considerations

Additional guidance is also available if you need further information on:

- Records Management

⇒ see [the Code of Practice under section 46](#)

⇒ see our guidance on [Section 46 Code of Practice – records management](#)

- Holding information

⇒ see [Information held by a public authority for the purposes of the FOI Act](#)

⇒ see [When is information caught by the FOI Act?](#)

More information

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunals and courts.

It is a guide to our general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information or data protection, please

<https://ico.org.uk/global/contact-us/>

Members Access to Emails – Opportunities / Options

Option / Description	Financial Implications	Positive Considerations	Negative Considerations
<p>OPTION ONE</p> <ul style="list-style-type: none"> ▪ Each Member is provided with a Council-managed Laptop Only. ▪ Cabinet Members are also provided with Council-managed mobile telephone. ▪ Council systems/communications / emails are <u>only</u> accessible by a council-managed devices. 	<p>Already budgeted</p>	<p>Optimum Data Protection and Full UK Data Protection Legislative Compliance in terms of transparency, security protective measures and data destruction that can be evidenced by the council as the Data Controller for all council official business purposes.</p> <p>Member’s personal devices would not be subject to council related Freedom Of Information (FOI) requests nor Information Commissioner’s Office investigation as Members have no council official business information on their personal device(s).</p> <p><u>Strongest Possible/ Least Vulnerable Cyber Security Position</u> - a managed device is the safest and strongest cyber-security position that the council can realistically adopt in consideration to;</p> <ol style="list-style-type: none"> 1) The ever increasing risk of a major cyber-security attack and subsequent loss of services, multi-million pound financial cost of recovery, loss of reputation, risk of harm to residents and particularly vulnerable residents and potentially loss-of-life. 2) It accords with the cyber-security industry direction of travel towards a ‘zero trust model’ where each user, each device security-health/ integrity and access to every service(s) is constantly being verified by automated cyber-security system ‘handshakes’ through security and authorisation policies. <p><i>NOTE: The Zero-trust model, or zero trust network access (ZTNA), Introduction to Zero</i></p>	<p>User Dissatisfaction as some users may prefer to use a personal device(s) that they feel most comfortable with.</p> <p>User Dissatisfaction as does not facilitate some member’s requirements to work whilst working remotely along with delays in responding to emails etc.</p>

		<p>Trust - NCSC.GOV.UK or Why the time has come for Zero-Trust model of cybersecurity World Economic Forum (weforum.org) direction of travel is increasingly being adopted by every security aware organisations including many local authorities where users are distributed on different networks e.g. home and office.</p> <p>Cyber-security Management/ Risk Control. This model removes cyber-security protective decisions and actions away from ‘the individual’ through security update automation, management and robust enforcement of cyber-security standards and best-practice.</p> <p>Council IT Servicedesk support during operational hours.</p> <p>Council IT Standard Model option with <u>no</u> additional council resourcing requirements in terms of officer resource, training and support. All officers work in this manner using the same standard specification laptop/ smartphones.</p>	
<p>OPTION TWO</p> <ul style="list-style-type: none"> ▪ As per ‘Option One’ <p>But additionally that;</p> <ul style="list-style-type: none"> ▪ All Members to be offered a standard model council managed smartphone to use and access emails whilst mobile. 	<p>Additional revenue (ongoing) corporate council costs of £8,000k per annum (for 40 members)</p> <p>Alternatively Members meet the on-going cost of the smartphone from their Member’s Allowance (£200 per annum)</p>	<p>As Option One in addition to:</p> <p>Provides an alternative device to support Member’s working remotely</p>	<p>User Dissatisfaction as some users may prefer to use a personal device(s) that they feel most comfortable with. Also the TDC supplied device would not necessarily be the latest Samsung device.</p> <p>User Dissatisfaction as users may be unwilling to carry two mobile phones i.e. their new TDC phone and a personal phone.</p> <p>If the cost is not met from Member’s own allowances, then there would be an additional cost that would have to be met from within the financial forecast.</p>

<p>OPTION THREE</p> <p>Members' continue to use their own personal devices e.g. laptops / tablets / smartphones of choice but managed within a Bring Your Own Device (BYOD) Service Framework</p> <p>This framework would require the installation of Mobile Device Management (MDM) security software onto any personal devices used.</p> <p><i>Notes: BYOD services are designed to offer the same level of IT security to corporate data (only) as a managed device. Due to this the device is locked down with high level encryption. The council cannot see your personal information. When you enrol a device, you give us permission to view certain pieces of information on your device only, such as device model and serial number and security settings.</i></p>	<p>Estimated One-off setup costs of £22,000.</p> <p>Estimated On-Going Revenue costs of potentially up to £50k to £70k per annum.</p>	<p>Meets ALL Member's home-based and working mobile requirements accessing council official business emails from any personal device(s).</p> <p>Strong Microsoft Cyber Security position that meets National Cyber Security Centre (NCSC) and Department of Levelling Up and Housing Communities (DLUHC) current minimum standards. <i>NOTE: Members should consider the National Cyber Security Centre (NCSC) 'Bring Your Own Device (BYOD)' guidance text included below.</i></p> <p>Only provides some of the information governance and cyber-security protective measures as set out in Option one and Two above.</p>	<p>Only provides some of the information governance and cyber-security protective measures e.g.</p> <p>Limited data protection and UK data protection legislative compliance. Confidentiality is <u>not guaranteed</u> and remains the responsibility of each Member. Similarly the issue of auto-forwarding and legislative transparency is <u>not resolved</u>.</p> <p>Limited Council IT Servicedesk support during operational hours.</p> <p>Member's personal devices would potentially remain subject to council-related Freedom Of Information (FOI) requests and Information Commissioner's Office investigation as they will hold council official-business information.</p> <p>Not all users may agree to have Council MDM software loaded and updated on their personal device(s) so this may only provide a partial solution.</p> <p>User Dissatisfaction - With members accessing services through different personal devices <u>the user-experience cannot be guaranteed</u> and there is a risk that it may impact on the functioning of personal applications which cannot be supported by the in-house IT team, which could include the loss of personal data.</p> <p>It is relatively expensive to implement and the additional cost would have to be met from within the financial forecast. Costs include:</p> <ul style="list-style-type: none"> • licensing costs • technical / admin support costs <p>Not necessary a long term solution e.g. NCSC/DLUHC cyber-security hardening may necessitate additional software controls being added to Member's</p>
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			<p>personal device(s) to continue access or it becomes an option that is no longer deemed to reflect best practice.</p> <p><i>* Please also see the note at the end of this table that sets out the NCSC view on such options.</i></p>
<p>OPTION FOUR</p> <p>A Member Web-Portal App accessible by all Member's personal devices from anywhere in the UK</p> <p>(Would negate the need for auto-forwarding of emails)</p> <p>Page 217</p>	<p>Estimated one-off setup costs of £16,000.</p> <p>Estimated On-going Revenue costs of up to £70k per annum.</p>	<p>Option Three provides most of the information governance and cyber-security protective measures as follows;</p> <p>Strong data protection (however, confidentiality is not guaranteed and remains the responsibility of each Member.</p> <p>Full UK data protection legislative compliance.</p> <p>Member's personal devices would not be subject to council related Freedom Of Information (FOI) requests nor Information Commissioner's Office investigation.</p> <p>Council IT Servicedesk support during operational hours.</p> <p>Meets Member's home-based and working mobile requirements accessing council official business emails from any personal device(s).</p> <p>Strong Microsoft Cyber Security position that meets National Cyber Security Centre (NCSC) and Department of Levelling Up and Housing Communities (DLUHC) current minimum standards.</p>	<p>Reduced Cyber Security Strength - A Members' Web Portal cannot provide the full protection of a fully council-managed device only solution. It also opens another 'attack vector' for cyber-aggressors to attack (industry best-practice seeks to minimise not expand attack-vectors). Similarly, a ZTNA model cannot be fully achieved.</p> <p>Cyber-Security Complexity And Resourcing - It further complicates the council's cyber-security arrangements requiring additional management, monitoring, support and training resources.</p> <p>User Dissatisfaction - each Member would have to agree to have a Multi-Factor-Authenticator App loaded onto their personal device(s) to access the service.</p> <p>Not necessary a long term solution e.g. NCSC/DLUHC cyber-security hardening may necessitate additional software controls being added to Member's personal device(s) to continue access or it becomes an option that is no longer deemed to reflect best practice.</p> <p>User Dissatisfaction – the Web Portal will have to provide a standard 'look and feel' regardless of Member's personal device choice(s) so there may be differing views on the 'standard user experience' it offers.</p> <p>Cyber-security Management/ Risk Control remains the responsibility of each Member with some</p>

			<p>Member's devices remaining unpatched with weak passwords leaving them open to a successful cyber-attack and in turn hostile-use of their device(s) to attack the council.</p> <p>It is relatively expensive to implement and the additional cost would have to be met from within the financial forecast. Costs include:</p> <ul style="list-style-type: none"> • licensing costs • technical / admin support costs
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*The use of personal devices for government official business is permitted - with reference to the use of personal mobile phones/ computers the National Cyber Security Centre (NCSC) 'Bring Your Own Device (BYOD)' guidance states: *"No BYOD deployment will protect corporate data as effectively as corporately managed devices, so consider what would happen if the services you intend to expose were compromised and the business impact it would cause. ... it comes with a conflicting set of security risks and challenges. ... You should understand what your IT department will be able to cope with. Supporting all the devices that can be used for BYOD will almost certainly prove problematic. ... Usability will be a focus for the device owners themselves, desiring no disruption of their usual experience of a device. They will also likely have concerns over the privacy of their personal data, the impact of which will vary depending on the degrees of corporate control you intend to implement. ... Because the organisation will have less control and visibility of a user's personal device than of a corporately owned and managed one, BYOD faces greater security risks."* <https://www.ncsc.gov.uk/collection/device-security-guidance/bring-your-own-device>

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DETECTING CYBER SECURITY EVENTS
The organisation monitors the security status of the networks and systems supporting the operation of essential functions in order to detect potential security problems and to track the ongoing effectiveness of protective security measures.

Not achieved - At least one of the following statements is true	Partially achieved - All of the following statements are true	Achieved - All the following statements are true	
Data relating to the security and operation of your essential functions is not collected.	Data relating to the security and operation of some areas of your essential functions is collected but coverage is not comprehensive.	Monitoring is based on an understanding of your networks, common cyber attack methods and what you need awareness of in order to detect potential security incidents that could affect the operation of your essential function (e.g. presence of malware, malicious emails, user policy violations).	
You do not confidently detect the presence or absence of Indicators of Compromise (IoCs) on your essential functions, such as known malicious command and control signatures (e.g. because applying the indicator is difficult or your logging data is not sufficiently detailed).	You easily detect the presence or absence of IoCs on your essential function, such as known malicious command and control signatures.	Your monitoring data provides enough detail to reliably detect security incidents that could affect the operation of your essential function.	
You are not able to audit the activities of users in relation to your essential function.	Some user monitoring is done, but not covering a fully agreed list of suspicious or undesirable behaviour.	You easily detect the presence or absence of IoCs on your essential functions, such as known malicious command and control signatures.	
You do not capture any traffic crossing your network boundary including as a minimum IP connections.	You monitor traffic crossing your network boundary (including IP address connections as a minimum).		

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<p>Not achieved - At least one of the following statements is true</p>	<p>Partially achieved - All of the following statements are true</p>	<p>Achieved - All the following statements are true</p>
<p>It is possible for logging data to be easily edited or deleted by unauthorised users or malicious attackers.</p>	<p>Only authorised staff can view logging data for investigations.</p>	<p>The integrity of logging data is protected, or any modification is detected and attributed.</p>
<p>There is no controlled list of who can view and query logging information.</p>	<p>Privileged users can view logging information.</p>	<p>The logging architecture has mechanisms, processes and procedures to ensure that it can protect itself from threats comparable to those it is trying to identify. This includes protecting the function itself, and the data within it.</p>
<p>There is no monitoring of the access to logging data.</p>	<p>There is some monitoring of access to logging data (e.g. copying, deleting or modification, or even viewing.)</p>	<p>Log data analysis and normalisation is only performed on copies of the data keeping the master copy unaltered.</p>
<p>There is no policy for accessing logging data.</p>		<p>Logging datasets are synchronised, using an accurate common time source, so separate datasets can be correlated in different ways.</p>
<p>Logging is not synchronised, using an accurate common time source.</p>		<p>Access to logging data is limited to those with business need and no others.</p>
		<p>All actions involving all logging data (e.g. copying, deleting or modification, or even viewing) can be traced back to a unique user.</p>
		<p>Legitimate reasons for accessing logging data are given in use policies.</p>

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<p>Not achieved - At least one of the following statements is true</p>	<p>Partially achieved - All of the following statements are true</p>	<p>Achieved - All the following statements are true</p>
<p>Alerts from third party security software is not investigated e.g. Anti-Virus (AV) providers.</p>	<p>Alerts from third party security software are investigated, and action taken.</p>	<p>Logging data is enriched with other network knowledge and data when investigating certain suspicious activity or alerts.</p>
<p>Logs are distributed across devices with no easy way to access them other than manual login or physical action.</p>	<p>Some, but not all, logging datasets can be easily queried with search tools to aid investigations.</p>	<p>A wide range of signatures and indicators of compromise is used for investigations of suspicious activity and alerts.</p>
<p>The resolution of alerts to a network asset or system is not performed.</p>	<p>The resolution of alerts to a network asset or system is performed regularly.</p>	<p>Alerts can be easily resolved to network assets using knowledge of networks and systems. The resolution of these alerts is performed in almost real time.</p>
<p>Security alerts relating to essential functions are not prioritised.</p>	<p>Security alerts relating to some essential functions are prioritised.</p>	<p>Security alerts relating to all essential functions are prioritised and this information is used to support incident management.</p>
<p>Logs are reviewed infrequently.</p>	<p>Logs are reviewed at regular intervals.</p>	<p>Logs are reviewed almost continuously, in real time.</p>
		<p>Alerts are tested to ensure that they are generated reliably and that it is possible to distinguish genuine security incidents from false alarms.</p>
<p>Not achieved - At least one of the following statements is true</p>	<p>Partially achieved - All of the following statements are true</p>	<p>Achieved - All the following statements are true</p>

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<p>Your organisation has no sources of threat intelligence.</p>	<p>Your organisation uses some threat intelligence services, but you don't necessarily choose sources or providers specifically because of your business needs, or specific threats in your sector (e.g. sector-based infoshare, ICS software vendors, anti-virus providers, specialist threat intel firms, special interest groups).</p>	<p>You have selected threat intelligence feeds using risk-based and threat-informed decisions based on your business needs and sector (e.g. vendor reporting and patching, strong anti-virus providers, sector and community-based infoshare, special interest groups).</p>
<p>You do not apply updates in a timely way, after receiving them. (e.g. AV signature updates, other threat signatures or Indicators of Compromise (IoCs).</p>	<p>You receive updates for all your signature based protective technologies (e.g. AV, IDS).</p>	<p>You apply all new signatures and IoCs within a reasonable (risk-based) time of receiving them.</p>
<p>You do not receive signature updates for all protective technologies such as AV and IDS or other software in use.</p>	<p>You apply some updates, signatures and IoCs in a timely way.</p>	<p>You receive signature updates for all your protective technologies (e.g. AV, IDS).</p>
<p>You do not evaluate the usefulness of your threat intelligence or share feedback with providers or other users.</p>	<p>You know how effective your threat intelligence is (e.g. by tracking how threat intelligence helps you identify security problems).</p>	<p>You track the effectiveness of your intelligence feeds and actively share feedback on the usefulness of IoCs and any other indicators with the threat community (e.g. sector partners, threat intelligence providers, government agencies).</p>
<p>Not achieved - At least one of the following statements is true</p>	<p>Partially achieved - All of the following statements are true</p>	<p>Achieved - All the following statements are true</p>
<p>There are no staff who perform a monitoring function.</p>	<p>Monitoring staff have some investigative skills and a basic understanding of the data they need to work with.</p>	<p>You have monitoring staff, who are responsible for the analysis, investigation and reporting of monitoring alerts covering both security and performance.</p>

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Monitoring staff do not have the correct specialist skills.	Monitoring staff can report to other parts of the organisation (e.g. security directors, resilience managers).	Monitoring staff have defined roles and skills that cover all parts of the monitoring and investigation process.
Monitoring staff are not capable of reporting against governance requirements.	Monitoring staff are capable of following most of the required workflows.	Monitoring staff follow process and procedures that address all governance reporting requirements, internal and external.
Monitoring staff lack the skills to successfully perform some significant parts of the defined workflow.	Your monitoring tools can make use of logging that would capture most unsophisticated and untargeted attack types.	Monitoring staff are empowered to look beyond the fixed process to investigate and understand non-standard threats, by developing their own investigative techniques and making new use of data.
Monitoring tools are only able to make use of a fraction of logging data being collected.	Your monitoring tools work with most logging data, with some configuration.	Your monitoring tools make use of all logging data collected to pinpoint activity within an incident.
Monitoring tools cannot be configured to make use of new logging streams, as they come online.	Monitoring staff are aware of some essential functions and can manage alerts relating to them.	Monitoring staff and tools drive and shape new log data collection and can make wide use of it.
Monitoring staff have a lack of awareness of the essential functions the organisation provides, what assets relate to those functions and hence the importance of the logging data and security events.		Monitoring staff are aware of the operation of essential functions and related assets and can identify and prioritise alerts or investigations that relate to them.

The organisation detects, within networks and information systems, malicious activity affecting, or with the potential to affect, the operation of essential functions even when the activity evades standard signature based security prevent/detect solutions (or when standard solutions are not deployable).

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Not achieved - At least one of the following statements is true	Achieved - All the following statements are true	Comments
Normal system behaviour is insufficiently understood to be able to use system abnormalities to detect malicious activity.	Normal system behaviour is fully understood to such an extent that searching for system abnormalities is a potentially effective way of detecting malicious activity (e.g. you fully understand which systems should and should not communicate and when).	
You have no established understanding of what abnormalities to look for that might signify malicious activities.	System abnormality descriptions from past attacks and threat intelligence, on yours and other networks, are used to signify malicious activity.	SOCOS
	The system abnormalities you search for consider the nature of attacks likely to impact on the networks and information systems supporting the operation of essential functions.	We prioritise (DLUHC?)
	The system abnormality descriptions you use are updated to reflect changes in your networks and information systems and current threat intelligence.	No clearly defined feedback loop
Not achieved - At least one of the following statements is true	Achieved - All the following statements are true	Comments

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<p>You do not routinely search for system abnormalities indicative of malicious activity.</p>	<p>You routinely search for system abnormalities indicative of malicious activity on the networks and information systems supporting the operation of your essential function, generating alerts based on the results of such searches.</p>	<p>3rd party Interference contract plus in-house CISM expertise. However due to resourcing/recruitment in-house expertise resource is sporadic</p>
	<p>You have justified confidence in the effectiveness of your searches for system abnormalities indicative of malicious activity.</p>	<p>3rd party Interference contract plus in-house CISM expertise. However due to resourcing/recruitment in-house expertise resource is sporadic</p>

CAF Objective D - Minimising the impact of cyber security incidents

Capabilities exist to minimise the adverse impact of a cyber security incident on the operation of essential functions, including the restoration of those functions where necessary.

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Principle: D1 Respons e and Recovery Planning	There are well-defined and tested incident management processes in place, that aim to ensure continuity of essential functions in the event of system or service failure. Mitigation activities designed to contain or limit the impact of compromise are also in place.
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D1.a Response Plan	Not achieved - At least one of the following statements is true	Partially achieved - All of the following statements are true	Achieved - All the following statements are true
You have an up-to-date incident response plan that is grounded in a thorough risk assessment that takes account of your essential function and covers a range of incident scenarios.	Your incident response plan is not documented.	Your response plan covers your essential functions.	Your incident response plan is based on a clear understanding of the security risks to the networks and information systems supporting your essential function.
	Your incident response plan does not include your organisation's identified essential function.	Your response plan comprehensively covers scenarios that are focused on likely impacts of known and well-understood attacks only.	Your incident response plan is based on a clear understanding of the security risks to the networks and information systems supporting your essential function.
	Your incident response plan is not well understood by relevant staff.	Your response plan is understood by all staff who are involved with your organisation's response function.	Your incident response plan is based on a clear understanding of the security risks to the networks and information systems supporting your essential function.
	<i>DRAFT to be discussed/ recommended for adoption by Cyber T&F group.</i>	Your response plan is documented and shared with all relevant stakeholders.	

D1.b Response and Recovery Capability	Not achieved - At least one of the following statements is true	Achieved - All the following statements are true
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<p>You have the capability to enact your incident response plan, including effective limitation of impact on the operation of your essential function. During an incident, you have access to timely information on which to base your response decisions.</p>	<p>Inadequate arrangements have been made to make the right resources available to implement your response plan.</p>	<p>You understand the resources that will likely be needed to carry out any required response activities, and arrangements are in place to make these resources available.</p>
	<p>Your response team members are not equipped to make good response decisions and put them into effect.</p>	<p>You understand the types of information that will likely be needed to inform response decisions and arrangements are in place to make this information available.</p>
	<p>Inadequate back-up mechanisms exist to allow the continued operation of your essential function during an incident.</p>	<p>Your response team members have the skills and knowledge required to decide on the response actions necessary to limit harm, and the authority to carry them out.</p>
		<p>Key roles are duplicated, and operational delivery knowledge is shared with all individuals involved in the operations and recovery of the essential function.</p>
		<p>Back-up mechanisms are available that can be readily activated to allow continued operation of your essential function (although possibly at a reduced level) if primary networks and information systems fail or are unavailable.</p>

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	Arrangements exist to augment your organisation’s incident response capabilities with external support if necessary (e.g. specialist cyber incident responders).
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D1.c Testing and Exercising	Not achieved - At least one of the following statements is true	Achieved - All the following statements are true	
Your organisation carries out exercises to test response plans, using past incidents that affected your (and other) organisation, and scenarios that draw on threat intelligence and your risk assessment.	Exercises test only a discrete part of the process (e.g. that backups are working), but do not consider all areas.	Exercise scenarios are based on incidents experienced by your and other organisations or are composed using experience or threat intelligence.	
	Incident response exercises are not routinely carried out or are carried out in an ad-hoc way.	Exercise scenarios are documented, regularly reviewed, and validated.	
	Outputs from exercises are not fed into the organisation's lessons learned process.	Exercises are routinely run, with the findings documented and used to refine incident response plans and protective security, in line with the lessons learned.	
	Exercises do not test all parts of the response cycle.	Exercises test all parts of your response cycle relating to your essential functions (e.g. restoration of normal function levels).	

Principle: D2 Lessons Learned	When an incident occurs, steps are taken to understand its root causes and to ensure appropriate remediating action is taken to protect against future incidents.	
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D2.a Incident Root Cause Analysis	Not achieved - At least one of the following statements is true	Achieved - All the following statements are true	
When an incident occurs, steps must be taken to understand its root causes and ensure appropriate remediating action is taken.	You are not usually able to resolve incidents to a root cause.	Root cause analysis is conducted routinely as a key part of your lessons learned activities following an incident.	
	You do not have a formal process for investigating causes.	Your root cause analysis is comprehensive, covering organisational process issues, as well as vulnerabilities in your networks, systems or software.	
		All relevant incident data is made available to the analysis team to perform root cause analysis.	

D2.b Using Incidents to Drive Improvements	Not achieved - At least one of the following statements is true	Achieved - All the following statements are true	
Your organisation uses lessons learned from incidents to improve your security measures.	Following incidents, lessons learned are not captured or are limited in scope.	You have a documented incident review process/policy which ensures that lessons learned from each incident are identified, captured, and acted upon.	
	Improvements arising from lessons learned following an incident are not implemented or not given sufficient organisational priority.	Lessons learned cover issues with reporting, roles, governance, skills and organisational processes as well as technical aspects of networks and information systems.	

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		You use lessons learned to improve security measures, including updating and retesting response plans when necessary.	
		Security improvements identified as a result of lessons learned are prioritised, with the highest priority improvements completed quickly.	
		Analysis is fed to senior management and incorporated into risk management and continuous improvement.	

Principles & Related Guidance
<https://www.ncsc.gov.uk/collection/caf/table-view-principles-and-related-guidance>

A.6 APPENDIX F

Tendring
District Council



DIGITAL CYBER INCIDENT RESPONSE PLAN (CIRP)

Issued by: Head of Digital & Assurance Services

Version: 1.0 September 2022

Agreed By Management Team 27 September 2022

Agreed By Member Task & Finish Cyber-Security Group 8th December 2022

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1. PURPOSE:

The purpose of this digital services (IT) continuity and disaster recovery plan is to document the governance, planning and procedures that will be followed during a cyber-attack incident response and recovery scenario.

This plan definitively outlines how Tendring District Council will respond when a cyber-attack occurs.

2. DIGITAL SERVICE RECOVERY SCOPE

The scope of this recovery plan is limited to;

- All core digital infrastructure - hardware and applications software - managed by the council's digital service and incumbent network management partners (currently Intergence Systems Ltd).
- All critical systems (software applications) managed by the council's digital service - both on-premise and cloud-based.
- All non-critical systems managed (as above).

Council departments have out-sourced some specialist applications to third parties with whom they have a managed service contract. These out-sourced digital services are specifically out-of-scope of this continuity and recovery plan as we are reliant upon their contractual recovery response management.

However, the council's Digital Services and Assurance Team will provide technical advice and guidance to council service-sponsors, subject to resource availability and any situation associated resource prioritisation.

3. BACKGROUND AND BUSINESS CONTINUITY OBJECTIVES

Tendring District Council seeks to provide high quality, affordable digital services that are accessible, easy to use and highly resilient for service users – residents, customers, visitors, members and officers alike.

As best practice, our Cyber Incident Planning and Response (CIPR) certificated training strongly advocates that an organisation should document, update and exercise a Cyber Incident Response Plan (CIRP) that is adopted by its management group and accords with the organisations business continuity and recovery priority goals. This ethos is echoed by the Local Government Association.

Response/ recovery incident post-situational learning taught us that 'seasoned' IT staff were 'confident' with managing and resolving a cyber-attack response. However, for newer management and operational staff this was their very first cyber-attack situation

and were keen to play their part but needed close direction and guidance. This identified the need for a document to refer to and the need to exercise and train newer staff.

Similarly, as a response becomes prolonged/ intensified and with key staff working extended hours over a number of days - stress, leadership and management fatigue and self-doubts will occur. Again, as a lesson learnt, the need for a documented/ adopted CIRP as a reference guide will aid and boosted flagging confidence levels.

This digital services Cyber Incident Response Plan (CIRP) covers the widest possible range of scenarios, addressing risks such as: network connectivity failure, failure/ destruction of hardware, data corruption, phishing, smishing, fraud, ransomware cyberattack(s).

Again, following best practice, the council’s CIRP is based upon National Institute of Standards and Technology (NIST) cyber-attack response standards (as adopted by the National Cyber Security Centre [NCSC]), this CIRP follows the 4 cyber incident response phases, as follows:

NIST 4 Phases	Activities
<p>Phase One: Preparation</p>	<p>Research, council-wide generic and specialist cyber-security staff training and education, stake-holder engagement, exercise & backup restoration recoveries, expert contractual 3rd party support arrangements.</p> <p><i>Note: This phase and all subsequent phases <u>must</u> train for and consider and undertake forensic protection of the incident ‘attack’ evidence and response activity and decision log recording to facilitate criminal investigation/ prosecution and post-incident learning and improvement.</i></p>
<p>Phase Two: Detection & Analysis</p>	<p>Training, alerting and monitoring and warning systems (infrastructure and cybersecurity) and IT Service Desk reporting through staff/ member diligence.</p>
<p>Phase Three: Containment / Eradication and Recovery</p>	<p>Subject to the type of attack and situational coordinated actions and response and recovery actions required.</p>
<p>Phase Four: Post Incident Activity</p>	<p>Debrief of staff/ consultants and learning outcomes reference any identified strengths and weaknesses of the situational response activities and outcome(s).</p>

The plan acknowledges and considers that the council has differing digital service continuity priorities at different times of the year (seasonality). For example, electoral digital service continuity has a very high priority approaching and during elections, or Emergency Planning digital services/ communications would be prioritised during an ongoing/ parallel running emergency planning response situation.

In this regard, the plan outlines early scenario engagement with the council’s Chief Executive Officer - or his designated incident strategic lead (Gold Commander) - to agree prioritisation of digital service(s) recovery of one service over another, subject to;

- a) The specific digital cyber-incident details being responded to and the nature and extent of services affected, and,
- b) Due cognisance to any corresponding system architecture and digital service-related failure dependencies i.e. we need to have basic user-access supporting infrastructure working before we can recover an application else no users could access it.

Each of the four NIST phases and the council’s arrangements are outlined, as follows.

4. PHASE ONE: PREPARATION

As initially outlined, this phase comprises officer and member stakeholder cyber awareness engagement and education. From an incident response preparatory perspective the council needs to maintain key training and is pro-active in doing so. Whilst this is an ongoing and evolving process within the council, preparatory actions will include the following:

Stakeholder Engagement/ Training	Forum/ Audience	Approach/ Frequency
E-learning	Officers and Members	<ul style="list-style-type: none"> ▪ On induction. ▪ Periodically updated/ mandated to all.
Phishing awareness education and test campaigns	Officers and Members	<ul style="list-style-type: none"> ▪ Educational emails as the opportunity arises (e.g. a new NCSC or Local Government Association warning(s)). ▪ Phishing campaigns 2-3 per annum.
Management Team cyber reports	Management Team and Audit Committee	<ul style="list-style-type: none"> ▪ Quarterly (alongside the Risk Management reporting regime). ▪ As urgency requires.
Senior Managers’ Forum events	Senior Officers	Minimum of annually
All staff briefings	Officers	Minimum of bi-annually (every 2 years) in association with Essex Police Cyber-Crime Division.
All Member Briefings	Members	Minimum of annually

Cyber Incident Planning and Response (CIPR) certificated training	Digital & Assurance Services Team - management	Minimum of two officers trained.
Certified Information Security Manager (CISM) certificated training	Digital & Assurance Services Team – Cyber-security	Minimum one officer trained.
Certified Information Systems Security Professional (CISSP) training	Digital & Assurance Services Team– Cyber-security	Minimum one officer to be trained.
Backup recovery/ viability exercising	Digital & Assurance Services Team – Technical Operations	Minimum monthly exercise.
CIRP Exercise (and/ or participation in ERF cyber exercises[s])	Digital & Assurance Services Team & key staff e.g. Communications Mngr	<ul style="list-style-type: none"> ▪ Minimum 6 monthly. ▪ Must include log-training
CIRP Document Review	Digital & Assurance Services Team	Annually.

5. PHASE TWO: DETECTION & ANALYSIS

To maximise its cyber-defence monitoring and response capabilities the council has adopted a hybrid resourcing arrangement, comprising:

- a) A specialist managed cyber-security contract (incumbent supplier Intergence Systems Ltd), providing:
 - 24/7 alert monitoring, investigative services and incident support through the Intergence Systems Security Operations Centre (SOC).
 - Specialist configuration, management and security patching of the council's physical and cloud-based firewalls.
 - Supply, support and management/ patching of a range of best-of-breed security monitoring and anti-malware products and services.
 - Specialist consultancy and advice.

- b) A small council in-house staff resource providing;
 - An intelligent client and strategic support role.
 - Specialist council support to services in its cyber-security and contract provisioning with third parties based upon a *security-through-design* new services ethos.
 - Council-dedicated alert/ incident investigation monitoring and support.

The council's specialist team play an active, registered engagement role with UK government National Cyber Security Centre (NCSC) briefings, guidance and compliance edicts and policies.

Similarly with the East of England Warning, Advice and Reporting Point (WARP) - a community-based service where members can receive and share up-to-date advice on

information security threats, incidents and solutions. And with emerging Department of Levelling Up Housing and Communities (DLUHC) and Local Government Association guidance, briefings and new auditing regimes. The team plays a key advocacy role in the Essex Digital Partnership (EDP, previously EOLP) Cyber security group and including the Essex Resilience Forum (ERF) cyber response policy format, training/ exercising

The detection and analysis of a national or regional cyber-incident/ alert of successful cyber-breach could be cascaded downwards via NCSC, the WARP and/ or the ERF alerting process.

A Tendring District Council focussed attack or successful breach could be identified digitally through our alerting and monitoring systems or identified by a diligent member of staff.

In either event, both the in-house cyber-security and technical team and the contracted SOC play a key role in identifying and analysing the alert/ breach and escalating their assessment and recommended course of action to the Head of Service as quickly as can be achieved.

- **Vigilance, monitoring and alerting together with early and swift detection and situational analysis plays a crucial role in any cyber-attack successful response.**

6. PHASE THREE: CONTAINMENT, ERADICATION AND RECOVERY

Subject to the situational context and successful 'breadth' of infiltration and resultant outcome(s) and risks associated with the identified successful cyber-breach, the Digital Head of Service will assume the Tactical Commander/ Silver Commander role and engage with in-house service management team relevant experts - comprising the Cyber-security and Systems Manager, the Technical Operations Manager, the Information Governance and Services Manager, service-specific system sponsor manager (as appropriate) – together with expert consultancy resource available to resource and manage situation containment, eradication and recovery. The above mentioned officers will form the INITIAL core of the situation Tactical Coordination Group (TCG).

In the absence of the Digital Head of Service, the Cyber Security and Systems Manager will assume the incident lead tactical Silver Commander response role until any decision is taken by the newly-appointed situational Gold Commander to change/ revise this arrangement.

As a general 'standing order' principle BUT subject to early key corporate stakeholder engagement with the council's Chief Executive or nominated Gold Officer, the cyber incident response will prioritise and recover services in descending priority order as follows;

FIRST: Corporate Operational Enabling Infrastructure, Risk To Life and Communications

- i. **Corporate Operational Supporting Infrastructure:** Functionally the minimum and basic requirements necessary to support and commence prioritised service recovery e.g. network access, remote working capabilities and WiFi (as appropriate).
- ii. **Risk To Life Services:** Careline, consideration to other services subject to any parallel Emergency Planning operational incident response(s) e.g. a coastal flooding scenario.
- iii. **Corporate Communication Channel(s):** telephony, contact centre, website (informational services), Microsoft Office 365, mobile telephony, email.

SECOND: Vulnerability And Minimal Staff Supporting Services

- iv. **Vulnerable Persons Support Services:** Crematorium Services, Housing Benefits, Housing Services, Health & Safety.
- v. **Officer Support and Member Local Democracy Resources:** Initial consideration to minimal officer system and democratic member system supporting requirements and events. For example Team Spirit HR system access or supporting an imminent scheduled Full Council Meeting.

THIRD: Revenue Collection, Financial Accounting/ Payments

- vi. **Revenue Collection/ Income And Financial Accounting Services:** Revenues Services (C/Tax, National Non-domestic rates), *MyTendring* self-service portal, card and payment services, Exchequer (payments), interactive website services.

FOURTH: Statutory Services

- vii. **Statutory Services:** Electoral Services, Waste and Recycling, Planning Services Environmental, Legal, Licensing, Enforcement, Emergency Planning.

FIFTH: Income Generating Non-Statutory, Support And Governance And Non-Statutory (Other)

- viii. **Income Generating Non-Statutory Services:** Leisure Centres, theatre, parking services.
- ix. **Governance & Support Services:** Human Resources, Fraud, Risk Management, Internal Audit, Information Governance, Financial (non-revenue).
- x. **Non-Statutory:** Other

7. Over –Arching Plan Approach And Behaviours

Unless the scenario is a ‘business as usual’ albeit significant digital fault response situation – which doesn’t require invoking the CIRP - the council’s digital service continuity and disaster recovery response will be delivered in accordance with adopted council Emergency Planning response ‘best practice’ arrangements with reference to this CIRP as a key process and procedural guide.

With cognisance to the need to respond decisively, quickly and flexibly and subject to the scenario encountered, the following trained and exercised roles and responsibilities will be adopted:

- Strategic Commander (Gold)
- Tactical Commander (Silver)

- Tactical Coordination Group (TCG) comprising relevant expertise of both staff and contractors.

Given the council's finite digital resources, members of the TCG may well directly undertake operational response duties and/or supervise operational staff to do so.

In the event of a multi-week or further protracted digital service continuity situational response the Gold Command, Silver Command and TCG responsibilities may be passed between different individuals subject to response continuity being maintained.

Alternatively, given the specialist digital skills and knowledge required from the incident 'Digital' Silver Commander and the 'Digital' TCG, early consideration should be given to reaching-out to the Essex Digital Partnership (EDP - previously the Essex Online Partnership) for mutual aid or shared responsibilities and resources if multiple organisations are affected.

All staff engaged in the situational response will;

- ✓ Maintain an up-to-date situational understanding at all times (or as per the latest briefing engagement between Gold and Silver Commanders).
- ✓ Work collaboratively and demonstrate commitment to resolving the service continuity issue(s), recovery and resolution.
- ✓ Communicate continuously and clearly.
- ✓ Be respectful of colleagues opinions and professional judgements and provide challenge in a supportive and empathic manner.
- ✓ Maintain a written log(s) of events, actions and decisions contemporaneously (at or around the time of).
- ✓ As appropriate and where necessary, establish an iterative/ evolutionary recovery scenario response aligned to business goals and objectives with applications and systems recovered in accordance with the application prioritisation/ dependency *appendix A embedded Excel Workbook* to this plan.
- ✓ Give due consideration to Agile Project Management MoSCoW prioritisation principles, namely;
 - **Must Have** applications and infrastructure - communication channels (telephony, email, contact centre), protective and vulnerable persons services e.g. Careline, Housing Benefits, MS Office,
 - **Should Have** applications – revenue collection and income management/ payment services, local government statutory functions, MyTendring self-service portal.
 - **Could Have** applications – non-statutory services or services where reasonable workarounds can be established in the short/ medium-term to deliver services.
 - **Won't Have** applications – where application recovery is delayed, or cannot be recovered or will not be recovered for some time these should be clearly documented and communicated clearly to the strategic command structure.

6.1 Duties And Responsibilities

Key incident duties/ responsibilities are as follows;

6.1.1 Strategic Commander (Gold)

This role is nominally the council's Chief Executive Officer (CEO) or his nominated incident Gold Commander(s). The Gold Commander will;

- a) Liaise with the incident Tactical Commander (Silver) as early as can be achieved within the incident response timeline to confirm and agree clear strategic business goals/ service application recovery and continuity priorities and objectives.
- b) Assume responsibility for member stakeholder communication(s), situational updates and engagement.
- c) Liaise with the incident Tactical Commander (Silver) to agree the timing of periodic situational updates.
- d) Maintain situational awareness and provide business strategic guidance.
- e) May be called upon by the Tactical Commander to marshal and ensure that service System Sponsors / Application Asset Owners are fully engaging with the recovery and prioritising and resourcing their system testing responsibilities.

6.1.2 Tactical Commander (Silver)

This role is nominally the council's Head of Digital and Assurance Services or his nominated specialist incident Silver Commander(s) should the situation require mutual aid support. The Silver Commander will;

- a) Adopt and enforce working to the NIST categories 2-4 - Detection and Analysis, Containment/ Eradication (As Appropriate), and Recovery/ repair and Post Incident Activity.
- b) Establish a Tactical Coordination Group (TCG) comprising the relevant expertise(s) to effectively respond to the situation or event and resolve it – both in terms of technically and ongoing communication to stakeholders, customers and partners.
- c) Establish a 'battle rhythm' and chair periodic TCG meetings (virtual or physical) that meets the pace of the evolving incident and TCG agreed actions. *Note: The Gold Commander situational update should ideally be timed to take place following these meeting(s).*
- d) Liaise with the incident Strategic Commander (Gold) as early as can be achieved within the incident response timeline to;
 - i. Explain the digital service continuity issue(s) and their resultant business continuity outcomes in a non-technical manner.
 - ii. Discuss and agree any key strategic goals/ service application recovery and continuity priorities.
- e) Ensure that any attack evidence is forensically protected/ safeguarded for potential use by future criminal investigation parties.
- f) Ensure that the TCG and operational staff engaged in the incident commence and complete an event and decision log(s) of the incident.
- g) Ensure that the Essex Resilience Framework (ERF) Cyber Incident Response Policy is followed in terms of communicating with partners and the National Cyber Security Centre (NCSC) and that policy escalation processes are adhered to.
- h) Establish and maintain an awareness of the event/ situation and agree appropriate response(s), actions and lead and own the tactical response decision making process.

- i) Engage with council's Emergency Planning Team to raise their awareness of the situation and to secure any relevant expert guidance.
- j) Consider the need and establish rest periods and 'down time' for each facet of the TCG and operational supporting staff, together with the need to ask for additional mutual aid staffing resources – both from the Essex Digital Partnership and the National Cyber Security Centre (NCSC) or other third party specialist response organisations.
- k) Lead and coordinate the TCG response to situational resolution in terms of: following strategy and guidance, compliance with council adopted policies and procedures/ plans, providing clear instructions and roles and responsibilities, any relevant contracts and contractual responses, partner and external body policies and engagement, response resourcing, health and safety.
- l) Maintain situational awareness minute-to-minute, hour-to-hour and provide business response tactical guidance throughout the situation/ event.
- m) In consultation with the Gold Commander, take ownership of declaring the end of each NIST phase and commencement of the next NIST phase in collaboration with the TCG specialists.
- n) Lead and coordinate the TCG response until recovery/ resolution.
- o) Organise the post-situational de-briefing.

6.1.3 Tactical Coordination Group (TCG)

Membership of the Tactical Coordination Group will be assigned by the Silver Commander based upon available skillsets, resources and the tactical response requirements.

Initially, the TCG is likely to comprise: digital expertise (staff and contractors), cybersecurity expertise, communication expertise, service application expertise. However, as the situation evolves additional expertise may be required or stood down, rested or replaced.

6.1.4 System Sponsors / Application Asset Owners

The System Sponsors / Application Asset Owners will play a key service continuity and disaster recovery response role in terms of coordinating expert system user resources to quickly test applications recovered, document any post-recovery issues and be fully engaged with the response/ recovery.

They will additionally play a key recovery TCG support role in terms of identifying, testing and communicating any necessary application workarounds.

6.1.5 Communications

Initial communications will be the responsibility of the Tactical Coordination Commander/ Silver Commander in consultation with the Gold Commander until such times as a communications expert(s) are engaged within the TCG group.

For the protection of the council's reputation all short-term communications will refer to 'technical difficulties' and specifically not a cyber-attack. This includes all internal and external communications posted on the website or using social media with the explicit exception of communications between the Silver Commander and the Gold Commander, the management Team group and Cabinet.

The Gold Commander plays a key role in leading communications/ engaging with Members so that the Silver Commander and IT resources can focus on Detection Containment / Eradication and Recovery.

All external communication with partners will be in accordance with the adopted Essex Resilience Forum (ERF) cyber incident policy.

6.2 Wider Incident Response Planning And Situational Evolution Considerations

Subject to the specific incident response, the recovery longevity and wider council service business continuity effects the Gold Commander, in consultation with Silver Commander may wish to engage-with and empower the 'wider' council corporate Emergency Planning standing arrangements.

By doing so the Digital Head of Service Silver Commander may be replaced/ undertake and incident hand-over to a newly nominated, incoming 'corporate' Silver Commander - who in-turn will work with the council's Emergency Planning officers to form a new Tactical Co-ordination Group (TCG) with each of the relevant specialist cells.

In this scenario it is envisaged that the Digital Head of Service and/or the Cyber-security and Systems Manager (or their nominees) will assume the TCG role of Scientific and Technical Advisory Cell (STAC).

Corporate Emergency Planning plans and processes will take primacy in all things with the specific exception of the Digital Team working to delivering the NIST phases and operating in accordance with the ERF Cyber Security Reporting Policy.

6.3 Infrastructure And Application Restoration

The council's digital infrastructure is a complex hybrid blend of digital hardware supporting infrastructure comprising both on-premise private cloud supported applications (5%) together with public cloud supported applications and services (90%). The remaining 5% of applications are supported on private clouds under separate managed service agreements by third parties.

Given the above digital complexity, only a small amount of digital infrastructure and applications are delivered in isolation and without co-dependencies. The majority of council applications and services are reliant upon supporting infrastructure or have a range of application co-dependencies in-turn necessitating a strict order of service recovery/ re-instatement.

As outlined previously, adopting MoSCoW agile prioritisation and iterative recovery principles, and giving due consideration/ prioritisation to establishing base-line communications then vulnerable persons and protective services, then revenue collection and payment services, statutory services and finally non-statutory services the Appendix A Excel workbook (inserted below) provides an initial assessment guide for prioritised application recovery from which the TCG can work to with due cognisance to any Chief Executive/ Gold Commander business goal prioritisation guidance.

7 PHASE FOUR: POST INCIDENT ACTIVITY

The council's corporate Emergency Planning Team is well-versed in leading and undertaking post-incident reviews and documenting lessons learnt.

In this regard this CIRP proposes that the Emergency Planning Team are engaged to lead and deliver a cyber-attack post incident review meeting and resultant lessons learnt.

The Digital Head of Service will be responsible for ensuring that lessons learnt are incorporated into this CIRP document revision and adoption.

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CABINET

17 FEBRUARY 2023

REPORT OF THE PORTFOLIO HOLDER FOR BUSINESS AND ECONOMIC GROWTH

A.7 OPERATIONAL CONSIDERATIONS FOR THE SUNSPOT (JAYWICK SANDS COVERED MARKET AND MANAGED WORKSPACE)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For Cabinet to agree that the operational management of the Sunspot is no longer outsourced longer term to a third party but delivered by the Council in-house.

To advise Cabinet that the project's external partners will provide on a short term, interim advice and support to the Council for a fee and for Cabinet to receive an update on progress with the construction phase (Jaywick Sands Covered Market and Managed Workspace).

EXECUTIVE SUMMARY

- At their meeting in May 2021, Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands. Cabinet subsequently determined in October 2021 to outsource management of the building, with a direct award to the Colchester Business Enterprise Agency (Colbea) by means of a service contract and licence with a value of £90,000 in year one.
- After a change of management at Colbea, the organisation have subsequently informed the Council they are no longer in a position to take on the licence agreement, which may have been driven by the financial risk associated with the building. These risks will therefore remain with the Council, as set out in elsewhere in this report. Colbea do however remain content to enter into a service contract for a period of 7 months. In order to increase their capacity to deliver at pace however, Colbea will partner with HAT projects for additional support. Colbea have also offered a further service once the 7 months activation period has ended, which will consist of drawing on their specialist expertise in this area to manage staff within the building, until such a time as Council staff are fully trained and self-sufficient.
- As a result of this change in position, it is recommended to bring the operation of the building in house, to be run by staff directly employed by the Council. Colbea currently hold the contract to provide the Council's Business Support Service and are committed to provide the support needed to any future tenants in the Sunspot.
- The activities associated with this in-house approach will be undertaken within the General Fund, with the costs charged to the HRA via existing internal processes. Direct property related transactions such as maintenance and rental income will be accounted for within the HRA. Based on this approach, the financial risks associated with bringing the operation of the building in-house will fall to the HRA. The shorter to medium term impact is set out within this report and in the longer term the operation and management

of the units will be considered as part of the HRA Business Plan.

- It is considered that there are three key options available to refocus Colbea's service contract onto:
 - a. **In-house only**: Council staff activate and run the building: £80,000 net
 - b. **Outsource activation** of the centre from February 2023: Colbea contracted to develop policies, procedures, training and market the building ahead of opening in the summer; £150,000 or
 - c. **(Recommended) Outsource activation and offer short term ongoing management support** for the operation of the centre for 7 months, with the option to continue with a reduced support service after the 7 months has expired, to ensure the council has the required expertise to deliver. £170,000 net.
- It is recommended that subject to c above, Cabinet allocates an **additional £80,000** to the year one operational budget, and in year 2 an **additional £40,000** out of the reserve set aside to support the project.
- The above approach will therefore require an associated reduction in the revenue contribution to the HRA Capital Programme. This inherently increases the construction cost risk but based on the project update set out elsewhere in this report and the additional funding recently secured, this is expected to be successfully managed during the on-going delivery phase of the capital works.
- There are a number of technical accounting changes required to reflect the above, with a delegation set out in the recommendations to enable the required changes to be made.
- The construction costs of the building, which is scheduled to complete in the summer of 2023 have risen and the project is delayed due to significant ground contamination (see Annex A for information). Additional funding towards the development was secured externally from SELEP in December 2022 and ECC in January 2023 and allocated internally.

RECOMMENDATION(S)

It is recommended that Cabinet:

- a) **approves that the operational management of the Sunspot (Jaywick Workspace) and is now not outsourced, longer term to a third party but delivered by the Council in-house;**
- b) **approves reliance on the previous exemption to the Council's Procurement Procedure Rules to proceed with a contract with Colbea together with HAT projects to provide interim management and operational support to the Council for a period of 7 months;**
- c) **delegates authority to the Corporate Director (Place & Economy) to agree the final terms of the contract in consultation with the Portfolio Holders for Housing and Business and Economic Growth;**
- d) **approves allocation of an additional £80,000 to the year one operational budget and in year 2 and additional £40,000 that is to be met from a corresponding reduction in the current revenue contribution to the HRA Capital Programme in**

2022/23.

- e) **Agrees that the operation of the in-house management of the Sunspot be accounted for in the General Fund, with corresponding recharges made to the HRA as appropriate and all related property transactions including management, maintenance and rental payments being accounted for in the HRA; and**
- f) **agrees a delegation to the Council's S151 Officer to undertake the necessary changes to the budget to reflect the approach set out in e) above within the financial parameters set out within this report and appendices.**

REASON(S) FOR THE RECOMMENDATION(S)

To allow the building to open in a timely and efficient manner, giving businesses and the community confidence in the Sunspot and builds a strong reputation with the wider district. The recommendation to operate the building in house, will ensure the Council retains control on this important project and contributes positively towards the ongoing regeneration of Jaywick Sands.

By commissioning Colbea and HAT Projects for a short-term period to provide interim management and operational support, a process for continued success of the building will be established and embedded in the operational culture and as such, contributing towards long term sustainability.

ALTERNATIVE OPTIONS CONSIDERED

1. **To run the building in-house only (without external support).** The Council currently has limited expertise in specific elements of such a project and in particular the letting of commercial workspace. It is considered that supplementing the skills of the Council in facility management with additional support, would ensure a successful outcome.
2. **Outsource activation (without ongoing support).** To provide Colbea and HAT projects with a service contract for the first 7 months only to activate the building and establish the first tenants but omit the proposal for a reduced level of support until such a time as the Council's staff are fully trained. It is considered that this option will not ensure the sustainable future of the building
3. **Re-tender for an operations partner under the original or new terms.** Due to the current financial climate and increased risks, it is highly likely that tenders would have increased since the initial exercise. This would also delay the activation of the building, when it is essential to progress without delay.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Corporate Plan (2020-2024)

The Sunspot responds directly to the corporate priorities identified within the Council's 2020-2024 Corporate Plan and accords with the Community Leadership and Tending4Growth themes:

- Support existing businesses
- More and better jobs
- Develop and attract new businesses
- Maximise our coastal and seafront opportunities

The Project has been identified by Cabinet as a Key Priority Action for 2021/22 (Reference D1) with milestones to deliver against the Corporate Plan

Tendring Economic Strategy (2020 – 2024)

The Tendring Economic Strategy was updated in 2020The Strategy recommends:

- A greater focus on Clacton and Jaywick, noting a decline in economic performance in these locations. This focuses specifically on local participation within communities and addressing long term prosperity; and specifically for Jaywick Sands recommends:
- A need for long term investment in both the physical and human assets of the area to enable a positive economic future for Jaywick Sands. Bold new approaches, built around citizen participation and the building of community capacity, are needed. The response should be locally focussed and long-term, building upon the aspirations of the Jaywick Sands Coastal Community Team to develop a more sustainable and resilient community;

Tendring Local Plan (2013 – 2033)

The proposed development aligns with the strategic vision for the Council’s Local Plan (2013 – 2033) which seeks to create resilient, successful mixed communities that address issues of deprivation and support a thriving local economy.

Jaywick Sands is identified under Policy PP14 Priority Areas for Regeneration as a priority for focused investment in “social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.”

North Essex Economic Strategy

At a sub-regional level the proposed development corresponds with the aims and objectives of the North Essex Economic Strategy (NEES). This articulates a vision in which citizens live in new and established communities that are well connected and inspire innovation and creativity.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Extensive community and stakeholder engagement and research over the last few years has shown that growing local jobs and the local economy is a key priority for stakeholders and is viewed as an essential part of regenerating Jaywick Sands and lifting it out of the bottom decile of the Index of Multiple Deprivation.

In April 2021 a public consultation had been completed in order to engage with residents on proposals for the development. Feedback from residents has informed the work of the Council’s Professional Team.

During the end of 2022 consultation took place with Colbea in regards to the Service Contract and how it can refocused to support the activation and management of the building as well as providing support until such a time as the building is self-sufficient.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

<p>Is the recommendation a Key Decision (see the criteria stated here)</p>	<p>YES</p>	<p>If Yes, indicate which by which criteria it is a Key Decision</p>	<p><input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the</p>
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		service budget
		16th January 2023
	And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	

Cabinet in October 2021 granted an exemption to the Council's Procurement Procedure Rules following the recommendation from the Council's Section 151 Officer and the Monitoring Officer allowing a direct award to the Council's Operating Partner, Colbea, to enter into a Service Contract for the Management of the Facility and to provide a Business Support Service. Colbea are now unable to provide this service to the Council on a longer-term basis but have offered working together with HAT Projects to provide an interim management and operational support to the Council for a period of 7 months activation. Whilst the length of this proposed contractual support is lower than anticipated in October 2021, the reasons for remaining with Colbea together with HAT Projects are justified, due to their ongoing relationship with the project. After the 7 month activation period Colbea have further offered to extend the contract to provide management support to Council staff within the building, until such time as staff are fully trained and self-sufficient.

yes **The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**

The contract should be on the Council's Standard Terms and Conditions, which is based on monthly payments, with reporting mechanisms on performance.

Cabinet also delegated authority to the, then, Interim Corporate Director (Project Delivery), to agree the terms and conditions of the Service Contract, within the context of the principles set out in the Portfolio Holders' joint report, in October 2021, in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth. It is suggested that the final scope and terms of the contract should still be agreed in consultation with the relevant Portfolio Holders.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance
 In May 2021 Cabinet agreed the original budget allocated a budget of £67,000 for the Operating Partners and associate business support. This budget allocated £17,000 to Colbea for their input into the design and business case for the building and £45,000 for year one operating costs.

In October 2021 Cabinet agree to increase this budget by a further £45,000 for year one operating costs providing a total budget of £107,000. Colbea claimed £17,000 during the design stage leaving a balance of £90,000.

At the same cabinet meeting it was also agreed to add £25,000 to enable EEC to complete works on the road and associated drainage in support of deliver of the project.

Projections for the operating costs of the building using the suggested rent and current cost of living are;

- including fuel prices it is anticipated that in year 1 a total expenditure of £130,000 would be required (Appendix B). Anticipated income for year 1 would be £50,000.
- to include support activation when the building opens expenditure for year 1 is £200,000
- To also include long term management support expenditure for year 1 is £218,000

	Expenditure	Income	Net	Current Budget	Total
In-house only	£130,000	£50,000	£80,000	£90,000	£10,000
Activation support	£201,000	£50,000	£151,000	£90,000	-£61,000
Activation and management support	£218,000	£50,000	£168,000	£90,000	-£78,000

On the 11th March 2022, £411,000 was allocated from the New Homes Bonus as a revenue contribution to the HRA Capital Programme to support the construction cost of the building. Based on the current detailed project update (Annexe 1), it is expected that not all of this funding will be required. Therefore, it is proposed to reduce this revenue contribution by a corresponding amount to meet the revenue costs associated with the management of the units being delivered in-house as set out above.

Once the construction phase of the project has been completed, a further review will be undertaken, which could include decisions relating to any underspend of capital resources if relevant. Such decisions could include setting aside such funding to underwrite the ongoing risk to the HRA.

Current funding and budgets are on **Annex A** and an Operation budget forecast is on **Annex B**

It is envisaged that the break-even point will be year 3 with the following occupancy rates:

	Year 1	Year 2	Year 3
All office/ industrial/kiosks	60%	70%	85%
Covered market spaces	80%	80%	80%
Training room utilisation	40%	40%	40%
Café	100%	100%	100%
No. of virtual tenancies	2	2	3
Target income	£7,133	£113,780	£142,415

Sensitivity testing using an increase rate of inflation supports that year 3 will be break-even.

Stress testing has been carried out with regards to voids.

		6 months	Year1	Year2	Year3	Year4	Year5
2 extra voids	Income	5,219	41,494	94,817	118,679	128,582	132,439
	Expense	12,498	213,030	135,698	115,049	118,500	122,055
	Surplus	-7,279	-171,535	-40,882	3,630	10,081	10,384
4 extra voids	Income	5,219	37,345	85,335	106,811	115,724	119,195
	Expense	12,498	213,030	135,698	115,049	118,500	122,055
	Surplus	-7,279	-175,685	-50,363	-8,238	-2,777	-2,860

Accounting for the Property in the HRA

At its meeting on 21st May 2021 Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands and made associated decisions to enable the development to proceed. Cabinet agreed to seek approval from the Secretary of State under Section 12 of the Housing Act 1985 to use the land (which is held in the Housing Revenue Account – HRA) for non-housing. The Secretary of State agreed to this request in January 2022.

Although it was agreed to keep the land and property within the HRA, the proposed change in the bringing the management of the units in-house will have an impact on the HRA Business Plan.

As the property is held in the HRA, the usual property related transactions will be accounted for within that fund e.g. management, maintenance and rental / other income. However, it is proposed to account for the management activities associated with the units within the General Fund. As part of existing financial / accounting practices, a recharge will be made from the GF to the HRA to cover the costs incurred. This in effect means that the net financial risk associated with the operation of the units would fall to the HRA. As set out above, the provision of additional funding to establish the in-house approach along with reviewing any potential capital underspend at the end of the capital element of the project supports the management of this risk to the HRA. In the longer term, the risk would be considered as part of updating the HRA Business plan on an on-going basis.

There are various accounting adjustments that are required within the budget to reflect the above approach. A delegation is therefore included within the recommendations above to enable the various changes to be made but within the financial parameters set out within this report and appendices.

Staffing:

In order to operate the building and ensure it is maintained in good working order, tenants are recruited and supported, events and markets are promoted and meeting room is available and rented on a regular basis, it is important that there is a dedicated member of staff is on site. Recruiting to this position will ensure that the resources are available to provide the time required to promote the building and ensure its success.

yes <input type="checkbox"/>	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no additional comments over and above those set out elsewhere in this report. However the Service must continue to closely monitor and report appropriately in respect of the on-going construction costs of the project as it is now has to be delivered against a reduced capital programme budget, which has been required to 'release' the necessary funding to support the costs of bringing the operation of the management of the Sunspot in-house.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Underspend on the £411,000 in reserve are likely to be required in years 1 and 2 or until such time as it is self-sufficient. Forecasts
------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------

	predict that the building will be self-sufficient in year 3
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Policies and procedures will be built on existing TDC documents setting out governance and reporting processes between TDC and Colbea.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Actively marketing any empty units to reduce any void time and provide a variety of opportunities to businesses. Providing solar panels to reduce running costs which have a 5 year pay back.

MILESTONES AND DELIVERY

February/March 2023

- finalise the Service Contract with Colbea and HAT Projects
- commence marketing the building and securing tenants
- recruit a centre manager
- draw up an activation plan

Summer 2023

- Construction complete
- Building open to tenants
- Café, garden and market open to all
- Commencement of summer events

ASSOCIATED RISKS AND MITIGATION

During the management of the facility there is the risk that the Council is unable to recruit a suitable member of staff. This could expose the Council to operational and financial losses linked to void units, management (Human Resources) and day-to-day maintenance costs.

Key remaining risks and constraints include:

Risk	Impact	Mitigation/quantified risk within contingency
Insufficient budget to operate the building	Rent increase or unable to operate the building. There is a wider risk to the GF or the HRA	Retain any underspends in the budget until such time as the building is self-sufficient.
Reduced demand for commercial space in the area.	Operational viability could be compromised if occupancy levels do not reach projected levels.	Net scheme benefits will be realised even if occupancy is far lower than projected.
Predominantly charities and community/ public sector organisations as tenants	Provide the wrong impression to potential businesses. Discourage retail and not increase	Effectively manage the balance of business types and encourage new and emerging SME's to apply for units.

	footfall	
Suitably qualified staff for the facility do not choose to apply for the position.	Programme delay while suitable staffing is found.	A proposal for temporary management of the facility by external operators for the first 7 months is proposed while a suitable candidate is found and trained.

EQUALITY IMPLICATIONS

This development responds to the government's levelling up agenda and will provide a covered market and affordable business space on a gateway site in Jaywick Sands. This will support the local economy, increase opportunities for local entrepreneurship, and grow and retain economic activity and job creation in the local area - the most deprived in the country.

The project forms part of a wider regeneration initiative that aims to lift Jaywick Sands out of the bottom decile of the Index of Multiple Deprivation, improving poor quality housing, stimulating economic growth and maximising the potential of the beach for tourism.

Building Accessibility

The building has been designed with accessibility at the forefront. Tenants and public W.C.'s are gender neutral, accessible for wheel chair users, and have support rails. Baby changings facilities are included. Tenants WCs are fitted with a disabled alarm. A lift will be available for first floor access. Easy access to the community areas and building are part of the design.

SOCIAL VALUE CONSIDERATIONS

Prioritising local businesses through the operation of managed workspace and through targeted business support (information, advice and guidance) will provide the opportunity for Community Economic Development which will revitalize the area, promote sustainability, attract investments, build wealth, encourage entrepreneurship and create jobs

Regeneration of the area with improved public realm including a community garden, outdoor market/events space and a safe pavement connecting the two main residential areas of Jaywick Sands, will have a positive impact on the quality of life currently experienced by residents.

By managing the project directly, there is potential for an impact on local employment, due to the recruitment process which will follow, if this report is approved.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

Under floor heating and an Air Heat pump has been fitted the building which will provide efficient and carbon neutral heat and hot water. Solar light will be fitted to the external areas of the building.

By fitting solar panels with batteries to the roof the power needed from the grid would be greatly reduced. Excess stored energy would be available when solar generation is low. Pay back is 5 years.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

Crime and Disorder

The proposed development is designed in

	<p>line with good practice guidelines, limiting the opportunities for crime and disorder. Subject to approval, the building and its external spaces will be actively managed by stall and the development will create the opportunity to host internal/external activities and events thereby encouraging footfall – animated spaces are generally safer places given the presence of natural/passive surveillance. The building will also be subject to CCTV surveillance, which will be managed (subject to approval) by the Council’s Operating Partner.</p>
<p>Health Inequalities</p>	<p>The building will be operated to provide a space that will improve employment opportunities through the provision of managed workspace and through targeted business support (information, advice and guidance) will positively impact on the health and wellbeing of local people.</p> <p>The Covered Market will potentially provide the means through which local people can more readily access fresh fruit and vegetables, thereby providing the opportunity for healthy living with improved health outcomes.</p> <p>Improved public realm including a community garden, outdoor market/events space and a safe pavement connecting the two main residential areas of Jaywick Sands, will have a positive impact on the quality of life currently experienced by residents.</p>
<p>Area or Ward affected</p>	<p>The Sunspot facility is located in the West Clacton & Jaywick Sands electoral ward.</p>

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Cabinet adopted the Council’s Back to Business recovery plan at its meeting on 13 November 2020, which confirmed that a bid had been submitted to South East Local Enterprise Partnership (SELEP) for a new Covered Market and Managed Workspace facility at Jaywick Sands. Further to that, on 19 February 2021 Cabinet announced the success of that funding bid in the Back to Business Delivery Plan and their intention to deliver the project for Jaywick Sands, *to ‘support the local economy, grow local entrepreneurship, and grow and retain economic activity and job creation in the local area.’*



In December 2020, the Council moved to procure its Professional Team (HAT Projects) to lead on the technical design and cost planning of the proposed building and to manage the construction phase through to completion and in May 2021, the Council selected an Operating Partner (Colbea). Colbea assisted HAT Projects with the Building Design (Space Planning) during the pre-construction and construction phases of delivery.

Following feedback from MHCLG, officers reviewed the options of a lease, a licence, and a service contract, considering the financial implications for the Council and the sharing of risk with the Colbea, our Operating Partner, to enable successful project delivery. It was recommended that a Service Contract for Management of the Facility and Business Support Service and Licence to Occupy would enable the most effective project delivery for the benefit of the community, better share risk between the Council and Colbea

A Service Contract and Licence to Occupy, in addition to the new provisions proposed by Colbea the Operating Partner, differed from the original procurement sufficiently that it is no longer viable to continue with the previous procurement exercise in its entirety. One of the options was to commence a fresh procurement tender to select an Operating Partner against the new terms, however, at this stage, this process would impact on the project's delivery timetable. Given we only received two bids for the original procurement, and the successful Operating Partner was the only applicant with deep experience of managed workspace delivery, it is proposed a direct award is made to Colbea for this part of project.

In October 2021, Cabinet gave their approval to make a direct award to Colbea as Operating Partner for Jaywick Sands Covered Market and Managed Workspace, based on a Licence to Occupy and Service Contract, and to increase the Council's financial contribution for enabling works and the operating costs of the facility for year one.

Colbea has since had a change of management and a decision was made to step back from a Licence to Occupy due to the increased financial risk but were still keen to provide support to the project and to continue with the Service Contract.

PREVIOUS RELEVANT DECISIONS

Decisions made by Cabinet on 8th October 2021.

- (a) notes the feedback from the Ministry for Housing, Communities and Local Government (now the Department for Levelling Up, Housing & Communities) regarding the Council retaining ownership of the Jaywick Sands Covered Market and Commercial Space once constructed;
- (b) grants an exemption to the Council's Procurement Procedure Rules, having considered the recommendation from the Council's Section 151 Officer and the Monitoring Officer, in order to allow a direct award to the Council's Operating Partner, COLBEA, to enter into a Service Contract for the Management of the Facility and to provide a Business Support Service;
- (c) authorises the Interim Corporate Director (Project Delivery), to agree the terms and

conditions of the Service Contract, within the context of the principles set out in the Portfolio Holders' joint report, and in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth;

- (d) endorses the granting of a Licence to COLBEA to occupy the property on terms to be agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth;
- (e) endorses the allocation of up to an additional £70,000 from the budget set aside to support housing in Jaywick to the Jaywick Sands Covered Market and Managed Workspace project, with the final amount being agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth; and
- (f) authorises the Council's Section 151 Officer, in consultation with the Portfolio Holder for Corporate Finance and Governance, to make the necessary changes to the Council's General Fund and Housing Revenue Account budgets to reflect the decisions made.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

[Cabinet Report 21st May 2021: Jaywick Sands Covered Market and Managed Workspace](#)

[Cabinet Report 8th October 2021: Jaywick Sands Covered Market and Managed Workspace](#)

APPENDICES

Annex A: Update to progress and information on solar panels



Annex A-Update to the Sunspot (Jaywick)

Annex B: Financial Forecast



Annex B - Financial Forecast for the Sun

REPORT CONTACT OFFICER(S)

Name	Barbara Pole
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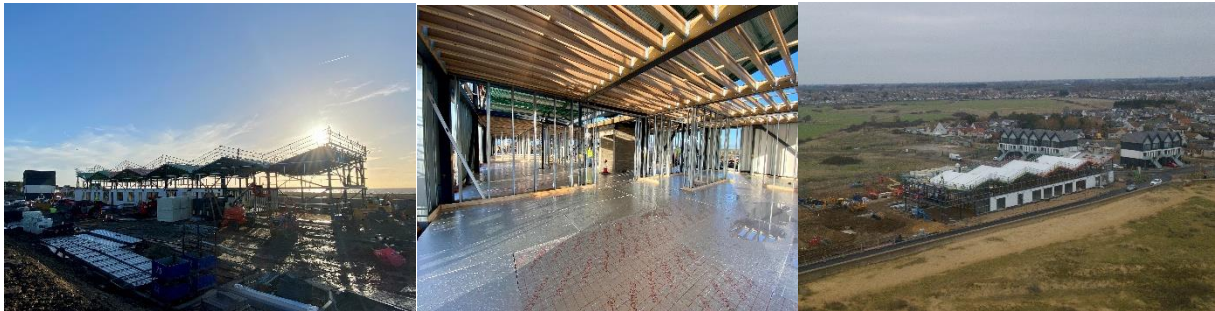
Operational Considerations for the Sunspot

Annex A

Progress Update

Progress Update

The progress on site has been problematic with an excessive amount of contamination and ground obstructions found while excavating the area. These issues have delayed the timeline but now that the project is out of the ground, the building is taking shape.



Work in progress:

- Installation of the roof.
- Underfloor heating connected.
- Screed applied to internal floors.
- Laying sand bedding over membrane in market area (to protect between asphalt and gas membrane)
- Installation of cladding
- Installation of partitions to ground floor
- Laying kerbs to the Brooklands frontage and making good of Brooklands
- Laying of subbases and asphaltting within car park
- Lower car park area subsurface asphaltting is protected at the turning head end and lower car park areas to north of building with geotextile and shingle.

Currently, the completion is May/June dependant on weather conditions with an anticipated opening in Summer 2023.

Green Credentials

It is important that TDC leads by example and promotes the use of renewable energy which is even more so with the fuel crisis and electricity rising from 0.05p per KW to 0.41p per KW. These increases have adding extreme pressure to current TDC budgets and so measures have been taken to ensure the building is as efficient as possible with an air heat pump being fitting and solar lighting being used within the community garden and carpark.

Further use of green energy had been discussed but dismissed due to the pressures on the project budget especially as a further reserve had been set aside. With the extra SELEP funding this pressure has been eased providing an opportunity to rethink and explore the possibility of increasing the use of renewable energy and installed solar panels.

In discussions with Essex County Council it transpires that they have commissioned a number of Solar Panel installations through Mitie who have now carried out a light touch survey regarding the capacity for solar panels on the building.



Solar Panel
Survey.pdf



Solar Desk Top
Study.pdf

Although a full procurement exercise will be required but earlier indications to the cost are:

Guide installed cost:	£82,632
Mitie (design fee)cost:	£3,900
Cost to connect to grid:	<u>£1,000</u>

Budget:	£87,532.00
Rick Allowance say 10%	£8,753.20

Project Costs **£96,285.20**

Mitie project delivery £9,628.52

Budget Cost **£105,913.72**

A further cost of **£20,000** is required to install batteries which will enable us to use the stored energy for use when solar generation is low.

This has the potential to reduce the electricity costs of the building by £30,000 per year on current energy costs with a payback of 5 years (12 years without batteries). This investment will also supports the council's goal to be net zero for carbon emissions by 2030.

Another option to consider is wind turbines but further research would be required into this form of renewable energy.

The use of renewable energy also aligns with the Tendring Climate Emergency Action Plan 2020-23 – *Move to the purchase of 100% renewable electricity. Ensure all newly constructed Council controlled building, extension and refurbishments are designed to achieve net zero emissions by 2030 where possible.*

Funding

In January 2023, Cabinet agreed a budget for the delivery of the Sunspot (Jaywick Works) of £4,407,182. That budget was made up from the following funding sources:

SELEP: £1,972,000
ECC: £325,000
TDC : £254,465

With a recommendation that further funding would be sought from partners. Essex County Council raised their funding to £2,030,182 via a funding agreement with ECC in March 2022 and TDC raised their funding to £405,000

Since that date a number of construction issues relating to the ground conditions such as contamination, has put a further strain on the budget. The total current forecast budget is now £5,173,061, an additional £ 765,879.

As a result the following additional funding has been allocated to the project since the last cabinet report on the 28th January 2022

SELEP: £419,000

ECC: £13,000 towards the community garden

TDC: £411,000 allocated from the Business Investment and Growth budget decision dated 11/03/2022

UKSPF: £41,000

Available Funding	£
TDC Funding	405,000
Additional TDC Funding	411,000
TDC total contribution	816,000
Essex County Contribution	2,030,182
Extra ECC Funding	13,000
UKSPF	41,000
SELEP	1,972,000
Extra SELEP Funding	419,000
Total Overall Project Costs	£5,291,182

The original costs for the development and current predicted ends costs are set out below:

Other Project Costs	Original £	Predicted £
Operating Partner (M1&2 + M3&4 – Subject to Contract)	62,000	62,000.00
Operating Business Costs Years 1	45,000	45,000.00
Fencing and Security	10,000	11,113.60
CDM	2,500	1,470.00
Intrusive Archaeology & Report CAT	5,000	4,425.00
Community Garden & Hoarding Projects	30,000	33,000.00
Outdoor Gym	10,000	0.00
Monitoring and Evaluation	1,500	0.00
RAMS Contribution	5,200	0.00
Stand Alone Biodiversity CEMP	338	0.00
Stand Alone Biodiversity Enhancement Strategy	450	10,487.33
Highways Contribution (S:106)	3,000	1,244.69
Bus Stop Relocation	15,000	5,000
Contingency	5,000	5,000
Total Other Project Costs	£194,988	£178,740.62

Construction Costs and Professional Fees	Original £	Predicted £
Construction Costs	3,877,239	4,400,450.85
Design Team, Planning Fees, Surveys and Investigations	284,955	269,758.07
Additional Contingency Sum	50,000	442,232.46
Total Construction, Fees and Surveys	4,212,194	£5,102,441.35

Total Overall Project Costs	£4,407,182	£5,173,061
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Available Funding	Original £	Predicted £
TDC Funding	105,535	405,000
Additional TDC Funding	70,000	411,000
TDC total contribution	254,465	816,000
Essex County Contribution	325,000	2,030,182
Extra ECC Funding		13,000
UKSPF		41,000
SELEP	1,972,000	1,972,000
Extra SELEP Funding		419,000
Total Overall Project Costs	£4,407,182	£5,291,182

The costs above do not include the cost of the land which was purchased by the Council in 2014 and is valued at £80,000 at today's values. Project management costs (officer time) borne by the project partners are not included. Further, the associated report considered by Cabinet in October 2021 highlighted some ancillary works to the project that ECC have undertaken funded from their original contribution of £350,000. The table above therefore reflects this adjustment, with ECC's contribution reduced by £25,000, which has been spent directly by them.

The additional contribution from TDC of £411,000 set out in the table above is proposed to be met from existing Economic / Business Investment and Growth budgets, for the purpose of agreeing the necessary funding to enable to project to continue and complete as soon as possible.

The site for the Covered Market and Managed Workspace development is held and accounted for by the Council's Housing Revenue Account. For the project to proceed the Council secured the Secretary of State's consent to develop the land for a non-housing related purpose.

SELEP

During September 2020, a bid was submitted to South East Local Enterprise Partnership (SELEP) for funding towards the development of the Sunspot and in November 2020 the Council were notified by the SELEP as administering body for the Government's 'Get Building Fund' (GBF), that its bid for funding to the value of £1.97m, had been successful.

Due to a number of SELEP GBF projects not being able to deliver, £3.2m additional GBF funding became available for all GBF projects to bid for. Therefore, in September 2022 Tendring District Council (TDC) submitted a further bid for £419,000 which included funding for unforeseen contamination and underground obstructions

costs as well as the possibility of funding omitted items removed from the project to reduce costs.

In November 2022 the Accountability Board awarded TDC a reduced amount of **£300,879** with the possibility of further funding at a later date. This funding will be added to the original agreement with SELEP.

In December 2022 TDC were informed that further funding had become available and a request to release **£118,121** has been put forward to the Accountability Board who agreed on the 27th January 2023. This funding completes the £419,000 requested.

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Financial Forecast for the Sunspot Operational Costs

Annex B

		3%	3%	3%	3%	
110 - Licence Fees	Rental	39,929	92,125	115,222	125,660	129,430
120 - Tenant Services						
	121 - Service Charge	0	0	0	0	0
	122 - Market stalls	5,184	8,306	10,388	11,329	11,669
	127 - Training Room	4,400	11,866	14,258	14,686	15,127
	xxx - TDC Grant	0	0	0	0	0
	143 - Virtual Office	280	1,483	2,546	2,623	2,701
Total Income		49,793	113,780	142,415	154,298	158,927
205 - Employability and apprenticeship		0	0	0	0	0
310 - Staff costs						
	Colbea Activation	71,400				
	Colbea Management Support Operations and Facility Manager 6-8	16,000	24,000			
		38,424	39,577	40,764	41,987	43,247
Total 310 - Staff costs		125,824	63,577	40,764	41,987	43,247
320 - Occupancy						
	xxx - Initial fit out	0	0	0	0	0
	xxx- Void rates	4,149	9,482	11,868	12,858	13,244
	322 - Rates - Shared space	0	0	0	0	0
	323 - Buildings & Lift Insurance	1,500	1,545	1,591	1,639	1,688
	324 - Cleaning & Supplies	6,666	6,866	7,072	7,284	7,503
	325 - Waste Disposal	1,000	1,030	1,061	1,093	1,126
	xxx- Roof Cleaning	0	0	0	0	0
	326 - Maintenance	2,000	2,060	2,122	2,185	2,251
	327 - Electricity	30,000	30,900	31,827	32,782	33,765
	328 - Gas	0	0	0	0	0
	329 - Water	1,042	1,073	1,105	1,138	1,172
Total 320 - Occupancy		46,357	52,955	56,646	58,980	60,749
330 - Marketing						
	332 - Marketing	30,000	15,000	15,450	15,914	16,391
	333 - Hospitality & Catering	0	0	0	0	0
	334 - Website	6,000	6,180	6,365	6,556	6,753
	335 - Subscriptions	0	0	0	0	0
Total 330 - Marketing		36,000	21,180	21,815	22,470	23,144
340 - Communications						
	341 - Postage	250	258	265	273	281
	342 - Telephone	500	515	530	546	563
	343 - Broadband	1,596	1,644	1,693	1,744	1,796
	345 - IT Maintenance	833	858	884	911	938

Total 340 · Communications	3,179	3,275	3,373	3,474	3,578
350 · Office Expenses					
351 · Stationery	0	0	0	0	0
352 · Miscellaneous	4,000	4,120	4,244	4,371	4,502
353 · Insurances	0	0	0	0	0
Total 350 · Office Expenses	4,000	4,120	4,244	4,371	4,502
360 · Professional and Compliance					
364 · Letting Agent Fees	3,000	3,090	3,183	3,278	3,377
365 · Security	2,500	2,575	2,652	2,732	2,814
Total 360 · Professional and Compliance	5,500	5,665	5,835	6,010	6,190
380 · Financial and Taxation					
384 · Bad Debts	613	5,689	7,121	7,715	7,946
Total 380 · Financial and Taxation	613	5,689	7,121	7,715	7,946
390 · Provisions and Non Trading					
Total Expense	221,474	156,461	139,797	145,006	149,356
Net surplus	-171,680	-42,681	2,618	9,292	9,571

Please note: The voids are an estimated number of lost lets over the year which is more than the percentages given.

CABINET

17 FEBRUARY 2023

REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

A.8 PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION (COUNCIL PROCEDURE RULES)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve the recommended changes to the Constitution (Council Procedure Rules) for referral onto Full Council following a further review undertaken by the Portfolio Holder for Corporate Finance and Governance through a Working Party constituted for this purpose.

The proposals cover a number of amendments to the Council Procedure Rules 11, 12 and 14, in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level. The key changes to each of those Rules are highlighted within the body of this Report.

EXECUTIVE SUMMARY

The Cabinet, at its meeting held on 16 December 2022 (Minute 83 refers) considered the outcome of the annual review of the Council's Constitution that had been undertaken by the Review of the Constitution Portfolio Holder Working Party.

At that meeting Cabinet had deferred consideration of the proposed changes to Council Procedure Rules (CPR) 12 and 14 pending their re-consideration by the Review of the Constitution Portfolio Holder Working Party (CRWP).

Accordingly, the CRWP met on 23 January 2023 to further discuss those proposed changes to CPRs 12 and 14. In addition, the CRWP had considered, at the request of Councillor Baker, a matter pertaining to CPR11.2 as well as the outcome of the recent consultation exercise with Members on the procedure for the Planning Committee's site visits.

A summary of the proposed changes compared to the existing CPRs 11, 12 and 14 is provided in the background section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient up to date working practices for both Members and Officers.

RECOMMENDATION

That Cabinet –

- (a) **RECOMMENDS TO COUNCIL** that the Council's Constitution be amended to reflect the proposed changes as set out in the Appendix attached hereto this report;
- (b) further **RECOMMENDS TO COUNCIL** that the implementation of the new Council Procedure Rule 12 be reviewed after six months' operation.

- (c) supports the proposal that the Planning Committee continues its current practice of undertaking a site visit in respect of all planning applications that are submitted to it for its consideration and requests Full Council to do likewise;
- (d) requests the Monitoring Officer to amend the Council's procedure for Planning Committee Site Visits as set out in the Members' Planning Code and Protocol (in Part 6 of the Constitution) to appropriately reflect the matters raised by the Review of the Constitution Portfolio Holder Working Party; and
- (e) further requests the Monitoring Officer to submit the Site Visit Procedure, as amended, to Full Council for its approval and adoption, following consultation, as appropriate and necessary, with the Planning Committee and the Standards Committee.

REASON(S) FOR THE RECOMMENDATION(S)

Having considered the outcome of the further review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party and the Portfolio Holder's recommendations arising therefrom, and in order to enable those recommendations to be submitted to the Full Council for approval and adoption.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not to approve some or all of the Portfolio Holder's recommendations;
- (2) To amend or substitute some or all of the Portfolio Holder's recommendations.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The outcome of the further review of the Constitution by the Review of the Constitution Portfolio Holder Working Party is reported elsewhere in this report.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	Not Applicable in this instance

X	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
<p>In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.</p> <p>Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance. Article 15 also provides authority to the Monitoring Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.</p> <p>Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.</p>	
FINANCE AND OTHER RESOURCE IMPLICATIONS	
Risk	
<p>Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's overall governance arrangements.</p>	
X	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
<p>The Section 151 Officer provided feedback on some of the proposed amendments through the review.</p>	
USE OF RESOURCES AND VALUE FOR MONEY	
<p>The following are submitted in respect of the indicated use of resources and value for money indicators:</p>	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	N/A
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	N/A
MILESTONES AND DELIVERY	
<p>Further review of the Constitution carried out by the Review of the Constitution Portfolio</p>	

Holder Working Party – 23 January 2023.

Submission of Corporate Finance & Governance Portfolio Holder's recommendations to formal Cabinet meeting – 17 February 2023.

Submission of Cabinet's recommendations to Full Council for approval and adoption – 2 March 2023.

Implementation of approved changes to the Constitution – 3 March 2023.

ASSOCIATED RISKS AND MITIGATION

Not implementing the amendments to the Constitution will negatively impact the Council's governance arrangements.

EQUALITY IMPLICATIONS

The purpose of the Constitution is to:

- 1 Provide key elements of the Council's overall governance arrangements;
- 2 Enable decisions to be taken efficiently and effectively;
- 3 Create an effective means of holding decision-makers to public account;
- 4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;
- 5 Support the involvement of the local community in the process of local authority decision making;
- 6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved;
- 7 Help Councillors represent their residents more effectively;
- 8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and
- 9 Provide the framework and structure in which cost effective quality services to the community are delivered.

SOCIAL VALUE CONSIDERATIONS

None

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

The Council's previous decision in March 2022 to continue with the encouragement of Members to opt out of the default position of receiving printed copies of the summons of a meeting (with agendas and reports) before reverting to solely receiving summons via electronic notifications from May 2023 is consistent with the Council's policy of its operations becoming carbon neutral by 2030.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

Crime and Disorder

None

Health Inequalities

None

Area or Ward affected

None directly

PART 3 – SUPPORTING INFORMATION

BACKGROUND

At its further meeting held on 23 January 2023 the CRWP reviewed various Council Procedure Rules and the following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments now submitted):

(a) Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.24):

Rule 11.2 – Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

To establish a procedure whereby in the event that any question not disposed of at the end of the permitted time and therefore to be the subject of a written response shall, together with the relevant written response(s), also be published to the Council's website and shall also be reported to the next meeting of the Council, as an "information only item", by the Committee Services Manager. This provision of this paragraph will also apply in those instances when the full Council meeting has had to be cancelled.

Rule 12 (Motions on Notice) and other consequential changes

In accordance with the decision of Full Council taken at its meeting held on 29 March 2022 (Minute 150 referred), the CRWP discussed the outcome of the fundamental review by Officers of the way in which Motions on Notice submitted in accordance with Council Procedure Rule (CPR) 12 were dealt with procedurally at meetings of the Full Council.

The CRWP expressed their compliments to the drafting of a new procedure which was welcomed as being clearer and worked on the principle of a motion being debated at the Full Council meeting to which it was put, unless there were reasons not to, following Officers' advice.

Current Rule 12 to be deleted and replaced in its entirety by the new proposed Rule 12. The CPWR also recommended that the implementation of the new CPR12 be reviewed after six months' operation.

Rule 14 (Motions not Permitted)

To amend the list of circumstances in which Motions on Notice are not permitted in order to reflect the provisions of the new Rule 12.

*The proposed changes to the Council Procedure Rules (Section 1) are shown in **RED** in the **Appendix**.*

OTHER MATTER CONSIDERED:

Review of the Procedure for Committee Site Visits

Following a very difficult situation with members of the public at a site visit ahead of the meeting of the Planning Committee held on Thursday 22 September 2022 and at the request of the Monitoring Officer, the CRWP, at its meeting held on 14 November 2022, had an initial discussion on the procedure for committee site visits as set out in section 7 of the Members' Planning Code and Protocol (February 2021).

At that particular site visit the local Parish Council had encouraged public attendance to lobby the Planning Committee members.

During that initial discussion by the CRWP the following matters had been raised:-

- (1) What was the purpose of a site visit?
- (2) Whether every planning application going before the Planning Committee did, in fact, merit a pre-meeting Member site visit;
- (3) What was the definition of "lobbying"?
- (4) Whether the attendance of parish councils and/or the public at Planning Committee site visits should be allowed to continue;
- (5) The role of the Chairman in leading the Planning Committee's site visits and whether such site visits should instead be led by a senior Planning Officer; and
- (6) Whether the Officer(s) in attendance should keep a record of the interaction between the Committee members and the public etc. at the site visits.

The CRWP subsequently, at its meeting held on 21 November 2022, was informed that a survey had been emailed to all Members of the Council to ascertain their views on this matter with a deadline for responses of 25 November 2022. In addition, Officers discussed the matter informally with members of the Planning Committee on 24 November 2022. The results of the survey were reported to the All Member Briefing in January 2023 and thence to the meeting of the CRWP held on 23 January 2023. At the invitation of the Chairman, Councillor White (Chairman of the Planning Committee) attended that meeting and participated in the discussions on this matter.

The CRWP **AGREED** that -

- (a) *"the CRWP supports that the Planning Committee continues its current practice of undertaking a site visit in respect of all planning applications that are submitted to it for its consideration;*
- (b) *the CRWP requests the Corporate Finance & Governance Portfolio Holder to recommend to Cabinet that the Monitoring Officer be requested to amend the Planning Committee's Site Visit Procedure to appropriately reflect the following points:-*
 - (1) *including a definition of "lobbying";*
 - (2) *strengthening the wording as to how the Chairman and Committee should proceed if faced at a site visit with (regardless of origin) persistent attempts at lobbying and/or persistent harassment and/or physical or verbal abuse;*
 - (3) *reflecting Members' expectations that a Drone will be regularly available for the Planning Committee's site visits and that such Drone will be employed, particularly in respect of the larger planning application sites;*
 - (4) *stating that the mandatory training for the members of the Planning Committee and its designated substitute members will include training in relation to undertaking site visits and acknowledging that this training will be offered to all members of the Council; and*
 - (5) *highlighting as a reminder to Members that Section 3.8 of the Members' Code of Conduct states that Members are required to comply with the Council's adopted rules and policies such as the Planning Code and Protocol for Member (which contains the Planning Committee's procedure for Site Visits);*
- (c) *that the CRWP further requests Cabinet (via the Portfolio Holder) to request the Monitoring Officer*

to submit the Site Visit Procedure, as amended, to Full Council for its approval and adoption, following consultation, as appropriate and necessary, with the Planning Committee and the Standards Committee.”

PREVIOUS RELEVANT DECISIONS

Full Council, at its meeting held on 29 March 2022 (Minute 150 refers), decided, inter alia, that:

“the Review of the Constitution Portfolio Holder Working Party be requested to carry out a fundamental review during 2022 of the way in which Motions to Council, submitted in accordance with Council Procedure Rule 12, are dealt with procedurally and that the results of that review be submitted to Full Council, via the Cabinet, in due course.”

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Notes of the meeting of the Review of the Constitution Portfolio Holder Working Party held on 23 January 2023.

APPENDICES

A.8 Appendix – Proposed amendments to Council Procedure Rules 11.2, 12 and 14

REPORT CONTACT OFFICER(S)

Names	(1) Ian Ford (2) Lisa Hastings
Job Titles	(1) Committee Services Manager (2) Deputy Chief Executive & Monitoring Officer
Email/Telephone	iford@tendringdc.gov.uk (01255) 686 584 lhastings@tendringdc.gov.uk (01255) 686 561

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A.8 APPENDIX – PROPOSED CHANGES TO CPR 11.2, CPR 12 AND CPR 14

CPR11. - QUESTIONS BY MEMBERS

11.2 Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee;

a question on any matter, which is within their area of responsibilities as set out in Part 3 of the Constitution, in relation to which the Council has powers or duties or which affects the Tendring District.

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

The time allocated for receiving and disposing of questions shall be a maximum 30 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members the following working day unless withdrawn by the questioner. **The Question(s), together with the relevant written response(s), will also be published to the Council's website and will also be reported to the next meeting of the Council, as an "information only item", by the Committee Services Manager. The provisions of this paragraph will also apply in those instances when the full Council meeting has had to be cancelled.**

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

11.5 Reasons for rejection of Questions

- (a) the question is not about a matter for which the local authority has responsibility or which affects the District;
- (b) The Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (c) the Monitoring Officer will reject a question if in their judgment it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;

- (d) The Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) The Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conduct~~or~~; or
- (f) the question is about a matter that is subject to call in or ongoing legal proceedings.

NEW COUNCIL PROCEDURE RULE 12 (MOTIONS ON NOTICE) – CURRENT CPR 12 TO BE DELETED IN ITS ENTIRETY

12.1 Scope of the Motion

Any Motion to Council submitted in accordance with this Rule must be about a matter(s) for which the Council has a responsibility, or which affects the District of Tendring, or is about a matter(s) of regional, national or international importance which could be reasonably considered to affect the residents of the District and upon which a Member wishes the Council to undertake an action or to make its views and opinions publicly known.

12.2 Notice of the Motion

No Member shall, under the provisions of this Rule, submit more than one motion for consideration at any ordinary meeting of the Council.

A maximum of two motions shall be accepted for inclusion in an agenda for an Ordinary Meeting of the Council under this Procedure Rule. Motions cannot be submitted to the annual meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

Except for a motion which can be moved without notice under Rule 13 (Motions without Notice), written and signed notice (or notice by personal e-mail) of the motion by the Member or Members submitting it, must be delivered to the Committee Services Manager by no later than the initial deadline of midday ten working days before the day of the ordinary meeting of the Council. This initial deadline is to allow a period of time for Officers to consider the wording of the motion and to offer appropriate guidance, if necessary, and as detailed below. If submitted by email the motion should be sent to democraticservices@tendringdc.gov.uk.

The Monitoring Officer and/or the Committee Services Manager (or in their absence the Head of Democratic Services & Elections) are authorised and encouraged under this Rule to offer guidance and assistance to the Member(s) as to the wording of their Motion (in order to make it clear and obvious [as also referenced in Rule 12.7 below] what the Council's powers are should the Motion relate to an Executive function and/or to generally to make the motion acceptable as a valid motion). The Member(s) submitting the Motion will be informed of the Officers' guidance as soon as possible and they will have until the final deadline of midday eight working days

before the day of the ordinary meeting of the Council to notify the Officers whether they accept the Officers' advice.

The Monitoring Officer and/or the Committee Services Manager (or in their absence the Head of Democratic Services & Elections) will then formally decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14 (Motions not Permitted).

12.3 Motion set out in the Agenda

Valid motions for which notice has been given will be listed on the agenda in the order in which the notice was received, unless the Member(s) in giving that notice states, in writing, that they wish it to be included on the Agenda for a future ordinary meeting of the Council.

12.4 Withdrawal of the Motion

Prior to the publication of the Agenda for the ordinary meeting of the Council in question (which will be at least five clear, working days before the meeting) the Member or Members may withdraw their Motion by notifying the Committee Services Manager of their wish to do so. This notification must be submitted to the Committee Services Manager by a written and signed notice (or notice by e-mail to democraticservices@tendringdc.gov.uk).

Once the Agenda for the ordinary meeting of the Council in question has been published the Motion can only be withdrawn at the Council meeting itself in accordance with the provisions of Council Procedure Rule 16.7 (Withdrawal of Motion).

12.5 Professional Advice of the Council's Statutory Officers on the Motion

Once the Motion has been accepted as being valid by the Monitoring Officer and/or the Committee Services Manager a formal Advisory Note detailing any necessary initial professional advice in relation to the implications for the Council of that Motion will be prepared by the Council's Statutory Officers, with the Monitoring Officer acting as the lead officer in the compilation of that Advisory Note.

In that regard:-

- (i) the Head of Paid Service (i.e. the Chief Executive) will give any necessary professional advice on implications for the Council in respect of his responsibilities in relation to staffing matters;
- (ii) the Monitoring Officer will give any necessary professional advice on implications for the Council in respect of budgetary, constitutional or legislative requirements; and
- (iii) the Section 151 Officer will give any necessary professional advice on implications for the Council relating to budgetary, constitutional or legislative requirements.

That Advisory Note will be circulated, if possible, to all Members of the Council as part of the Council Agenda Document Pack. If this is not possible, then the Advisory Note will be circulated to Members as soon as possible thereafter but in any case no later than Noon on the working day before the date of the Council meeting.

The Advisory Note will also be published on the Council's website (unless of course the Exempt Information provisions apply).

At the meeting itself, Council must have regard to the contents of the Advisory Note in making its decision on the Motion, as set out in Section 3.7 of the Members' Code of Conduct.

12.6 Consideration of the Motion at an Ordinary Meeting of the Council

At the meeting itself the Chairman will invite the Member who submitted the motion to formally move it and then to proceed to read out the text of the Motion (for the benefit of the public who are either watching proceedings from the public gallery or via the livestream). The Member who moved the motion will not be required to explain its purpose at this stage of the proceedings.

The Chairman will then ask for a seconder for the motion. If there is no seconder then the motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next business on the agenda.

In the event that the Motion is not moved at this time by the Member who gave notice thereof, due to their absence, it will be treated as withdrawn and cannot be moved without a fresh notice given under this Rule, unless the Chairman is aware of mitigating circumstances for that Member's absence and Council, having been made aware of such circumstances, decides, with the consent of the simple majority of Members present (which will have been demonstrated, without any debate, by a show of hands) to defer the Motion to the next ordinary meeting of the Council. If the Member who gave notice of the Motion considers it a matter of urgency they can nominate another Member to move the Motion at the Council Meeting by notifying the Committee Services Manager of that arrangement by no later than Noon on the day of the meeting. That nominated Member will, from that point, take "ownership" of the Motion as far as these Council Procedure Rules are concerned.

At this point in the proceedings, and in the circumstances in which one or more of the Council's Statutory Officers has stated in their Advisory Note that the Motion should not be dealt with at the meeting, the Chairman can declare that, on the advice of the statutory officers, the Motion is either deferred until the next ordinary meeting of the Council or is referred to the relevant body or bodies, as appropriate. The Motion will thereupon stand so deferred/referred without discussion or debate. Council Procedure Rules 12.8, 12.9 and 12.10 will apply, as appropriate in the circumstances.

Otherwise, if the motion is seconded then it will be proceed to be debated in accordance with the maximum 60 minute time limit normally allocated for a Motion submitted under this Rule. This 60 minute period will commence at the point the Chairman calls on the Mover of the Motion to speak to the motion and explain its

purpose and this 60 minute period will also cover any amendments to the Motion that are accepted and debated upon by Members.

In debating the Motion the provisions, as applicable, of Council Procedure Rules 16, 19, 23, 24, 25, 28 and 29 will apply, together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

12.7 Powers available in respect of the Council making a decision on the Motion at an Ordinary Meeting of the Council

- 1. If the Motion relates to a matter under the purview of the Executive, as detailed within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, then the Council legally can only make a recommendation to the Executive, or give its advice/opinion to the Executive, in relation to the Motion.**
- 2. If the Motion relates to a non-executive function that is delegated to a Committee then the Council can either make a definite conclusive and binding decision, or make a recommendation to the Committee or give its advice/opinion to the Committee, in relation to the Motion.**
- 3. The Council, through its debate, can also through the amendment provisions set out in Rule 16.5 (Amendments to Motions) delay making a decision on the Motion until a future ordinary meeting of the Council if it so wishes, as long as it makes clear its reason for doing so. Reasons for such a delay could potentially but not exclusively include:-**
 - (a) a requirement for further information on the implications of the potential decision to be researched and submitted;**
 - (b) the lateness of the hour;**
 - (c) the need to hold a site visit;**
 - (d) a requirement for the attendance of an Officer and/or representative of an external organisation et cetera;**
 - (e) to enable a consultation exercise to be carried out either internally within the Council or externally;**
 - (f) to enable Political Group Leaders to informally discuss the matter;**
 - (g) to enable a public meeting or inquiry to be held; and**
 - (h) to enable the calling of a referendum (subject to the necessary financial provision being approved).**

12.8 Referred Motions – Consideration of the Motion by the Cabinet or a Committee

If the Motion is, in accordance with the provisions of Rule 12.7(3) above, formally referred to the Cabinet or a Committee for consultation, the Head of Democratic Services & Elections will ensure that the Motion is included on the agenda of the earliest practical meeting of the Cabinet/Committee. That body shall be required solely to consider such motion and to advise the Council (by no later than the

second Ordinary Meeting of the Council held following the date of Council's referral) of their opinion as to whether such motion should be supported or not supported. That body will not be required to propose an alternative motion or an amended motion.

Prior to making its response the Cabinet/Committee may, following consultation with the relevant Officers, require further information to be presented to it for consideration on the implications of the proposed motion. Such a report must be considered by that body in a timely manner.

Once the Cabinet/Committee has considered the Motion it will be sent back to Council with that body's response.

12.9 Deferred Motions – Rights of Member submitting/Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally deferred until the next ordinary meeting of the Council (i.e. due to the "mitigating circumstances" provision or by the Chairman acting on the advice of the statutory officers) the Member who submitted the Motion will be made aware of this, as soon as possible, by the Committee Services Manager and also of the date of the next ordinary Council meeting.

The right of the Member submitting/mover of the Motion to speak to the motion and explain its purpose will be automatically reserved until that meeting.

12.10 Referred Motions – Rights of Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally referred to a relevant body or bodies (i.e. due to the Chairman acting on the advice of the statutory officers) the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Committee Services Manager of the date(s) of the meeting(s) of such body or bodies at which their Motion will be considered. The Mover of the Motion (or other Member nominated by them) will have the right to attend such meeting(s) to speak to the motion and explain its purpose. That Member will also be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman of the meeting. The Member will also have a right of reply (of no more than three minutes duration) to respond to the debate at the meeting on their motion.

If the Motion has, in accordance with the provisions of Rule 12.7(3) above (i.e. following a debate at Council) been formally referred to the Cabinet or a Committee for consultation, the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Committee Services Manager of the date of the Cabinet/Committee meeting at which their Motion will be considered so that they can attend if they so wish.

As the purpose of the motion will have already been explained at the full Council meeting the Mover of the Motion (or another Member nominated by them) will not have any automatic right to speak at that meeting though they will be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman

of the meeting. The Member will also have a right of reply (of no more than three minutes duration) to respond to the debate at the meeting on their motion.

12.11 Notification of the decision of the Council to the relevant Body

Once the Council has made its final decision on the Motion and if it is relevant and necessary to do so, the Head of Democratic Services & Elections will, at the earliest practical meeting of the Cabinet/Committee, as appropriate, formally report that decision of the Council in order that that body can note the Council's decision and consider what action, if any, that it now needs to take.

12.12 Consideration of a Motion at an Extraordinary Meeting of the Council

At an Extraordinary Meeting of the Council any Motion listed on the Agenda will be dealt with at that meeting in accordance with the provisions, as applicable, of this Rule 12 and Rules 16, 19, 23, 24, 25, 28 and 29 together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

14. **MOTIONS NOT PERMITTED**

No motion shall be submitted on a matter that relates to an item which;

- (a) is not about a matter for which the local authority has a responsibility or which does not affect the District **or is about a matter of regional, national or international importance that could not be reasonably considered to affect the residents of the District;**
- (b) is to be considered on the same Council agenda;
- (c) is substantially the same as a motion already received to be put to the ordinary meeting of the Council in question;
- (d) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- (e) has been the subject of a Key Decision in the previous six months;
- (f) is included within the work programme of an Overview and Scrutiny Committee;
- (g) is, at the time of submission, subject to call-in or on-going legal proceedings or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (h) the Monitoring Officer will reject a motion if in their judgment it is likely to lead to a breach of the Members' Code of Conduct.

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CABINET

17 FEBRUARY 2023

REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

A.9 ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2023/24 (INCLUDING PRUDENTIAL AND TREASURY INDICATORS)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To agree the Annual Capital and Treasury Strategy for 2023/24 (including Prudential And Treasury Indicators) for submission to Council on 2 March 2023.

EXECUTIVE SUMMARY

- The Local Government Act 2003 and supporting regulations require the Council to set out its treasury strategy for borrowing, and to prepare an Annual Investment Strategy (as required by Investment Guidance subsequent to the Act) that sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments, "having regard" to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice. Revised editions of both documents were issued in December 2021, which come into force in 2023/24.
- The Capital Strategy continues to be combined with the Treasury Strategy into one document, which is required to be updated / approved annually.
- The proposed Annual Capital and Treasury Strategy for 2023/24 is set out in **Appendix A** and it reflects the various changes set out in the latest Codes mentioned above.
- The Capital Strategy element of the combined document covers the various elements surrounding capital investment decisions and the key criteria that investment decisions should be considered against.
- The Treasury Strategy element of the combined document covers the various elements that satisfy the requirements of the various codes that govern the borrowing and investment activities of the Council and has been prepared in the light of advice received from the Council's Treasury advisors and reflects the latest codes and guidance.
- Prudential and Treasury indicators are included as an Annexe to the combined strategy and are therefore included within **Appendix A**.
- Under the Prudential Code the Council has freedom over capital expenditure as long as it is prudent, affordable and sustainable. The Prudential Indicators either measure the expected activity or introduce limits upon the activity and reflect the underlying capital appraisal systems and enable the Council to demonstrate that it is complying with the requirements of the Prudential Code.

- The Council's investments will be undertaken in accordance with its Treasury Management Practices. These were expanded to include use of non-specified investment in property to yield both rental income and capital gains from 2016/17. The new Codes require clear separation of commercial investments from treasury investments. As the Council only has one such investment, which will be clearly identified within the Strategy and the TMPs, a separate suite of Investment Management Practices is not proposed to be produced.
- As is always the case, other 'quality' investment opportunities will always be explored during the year in consultation with the Council's external advisors to maximise returns on investments within a continuing and overall risk-averse approach.
- In line with the delegation set out within the Council's Constitution, the Portfolio Holder for Corporate Finance and Governance would agree the Strategy for submitting to the Resources and Services Overview and Scrutiny Committee as part of the required consultation process.
- However to accommodate the current programme of meetings and continuing work pressures, which include those associated with the external audit of the Council's Statement of Accounts for 2020/21, a revised reporting timescale is proposed.
- It is therefore now proposed to seek Cabinet's agreement to the Strategy via this report for recommending to Full Council on 2 March 2023. The associated consultation exercise with the Resources and Services Overview and Scrutiny Committee can then be undertaken as early as practicable in 2023/24.
- The above reflects a pragmatic approach to ensure that the Strategy can be approved ahead of the financial year it relates to, which is a key requirement within the associated Code of Practice. However, it is also recognised that if the Resources and Services Overview and Scrutiny Committee have any comments / recommendations, they can be reported back to Cabinet / Full Council at a later date in the year where potential in-year revisions to the Strategy could be considered.

RECOMMENDATION(S)

That Cabinet:

- a) agrees the Annual Capital and Treasury Strategy for 2023/24 (including Prudential And Treasury Indicators) attached and that it is submitted to Council for approval; and**
- b) subject to a) above, undertakes the necessary consultation with the Resources and Services Overview and Scrutiny Committee as early as practicable in 2023/24.**

REASON(S) FOR THE RECOMMENDATION(S)

To ensure that a Capital and Treasury Strategy for 2023/24 is approved by the 1 April 2023.

ALTERNATIVE OPTIONS CONSIDERED

Not applicable given the requirements set out elsewhere in this report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The adoption of the Capital and Annual Treasury Strategy for 2023/24 will ensure that the Council's Investment and Treasury Management activities are carried out and managed in accordance with best practice, thereby safeguarding money held by the Council and making an appropriate contribution to the Council's overall financial position.

OUTCOME OF CONSULTATION AND ENGAGEMENT

As set out earlier in this report, the Resources and Services Overview and Scrutiny Committee will be consulted on the Capital and Treasury Strategy 2023/24 as soon as practicable in 2023/24, with comments reported to Cabinet / Full Council later in the year as necessary.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	Yes	If Yes, indicate which by which criteria it is a Key Decision	<input checked="" type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	This item has been included within the Forward Plan for a period in excess of 28 days.

The Local Authorities (Capital Financing and Accounting) (England) Regulations 2003 include the requirement for local authorities to have regard to CIPFA guidance. By adopting / approving an Annual Treasury Strategy and a Capital Strategy based on the requirements of the relevant and updated codes, the Council is complying with the regulations.

As set out in para 4.3 Part 3.37 of the Constitution, the Portfolio Holder for Corporate Finance and Governance has delegated authority to agree the Capital and Treasury Strategy for consultation with the Resources and Services Overview and Scrutiny Committee along with a further delegation to agree / implement the Treasury Management Practices. In respect of the first delegation, as highlighted elsewhere, this report seeks direct approval from Cabinet along with a recommendation to Council that is subject to the comments from the Resources and Services Overview and Scrutiny Committee later in the year. In respect of the second delegation, work remains in progress to reflect the necessary changes emerging from the new Codes, which will be included in revised Treasury Management Practices that will be presented to the Portfolio Holder for Corporate Finance and Governance for approval by the 31 March 2023.

YES	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no additional comments over and above those set out elsewhere in this report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Treasury and Capital Management Strategies and procedures will ensure that the Council's investments and borrowing will be undertaken in such a way as to minimise the Council's exposure to risk. At the same time, they will seek to maximise income from investments and minimise the costs of borrowing within the Council's accepted level of risk.

YES **The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Section 151 Officer is the co-author of this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	This is addressed in the body of the report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

This has been highlighted elsewhere within this report.

ASSOCIATED RISKS AND MITIGATION

The placing of investments involves a number of risks. These risks and how the Council will manage them are set out in the Council's Treasury Management Practices.

As highlighted elsewhere in this report, investments are undertaken within an overall risk-averse approach, which is reflected in Treasury Management Practices. With this in mind, a significant level of investment is undertaken with other Local Authorities and with the Government.

As with the recent case with lending money to Thurrock Council, money lent to other Local Authorities is not at risk of not being repaid, as ultimately the Government would take the necessary steps to ensure liabilities are met as part of any intervention (such as the one at Thurrock). The risk of lending money to another Local Authority is therefore not the same as lending money to a commercial / private organisation, which is one of the reasons why Councils lending to other Councils is common practice nationally.

As reported previously, the performance of the investment property in Clacton, is performing satisfactorily against the financial target set out within the original decision to purchase the property, with budgeted investment income continuing to be achieved each year. It is important to highlight that the rental payments can be seen as paying back the original investment made in purchasing the property. The overall performance of the investment therefore needs to take into account such considerations over the life of the Council's ownership of the property rather

any shorter term position in isolation.

It is also worth highlighting that the Council's Commercial Property Investment Policy is underpinned by robust risk management actions, which will respond to any changes to the situation. With the latter point in mind and as set out within the Commercial Property Investment Policy, the Council's wider treasury management activities are designed to ensure that the Council is not faced with a position of having to sell the property for cash flow purposes. This in turn ensures that the Council remains in control of when the property is ever exposed to the market rather than potentially having to sell the property during a period where there may be a downturn in commercial property prices.

EQUALITY IMPLICATIONS

There are no direct implications.

SOCIAL VALUE CONSIDERATIONS

There are no direct implications.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no direct implications.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

Crime and Disorder

Health Inequalities

Area or Ward affected

Please see comments above

PART 3 – SUPPORTING INFORMATION

BACKGROUND AND CURRENT POSITION

The Annual Capital and Treasury Strategy for 2023/24 is set out in **Appendix A** and is based on the most up to date Treasury Management Code of Practice and the revised Prudential Code, both of which were published by CIPFA in December 2021.

The Annual Capital and Treasury Strategy for 2023/24 has been amended as a result of the changes in the Codes. The key changes made are:

- Changes to the definition of investments, splitting them between treasury investments, commercial investments and service investments, with commercial and service investments arrangements being separated out in reporting and supported by investment management practices. Tending currently has no service investments and just one commercial investment, the investment property in Clacton, so separate documentation has not been produced but instead the Strategy clearly reflects issues which relate to the investment property.
- Local authorities must not borrow to invest for the primary purpose of financial return.
- Local authorities must consider as part of the decision-making whether to divest any commercial investments before deciding to borrow.
- Introduction of a liability benchmark indicator which is in the form of a chart showing

approved capital programmes and approved borrowing to maturity.

- A new affordability indicator showing the ratio of income from commercial and service investments as a proportion of the Council's net revenue stream.
- Requirement to include the Council's policy and practices relating to environmental, social and governance (ESG) investment considerations within TMP1 on risk management.
- Requirement to report treasury quarterly, which the Council already does via the Corporate Budget Monitoring process.
- Various wording changes and amendments resulting from the new Codes on TMPs, which will be reflected in the updated TMPs that will need to be approved by the end of March 2023.
- Amendments in areas such as the general economic outlook and interest rate forecasts.

The changes made to the attached Strategy since last year are shaded in grey and are in italic font.

By approving the Annual Capital and Treasury Strategy for 2023/24, the Council will be adopting the latest CIPFA Code of Practice for Treasury Management in the Public Services. (the '2021 code').

It is important to highlight that the changes to the Codes have not required the Council to take any direct action / remedial activities in terms of its investment / treasury processes.

The need to borrow money may arise in future years to reflect the Council's current commitments, corporate priorities and strategies. If the need / option to borrow money was identified, then it would form part of associated and separate decision-making process and would be considered within the overall Treasury Strategy framework.

The Council maintains a very low risk appetite approach to its treasury activities. However, set against this context, officers will still continue to explore opportunities to maximise investment returns in 2023/24.

In terms of sources of funding, the Government introduced a significant new constraint in terms of borrowing from the Public Works Loan Board (PWLB) in 2020/21. If a local authority purchases assets or plans to purchase assets over a future three-year period to generate investment income, then they will no longer be able to borrow money from the PWLB. This applies to all such purchases regardless of how they are funded. Although no such purchases are currently planned, this constraint may need to be considered in the future, as the Council could lose access to the preferential rates available from the PWLB.

Draft Prudential Indicators are set out in Annex 1 to Part 2 of the Capital and Treasury Strategy. Annex 2 to Part 2 of the Treasury Strategy sets out the specified and Non-Specified investments the Council may use in 2023/24.

In accordance with the relevant codes, the Capital and Treasury Strategy is subject to consultation with the Resources and Services Overview and Scrutiny Committee before approval. As highlighted earlier, a pragmatic approach is proposed to ensure that this can be accommodated within the current schedule of meetings in 2023/24.

PREVIOUS RELEVANT DECISIONS

The previous Capital and Treasury Strategy for 2022/23 was agreed by Full Council at its meeting on 29 March 2022.

A Treasury Performance Report for 2021/22 was considered by Cabinet at its 15 July 2022 meeting.

A mid-year Treasury Performance review was presented to Cabinet at its 4 November 2022 meeting.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

A9 Appendix A - Annual Capital and Treasury Strategy 2023/24

REPORT CONTACT OFFICER(S)

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Tendring
District Council



**ANNUAL CAPITAL AND
TREASURY STRATEGY
2023/24**

PART 1 – CAPITAL STRATEGY 2023/24 to 2025/26

1. Introduction

SECTION A - Achieving Outcomes / Delivering Against Priorities

2. Corporate Priorities and Links to Other Key Strategies
3. Roles and Responsibilities in Respect of the Capital Strategy and the Formulation and Monitoring of the Capital Programme

SECTION B - Capital Investment and Sources of Funding

4. Capital Investment Considerations
5. Sources of Funding

Part 1 Annex 1 – Quick Reference Guide – Information Expected to be Included in Capital Investment Decisions Where Relevant

Part 1 Annex 2 – General Fund and Housing Revenue Account Capital Programmes 2022/22 to 2024/25

PART 2 – TREASURY STRATEGY FOR 2023/24

1. Introduction
2. Treasury Limits for 2023/24 to 2025/26
3. Prudential and Treasury Indicators for 2023/24 to 2025/26
4. Current Portfolio Position
5. Borrowing Requirement
6. Economic Position
7. Interest Rates
8. Borrowing strategy
 - 8.1 External v internal borrowing
 - 8.2 Gross and Net Debt Positions
 - 8.3 Policy on borrowing in advance of need
9. Debt Rescheduling
10. Annual Investment Strategy
 - 10.1 Investment Policy
 - 10.2 Creditworthiness Policy
 - 10.3 Credit Limits
 - 10.4 Country Limits
 - 10.5 Investment Strategy
 - 10.6 Allocation of Investment returns between GF and HRA.
 - 10.7 End of year investment report

Part 2 Annex 1 – Proposed Prudential Indicators 2022/23 revised, 2023/24 and forecasts for 2024/25 to 2025/26

Part 2 Annex 2 – Specified and non-specified investments

PART 1 – CAPITAL STRATEGY

INTRODUCTION

The Capital Strategy is an overarching document that sets out the Council's approach to Capital Investment and how it seeks to deliver value for money against the following underlying key principle, which is subject to review by the Council's External Auditor each year:

The Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources, which comprises of:

1. Taking informed decisions;
2. Deploying resources in a sustainable manner; and
3. Working with partners and other third parties.

Against this backdrop, the Capital Strategy is divided into two sections:

Section A provides an introduction and sets out the context for the Capital Strategy. It sets out how the plan links to corporate priorities and shows how they link to other key resource strategies and the related roles and responsibilities of members and officers.

Section B covers the framework within which capital financing decisions are considered and provides background to the funding sources available to meet the costs of capital projects that are included within the Capital Programme.

The Corporate Investment Plan along with the Capital Programme forms the basis of the Council's rolling plan of investment in assets. The Capital Programme spans a number of years and contains a mix of individual schemes.

Investment can include expenditure on:

- Infrastructure such as open spaces, coast protection
- New build
- Enhancement of buildings through renovation or remodelling;
- Major plant, equipment and vehicles;
- Capital contributions to other organisations enabling them to invest in assets that contributes to the delivery of the Council's priorities.

The Capital Programme is distinct from the Council's revenue budget which funds day-to-day services, but they are both linked and are managed together.

There is a strong link with the Treasury Management Strategy set out in PART 2 that provides a framework for the borrowing and lending activity of the Council.

The Council has set a de-minimus level of £10,000, below which expenditure is not classed as capital expenditure, but is charged instead to the revenue account.

SECTION A - ACHIEVING OUTCOMES/DELIVERING AGAINST PRIORITIES

CORPORATE PRIORITIES

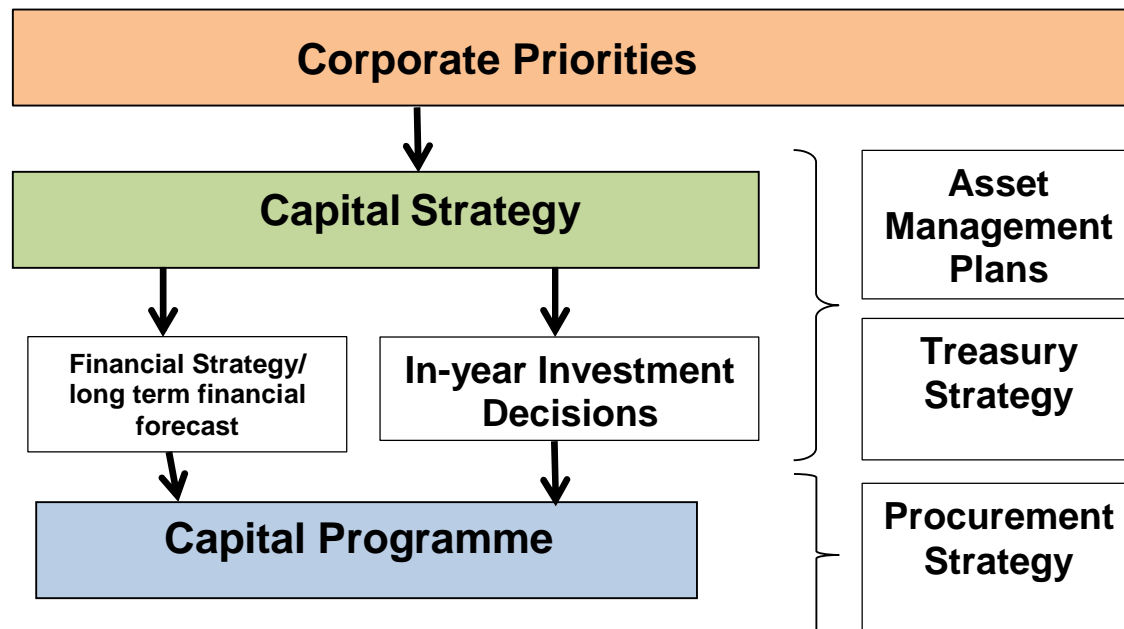
The Capital Strategy is subject to ongoing review and has a key role in supporting the delivery of the Council's Corporate Priorities

The Capital Strategy aims to set out the arrangements and processes in place to manage capital resources, the relationship with the Council's other key resource strategies and the practical/sustainable outcomes of those arrangements and processes by:

1. Setting out how schemes are evaluated and prioritised within the resources available.
2. Ensuring that any investment decision is prudent, sustainable and affordable in accordance with the prudential code and therefore represents value for money.
3. Setting out the performance processes in place to ensure that projects are delivered on time and within budget.
4. Ensuring that expected outcomes are delivered and lessons learnt from previous investment decisions.

LINKS TO OTHER KEY STRATEGIES

The ability of the Council to undertake capital investment to deliver its corporate objectives will be influenced or have direct links to a number of strategies, with the key 'links' set out below:



The above sets out the strategies/processes that are more closely aligned to the capital investment decision but are by no means exhaustive. Although subject to changes over the life of this Strategy, other key strategies and

policies may also need to be reflected in the investment decision such as those associated with workforce/staff capacity and ICT delivery. Decision-making must therefore reflect these requirements where relevant/necessary.

In respect of ICT within the Council, associated strategies or requirements set out how the Council intends to use technology to support service delivery and transform the way it delivers its services. ICT is therefore recognised as a key enabler in supporting capital investment and delivering sustainable outcomes.

The **long-term financial forecast** plays a pivotal role in developing and delivering capital investment. The long-term financial forecast not only determines the financial resources available to fund capital investment, both in terms of the initial investment and any revenue consequences of the capital investment itself, it also provides a key element within the framework for considering and prioritising capital projects. It is however recognised that to remain flexible to take advantage of investment opportunities that may arise during the year, decisions may be required in line with the Council's Financial Procedure Rules. The long-term financial forecast is reported to Cabinet each quarter, which allows this flexibility. To ensure consistency, such decisions should also follow the same requirements set out within the Capital Strategy.

The Corporate Investment Plan also forms a key element within the framework above as it forms a further link between the Corporate Priorities and the Financial Strategy and complements the development of the long-term forecast and prioritised projects that are included within the Capital Programme.

The Treasury Strategy is also highlighted above as a key influence as it sets out the Council's overall approach to debt and borrowing. This approach along with affordability form part of the investment decisions that are brought together via the long term financial forecast process on a rolling basis through the year.

Other significant influences include the Local Development Framework (LDF) which sets out the Council's vision for change and new growth in the Tendring District in the long term which could present the Council with investment opportunities for consideration alongside other investment options.

ROLES AND RESPONSIBILITIES IN RESPECT OF THE CAPITAL STRATEGY AND THE FORMULATION AND MONITORING OF THE CAPITAL PROGRAMME

Management Team – As the most senior officer team of the Council the Management Team approves the Capital /Treasury Strategy for submission to Cabinet and having regard to the Council's priorities, recommends projects for inclusion in the Capital Programme in consultation with Portfolio Holders/ Cabinet (via the long term financial forecast process). Management Team also considers all significant investment decisions via a project initiation /

development process prior to formal reporting to Members, especially those associated with in-year investment decisions.

Departments support Management Team in the above process through the development and investigation of investments opportunities and submitting reports / project initiation and development documentation in support of the associated capital projects.

Cabinet (including Portfolio Holders acting within approved delegations)

– The Cabinet recommends the 5-year capital programme to Council. The Cabinet and the Corporate Finance and Governance Portfolio Holder can, within the limits set by the Council's Financial Procedure Rules, approve supplementary estimates or approve virements between schemes during the year as part of separate investment decisions. The Cabinet is required to approve the Capital / Treasury Strategy each year.

Council – Approves a multi-year Capital Programme as part of the budget setting process in February each year and approves the Capital / Treasury Strategy in March each year or as soon as possible thereafter.

Subject to the limits set out in the Council's Financial Procedure rules, Council may be required to approve supplementary estimates to increase the costs of approved schemes or add new schemes over and above amounts that individually or on aggregation are over and above those amounts ordinarily agreed by Cabinet as part of in-year investment decisions.

CONSULTATION

The views of the local community and stakeholders are an important element in developing the priorities for the Council and identifying capital investment opportunities. This can be achieved in a number of ways depending on the specific investment that is considered, which should be complemented by wider consultation exercises such as those associated with the development of corporate priorities and the long-term forecast/corporate investment plan where necessary.

In addition to the above, Departments are expected to review the need to undertake consultation and the scale of that consultation, as appropriate, as part of the investment decision-making process.

MONITORING OF THE CAPITAL INVESTMENT/CAPITAL PROGRAMME

In terms of performance and monitoring the delivery of capital investment, this is primarily achieved through the existing and comprehensive financial processes such as the long-term financial forecast and budget setting process, outturn review and the quarterly financial performance reporting. In respect of the quarterly financial performance reports, an update on the delivery of projects and the position against the budget is included, which is reported to both Cabinet and the relevant Overview and Scrutiny Committee during the year. Some capital projects may also form part of the Council's

separate Performance Monitoring process that is also reported to Members during the year.

Where capital investment is material, the scheme or project may be subject to review by internal audit which would be at the discretion of the Internal Audit Manager as part of the annual Internal Audit Plan or if required by other key stakeholders.

SECTION B – CAPITAL INVESTMENT AND SOURCES OF FUNDING

CAPITAL INVESTMENT CONSIDERATIONS

The Council's capital investments are made in accordance with the Prudential Code, which aims to ensure that the capital investment plans of local authorities are affordable, prudent and sustainable, which should also include where necessary a prioritisation and appraisal process. Under the Code the Council is free to determine the amount it borrows to finance capital investment.

All of the Council's capital investment is managed in accordance with the requirements of the Prudential Code. The prioritisation of capital investment is directly linked to the long-term financial forecast and/or in-year budget amendment processes as previously explained, which is complemented by the Corporate Investment Plan, all of which will be undertaken in an open and transparent manner.

Schemes that are agreed but not funded as part of the long-term financial forecast process will be considered a prioritised list within a wider Corporate Investment Plan approach and be a 'live' schedule of investment opportunities against which further investment opportunities should be considered during the year.

The Council faces ongoing significant financial challenges over the period of this Capital Strategy due to the significant reductions in Government Funding over recent years, *the current high levels of inflation* and the potential longer impact of the COVID 19 pandemic on Council funding. The latest long-term financial forecast for 2023/24 to 2026/27 reflects annual deficits, albeit on a reducing basis over the remaining period of plan, which is supported by the Forecast Risk Fund. To deliver the level of efficiencies and transformation that will in turn support the delivery of the long-term forecast, the following key principles have been identified which should be a key consideration of capital investment decisions:

Design schemes/projects to limit as far as possible any negative impact on the Council's on-going revenue budget.

Promote capital investment which allows either invest to save outcomes or generates a revenue and/or capital return and/or generates additional

external grant (e.g., new homes bonus) or core funding (e.g. Business Rates) whilst clearly setting out how it contributes to the Council's Corporate Priorities.
Foster effective working relationships with potential funders/partners.
Carefully consider value for money and efficiency of projects and associated outcomes.
Project risk is fully explored, and mitigating actions identified and taken as necessary.
Ensure appropriate project management tools and documentation are used and that project timescales are adequately matched to the capacity to deliver the project, both internally and externally (where internal, this needs to include services such as Legal, Finance and HR).
Responsibility for the delivery of the project is clearly defined and understood.
How the proposed investment contributes to the Council's commitment to be carbon neutral by 2030.

Although not always necessarily subject to formal reporting, as part of the Council's project management processes, Departments are expected to evidence the outcome from any investment undertaken against the key criteria set out within this Capital Strategy to inform future investment decisions with high level information being available within the usual performance/budget monitoring reports.

To promote consistency, a quick reference guide for detailed information that is expected to form part of any investment decisions is set out as **Annex 1**.

As highlighted above, the Corporate Investment Plan forms part of the overall governance framework in terms of linking corporate priorities and strategies to investment priorities. This framework takes into account a number of key priority 'drivers' such as financial viability / sustainability, non-financial consequences such as reputation / health and safety, the outcome from external assessment / regulatory reviews along with being outcome driven.

Impact Assessments

Impact assessments may be required depending on the specific capital investment decisions being considered. Therefore, as part of the Council's project management processes, Departments are expected to consider whether it is necessary to complete an impact assessment based on the Council's usual processes and documentation at the time a decision is made.

SOURCES OF FUNDING

Capital investment will have to be undertaken within the Council's limited resources and challenging financial environment.

In limited cases the cost of capital investment is supported by external grants/contributions. Any other capital investment the Council wishes to make has to be funded from its own resources or by borrowing (the revenue cost being met entirely by the Council). The Council's Financial Strategy/long term financial forecast includes consideration of a ten-year forecast, taking into account the revenue implications of capital investment plans and the resources available to fund capital investment. The level of capital investment will be constrained by the available resources identified via the long-term financial forecast process including revenue contributions or the ability to attract external funding and the generation of capital receipts. Any decision to invest in capital projects will need to match the available resources against criteria set out above, including how it meets corporate priorities within the wider Corporate Investment Plan Approach. *The process also includes consideration of, where appropriate, whether to divest any commercial investments, in accordance with the requirements of the updated Prudential and Treasury Management Codes.*

In planning any capital investment to contribute towards the achievement of the Council's priorities, the following resources are available:

- a) **Revenue Funding (Including Reserves)** – This continues to be limited each year given the challenging financial environment and on-going government grant reductions. This funding stream will need to be considered within the overall financial planning processes each year, including that for the HRA, which operates under a self-financing environment where changes in Government Policy have limited the revenue contributions available to support capital investment.
- b) **Capital grants/contributions** – These have contributed significantly to past and current capital projects and many aspects of the Council's and its partners' objectives can only be met if this funding source continues to be pursued. The delivery of the Council's priorities and commitments continue to be supported by successful grant applications. Section 106 money flowing from the planning process is also a significant source of external funding.
- c) **General Fund Capital Receipts** – It is acknowledged that the Council's current property/land holdings are not of significant high value or volume. Nevertheless, the Council recognises this important funding source and continually reviews its assets as part of separate asset management / investment plans which provide the context to consider opportunities to dispose of any assets that are surplus to requirements and/or not contributing to the delivery of the Council's priorities or where they provide alternative investment opportunities.

- d) **Borrowing within the Prudential Framework (Prudential Borrowing)** – The Council has the freedom to borrow to finance its capital expenditure provided it can demonstrate the prudence of the investment and its affordability and sustainability. During 2020/21 the rules governing borrowing from the PWLB were amended such that from 25 November 2020 no borrowing from the PWLB is allowed if an authority has purchased assets for yield in its capital programme for the following three years. Neither the General Fund nor the Housing Revenue Account capital programmes for 2023/24 to 2025/26 involve any such schemes. This means the Council is still able to access PWLB funding at preferential rates if it is prudent, affordable and sustainable.

CAPITAL STRATEGY CONCLUSIONS

The Capital Strategy sets out the high-level arrangements and processes to ensure that capital investment is managed within the Council's overall financial framework. It aims to ensure that its limited resources are applied consistently and effectively towards delivering the priorities of the Council. It links together the capital expenditure implications of various plans and strategies.

PART 1 - ANNEX 1**QUICK REFERENCE GUIDE – Information Expected to be Included in Capital Investment Decisions Where Relevant**

Formal Investment Considerations/Decisions/Business Cases
Link to priorities (including commitment to be carbon neutral by 2030) and/or 'safeguarding' of a Council Asset and what are the measurable benefits of the planned investment
Return on Investment/Net Present Value
Whole Life Costing/Revenue Consequences
Payback Periods
Key risks and how they will be managed
Alternative Options/Opportunity Costs
Sustainability
Financial Resources Available/Funding Options
Impact assessment where relevant
Capacity/Deliverability
Other considerations/important information to discuss/share with relevant internal department(s) and/or for inclusion in the formal decision making process if significant
Cash Flow Forecasts
VAT Arrangements/Implications
Insurance issues
Risk Management implications
Procurement processes

PART 1 - ANNEX 2**General Fund Capital Programme 2023/24 to 2025/26**

Capital Expenditure - General Fund £000s	2021/22 Actual	2022/23 Revised	2023/24 Estimate	2024/25 Forecast	2025/26 Forecast
Total Capital Expenditure	4,308	16,787	827	827	827
Financing - General Fund					
External contributions	(141)	(711)	-	-	-
Section 106	(1)	(253)	-	-	-
Coast protection grant	(451)	-	-	-	-
Other Government grants	(13)	(872)	-	-	-
Disabled Facilities Grant	(666)	(9,211)	(757)	(757)	(757)
Capital receipts	-	(1,000)	-	-	-
Direct revenue contributions	(222)	(863)	(70)	(70)	(70)
Earmarked reserves	(2,814)	(3,877)	-	-	-
Total Capital Financing	(4,308)	(16,787)	(827)	(827)	(827)
Net Financing need (External Borrowing)	0	0	0	0	0

HRA Capital Programme 2022/23 to 2024/25

Housing Revenue Account Capital Schemes £000	2021/22 Actual	2022/23 Revised	2023/24 Estimate	2024/25 Forecast	2025/26 Forecast
Total Capital Expenditure	4,317	10,389	7,978	3,928	3,928
Financing - Housing Revenue Account					
Major repairs reserve	(3,089)	(3,978)	(3,314)	(3,314)	(3,314)
Direct revenue contributions	(187)	(2,235)	(614)	(614)	(614)
Section 106	(774)	(333)	-	-	-
Capital receipts	(68)	(65)	(4,050)	-	-
External contributions	(199)	(3,778)	-	-	-
Total Capital Financing	(4,317)	(10,389)	(7,978)	(3,928)	(3,928)
Net Financing need (External Borrowing)	0	0	0	0	0

PART 2 – TREASURY STRATEGY

1. Introduction

The Local Government Act 2003 (the Act) and supporting regulations require the Council to 'have regard to' the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. Both CIPFA Codes were revised in December 2021 with formal adoption required in 2023/24. The revised codes have the following implications:

- A requirement to adopt a new debt liability benchmark treasury indicator - *this is included below*
- They clarify what CIPFA expects a local authority to borrow for and what they do not view as appropriate, however it is important to highlight that none of Tendring's borrowing falls within the inappropriate category
- A requirement to address environmental, social and governance (ESG) considerations in the Capital Strategy and in Treasury Management Practice 1 (TMP1) - *this will be included within the updated TMPs.*
- Implementation of a policy to review commercial property, with a view to divest where appropriate - *this forms part of the investment plan process set out in the Capital Strategy part of this document*
- Create new Investment Practices to manage risks associated with non-treasury investment (for Tendring this is the single Investment Property held) that are similar to the current TMPs - *these have not been split out as Tendring only has the single property, but they will be highlighted in the TMPS.*
- Expansion of the knowledge and skills register for individuals involved in treasury management, proportionate to the size and complexity of the work involved - *this will be included within the updated TMPs.*
- All investments and investment income to be split between:
 - those held for treasury management arising from cash flows
 - those held for delivery of services such as housing, regeneration and local infrastructure – the Council has none in this category at present
 - those held for commercial return – i.e. investment property

The list above summaries all of the proposed changes but some will apply to only the Capital Strategy, Treasury Strategy or both.

In accordance with the advice of CIPFA, the Council will ensure that future decisions will adhere to the new provisions and therefore will seek to avoid undertaking any new investments, which would not be consistent with the changes.

Members will be updated on how all these changes will impact our current approach and any changes required will be formally adopted within the 2023/24 Capital and Treasury Management report.

The Act ~~therefore~~ requires the Council to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by Investment Guidance issued subsequent to the Act) which sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

The Council's risk appetite is low, and it takes a risk-averse approach to Treasury Management, with the security and liquidity of the investment the prime concern, and the budget for income from investments being formulated on this basis. The Annual Strategy for 2023/24 is based on this risk-averse approach continuing.

For a number of years, the Council has engaged the services of treasury advisors to provide its officers with advice on treasury management issues. The current advisors are Link Asset Services, Treasury solutions. However, the final decision and responsibility for the actions taken sits with the Council's own officers after considering that advice.

The details of the delegations and responsibilities for treasury management are contained within the Council's Constitution as follows: -

- Part 3 – delegated powers – The Executive / Corporate Finance and Governance Portfolio Holder
- Part 5 – Financial Procedure Rules

2. Treasury Limits for 2023/24 to 2025/26

It is a statutory duty under Section 3 of the Act and supporting regulations for the Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the "Affordable Borrowing Limit". In England and Wales, the Authorised Limit represents the legislative limit specified in the Act.

The Council must have regard to the Prudential Code when setting the Authorised Limit of external debt, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future council tax and council rent levels is 'acceptable'. Capital investment must be considered in the light of the overall strategy and resources available, with decisions made with sufficient regard to the long term financing implications and potential risks.

Whilst termed an "Affordable Borrowing Limit", the capital plans to be considered for funding must include both external borrowing and other forms of liability, such as credit arrangements. The Authorised Limit is to be set, on a rolling basis, for the forthcoming financial year and two successive financial years. Details of the Authorised Limit can be found in Annex 1 of this part of the report.

The authorised limit reflects the additional borrowing requirement as part of the Housing Revenue Account (HRA) self-financing reforms. The Housing self-financing reforms also set an overall 'debt cap' for the HRA which in itself

reflects an affordability level based on the Government's model of how much debt can be supported by the HRA after considering the forecast of income from rents and management and maintenance costs over a 30 year period. The HRA debt cap for Tendring was £60,285,000, but the Government announced the abolition of the HRA debt cap from 29 October 2018. *The updated HRA Business Plan reported to Members in December 2022 and January 2023 as part of the HRA budget, reflected the financing of a maturing loan debt via internal borrowing in 2022/23 instead of borrowing and there are no maturities in 2023/24. More loan debt matures in 2024/25 and 2025/26 and decisions to address these will need to be confirmed during the year. set out the proposal to replace maturity debt that reaches maturity in 2022/23 and 2024/25 with repayment type loans. The estimated impact of this is included within the HRA Business Plan and is included within this Treasury Strategy to enable this approach to be progressed as part of the Council's treasury activities during the year. Further reports will be presented to Members as if changes to this approach develops are required during the year such as responding to any new / future burdens or priorities which would have an which will set out the overall financial impact on the current HRA Business Plan.*

Due to a proposed technical accounting change relating to assets the Council leases in from 1 April 2022, from 2022/23 these assets will be recognised on the Council's balance sheet as right of use assets, matched by a corresponding lease liability. They will count as a type of borrowing and will be written down each year. Work is ongoing to finalise the list of assets that these changes relate to. At the present time they are all expected to be within the General Fund, be relatively short term with a maximum life of five years, so will be written down in line with the actual lease repayment made. This means that the total spend of the Council counted against the General Fund balance will be unchanged, but the spend will move to a different line in the Council's accounts and be split between Minimum Revenue Provision and interest.

The amounts currently identified suggest that at 1 April 2022 the total to bring onto the balance sheet will be some £1.385 million, although this will change as further information is obtained and when the 1 April 2022 PWLB rates are available, as these change on a daily basis. The authorised limit and operational boundary already identified are considered sufficient to cover this increase. The overall Capital Financing Requirement (CFR) of the Council for the General Fund will increase, but the loans CFR, which is referred to in the remainder of this Strategy, will not change.

The above change remains subject to a consultation process and it is possible that the implementation date may be deferred. If it is deferred, the Council will continue to apply the existing rules relating to leased assets, with updates provided as part of the in year financial performance reports / next year's Annual Capital and Treasury Strategy as appropriate.

The technical accounting change relating to assets the Council leases referred to in the 2022/23 Capital and Treasury Strategy was deferred to 1 April 2024, so this document does not include the impact of that change.

3. Prudential and Treasury Indicators for 2022/23 to 2025/26

Prudential and Treasury Indicators are relevant for the purposes of setting an integrated Treasury Management Strategy. The latest revisions to the CIPFA Code of Practice on Treasury Management and to the CIPFA Prudential Code are effectively adopted via the approval of this Strategy which reflects the most up to date codes and guidance.

4. Current Portfolio Position

The Council's treasury position at the end of *December 2022* comprised:

- *GF borrowing from The Public Works Loan Board (PWLB) of £0.140 million at fixed rates at an average rate of interest of 7.09%*
- *HRA borrowing from the PWLB of £34.730 million at fixed rates at an average rate of 3.55%*
- *Investments of cash flow surpluses, which include reserves and capital receipts, on a short-term basis (less than 1 year) totalling £88.120 million at an average rate of interest of 1.36%.*

5. Borrowing Requirement

No new, alternative or replacement borrowing is currently reflected in the budget for the General Fund *or for the HRA. but HRA replacement borrowing of £0.800 million in 2022/23 and £1.200 million in 2024/25 is reflected in the HRA 30 Year Business Plan for the period 2022/23 to 2024/25 and therefore forms part of the assumptions set out within this Strategy.*

6. Economic Position

The Council's Treasury Advisors provide economic updates during the year with their latest update summarised as follows:

World economy

Inflationary pressures following the easing of Covid restrictions in most developed economies coupled with other global events have led to large increases in energy costs affecting all economies during 2022. On the back of these pressures, interest rates have risen around the world. Labour markets remain very tight, making judgements over how far monetary policy needs to tighten very difficult. All the major economies are expected to struggle in the near term, with data suggesting all will experience at least one if not more quarters of GDP contraction.

UK economy

The Bank of England Monetary Policy Committee (MPC) has increased the bank rate over 2022 from 0.25% at the start of the year to 3.5% in December 2022, due to concerns over inflationary pressures. CPI inflation peaked at

11.1% in October 2022, although with further increases in gas and electricity prices expected in 2023, inflation could spike higher again before dropping back slowly during 2023. The UK unemployment rate fell to a 48 year low of 3.6% during 2022, although this is partially due to the labour force shrinking by some 0.5 million in the year to June 2022. Gilt yields, and therefore PWLB rates which are linked to them, rose sharply through the first 3 months of 2022, although they have since dropped back. This is the reason why the Council chose to replace the HRA loan of £0.8 million that matured during 2022 with internal borrowing. The Bank of England is forecasting declines in GDP during 2023.

7. Interest Rates

The following table gives the Council's External Treasury Advisor's view on Bank Rate movements and their forecast for the PWLB new borrowing rate based on that view. The PWLB rates are based on the 'Certainty Rate' introduced by the Government for local authorities providing improved information and transparency on their locally-determined long-term borrowing and associated capital spending plans. Investment returns rose sharply over the course of 2022 due to increases in the bank base rate, and this higher level is expected to continue through 2023 before dropping back in early 2024.

	Bank Rate	Average earnings rate projected by the Council's External Advisors			PWLB Borrowing Rate			
		3 month	6 month	12 month	5 yr.	10 yr.	25 yr.	50 yr.
Dec 2022	3.50	3.60	4.20	4.70	4.20	4.30	4.60	4.30
Mar 2023	4.25	4.30	4.50	4.70	4.20	4.40	4.60	4.30
Jun 2023	4.50	4.50	4.60	4.70	4.20	4.40	4.60	4.30
Sep 2023	4.50	4.50	4.50	4.50	4.10	4.30	4.50	4.20
Dec 2023	4.50	4.50	4.20	4.30	4.00	4.10	4.40	4.10
Mar 2024	4.00	4.00	4.10	4.20	3.90	4.00	4.20	3.90
Jun 2024	3.75	3.80	3.90	4.00	3.80	3.90	4.10	3.80
Sep 2024	3.50	3.30	3.40	3.50	3.60	3.80	4.00	3.70
Dec 2024	3.25	3.00	3.10	3.20	3.50	3.60	3.90	3.60
Mar 2025	3.00	3.00	3.00	3.10	3.40	3.50	3.70	3.50
Jun 2025	2.75	2.80	2.90	3.00	3.30	3.40	3.60	3.30
Sep 2025	2.50	2.50	2.60	2.70	3.20	3.30	3.50	3.20
Dec 2025	2.50	2.50	2.60	2.70	3.10	3.30	3.50	3.20

8. Borrowing Strategy

8.1 External v Internal Borrowing

The main Prudential Indicator relevant to capital investment is the Capital Financing Requirement (CFR). This is the total outstanding capital expenditure that has not yet been funded from either revenue or capital resources and is therefore a measure of the Council's underlying borrowing need after taking into

account the provision included in the revenue budgets for the repayment of outstanding debt.

The borrowing to finance the capital expenditure can be either from external sources or the Council can use its own internal resources.

The planned external debt compared to the CFR over 5 years is shown in the following table, the difference between the two being the amount the Council has funded from internal resources. This is also set out separately for the GF and the HRA. This excludes other long term liabilities such as long term creditors and pensions which form part of the separate Financial Strategy process of the Council from a prudential perspective.

Total External Debt

	Actual 2021/22	Revised 2022/23	Estimate 2023/24	Forecast 2024/25	Forecast 2025/26
	£000's	£000's	£000's	£000's	£000's
Debt as at 1 April	38,592	36,921	34,699	33,277	30,653
Estimated repayment of debt	(1,671)	(2,222)	(1,422)	(2,624)	(2,421)
Estimated debt as at 31 March	36,921	34,699	33,277	30,653	28,232
CFR as at 31 March	41,798	40,183	38,576	36,943	35,267
Difference - internally financed	4,877	5,484	5,299	6,290	7,035

General Fund External Debt

	Actual 2021/22	Revised 2022/23	Estimate 2023/24	Forecast 2024/25	Forecast 2025/26
	£000's	£000's	£000's	£000's	£000's
Debt as at 1 April	151	144	136	128	119
Estimated repayment of debt	(7)	(8)	(8)	(9)	(7)
Estimated debt as at 31 March	144	136	128	119	112
CFR as at 31 March	5,021	4,820	4,627	4,442	4,264
Forecast of internal financing	4,877	4,684	4,499	4,323	4,152

HRA External Debt

	Actual 2021/22	Revised 2022/23	Estimate 2023/24	Forecast 2024/25	Forecast 2025/26
	£000's	£000's	£000's	£000's	£000's
Debt as at 1 April	38,441	36,777	34,563	33,149	30,534
Estimated repayment of debt	(1,664)	(2,214)	(1,414)	(2,615)	(2,414)
Estimated debt as at 31 March	36,777	34,563	33,149	30,534	28,120
CFR as at 31 March	36,777	35,363	33,949	32,501	31,003
Forecast of internal financing	0	800	800	1,967	2,883

In respect of the General Fund, the Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with external loans, as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy remains prudent, as investment returns are *still relatively* low and counterparty risk is relatively high, and will be continued.

In respect of the HRA, the decision not to refinance the maturity loan of £0.800 million that ended during 2022/23 means this has also been internally borrowed. Further maturity loans of £1.200 million end in 2024/25 and £1.000 million end in 2025/26, which remain subject to further decisions as part of developing the HRA Business Plan in 2023/24.

The Council's officers have made an assessment, based on advice from treasury advisors, of the amount of internal resources that it is prudent to use to finance capital expenditure and it is felt, taking into account the Council's financial position, that approximately £4m-£5m would at the present time and over the medium term be an appropriate level of internal borrowing. A **General Fund** maturity loan of £1m fell due for repayment in 2014 but this was not replaced which has led to the 2022/23 internal borrowing position running just ahead of the £5m level. *The HRA maturity loan repayment shown in the table has increased the level of internal borrowing further.* However, given the continuing low return on investments *and the* significant increases in PWLB interest rates *in 2022/23 and 2023/24*, it is felt prudent to maintain this position in the short term although this will be kept under review in consultation with the Council's external advisors.

The use of internal resources is only a temporary solution as, in time, these reserves and capital receipts will be utilised to finance service initiatives and capital investment and at that point will not be available. This will need to be balanced against the replacement external borrowing which will be required at some point in the future which may attract higher rates of interest, so timing of

such borrowing will need to consider forecasted rates of interest against the various types of borrowing structure to determine the most advantageous approach. Against this approach consideration may be required to borrow in advance of need, as set out in section 8.3 below, so as to reduce the need to borrow when interest rates may be higher.

8.2 Gross Debt v Investments

A comparison between the Council's gross and net borrowing position helps to assess the credit risk that would apply if the Council has surplus resources invested at a low interest rate which could be used to repay existing debt or to negate the need for additional new debt if at higher interest rates than that being achieved on the investments.

The table below sets out the Council's probable position taking account of both the individual GF and HRA debt figures.

Comparison of gross and net debt positions at year end	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Probable out-turn	Estimate	Estimate	Estimate
	£'000	£'000	£'000	£'000	£'000
General Fund external debt (gross)	144	136	128	119	112
HRA external debt (gross)	36,777	34,563	33,149	30,534	28,120
Investments	77,655	70,000	37,500	15,000	15,000
Net debt	(38,366)	(24,079)	20,485	19,036	17,566

The net debt positions show that the Council does not have underlying excess resources which could be used to repay long term debt – the surpluses and high current investment figures represent carry forwards and the current level of reserves / one-of budgets.

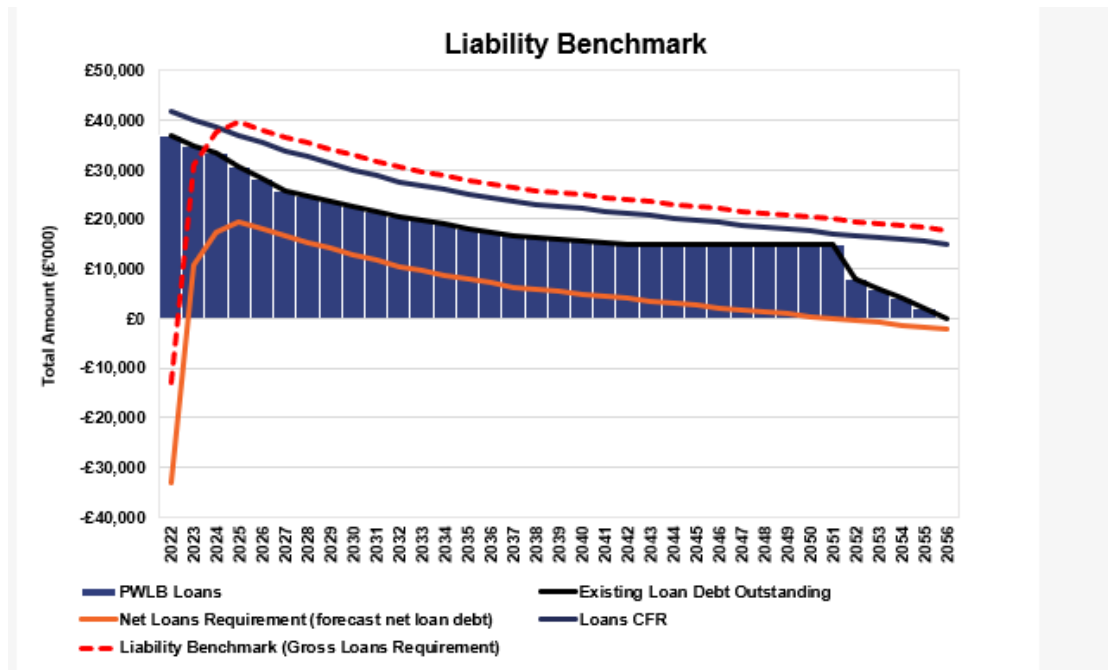
If opportunity arises, external debt will be repaid early, although this is difficult under current arrangements as set out in section 9. If borrowing is required then any requirement will be considered whilst balancing internal resources and forecasted interest rates within the parameters previously set out.

Against this background caution will be maintained within the 2023/24 treasury operations. Interest rates will be monitored and a pragmatic approach adopted to changing circumstances with appropriate action taken in accordance with the Council's Financial Procedure Rules.

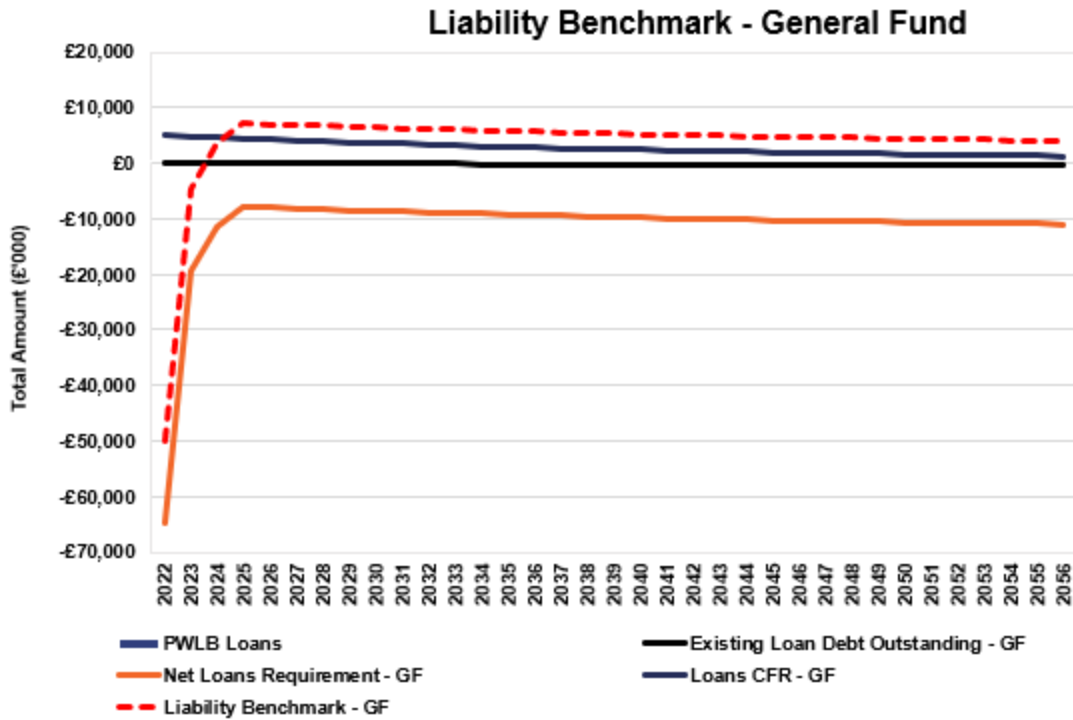
8.3 Liability Index

The tables in sections 8.1 and 8.2 are now required to be shown graphically for a minimum of 10 years and ideally to maturity of loan debt under the 2021 Prudential Code. The charts below show the overall position for the Council and then split over General Fund and HRA.

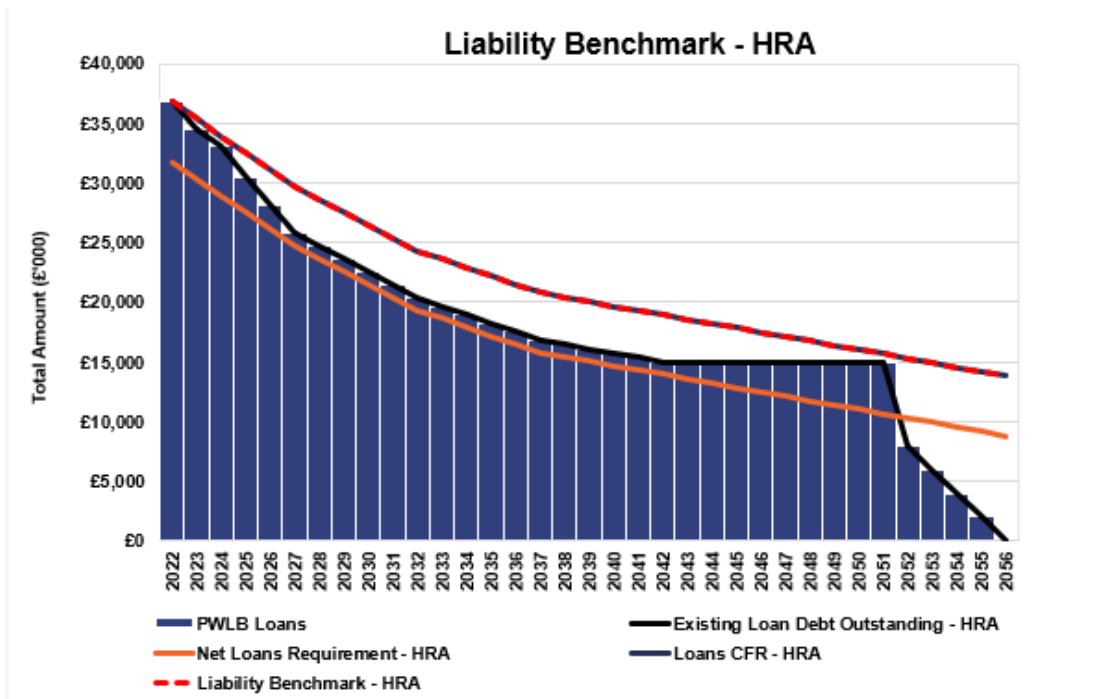
Total



The gap between the red dotted line and the PWLB loans shows the Council is under-borrowed. The net loans requirement line shows loans less anticipated investment balances. The Council needs to maintain some investment balances for liquidity purposes.



The low level of General Fund PWLB debt is demonstrated by this chart, with the bars falling below the blue PWLB loans line. Again, this shows the level of General Fund under-borrowing as set out in the table in section 8.1 above.



The HRA chart shows also that the HRA is under-borrowed, at least until 2051, unless maturity loans that end over the next few years are re-financed.

8.3 Policy on borrowing in advance of need

The Council cannot borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be considered carefully to ensure value for money can be demonstrated and that the Council can ensure the security of such funds.

In determining whether borrowing will be undertaken in advance of need the Council will;

- ensure that there is a clear link between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need;
- ensure the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered;
- evaluate the economic and market factors that might influence the manner and timing of any decision to borrow;
- consider the merits and demerits of alternative forms of funding;
- consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use;
- consider the impact of borrowing in advance on temporarily (until required to finance capital expenditure) increasing investment cash balances and the consequent increase in exposure to counterparty risk, and other risks, and the level of such risks given the controls in place to minimise them.

9. Debt Rescheduling

Officers together with the treasury advisors examine on a regular basis the potential for undertaking early repayment of some external debt to the PWLB in order to maximise any potential financial advantages to the Council. However, the continuing and significant difference between new borrowing and repayment rates has meant that large premiums would be incurred by such action and cannot be justified on value for money grounds. This situation will be monitored in case the differential is narrowed by the PWLB or repayment rates change substantially.

As short term borrowing rates will usually be cheaper than longer term rates there may be some potential for some residual opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the size of premiums incurred, their short term nature, and the likely cost of refinancing these short term loans once they mature compared to the current rates of longer term debt in the existing portfolio.

Any opportunities for debt rescheduling will be considered if such action would be advantageous to the Council. The reasons for any rescheduling to take place will include:

- the generation of cash savings and/or discounted cash flow savings

- helping to fulfil the strategy outlined above
- enhance the balance of the portfolio

Consideration will also be given to identifying if there is any residual potential left for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.

10. Investment Strategy

10.1 Investment Policy

The Council will have regard to the Government's Guidance on Local Government Investments, the latest CIPFA Treasury Management in Public Services Code of Practice and Guidance Notes (the Code) along with any relevant revisions or updates. The Council's investment priorities when investing are: -

- The security of capital and
- The liquidity of its investments.

The Council will also aim to achieve the optimum return on its investments commensurate with these main priorities. It is important to note that the borrowing of monies purely to invest or on-lend and make a return is unlawful.

Investment instruments identified for use in the financial year are listed in Annex 2 under the 'Specified' and 'Non-Specified' Investments categories. Counterparty limits will be as set through the Council's Treasury Management Practices – Schedules.

The majority of the Council's investments will be in Specified Investments although the Council has limited investments in Non- Specified investments.

During 2017/18 the Council purchased an investment property in Clacton, which is a Non-Specified investment (*a commercial investment*). The historic cost (including stamp duty) of this asset was £3.245 million and it is financed from revenue. The property was purchased with the aim of yielding rental income and with the potential for capital gains. This investment does not have a defined maturity date and it is an illiquid investment as the Council would need to sell the underlying asset to redeem the investment.

The property will be subject to annual revaluation to reflect current value under the requirements of the Accounting Code of Practice and this will be reported in the Statement of Accounts. *At 31 March 2022 the carrying value of the property was assessed by the Council's external Valuer at £2.108 million and at 30 September 2022 the carrying value was increased to £2.354 million.* The anticipated return on the property through rental income compared to the historic cost is forecast to remain in line with the figures included in the report

to Cabinet where the decision to purchase was made. Regardless of whether or not the property is being used for trading, the terms of the lease require payment of the rent until the end of the lease term.

The Council has adopted a Commercial Property Investment Policy which will be maintained as a separate document within the wider Capital and Treasury Strategy framework.

The Council does not intend to use derivative instruments as part of its treasury activities during the year.

~~During 2020/21 the Council opened accounts with two Money Market Funds, as the Debt Management Office interest rates became negative on occasions in late 2020 and additional liquidity flexibility was required beyond that of the call accounts. Both Money Market Funds are triple A rated and the interest paid has slowly risen from 0.01% to 0.03% since December 2021.~~

10.2 Creditworthiness Policy and changes to the credit rating methodology

This Council uses credit ratings from all three rating agencies - Fitch, Moodys and Standard and Poors. In determining the appropriate credit rating the Council will use the lowest rating available to determine the investment limits both in terms of amount and period for a particular counterparty. This is in accordance with the recommendations of The Code. Counterparties rated by only one agency will not be used.

One of the credit rating agencies may be more aggressive in giving lower ratings than the other two agencies and this could result in the Council's counterparty list becoming too restrictive. If this happens the position will be discussed with the Council's treasury advisors and the Treasury Management Practices may need to be revised in accordance with delegated powers set out in the Council's Constitution.

- All credit ratings will be monitored daily. The Council is alerted to changes to ratings of all three agencies through its use of the Creditworthiness Service provided by the Council's external advisors which is downloaded from Link Asset Services website each morning and uploaded to the Treasury Management system.
- If a downgrade results in the counterparty/investment scheme no longer meeting the Council's minimum criteria, its further use for a new investment will be withdrawn immediately.

The Code also recommends that credit ratings are not the sole determinant of creditworthiness and therefore the Council will also use available market information from a variety of sources including

1. The Creditworthiness Service utilises movements in Credit Default Swaps against the iTraxx benchmark and other market data on a weekly basis. This creditworthiness service information will be used to confirm

the assessed creditworthiness derived from the three ratings agencies. Where the information from this service indicates a lower standing for a particular counterparty than that derived via the credit ratings then the investment limits and length of investments applicable to that counterparty will be adjusted accordingly or the counterparty removed from the list.

2. Market data and information,
3. Information on government support for banks and the credit ratings of that government support

10.3 Credit Limits

Through its approved Treasury Management Practices the Council will set maximum limits for the amount that can be invested with any counterparty. This limit will be determined by reference to the counterparty's credit rating and other criteria. In addition the amount invested in building societies and Certificates of Deposit is also limited to 50% of the total investment portfolio.

100% of the Council's investments may be in Treasury Bills or Gilts or invested with the Government's Debt Management Office (DMO). Although these sums are very secure the rate of interest is usually lower than the market rate, however Treasury Bills are a valuable tool in providing security and liquidity whilst the DMO offers a variety of investment terms and is a valuable source of investment should credit ratings of other financial institutions result in a reduction in the number of counterparties that meet the Council's minimum credit rating criteria. There is no limit on the amount that can be invested with other local authorities in total, although there is a limit of £6 million with each individual local authority.

10.4 Country Limits

The Council has determined that it will only use approved counterparties from the UK and additionally those countries with a minimum sovereign credit rating of AA or equivalent from the relevant rating agencies.

In a similar way that individual counterparties have a maximum investment limit, countries other than the UK will also have a limit.

10.5 Investment Strategy

The Council's funds are managed in-house and are mainly cash flow based but there is a core balance that could be available for investment for longer periods (2-3 years). Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months) and in respect of commercial property investment, this will be limited to the amount included in the Capital Programme.

The bank rate increased from 0.25% in December 2021 through 2022 and reached 3.5% in December 2022. Further increases in the rate are forecast in

the first 2023, before stabilising and then falling in 2024 (see Section 7). The Council will avoid locking into longer term deals while investment rates are ~~down at historically low levels~~ *rising* unless exceptionally attractive rates are available which make longer term deals worthwhile without compromising the Council's priority of security of the investments.

For 2023/24 the Council has budgeted for investment returns based on the principles set out in this strategy including the forecast position on interest rates.

For its cash flow generated balances the Council will seek to utilise its business reserve accounts, Money Market Funds and short dated deposits (overnight to three months) in order to benefit from the compounding of interest. At the present time these short dated deposits are paying ~~very~~ low rates, but they provide a good level of liquidity to help manage the Council's cash flow.

10.6 Allocation of Investment returns between GF and HRA

As part of the introduction of HRA Self Financing a policy on the allocation of investments returns across the GF and HRA now forms part of the Annual Treasury Strategy.

The HRA holds balances and would benefit from cash flow advantages, which are amalgamated for the purposes of the overall investment activity of the Council. At the end of each year the transfer to the HRA of its share of the authority's overall investment returns will be agreed by the S151 Officer in consultation with the relevant officers based on the following principles:

- Equity
- Risk Sharing
- Minimising volatility between years

Returns from directly investing in commercial property will be allocated to the relevant fund where the Capital Programme / investment were made from.

10.7 End of year investment report

At the end of the financial year the Cabinet will receive a report on its investment activity.

GLOSSARY OF TERMS

Affordable borrowing limit – limit that the Council has to set under the CIPFA Prudential Code that shows how much the Council considers it can afford to borrow taking all its outgoings into consideration and how much income it considers it can generate.

Alternative financing arrangements – how the Council intends to finance its capital expenditure by other means besides borrowing.

Authorised limit – the amount the Council determines is the maximum that can be borrowed that is affordable and has been calculated in accordance with the legislation behind the CIPFA Prudential Code.

Borrowing requirement – how much the Council considers it needs to borrow to fund its spending plans.

CFR – Capital Financing Requirement – this calculation shows how much the Council needs to borrow or finance by some other measure to meet its planned capital spend.

Counterparty – the other party that participates when a loan or investment is placed.

CPI – Consumer Price Index – the Government's preferred measure of inflation, based on a set basket of goods and services. It excludes housing costs such as mortgage interest payments and council tax.

Credit arrangement – any quasi-loan, to ensure the legislation and Code pick up any unusual arrangements to provide funding other than from a straightforward loan

Credit default swap - A swap designed to transfer the credit exposure of fixed income products between parties. A credit default swap is also referred to as a credit derivative contract, where the purchaser of the swap makes payments up until the maturity date of a contract. Payments are made to the seller of the swap. In return, the seller agrees to pay off a third party debt if this party defaults on the loan. A CDS is considered insurance against non-payment. A buyer of a CDS might be speculating on the possibility that the third party will indeed default.

Credit limit – the maximum amount that can be lent to an individual organisation or group of organisations.

Credit rating – provided by one of the three credit rating agencies, an assessment of how likely the organisation is to repay any monies lent to it.

Creditworthiness - An assessment of the likelihood that a borrower will default on their debt obligations. It is based upon factors, such as their history of repayment and their credit score. Lending institutions also consider the availability of assets and extent of liabilities to determine the probability of default.

Debt cap (HRA) – the limit on the amount that can be borrowed by the HRA, set by central government.

Earmarked reserves – reserves that have been set aside for a specified purpose.

GDP – Gross Domestic Product – measures the output from the economy, if it rises then the economy is growing, if it falls the economy is in recession.

iTraxx - A group of international credit derivative indexes that are monitored by the International Index Company (IIC). The credit derivatives market that iTraxx provides allows parties to transfer the risk and return of underlying assets from one party to another without actually transferring the assets. iTraxx indexes cover credit derivatives markets in Europe, Asia and Australia.

Illiquid investment – An investment that cannot easily be sold or exchanged for cash without a substantial loss in value.

Non-specified investment – as defined in Annex 2.

Prudential indicators – a series of calculated figures specified in the CIPFA Prudential Code which are used to assess how affordable and realistic the Council's spending and financing plans are.

PWLB – Public Works Loans Board – central government lending to other public sector bodies, specifically local government.

PWLB Certainty Rate – The PWLB sets various rates for borrowing. From 1 November 2012 the Government reduced the interest rates on loans from PWLB to Councils who provide information as required on their planned long-term borrowing and capital spending by 0.20%. This reduced rate is called the Certainty Rate.

Replacement borrowing – borrowing taken out to replace other borrowing or other forms of credit that have been repaid.

RPI – Retail Price Index – another inflation index, this one includes the cost of housing.

Specified investments – as defined in Annex 2.

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Proposed Prudential Indicators 2022/23 revised, 2023/24 and forecasts for 2024/25 to 2025/26

Indicators for Prudence

CAPITAL EXPENDITURE

This is an estimate of the amount of investment planned over the period. As can be seen, not all investment necessarily has an impact on the Council Tax, schemes funded by grants, capital receipts or external contributions mean that the effect on the Council Tax is greatly reduced.

Capital Expenditure - General Fund	2021/22	2022/23	2023/24	2024/25	2025/26
£000s	Actual	Revised	Estimate	Forecast	Forecast
Total Capital Expenditure	4,308	16,787	827	827	827
Financing - General Fund					
External contributions	(141)	(711)	-	-	-
Section 106	(1)	(253)	-	-	-
Coast protection grant	(451)	-	-	-	-
Other Government grants	(13)	(872)	-	-	-
Disabled Facilities Grant	(666)	(9,211)	(757)	(757)	(757)
Capital receipts	-	(1,000)	-	-	-
Direct revenue contributions	(222)	(863)	(70)	(70)	(70)
Earmarked reserves	(2,814)	(3,877)	-	-	-
Total Capital Financing	(4,308)	(16,787)	(827)	(827)	(827)
Net Financing need (External Borrowing)	0	0	0	0	0

Housing Revenue Account Capital Schemes	2021/22	2022/23	2023/24	2024/25	2025/26
£000	Actual	Revised	Estimate	Forecast	Forecast
Total Capital Expenditure	4,317	10,389	7,978	3,928	3,928
Financing - Housing Revenue Account					
Major repairs reserve	(3,089)	(3,978)	(3,314)	(3,314)	(3,314)
Direct revenue contributions	(187)	(2,235)	(614)	(614)	(614)
Section 106	(774)	(333)	-	-	-
Capital receipts	(68)	(65)	(4,050)	-	-
External contributions	(199)	(3,778)	-	-	-
Total Capital Financing	(4,317)	(10,389)	(7,978)	(3,928)	(3,928)
Net Financing need (External Borrowing)	0	0	0	0	0

CAPITAL FINANCING REQUIREMENT

Each year, the Council finances the capital programme by a number of means, one of which could be borrowing. The Capital Financing Requirement (CFR) represents the cumulative amount of borrowing that has been incurred to pay for the Council's capital assets, less amounts that have been set aside for the repayment of debt over the years. The Council is only allowed to borrow long term to support its capital programme. It is not allowed to borrow long term to support its revenue budget.

CAPITAL FINANCING REQUIREMENT	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	£000	£000	£000	£000	£000
General Fund	5,021	4,820	4,627	4,442	4,264
Housing Revenue Account	36,777	35,363	33,949	32,501	31,003
Total	41,798	40,183	38,576	36,943	35,267

GROSS DEBT AND THE CAPITAL FINANCING REQUIREMENT

This indicator compares the Capital Financing Requirement to the level of external debt and shows how much of the capital programme is financed from internal resources. The capital programme is partially funded in the short to medium term by internal resources when investment interest rates are significantly lower than long term borrowing rates. Net interest payments are, therefore, optimised.

PRUDENTIAL INDICATOR	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	£000	£000	£000	£000	£000
Capital Financing Requirement	41,798	40,183	38,576	36,943	35,267
External debt	36,921	34,699	33,277	30,654	28,232
Internal borrowing	4,877	5,484	5,299	6,289	7,035

OPERATIONAL BOUNDARY AND AUTHORISED LIMIT

The Council must set an operational boundary and authorised limit for external debt. The operational boundary is based on the Council's estimate of most likely, i.e. prudent, but not worst case scenario for external debt. It reflects the decision on the amount of debt needed for the Capital Programme for the relevant year. It also takes account of other long term liabilities, which comprise finance leases, Private Finance Initiative and other liabilities that are not borrowing but form part of the Council's debt. The Council has none of these at present.

The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. The authorised limit provides headroom over and above the operational boundary for unusual cash movements.

PRUDENTIAL INDICATOR	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	£000	£000	£000	£000	£000
Operational boundary - borrowing	67,180	67,723	65,584	66,575	67,320
Authorised limit - borrowing	75,820	76,333	75,609	75,546	76,458

Indicators for Affordability**RATIO OF FINANCING COSTS TO NET REVENUE STREAM**

This is an indicator of affordability and highlights the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs. *Investment income is no longer deductible from cost from 2022/23 revised onwards*

ESTIMATE OF THE RATIO OF FINANCING COSTS TO NET REVENUE	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	%	%	%	%	%
General Fund	1.63	1.65	1.41	1.35	1.30
Housing Revenue Account	40.13	45.65	42.95	41.83	40.48

RATIO OF COMMERCIAL AND SERVICE INVESTMENTS TO NET REVENUE STREAM

This is a new indicator from 2023/24 and highlights how much of the Council's net revenue spend is financed by income from commercial and service investments. The Council has one commercial investment and no service investments

ESTIMATE OF THE RATIO OF COMMERCIAL INVESTMENTS TO NET REVENUE	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	%	%	%	%	%
General Fund	n/a	-1.78	-1.60	-1.63	-1.66

INTEREST RATE EXPOSURE

Tendring District Council currently has all its borrowings at fixed rate and usually has a mixture of fixed and variable rate investments. This indicator is set to control the Council's exposure to interest rate risk.

PRUDENTIAL INDICATOR	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	£000	£000	£000	£000	£000
Upper limit for Fixed Interest Rates on debt	41,798	40,183	38,576	36,943	35,267
Upper limit for Variable Interest Rates on debt (based on 30% of the fixed rate limit)	12,539	12,055	11,573	11,083	10,580

TOTAL PRINCIPAL SUMS INVESTED FOR PERIODS LONGER THAN 364 DAYS (excluding property)

Interest rate risk is also affected by the proportion of the investments invested at fixed rates for longer periods, especially in a period when rates are expected to rise.

PRUDENTIAL INDICATOR	2021/22	2022/23	2023/24	2024/25	2025/26
	Actual	Revised	Estimate	Forecast	Forecast
	£000	£000	£000	£000	£000
Limits on the total principal sum invested to final maturities longer than 364 days	3,500	3,500	3,500	3,500	3,500

MATURITY STRUCTURE OF FIXED RATE BORROWING

This indicator is set to control the Council's exposure to refinancing risk. The limits are set for each age range to ensure that the Council avoids too many fixed rate loans being matured at one time and spreads the maturity across several periods. The percentages for the upper and lower limits do not add up to 100% as they do not represent an actual allocation.

PRUDENTIAL INDICATOR	Upper limit	Lower limit	Estimated outstanding debt maturity % at			
	%	%	31/03/2023	31/03/2024	31/03/2025	31/03/2026
Under 12 months	25	0	4.10%	7.88%	7.90%	7.90%
12 months and within 24 months	30	0	7.56%	7.28%	7.90%	3.55%
24 months and within 5 years	60	0	17.10%	13.83%	10.67%	10.67%
5 years and within 10 years	75	0	14.60%	14.07%	14.02%	12.77%
10 years and above	95	25				
10-20 years			13.41%	11.86%	10.58%	8.27%
20-30 years			25.94%	33.06%	42.41%	48.93%
>30 years			17.29%	12.02%	6.52%	0.00%

TREASURY INDICATOR - EXPOSURE TO CREDIT RISK

The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average score of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) using the rating applicable when it is taken out and taking the arithmetic average, weighted by the size of each investment. Investments in government instruments such as DMO, treasury bills and in local authorities are scored as 1.

TREASURY INDICATOR	2021/22 Actual	2022/23 to 31/12	2023/24 Upper limit
Average credit score for investments	1.18	1.19	2.00

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SPECIFIED AND NON-SPECIFIED INVESTMENTS

This schedule sets out the specified and Non-Specified investments the Council may use in 2023/24.

Investments may be in the form of direct deposits, Certificates of Deposits (CDs), property (including property funds) or the purchase of financial instruments such as Treasury Bills, Bonds and Gilts.

SPECIFIED INVESTMENTS:

An investment is a Specified Investment if all of the following apply

1. The investment is denominated in sterling and any payments or repayments in respect of the investment are payable only in sterling
2. The investment is not a long-term investment which is one that is due to be repaid within 12 months of the date on which the investment is made or one which the local authority may require to be repaid within that period.
3. The investment is not defined as capital expenditure by regulations
4. The investment is made with a body or in an investment scheme of high credit quality or the investment is made with the following public sector bodies.
 - a. UK Government
 - b. Local authority
 - c. Parish council or community council

Where an investment is being made with a UK nationalised or part nationalised bank this will be treated for the purposes of classification as a Specified or Non-specified investment as being invested with the UK Government.

High credit quality

For a counterparty to meet the high credit quality criteria for specified investments, that counterparty must meet as a minimum the ratings of the three credit rating agencies listed below, and not be the subject of any adverse indications from the following sources.

- Credit Default Swap index
- The quality financial press
- Market data
- Information on government support for banks and
- The credit ratings of that government support

Ratings	Fitch	Moody's	Standard & Poors
Short term	F1	P-1	A-1
Long term	A-	A3	A

NON SPECIFIED INVESTMENTS

A maximum of £3.5m may be held, in aggregate, in Non-Specified Investments

The only non-Specified investments that the Council will use in 2023/24 are investments for periods of longer than 12 months with any institution or investment instrument that would have been classed as a Specified Investment if the investment had been for less than 12 months or property. The Council currently holds an investment property in Clacton. The historic cost of this property (including stamp duty) is £3.245 million, but *this was revalued at 31 March 2022 at £2.108 million by the Council's external valuer and has now been revalued at 30 September 2022 at £2.364 million.* The purchase of the property was financed from revenue resources.

CABINET

17 FEBRUARY 2022

REPORT OF THE LEISURE AND TOURISM PORTFOLIO HOLDER

A.10 TENDRING BEACH HUT STRATEGY REVISITED – FOLLOWING CONSULTATION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present a draft Beach Hut Strategy Review following stakeholder consultation for Cabinet approval and agree implementation of the subsequent work strands.

EXECUTIVE SUMMARY

- The Council adopted the current Beach Hut Strategy in 2013, to provide a consistent approach to the management of this service in subsequent years. This revision of the existing strategy (Appendix A) is to update a number of issues relating to beach huts, to ensure beach hut conditions are adhered to and appropriate resources are considered to monitor the service.
- Following a 'pre consultation' process which engaged 2,673 stakeholders, Cabinet considered a draft revised Beach Hut Strategy in November 2022 and instructed Officers to carry out a further consultation exercise, to allow stakeholder comments on the proposals. Consideration would then be given to the responses, prior to a final draft strategy being prepared for Cabinet consideration in February 2023. Where appropriate, resident's views have been separated to provide a clearer understanding local views, against those from outside the area.
- The proposals set out in the draft strategy are aimed at improving the beach hut service going forward, in terms of improvements to seafront aesthetics, ensuring a regulated service for rentals and improved governance. The key strands which were subject to consultation were as follows:
 - o Implementing Commercial Agreements for those wishing to rent
 - o Limiting Beach Hut Agreements to one per household
 - o A review of the Beach Hut design specification
 - o Addressing Beach Hut Adaptations
 - o Resourcing additional enforcement
 - o A move towards a digitalised service
 - o Building new beach huts
 - o A move from licence agreements to leases
- The consultation was completed by 1507 stakeholders and their views and comments have been taken into consideration in the production of this final draft.

- The outcome of the consultation is set out both Part 2 of this report and the appropriate appendices. Key points for Cabinet consideration however are as follows:

- o The majority of consultees either strongly disagreed or disagreed with the proposal to implement commercial agreements for those wishing to rent. Following an evaluation of the comments received, the key responses can be divided into two sections.

- i. *Those who were concerned about the number of users renting huts were excessive and led to disturbance*

- ii. *Those who felt they should be able to rent under the existing agreements*

Consideration of the points raised in the consultation is set out in Part 2 of this report, but it is recommended to continue with this aspect of the strategy for the reasons set out in Part 2.

- o The majority of consultees either strongly disagreed or disagreed with the proposal to limit beach hut agreements to one per household. It should be stated however, that of Tendring residents completing the consultation, a majority were actually in favour of this action.

Consideration of the points raised in the consultation is set out in Part 2 of this report, but it is recommended to continue with this aspect of the strategy for the reasons set out in Part 2.

- o The majority of consultees either strongly disagreed or disagreed with the proposal to move from licences to leases. After evaluating the comments received, it is clear that a large proportion of the consultees and their respective Beach Hut Associations, felt they could not agree to this proposal, without knowledge of the price increase and what the proposed agreements would entail. The Cabinet report accompanying the draft strategy in November, was clear that the fees would increase, but this would be determined by an independent evaluation if Cabinet agreed to the principal of this proposal.

Despite the opposition set out in the consultation, the recommendation remains to move from licence agreements to leases from April 2024. A further understanding of fees and charges are covered in Part 2 of the report, for Cabinet to consider the context and how any increase may impact Beach Hut users. Leases will both offer additional security of tenure to Beach Hut users and the additional costs are considered worth the additional benefits. This improved agreement will protect Beach Hut owners' investments when they are currently changing hands for highly significant values. Whereas licence agreements are personal and not transferrable, and can be altered or revoked providing just 28 days' notice. Leases will also further improve legal arrangements and provide a clearer agreement between the Council and Beach Hut users, recognising the intentions of the parties. It is recommended that the decision to agree the final

terms of the lease and the respective charges are delegated to the Portfolio Holder for Leisure and Tourism (in line with the Property Dealing Procedure). As a result, this decision will be an Executive Decision published and subject to call-in on specific grounds.

- With regards to the other proposals, the majority of stakeholders either strongly agreed or agreed with the Council's position.
- The November 2022 Cabinet Report set out that 'Officers and the Portfolio Holder will consider responses to the consultation and a final draft strategy will then be brought back to Cabinet in February 2023 for final adoption'. Having taken into account the outcome of the second round of consultation responses, Cabinet should note there are proposed changes listed in part 2 of this report, which have been made to the draft strategy since they last considered the original draft in November 2022.
- A report scrutinising the Council's emerging Beach Hut Strategy Review has also been prepared on behalf of a Task and Finish Group, set up by the Resources and Services Overview and Scrutiny Committee. Consideration of their recommendations and the Portfolio Holder's responses are set out below in that report, for Cabinet to take into account when deliberating on the approval of the updated draft strategy.
- Should Cabinet approve the strategy and accompanying recommendations the milestones set out in Part 2 of this report will be followed.

RECOMMENDATION(S)

That Cabinet:

- (a) notes and takes into consideration the outcome of the public consultation undertaken on the draft Beach Hut Strategy, as set out in the Portfolio Holder's report;**
- (b) notes and takes into consideration the outcome of the Task and Finish Review Working Group undertaken on behalf of the Resources and Services Overview and Scrutiny Committee and their recommendations received as considered earlier in the meeting;**
- (c) in relation to (a) and (b) above, notes the changes made to the draft strategy as a result of the consultation exercise, including the process for issuing commercial beach hut leases (following the first round of consultation) and the consideration of a 'buffer period' in restricting future agreements to one per household (both set out in part 2 of this report);**
- (d) notes the proposed changes to the revised draft Beach Hut Strategy, and approves the same for adoption;**

- (e) delegates the approval of a revised Beach Hut design specification to the Assistant Director (Building & Public Realm), in consultation with the Portfolio Holder for Leisure and Tourism;
- (f) agrees the Heads of Terms for a new commercial lease (Appendix C) and delegates authorisation for the final lease agreement to the Corporate Director (Operations & Delivery), in consultation with the Portfolio Holder for Leisure and Tourism and the Head of Legal Services;
- (g) delegates agreement of an approved criteria on which applications for commercial licences can be made on to the Assistant Director (Building & Public Realm), in consultation with the Portfolio Holder for Leisure and Tourism;
- (h) agrees to set fees and charges for commercial leases at twice the value (double) of the comparative standard annual charge;
- (i) agrees to the overall principle of changing from licence agreements to leases from 1 April 2024, for a term of less than 7 years and based on the market valuation for the relevant location, recognising the increased administration and costs to all parties on leases for longer than 7 years with the respective fees and charges and detailed lease terms to be agreed by the Portfolio Holder for Leisure and Tourism; and
- (j) agrees that operational implementation of (i) above will be authorised by the Corporate Director (Operations and Delivery), in consultation with the Portfolio Holder for Leisure and Tourism and the Head of Legal Services, reflecting the resources required.

REASON(S) FOR THE RECOMMENDATION(S)

- The recommendations are made for Cabinet to adopt the Beach Hut Strategy and instruct Officers to implement the actions and principals included, with reasons set out through the report.

ALTERNATIVE OPTIONS CONSIDERED

- The option to not review the existing strategy was considered, but this was not considered viable as it is good practice to review strategic documents with wide ranging impacts. Alternative options for future agreements were also considered, which is summarised in Part 2 of the report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

This Beach Hut Strategy review contributes to the following priorities set out in the Council's Corporate Plan:

This review would support the Council's commitment to a 'growing and inclusive economy' and in particular to:

- Promote Tendring's tourism, cultural and heritage offers
- Maximise our coastal and seafront opportunities
- Support the Corporate Plan Theme of Strong Finances and Governance priority, to use assets to support priorities

The strategy would also contribute towards:

- '24 hour a day digital services', through the potential to add a new digital platform for Beach Hut customers
- 'Public spaces to be proud of' seeking to improve the aesthetics of Beach Huts and their contribution to the District's seafront offer
- Becoming 'Carbon neutral by 2030', through considering new sustainable products through a review of the Beach Hut Specification;

OUTCOME OF CONSULTATION AND ENGAGEMENT

A 'pre consultation exercise was carried out in summer 2022 for a period of six weeks and was completed by 2,673 people. A breakdown of the responses was summarised in the Cabinet Report titled 'Tendring Beach Hut Strategy – revisited', dated 4 November 2022. The draft presented to Cabinet at that time was informed by the outcome,

Following Cabinet considering the report reference above, a further consultation exercise was undertaken over a 6 week period, which ended on 8 January 2023. This was completed by 1,507 people, with 802 being residents (including local businesses) and 705 non-residents. A letter was sent to all Beach Hut licence holders to inform them of the consultation and how they could access the questionnaire. This was predominantly an online process, but provision was made for those who wished to complete the questionnaire in a paper format.

Further consultation with the various Beach Hut Associations was also carried out and an additional meeting took place following the November Cabinet Meeting. The minutes of that meeting have been included in the appendices to this report. All the points raised have been considered in the completion of this review and has informed the decision making in the Strategy. Further information has also been provided to Cabinet to inform a view on the principals of some of the changes proposed, where that is not currently available.

As with the 'pre consultation', it would be fair to say that there were strong views on both sides in relation to renting beach huts and adaptations.

Overview of Consultation

- *A total of 1507 people completed the questionnaire;*
- *802 of the consultees (53.2%) live outside of the District and 49.5% of those non Tendring residents do not hold a Beach Hut licence;*
- *The remaining 46.8% are Tendring residents and local businesses;*
- *59.1% of consultees hold Beach Hut licences (891 in total).*
- *40.9 % of consultees do not hold Beach Hut licences.*

A letter was sent to all licence holders informing them of the consultation process and how to complete a questionnaire. The opportunity to complete a paper copy was offered, if stakeholders were not able to access the online form.

On each of the points consulted on, the majority of consultees agreed with the Council's position, with the exception of four questions, which are addressed below.

Commercial Agreements

The proposal to issue commercial agreements to those wishing to rent out their huts to visitors, is in place to ensure this market is regulated, an equitable process is implemented to manage rental huts and that the Council receive best value for what is a commercial enterprise. Whilst sharing the use of a beach hut amongst family and friends was considered an entirely reasonable way of maximising the pleasure and enjoyment of beach hut ownership, commercial letting was never ever intended.

61.4% of consultees either disagreed or strongly disagreed with the proposal to issue commercial agreements and 25.1% either strongly agreed or agreed with this proposal. Of the Tendring residents completing the questionnaire 53.8% either strongly disagreed or disagreed with the Council's proposal, with 30.1% who either strongly agreed or agreed.

As with the pre consultation, it is recognised that a majority of stakeholders disagreed with the Council's position on Commercial Licences

Having reviewed the comments received by those completing the questionnaires, there were differing reasons provided by those not in favour of this proposal. A number of responders were concerned about excessive number of visitors using rented huts and resulting in disturbance to neighbours. Whereas others did not see the need for change and considered that hut owners should be able to rent their huts within the framework of the existing agreement and no additional charge.

If no change is applied to the status quo, huts may continue to be rented under the current agreement, which would not be appropriate and not in accordance with the current terms and conditions. As such, it should be noted that if a decision is taken to not introduce commercial agreements, additional resources to monitor such activity would need to be considered. As such, it is proposed to continue with opening an application process for commercial agreements to those wishing to rent out Beach Huts. Taking into account comments received during the consultation however, it is proposed to limit the number of visitors able to use rented huts in the lease agreement.

If this proposal is accepted, then rentals would only be permitted for those Beach Hut owners who successfully apply for a commercial lease. The process for inviting expressions of interest for those wishing to apply, would commence following Cabinet consideration and would be implemented

The original recommendation was for this process to be subject to an open tender process. Following the pre consultation and the comments received, it was proposed that commercial licences are issued via an application process, based on an evaluation criteria. It is important and appropriate to regulate the market for rentals and as such, it is proposed to move forward with commercial licences and that they are issued to those requesting them based on a criteria. This will cover key criteria such as accessibility and safety of huts, to ensure Commercial Lease holders are able to provide a high quality service and any agreement will consider the key points set out in the Council's Tourism Strategy. With the suggestion of a move from licences to leases, it is proposed that any new commercial agreements being issued would be through a lease. This would be in advance of the wider roll out in April 2024 and would be implemented

following Cabinet's adoption of the final strategy. The criteria would be arranged and agreed with the Portfolio Holder for Leisure and Tourism.

Together with the implementation of a commercial lease, it is recommended that a clause is included in the current licence agreement for 2023/24 to expressly prevent renting of beach huts for more than 10 days per year.

It should be noted that 115 stakeholders who completed a questionnaire expressed an interest in applying for a commercial agreement, in order to rent their beach hut.

Limiting Beach Hut Agreements to One Per Household

The reason for this proposal is to ensure Beach Huts are available to as many local residents as possible. Limiting agreements to one per household will prevent huts being purchased specifically for the purpose of renting.

48.9% of consultees either strongly disagreed or disagreed with this proposal and 38.1% of consultees either strongly agreed or agreed. Of the Tendring residents completing the questionnaire, 45.1% either strongly agreed with this proposal and 40.9% either strongly disagreed or disagreed.

In the consultation meeting with Beach Hut Associations, a request was made for a 'buffer' period to be considered on this point. This would allow any Beach Hut owner to purchase a new hut, with sufficient time being allowed for the original hut to be sold. This was considered to be a reasonable request and is within the spirit of what the Council is trying to achieve. Officers will consider if and how this could be included within the emerging lease agreements.

Addressing Beach Hut Adaptations

This proposal will ensure that any adaptations which do not conform to the revised specification (once complete) are removed in a timely fashion. Over the years, it has also become apparent that some Beach Huts breach the current specifications due to adaptations that have taken place, and that some extend beyond the stated plot dimensions, i.e. the addition of patios / balconies / decking areas, etc. It is proposed through this strategy (and following the completion of a revised specification) to work with those who have adapted their huts with large verandas, decking areas and balconies which fall outside of the new specification and agreement, to have them removed.

50% of consultees either strongly disagreed or disagreed with this proposal and 36.7% of consultees either strongly agreed or agreed. Of the Tendring residents completing the questionnaire, 45.2% either strongly disagreed or disagreed with this proposal and 40.7% either strongly agreed or agreed.

Following consideration of the comments on this matter, some stakeholders were concerned that adaptations they have either installed, or were already installed when they purchased their hut, would now need to be removed. Other stakeholders asked the Council to consider the implications of different parts of the coastline on this matter, e.g. cliff slopes at Walton on the Naze.

It is proposed to move forward with this proposal, due to the impact some of the adaptations have on the infrastructure and for safety reasons, but to ensure that stakeholder comments are

considered throughout the revising of the design specification. Once complete, consideration can also be given to ensuring a reasonable time period is agreed for those impacted.

A Move from Licence Agreements to Leases

69.1% of consultees either strongly disagreed or disagreed with this proposal and 15.7% of consultees either strongly agreed or agreed. Of the Tendring residents completing the questionnaire, 66% either strongly disagreed with this proposal or disagreed and 18.4% either strongly agreed or agreed. The District Wide Beach Hut Association representatives also expressed their opposition to this move, without further details of cost and terms and conditions being supplied.

It was made clear in both the draft strategy and the subsequent consultation process that annual charges for a lease would be higher than the equivalent for a licence. Having reviewed the comments, consultees expressed concern about increased charges and that they could be unaffordable.

Lease charges

The determination of associated charges for lease agreements would be based on an independent valuation and importantly, this would take place closer to implementation to determine the true value at that time. For Cabinet to be able to consider this matter appropriately, an example valuation for the respective lowest and highest lease cost (based on the current licence fees) has been established. This is set out in the Finance Section, to ensure due consideration can be made. Further to this, setting fees and charges are delegated to the appropriate Assistant Director in consultation with the Portfolio Holder for Leisure and Tourism. As set out in the recommendations however, the Portfolio Holder will be delegated to sign off the final fees and charges and details for the mainstream leases,

Lease terms

In addition, as Cabinet are being asked to take a decision on the principal of moving to leases and not the terms of a draft lease, consultees expressed concern over what the agreement would include. Frequent comments included, but were not limited to:

- What would happen when the lease expires?
- Would leases be able to be reassigned and as such, allow those with huts to sell?

The move towards leases would not prevent those with agreements being able to sell their Beach Hut and assign the remainder of the lease term to a private buyer, as long as their beach hut was fully compliant. The lease, is a legal interest and would be assignable to a new owner, so long as any pre-requisite conditions were met. The Lessee would need to apply to the Council for consent to assure this was compliant. This legally places the Beach Huts owners in a much more secure position, the current licences are only a personal right to use the site and are not transferrable.

The lease would expire at the end of the term however, beforehand there would subsequently be a decision regarding renewal. It should be pointed out however that this provides greater protection to security of tenure, because in principal the current licence agreements, can be terminated upon giving notice, at any time. . It will be the Council's responsibility to contact tenants six months prior to the expiry of their leases, to inform the tenants if the Council wishes to terminate their lease or grant them a new agreement. If tenants wish to enter new leases and

the Council agrees, then negotiations for new leases can commence. It is however, fairly standard practice to renew leases on similar terms, save for the rental to be agreed.

Further to the above and following the pre consultation exercise, Officers considered how the revised specification could be embedded into Beach Hut Agreements. As such, it was proposed that licences are phased out over the next year and are replaced by leases from 1 April 2024. This will include obligations for beach hut design, as set out in the revised specification.

Lease benefits

Leases will provide those with beach huts on Council land with additional security, which they do not currently have with a licence agreement. As beach huts are changing hands for very significant sums of money, lease agreements would provide protection to those making sizeable investments. Despite huts being sold for tens of thousands of pounds, licences are only a personal right and have no transferable value. It is considered that leases will help to protect the substantial investment that beach hut owners have made in purchasing the hut by increasing their security of tenure, which is not currently available through licence agreements. Further details are provided in the legal section of this report.

Leases would also provide improved legal agreements recognising the intentions between the Council and Beach Hut users. Embedding the design specification into the agreement would also support addressing the challenges with this matter which have been in existence for decades.

Independent advice received on indicative future lease charges are included in the Finance Section. This information will provide Cabinet with assurance that annual lease payments will not rise above the market rate.

Further Consultation

On a general point, stakeholders expressed the view that there are currently insufficient resources to monitor and enforce against current infringements. This would in principal be addressed by the future business plan for Beach Huts and subject to agreement would provide additional resourcing.

A Task and Finish Group from the Resources and Services Overview and Scrutiny Committee was initiated in relation to the Council's Emerging Beach Hut Strategy Review, which has met with Officers, Beach Hut Associations and the Portfolio Holder for Leisure and Tourism. They have also met with a group of Beach Hut licence holders who have been renting their huts out to visitors. A separate report has been produced (see Report A.5 earlier in the Agenda) on behalf of the Task and Finish Group, for the Resources and Services Overview & Scrutiny Committee. The Portfolio Holder for Leisure and Tourism thanks the Task & Finish Group and the Committee for their work on this strategy review and has considered their recommendations. His responses are set out below:

- a) The Committee recommends that future charges for lease agreements are set at a fair and reasonable level. This is relevant for both commercial and mainstream leases. This should also be appropriate for any new Beach Huts made available for purchase or lease in the future.

Portfolio Holder Response:

An independent valuation of prospective lease charges was commissioned, to ensure Cabinet could fully consider the recommendation for the change in Beach Hut agreements. Although this is only an indicative cost at this stage (the valuation will be considered closer to implementation), it is hoped this provides reassurance that future charges would be set at a fair and reasonable level. Furthermore, the Committee should be reassured that agreement of a future non-commercial lease and related charges would be agreed by the Portfolio Holder through an Executive Decision. This will be subject to the Council's Call in Procedure rules.

The setting of charges and respective heads of terms for a Commercial Lease are being agreed through this report. Research from other Local Authorities demonstrates that the doubling of appropriate charges for commercial agreements is fair and appropriate.

- b) It is recommended that terms and conditions included in lease agreements are fair and equitable and in consultation with Beach Hut owners.

Portfolio Holder Response:

The committee are directed to the response provided for the recommendation above.

- c) The Committee recommends that appropriate resources are put in place for administration involved in implementing the strategy. They asked for consideration be given to the subsequent cost to the Council of processing leases and that subsequent costs are reported back to this Committee.

Portfolio Holder Response:

The Committee should note that there are no financial commitments to the Council, as a result of this report. Any future additional resources will be subject to a separate report and decision. As such, they will be subject to due process, which can be reported back to the Resources and Services Overview and Scrutiny Committee.

- d) The Committee recommends that bright colours and vibrant designs be included in the revised design specification for Beach Huts, when this is produced following adoption.

Portfolio Holder Response:

The Committee should note that one of the key strands of the strategy, is to revise the current specification. It should also be noted that bright colours are referred to in the draft strategy, as below:

'The proposed revised and improved specification will provide the framework for improved aesthetics of Beach Huts. This will also ensure huts are more vibrant and visually impactful, through a move towards brighter and starker colours.'

As such, the Portfolio Holder is in agreement with this positive move to improve seafront aesthetics.

- e) The Committee recommends that there is acknowledgement of the differences in seafront locations along the Tendring District and their respective unique features, such as cliff slopes and how they impact Beach Hut design for the emerging specification review.

Portfolio Holder Response:

The points raised by the Committee are noted and will be considered in producing the revised design specification.

- f) Noting the point above, it is recommended that certain limited Beach Hut adaptations in parts of the District were included in the future specification for reasons of access, e.g. appropriate access steps on cliff slopes. This should be considered on a location-by-location basis.

Portfolio Holder Response:

The points raised by the Committee are noted and will be considered in producing the revised design specification.

- g) It is recommended that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council.

Portfolio Holder Response:

The points raised by the Committee are noted and if approved by Cabinet, a map defining the land owned by the Council will be produced for publishing on the website.

- h) It is recommended that no Beach Hut designs should be permitted that are contrary to current or legislation.

Portfolio Holder Response:

The points raised by the Committee are noted and any statutory requirements will be addressed in production of the Beach Hut agreements.

- i) To ensure high standards were maintained on Beach Huts and their use, it is recommended that adequate resources should be in place for appropriate enforcement action.

Portfolio Holder Response:

As referred to in a previous response, there are no additional financial commitments to this strategy and as such, no additional resources are funded through this report. The Committee's point is noted and as referred to in this report, any future proposed

resources would be funded through a standalone business case under a separate decision.

- j) The Committee recommends that a reasonable timescale for adaptations to be removed which fall outside of the revised specification, is agreed. The timescale recommended is a period up to two years.

Portfolio Holder Response:

Once the revised design specification is complete, the Council will work with Beach Hut owners to ensure timely removal of any unauthorised adaptations. The timescales involved will be proportionate to the type of adaptation involved, the degree of complexity and any appropriate additional circumstances. The period of ‘up to two years’ recommended by the Committee is noted, but each situation will be based on a case by case basis.

- k) The Committee recommends that the Council continues to support those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient resources should remain in place.

Portfolio Holder Response:

The points raised by the Committee are noted and appropriate resources will remain in place to support those customers without access to digital platforms.

Finally, the Committee’s comment that the ‘New Beach Hut Strategy returns to the Resources and Services Overview and Scrutiny Committee for review in 12 months’ time’ are noted.

Note: Where appropriate, the above responses have been incorporated in the draft strategy and this covering report.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	X Significant effect on two or more wards Involves £100,000 expenditure/income Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	14 September 2022

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

Option for Beach Hut Agreements

The proposal in this report is to move away from Licence Agreements to Leases from 1 April 2024. Cabinet have the option however to maintain the status quo and continue to operate Beach Hut agreements through licences. A licence only grants a personal right to use and occupy the site and place the hut in accordance with certain conditions (see current clause 2), it is not transferrable. Some Beach Huts are being sold on the impression that the licence will be transferred to the new owner and this is not the case. An application has to be made for a new Licence and the Council has the right to refuse, especially if the Hut is not compliant with the conditions of the former licence but in particular, (see current clause 4.11) the Council has a waiting list for our Beach Hut sites. Licences offer less protection and permits the Council to make changes to terms and conditions, with minimum notice and providing notice to end agreements with 28 days' notice (see current clause 4.4.2).

A lease is a legal interest and grant of a right to the exclusive possession of land for a determinable period of time. It is important for both parties to understand the type of agreement into which they are entering. With Beach Huts changing hands for very significant values, the lease agreements would provide protection to those making sizeable investments. Despite huts being sold for tens of thousands of pounds, licences have no transferable value.

Furthermore, if licences were operated to their terms and conditions, there is no obligation on the Council to provide new licence agreements to any prospective new owner (see current clause 4.11). As such, any 'vacant' licence (following a hut sale) could be offered to those on a waiting list, held by the Council. This would be a significant risk to Beach Hut users, where as a lease would provide increased security of tenure and allow them to assign the benefit of their lease to a new owner. If a decision is taken to continue with Licence Agreements, it is important that the lack of security this provides is clearly highlighted to potential hut owners when considering a purchase.

Ultimately, it is important to ensure the correct legal status is given to the occupation of the Beach Hut sites and in accordance with the intentions of the parties.

The Land Registration Act 2002, together with the Land Registration Rules 2003, sets the categories of leases that are either compulsorily or voluntarily registrable. Section 27(2)(b)(i) of the Land Registration Act 2002 requires leases granted out of existing registered titles, that are for a term of more than seven years from the date of the grant are compulsorily registrable at the Land Registry.

These applications must be lodged in form AP1 – rule 13 of the Land Registration Rules 2003. A certified copy of the lease and the appropriate fee under the current Land Registration Fee Order must accompany the application (see [HM Land Registry: Registration Services fees](#)). The lease, if granted on or after 19 June 2006, must be a prescribed clauses lease. Further information, can be provided at the necessary time but is available on the Gov.uk website [practice guide 64: prescribed clauses leases](#). The lease must be accompanied by evidence that Stamp Duty Land Tax requirements have been met.

The Heads of Terms for the proposed Commercial Licence is appended to this report.

Further decisions would be required to implement some elements of the recommendations, if so approved and would be published, and for Cabinet and Portfolio Holder decisions, these are subject to the Call-in Procedure, as would Officers making Key Decisions.

The Council's Property Dealing Procedure, set out in Part 5 of the Constitution and determines the appropriate valuation for the type of property occupation, for Licences and Tenancies at Will, an internal Officer valuation is required and for retained Leases, interests and freeholds up to £300,000, one full external professional valuation to be obtained.

Consideration will be given in producing lease agreements, to charitable organisations allowing use of huts for non-commercial purposes. This will be considered on a case by case basis.

X The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

The Monitoring Officer has been involved on the contents of the report and the ongoing review of the Emerging Beach Hut Strategy and legal advice has been taken into account throughout.

The consultation undertaken throughout the draft strategy process, has fully complied with the legal requirements for a proper consultation exercise to be carried out, as set down in case law, known as the 'Sedley Requirements', which can be summarised as follows:

- Consultation must be made at a time when proposals are at a formative stage.
- Sufficient reasons for the proposal must be given to allow intelligent consideration and response.
- Adequate time must be given for a response.
- The product of the consultation must be conscientiously taken into account in finalising proposals.

FINANCE AND OTHER RESOURCE IMPLICATIONS

It should be noted that this strategy does not commit the Council to any additional expenditure. Any option for building additional Beach Huts for sale or lease (to fund additional resources or improvements), will be brought forward as a standalone business plan in its own right for decision.

There are currently no additional resources for monitoring of conditions, but this will be addressed and proposed through a future proposal.

A formal proposal and business plan for a Beach Hut development programme will be submitted for decision following adoption of the strategy. A further report will subsequently be brought back for Cabinet consideration on this matter.

If Cabinet choose to move towards replacing licence agreements with leases, this will include an increase in annual charges, to reflect the greater security of tenure for those with huts on Council land.

In order for Cabinet to fully consider the fees and charges implications, independent advice from a property valuation expert has been requested for an indicative Beach Hut lease fee. It should be noted that this is for purposes of establishing the current position; a more detailed and up-to-date market assessment would be required prior to implementation of leases. The

advice received suggests that the increase would be in the region of 10 percent higher than licence charges at the point of change. It should be noted that fees and charges for the 2023/24 licence fees are proposed to increase by 10 percent. The decision for that change in fees is enacted via a separate report of the Assistant Director for Economic Growth and Leisure, in consultation with the Portfolio Holder for Tourism and Leisure.

Two examples of how this change may impact on annual payments are set out below. The first example is set against the lowest current annual charge and the second against the highest:

- (i) A resident with a Beach Hut at Harwich Green paying £157.25 (exclusive of VAT) in 2022/23, will pay £172.98 (exclusive of VAT) following the proposed increase for 2023/24. The indicative 10% increase for a lease in 2024/25 therefore would increase the annual charge to £190.28.
- (ii) A resident with a Beach Hut at the Walings paying £419.05 (exclusive of VAT) in 2022/23, will pay £460.96 (exclusive of VAT) following the proposed increase for 2023/24. The indicative 10% increase for a lease in 2024/25 therefore would increase the annual charge to £507.10.

Further to the above, it is recommended that commercial agreements are set at twice the value of the comparative cost, for those holding an agreement. If the lease holder is a non-resident, this would be twice that of the comparative non-resident's fee.

Beach Hut income will be reinvested back into the service, as is currently the case, with any associated expenditure being subject to separate decisions.

X The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

There are no further comments over and above those set out elsewhere within this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>The Beach Hut service is self-funding and this strategy does not increase costs to the Council.</p> <p>Any future proposals brought forward, will be done so through a standalone proposal and business plan following the adoption of the strategy. Any such report will demonstrate the financial resources required for additional resources to improve administration of the strategy. The implementation of the strategy will not be dependent on this proposal.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,; and</p>	<p>The Council consulted on this strategy prior to the original consideration by Cabinet in November 2022. A further consultation process was carried out following consideration of that report.</p>

	Further to the decisions set out in this report, Cabinet should note the series of delegations on the additional work required.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The consideration of a new digital platform will improve efficiency and management of Council resources. Any future procurement exercises in relation to this strategy may benefit the local economy.

MILESTONES AND DELIVERY

If Cabinet accept the recommendations in the report,

- Any short term changes to the Beach Hut Licences resulting from the adopted strategy will be implemented by April 2023 and licence holders will be informed directly, providing a minimum of 28 days' notice. This will include a specific reference to beach huts not being rented for more than 10 days per year (for those who do not wish to apply for a commercial agreement).
- Those beach hut owners who wish to apply to change to a commercial agreement will be asked to provide an expression of interest. This will be assessed against a criteria, which will ensure their huts are accessible, safe and meet the objectives set out in the Council's Tourism Strategy.
- A formal proposal and business plan for a Beach Hut development programme, as set out in Appendix A will be brought forward for consideration following adoption of the strategy.
- A review of the Beach Hut specification will also be undertaken following adoption of the strategy in February 2023. This will be carried out in consultation with Beach Hut Associations and other key stakeholders.
- It is proposed that licences are replaced by leases for the remaining beach hut customers from 1 April 2024 and this will incorporate any changes to the specification. The exact roll out of this change will be determined through internal discussions reflecting available resources.

ASSOCIATED RISKS AND MITIGATION

Key Risks	Action Proposed to Manage the risk	Link to Corporate Risk Register
A lack of resources to implement the strategy in full	<i>Any future proposals to address this will be brought forward as part of a business plan, following adoption of this strategy</i>	Reputational
That fees and charges increase above what hut owners are able to pay	<i>An independent valuation will be undertaken to establish the schedule of fees and</i>	<i>Financial & Reputational</i>

	<i>charges in line with the market</i>	
EQUALITY IMPLICATIONS		
<p>The Council will need to consider accessibility and those Beach Hut Licence Holders with disabilities when considering changes to the Beach Hut Specification.</p> <p>If it is chosen to issue Commercial Agreements to those wishing to rent out beach huts, the Council will need to ensure equality considerations are addressed. It is intended to achieve this through a set of criteria, which those requesting commercial agreements will be required to comply with.</p> <p>The consultation process was open to all stakeholders to participate and although it was administered online, paper copies were made available. For the second consultation exercise, every Beach Hut licence holder received a letter, making them aware of the process for completion.</p>		
SOCIAL VALUE CONSIDERATIONS		
<p>Any future procurement linked to this revised strategy will consider social value and the impact it can have on the local economy.</p>		
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030		
<p>Under the proposal to revise the Beach Hut specification document, new sustainable products will be a key consideration for improvements. The implementation of an improved digital platform to improve service and communication with Beach Hut Licence Holders, has the potential to reduce Officer travel around the District.</p>		
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS		
<p>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</p>		
Crime and Disorder	<p>The issue of Beach Hut crime and anti-social behaviour has been considered with this strategy. The Council has utilised deployable CCTV cameras on seafront locations over the last 12 months in bid to impact on criminal damage and theft on Dovercourt Seafront.</p> <p>Incidents of seafront crime may require deployable CCTV cameras to be utilised in the future.</p>	
Health Inequalities	<p>Although this strategy does not impact directly on Health Inequalities, aesthetic improvements to Beach Huts and wider seafront locations across the District will improve public open space and contribute towards enhanced quality of life for local residents and visitors.</p>	
Area or Ward affected	<p>The Beach Hut Strategy and the implications of this review impacts on the entire District.</p>	

BACKGROUND

Along the Tendring coast there are currently 3,057 beach huts directly under the operation and management of Tendring District Council. This has increased from 3,039, as reported in the original strategy. Other beach hut provision exists in parts of the District, on private land or land under the control of Town Councils.

Beach huts are an important and significant feature of Tendring life. Beach huts are prominent in the advertising and promotion of Tendring as a visitor / tourist destination. Beach huts not only offer a popular recreational activity including encouraging use of the seaside for local people. They also bring in families and visitors from outside the District. The current occupation of beach Huts in Tendring is divided 60% locally owned and 40% owned by non-residents. This figure varies from location to location with Walton-on-the-Naze attracting the greatest proportion of outside ownership.

In 2013 huts were listed in the strategy as changing hands for between £5,000 and £30,000. In 2022 however, the higher end has increased to up to £60,000 and beyond in some cases.

The introduction of further beach huts and the potential to sell or lease to meet the demand remains a key part of this revised strategy.

Beach huts are present in all coastal areas of the District and licence holders are represented by well organised local Beach Hut Associations in the following locations:

Brightlingsea Beach Hut Association
Clacton and Holland Beach Hut Association
Frinton Beach Hut Association
Harwich and Dovercourt Beach Hut Association
Walton Beach Hut Association

Historically the Council has provided an Officer to attend Association Annual Meetings and over recent years, has met regularly with representatives of all Associations in a District Wide Group. Many of the changes proposed for the Strategy emerge from these discussions.

PREVIOUS RELEVANT DECISIONS

Agreement by Cabinet to consult on the draft Beach Hut Strategy - November 2022
Adoption of the 2013 Beach Hut Strategy – October 2013

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Beach Hut Strategy Revisited & Consultation Response
Appendix B – Beach Hut Strategy Overview
Appendix C – Draft Heads of Terms for Commercial Agreements
Appendix D – Minutes of Consultation Meeting with District Wide Beach Hut Associations

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Tendring District Council Beach Hut Strategy Revisited

A.10 APPENDIX A

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1.0 Executive Summary

Tendring District Council adopted its Beach Hut Strategy in 2013 to provide the approach to its management of the service in subsequent years.

In the summer of 2022, the Council carried out a consultation exercise with stakeholders on a range of issues which it was minded to review. Further to a Cabinet decision, an additional consultation process was undertaken over six weeks in late 2022 and early 2023. As such, amendments/updates to this strategy are based on proposals which were set out for consultation and informed by the responses received.

As the points set out and raised in the 2022 and 2022/3 consultations were materially consistent with the 2013 strategy, this revisited document is to be adopted as the revisited strategy.

Along the Tendring coast there are currently 3,057 beach huts directly under the operation and management of Tendring District Council (this has increased from 3,039, as reported in the original strategy) with others on private land or land under the control of Town Councils.

Demand for beach huts remains high despite the current national economic challenges. In 2013 huts were listed in the strategy as changing hands for between £5,000 and £30,000. In 2022 however, the higher end has increased to up to £80,000

Beach huts are an important and significant feature of Tendring life. Through imagery, beach huts are prominent in the advertising and promotion of Tendring as a tourist destination. Beach huts not only offer a popular recreational activity including encouraging use of the seaside for local people, they also bring in families and visitors from outside the District. The current ownership of beach Huts in Tendring is divided 60 percent locally owned and 40 percent owned by non-residents. This figure varies from location to location with Walton-on-the-Naze attracting the greatest proportion of outside ownership.

The introduction of further beach huts and the potential to sell or lease to meet the demand remains a key part of this revised strategy.

The market for beach hut sales is private and largely unregulated. Tendring District Council beach hut sites are currently only offered on the basis of a rolling site licence paid for annually. Despite hut owners having no interest in the land, beach huts can change hands for significant sums. Through this strategy, the Council is providing greater security for the value of the assets placed on Council land. The Council's revenue funds additional improvements and on-going management of the Beach Hut Service.

Over a considerable period of time, some beach hut users have adapted their huts, so they no longer conform to the approved specification. Issues around the appearance of beach huts, unauthorised extensions/verandas and safety features of the huts themselves remain an important area of concern.

The development of new lease arrangement as outlined in this document will regulate these concerns. In addition, commercial leases will ensure a market for rentals will exist successfully through a regulated service offering high quality provision to visitors and residents.

This Council strategy aims to regulate hut rentals to comply with both the letter and the spirit of beach hut conditions.

Providing beach hut sites and the necessary agreements impose obligations and expense to the Council which offsets much of the revenue received. Maintenance of slopes and footpaths and coastal/cliff erosion where most beach huts are located are examples of this.

Beach huts are present in all coastal areas of the District and licence holders are represented by well organised local Beach Hut Associations in the following locations:

Brightlingsea Beach Hut Association
Clacton and Holland Beach Hut Association
Frinton Beach Hut Association
Harwich and Dovercourt Beach Hut Association
Walton Beach Hut Association

Mission

To create a framework for service provision which will ensure the continued popularity of Beach Huts in Tendring and to put the objectives of the strategy into action.

Objectives

The objectives for the Beach Huts service at Tendring District Council are to provide a regulated, customer focused, efficient, quality service, increasing security and opportunities to enable:

- **Improved seafront assets and infrastructure**
- **Increased awareness of local seafront issues**
- **Support for tourism and economic development strategies of the Council**

Keys to Success

Keys to success include:

1. **Maintain the popularity and use of beach huts in Tendring**
2. **Improved infrastructure supporting existing and future beach hut provision**
3. **The presentation of future business planning for beach hut development**
4. **Improved appearance of beach huts and beach hut sites**

5. **Improved consistency of beach hut standards**
6. **Ensure beach huts contribute positively to the local economy**
7. **Providing security of tenure whilst ensuring beach hut customers conform to conditions of their agreement**

2.0 Policies in Support of Mission, Objectives and Keys to Success

Income

To generate sufficient income to meet operating costs, to support future maintenance requirements and to enable investment for developing opportunities for further beach hut provision in line with inward investment and the Council's approved tourism strategy.

There are a number of sites across the District where additional beach huts can be located, subject to a future business plan. The potential for income will depend upon:

- The Council's financial position and wider economic forecasts
- The cost of building and location of new beach huts which vary dependent upon location – some areas can be “in filled”, others require new supporting infrastructure such as bearers
- The level of income potential from beach huts – this varies from area to area
- Whether beach huts are marketed and rented directly from the Council

NEW BEACH HUTS

What is the issue?

There is consistent demand for new huts across the district, given the rising price of huts. Additional finance will be required to ensure licence conditions are adhered to and an improved digital service for customers is offered. Any remaining income would be used for seafront improvements.

What will the Council do?

The Council will prepare feasibility studies to build new beach huts around the District, which will be accessible through a lease. The number of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people. Any additional income raised will be used to support additional investment into seafronts and any additional resources required to ensure lease conditions are adhered to. The decision on additional huts will be subject to a business case, should be self-funding and approved through a Cabinet Member decision by the Portfolio Holder for Leisure and Tourism.

Using an assessment of individual beach hut sites available and potential larger areas for development, it is possible to demonstrate where additional income can be achieved by the Council to set against requirements for increased expenditure.

The cost of constructing a beach hut to TDC standards is subject to securing the best contractor in accordance with The Council's procurement and financial procedure rules.

The potential return on investment in any beach hut location will be dependent upon the demand for beach huts and the open market value in specific locations.

MONITORING OF BEACH HUT CONDITIONS & COMPLAINT MANAGEMENT

What is the issue?

There are currently no dedicated resources to monitor Beach Hut conditions, including rentals and adaptations. Additional staffing capacity would be required if ongoing monitoring of conditions was to be carried out.

What will the Council do?

The Council is considering additional staffing resources to ensure conditions are adhered to and taking appropriate and proportional enforcement action where necessary. This could be funded through the Beach Hut development programme referred to above and subject to a process of approval. The viability of any increase in staffing would be decided through the Council's budgeting process at an appropriate time.

Customer Service

AN IMPROVED DIGITAL SERVICE FOR BEACH HUT USERS

What is the issue?

A greater digitalisation of the Beach Hut service is likely to improve customer contact, efficiency and extend the services available. It is also likely to reduce the environmental impact of the service, with less paper required. This could incorporate standard forms and submission of regular customer contact through digital means.

What will the Council do?

The Council will consider installing new software to improve services to beach hut users and allow them to complete processes online. This would also be used to gather and record appropriate information about conditions, including which huts are able to rent and to ensure complaints are easier to report and manage. This could be funded through a Beach Hut Development Programme and would be subject to a process of approval. The Council is minded to ensure there are sufficient staffing resources in place to continue offering direct contact with a member of staff, where this is required.

Security

All beach hut areas should offer a safe environment for the public and for users to enjoy with confidence and safety.

To promote and support Beach Hut Associations with regard to security issues by seeking to

- Install deployable CCTV cameras on a temporary basis where this is practically possible, through the Council's process and CCTV policy process. This will be dependent on the needs and demands of a particular location, compared with issues experienced in other areas of the District. Cameras will only be deployed through the processes set out in the Council's CCTV Policy
- Improve patrol options by joint working with Council staff and beach hut volunteers
- Longer term work with crime reduction partners on crime and anti-social behaviour on seafronts

Standard of Maintenance & Appearance

All beach hut areas to maintain a standard of infrastructure and appearance designed to support priorities for tourism and inward investment. This will include sound structures and agreed additional features, surface layouts and boundaries as well as general attractiveness of appearance including a palette of suggested colours.

The standards will apply to the surrounding area also to satisfy users and owners they are receiving a quality service.

All sites to be kept clean with appropriate number of litter bins in place.

Improvements to the quality and standard of beach huts are issues that have not always been treated as a high priority. Whilst essential repairs have been made to existing beach hut areas to supporting bearers, retaining walls and sub soil, these have not always been undertaken as part of a planned programme, or in relation to an overall business plan and in many areas the pace of improvement has not kept up with the aspiration of users.

Through the production of a new design specification, the Council will agree a new direction and actions in respect of the overall appearance of beach huts in Tendring. Despite an aspiration in the original strategy, dilapidated huts and unauthorised structures are still addressed individually but not part of an overall plan designed to improve enhancement to the appearance of beach hut locations and individual beach huts. In order to address this in a systematic fashion, the Council will work with stakeholders to complete a new design specification following adoption of this strategy.

Finally, the Council will move towards a new palette of approved colours for Beach Huts to improve vibrancy of sea front locations. Subject to a technical review and further consultation, a revised specification could also cover such issues as standardisation of Beach Hut roofs, modern cladding (subject to research and meeting British Design and Safety Standards) and products which reduce beach huts' carbon footprint.

Following the pre-consultation, it is considered best practice to embed the revised specification into Beach Hut Agreements. As such, it is now suggested that licences are phased out over 2022/2023 and are replaced by leases from 1 April 2024. The exact timing of this roll out will be determined at a future date. This will include the obligations for beach hut design, as set out following completion of the revised specification. Leases will also provide those with beach huts on Council land with additional security which they do not currently have with a licence agreement. It should be noted however that the annual cost of a lease will be higher than that of a licence fee, to reflect that greater security of tenure and market values. This will be subject to a separate valuation process. Those with leases will

be able to sell them to a private buyer, as long as their beach hut is fully compliant. The lease will be assignable to a new owner and the originator will need to apply to the Council for consent to assure the hut is compliant.

This improvement will decrease the chances of similar issues with adaptations occurring in future due to the clarity of obligation through the new leases.

RENTING OF BEACH HUTS

What is the issue?

The existing licence conditions include the following clauses, which do not allow for beach hut rentals to take place:

- 'Not to use nor permit the use of the Hut or the Site for any trade profession or business.' and
- 'The rights given in Clause 2 may only be exercised by him and his immediate family and guests'

In addition, if Council assets are being used for commercial reasons, the Council has an obligation to seek both best value and ensure there is a transparent process for providing appropriate permissions.

What will the Council do?

The Council will issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year. It is important and appropriate to regulate the market for rentals. Commercial agreements will be issued to those requesting them, based on a criteria. This will cover key points such as accessibility and safety of huts, to ensure commercial agreement holders are able to provide a high quality service to renters. The commercial lease will consider the key points set out in the Council's Tourism Strategy. With the move from licences to leases any new commercial agreements will be issued through a lease. This will be in advance of the wider roll out in April 2024.

Beach hut agreements will be limited to one per household, to ensure as many local residents as possible are able to access them. The Council is considering whether a 'buffer' period can be implemented, to ensure anyone wishing to buy a new beach hut (e.g. for reasons of accessibility) are able to do so, with a grace period to be determined to sell their existing hut.

New terms and conditions will be provided to existing licence holders, to set out that beach hut users without commercial leases will not be able to rent out huts for more than 10 days per year. Changes will also include arrangements for vehicular access onto promenades.

THE CURRENT BEACH HUT SPECIFICATION

BEACH HUT ADAPTATIONS

What is the issue?

Over the years some huts breach the current specifications due to adaptations that have taken place that fall outside of the stated plot dimensions for example the addition of patios, balconies, decking areas. In these instances the current site licence does not cover those

adaptions. Further to this, some of these adaptations could be considered unsafe and inappropriate for their location.

What will the Council do?

Following a review of the specification (referred to below), the Council will work towards the priority to maintain public spaces to a high standard, by working with owners for the removal of those adaptations which fall outside of the revised specification.

Depending on the outcome of a review of the Beach Hut specification, the Council may consider a new set of fees and charges for any adaptations which are deemed appropriate.

BEACH HUT SPECIFICATION

What is the issue?

The Council will work with partners to update the current beach hut design specification and make appropriate changes. This will consider issues such as new brighter colour schemes and visual and design guidance for beach hut users, including environmental considerations.

What will the Council do?

The Council will work through a review of the current specification and consider adding new products, such as modern cladding which do not currently meet the specification. This can also consider how beach huts could support the Council's carbon neutral agenda. Following adoption of this strategy, the Council will commission this work and involve representatives of each Beach Hut Association as part of the consultation process.

A wider review of the specification will be undertaken following the Beach Hut Strategy's approval, which will require more time to develop the detail and technical drawings required. This will require consultation with the Beach Hut Associations. The revised specification will be embedded into beach hut agreements through the implementation of leases from April 2024.

Charging Structure

All beach huts to have a tariff structure that is transparent and reflects local conditions. Any changes to be agreed by the relevant Portfolio Holder(s) through the fees and charges approval process, prior to implementation.

The process for setting charges for commercial leases will be set at double that of the published mainstream lease fees.

The move from licences to leases and the additional security that will afford, will result in an increase in annual fees and charges.

The fee for issuing a new beach hut agreement following a sale, will also be reviewed on an annual basis.

Consultation

This review of the original Beach Hut Strategy has been conducted following an open consultation exercise with stakeholders. Regular and ongoing consultation is to be undertaken with:

- (i) Beach Hut Associations, all hut owners / users
- (ii) Representatives of the local community
- (iii) Portfolio Holder(s) and Cabinet

Consideration has been given to the responses from stakeholders to the proposals in this strategy in its production. The outcome is summarised in the strategy appendices.

Investment

A plan of scheduled investment into the District's seafronts at beach hut locations will be devised and presented for approval through the Council's decision making process to maintain agreed standards. This plan will consider how seafronts are currently maintained and put forward proposals for how assets can be sustainably financed in the future. This is to include maintenance of cliff slopes and the significant investments which have taken place.

Provision of Beach Huts & Alternative Provision

Consideration will be given to the style of any new Beach Huts developed when proposals are fashioned and considered for approval. The original strategy considered alternative styles of huts and set out options for overnight accommodation on seafronts. Any proposals developed will recognise the impact on local communities and consideration of local issues and in particular tourism and inward investment strategies for the District. As such, the Beach Hut development programme will put forward options which are considered appropriate for the location and ones which fit into the parameters of this revised strategy.

The original strategy included the following:

"There are beach hut type facilities across the world and in recent times many new ideas for camping and seafronts have been developed. These include, amongst other things alternatives to the traditional beach hut provision with beach huts that offer different designs and opportunities that attract a range of different users. Any business plan should incorporate ideas or provision for exploring alternative options."

Going forward, alternative options will only be considered in the context and spirit of this revised strategy.

3.0 Service Plan for the Beach Hut Service

An objective of any strategy in relation to beach huts is to maintain good standards and ensure policies and conditions are adhered to. This will improve the quality of the seafront offer for beach hut users, residents and visitors to the District.

It is proposed to develop the existing Beach Hut database to a new improved digital platform in order to:

- **Ensure that owners maintain beach huts to an acceptable standard.**
- **To identify and address known maintenance requirements of existing sites.**
- **To highlight additional income opportunities designed to support beach hut policies as well as to contribute towards improvements and maintenance of the districts coastline.**

The Service Plan: Short Term – 0 to 24 months

1. **Implement changes from the revised Beach Hut Strategy, as set out below:**
 - a. **Implement short term changes for standard licences for Beach Huts in April, to set out conditions relating to rentals and vehicular access to promenades;**
 - b. **Implement new commercial leases following expressions of interest, against a set of criteria;**
 - c. **Work with Beach Hut owners and stakeholders to develop a revised specification;**
 - d. **Evaluate which Beach Huts have balconies and verandas which do not conform to the specification. Work with those beach hut users to make suitable amendments or removal where appropriate;**
 - e. **Replace licence agreements with leases from 1 April 2024**
2. **Complete review of potential areas for new beach huts both individually and on a larger scale.**

3. Devise business case for Beach Hut development programme for a future decision, including a costed plan for investment into additional resources and seafront improvements.
4. Review financing of seafronts and consider costed proposals for sustainable investment in the long term, to aspire towards public maintaining public assets to a high standard.
5. Subject to funding, consider purchasing additional deployable CCTV Cameras for seafront locations. This will be considered through the business planning process referred to in this strategy.
6. Continue with District Wide Beach Hut Associations meeting a minimum of twice per year.

Medium Term - 24 months to 3 years

1. Evaluate short term goals
2. Evaluate the outcomes of commercial leases
3. Continue Beach Hut development plan subject to the need and demand and a standalone business plan being approved.
 - Review the need for additional security at beach hut locations
 - improve appearance of beach huts generally
 - continually monitor, evaluate and address unauthorised structures

Longer Term - 3 years +

1. Review Beach Hut Strategy and report back to Cabinet

5.0 Actions in Support of Policies

Income Potential to offset future investments

There are a number of sites across the District where additional beach huts can be located. The potential for income will depend upon:

- **The cost of building and siting new beach huts which vary dependant upon location – some areas can be “in filled”, others require new supporting infrastructure such as bearers (which obviously incur additional up front and long term costs).**
- **The level of financial return received from beach huts – varies from area to area**

Current and Future Charging Structure

Charges will continue to be set annually in consultation with the Portfolio Holder, so as to consider the local climate for Beach Huts. The fees and charges set will reflect the cost of the service in the short, medium and long term. This will also include charging for leases and commercial leases.

Following publication of the revised Beach Hut specification, consideration could be given to additional fees and charges for approved adaptations, where appropriate.

Optimising Usage & Satisfying Demand

Examination of existing fees and charges will assist towards achieving objectives and key targets.

At present the demand for beach huts in the District remains high. All fees are paid annually and few, if any, owners default.

The private market for beach huts and beach hut sales remains buoyant, but turnover and sales are subject to changes in the beach hut market. However, no slow-down in sales is currently evident in Tendring.

There is also a clear demand from local residents for “affordable” access to Beach Huts and opportunities exist to stimulate demand from both inside and outside the District.

Marketing of beach huts – web marketing and marketing from more traditional sources has been extremely limited in the past. Active marketing represents an opportunity within the future business plan to increase demand and revenue possibilities.

Improvement to Quality & Standards

Improvements to the quality and standard of beach huts are an issues that have become more and more apparent, since the original strategy. A programme of replacing supporting structures at the Leas (Frinton on Sea) has been undertaken in recent years. Any future investment in structures will work towards high quality support for beach huts and importantly, safety.

As set out earlier in this strategy, there is an urgent need to address unauthorised beach hut structures in some areas of the District. This is for safety.

The proposed revised and improved design specification will provide the framework for improved aesthetics of Beach Huts. This will also ensure huts are more vibrant and visually impactful, through a move towards brighter colours.

Security

The reduction of crime, the fear of crime and reducing anti-social behaviour is a key Council and wider community priority.

Web based information and other literature will contain advice on crime prevention and the seafront service in partnership with the police and other Council services will continue to promote partnership enforcement and prevention initiatives relating to crime and anti-social behaviour.

The new design specification will consider how to support beach hut users in 'designing out crime.' Additional advice can be obtained by the Police and other crime prevention agencies.

The introduction of deployable CCTV cameras can also be considered through the Council's current stock and its approach set out in the CCTV policy.

Consultation

At present the Council receives feedback by means of regular meetings with local Beach Hut Associations and other stakeholders. A representative attends the Annual General Meetings of the Beach Hut Associations wherever possible.

Since 2019, regular meetings of the District Wide Beach Hut Association have taken place, by means of an "umbrella" group to cover issues relevant to all areas of the District. It has been typical for a service representative to arrange subsequent meetings with individual associations to discuss more localised issues. It is intended to continue this process. As referred to in this strategy, the Council also consulted widely on the proposals outlined in this strategy.

Improving the Efficiency & Effectiveness of Beach Hut Administration

Many of the proposals contained in both the original and reviewed strategy, will impact on the method of delivery of the beach hut administration and the strategy recognises that resources may need to reflect increased work or to ensure the completion of action plans.

As previously mentioned, IT systems and processes will be reviewed to improve the customer journey and to make contact with the service more effective. Any cost and additional resources required will be considered through a separate decision.

The broader issues in relation to delivering the business plan and to meet policy objectives within this strategy will require good partnership working both between Council services and with outside partners and stakeholders. Good partnership and effective administration of the service will deliver the objectives of this Strategy and help the service to achieve its mission to work towards the continued popularity of beach huts in Tendring.

Prior to the development of this strategy, an open consultation was undertaken to seek the views of all stakeholders. A summary of the outcome is included in the appendices.

*Tendring
District Council*

A.10 APPENDIX B - BEACH HUT STRATEGY: OVERVIEW OF CONSULTATION AND PROPOSALS FOR CABINET REPORT

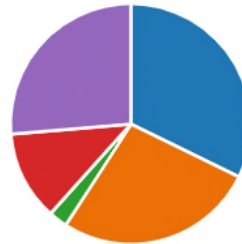
The results of the consultation exercise is set out below together with a commentary on the outcome.

1.

Which description suits you best

[More Details](#)

● I have a Beach Hut and live in th...	486
● I have a Beach Hut and do not li...	405
● I am a local business	38
● I am a Tendring resident and do...	181
● I am not a Tendring resident an...	397



Notes

A total of 1507 people completed the questionnaire;

802 of the consultees (53.2%) live outside of the District and 49.5% of those non Tendring residents do not hold a Beach Hut licence;

The remaining 46.8% are Tendring residents and local businesses;

59.1% of consultees hold Beach Hut licences.

40.9 % of consultees do not hold Beach Hut licences.

2.

I am interested in obtaining a commercial agreement, to rent out my Beach Hut

[More Details](#)

● YES	115
● NO	1392



Notes

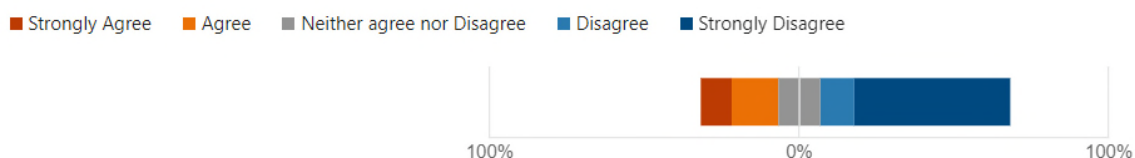
115 consultees showed an interest in holding a commercial licence, which gives an idea of the scale and should be noted for capacity.

3. Commercial Agreements

The Council is proposing to issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year, which will regulate the market for rentals. It is proposed that commercial agreements are issued to those requesting them, but based on a criteria. This will cover key points such as accessibility and safety of huts, to ensure those with commercial agreements are able to provide a high quality service and support the appropriate points set out in the Council's Tourism Strategy. New agreements would be through a lease and not a licence and as such, the cost would be identified by establishing a market value, which would increase the amount paid. A specific clause will be included on all other agreements to prohibit renting for more than 10 days per year. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

What do you think?

[More Details](#)



Notes

61.4% of consultees either disagreed or strongly disagreed with the proposal to issue commercial agreements and 25.1% either strongly agreed or agreed with this proposal.

Of the Tendring residents completing the questionnaire 63.9% either strongly disagreed or disagreed with the Council's proposal, with 36.1% who either strongly agreed or agreed.

Note: the balance of responders neither agreed nor disagreed

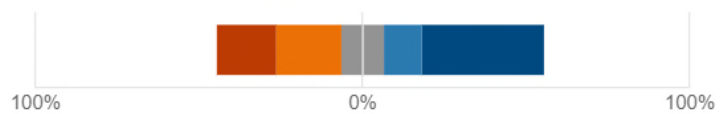
4. Limiting Beach Hut Agreements

The Council is proposing to limit new beach hut agreements to one per household. We are however proposing to honour multiple existing agreements. However, if a household already has a beach hut, then they would not be able to apply for a second agreement.

What do you think?

[More Details](#)

Strongly Agree Agree Neither agree nor disagree Disagree Strongly Disagree



Notes

48.9% of consultees either strongly disagreed or disagreed with this proposal

38.1% of consultees either strongly agreed or agreed

Of the Tendring residents completing the questionnaire, 45.1% either strongly agreed or agreed with this proposal and 40.9% either strongly disagreed or disagreed.

Note: the balance of responders neither agreed nor disagreed

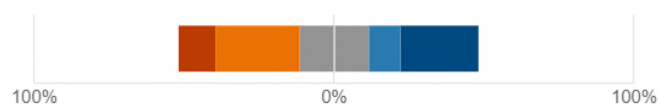
5. Review of the Specification

The Council is minded to work through a review of the current specification and consider adding new products, such as modern cladding and brighter colour schemes which do not currently meet the specification. This can also consider how beach huts could support the Council's carbon neutral agenda;

What do you think?

[More Details](#)

Strongly Agree Agree Neither agree nor disagree Disagree Strongly Disagree



40.4% of consultees either strongly agreed or agreed with this proposal

36.6% of consultees either strongly disagreed or disagreed with this proposal

Note: the balance of responders neither agreed nor disagreed

6. Addressing adaptations

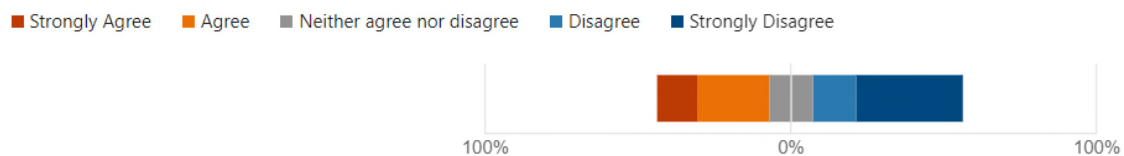
Over the years, it has become apparent that some huts breach the current specification due to adaptations that have taken place that fall outside of the stated plot dimensions i.e. the addition of patios, balconies, decking areas, etc. In these instances the current site licence does not cover those adaptations.

Following a review of the specification, the Council is proposing to work with beach hut owners to either:

- (i) remove those adaptations which fall outside of the revised specification or
- (ii) where adaptations are included in the revised specification, they can be added to beach hut agreements and an additional charge levied for the increased space

What do you think?

[More Details](#)



Notes:

50% of consultees either strongly disagreed or disagreed with this proposal

36.7% of consultees either strongly agreed or agreed with this proposal

Of the Tendring residents completing the questionnaire, 45.2% either strongly disagreed or disagreed with this proposal and 40.7% either strongly agreed or agreed.

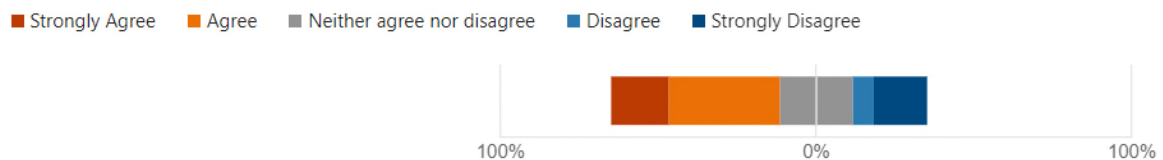
Note: the balance of responders neither agreed nor disagreed

7. Resources for Enforcement Action

The Council is considering providing resourcing to take appropriate enforcement action where necessary. The Council will also need to determine how this would be funded to ensure complaints are acted upon in a timely manner.

What do you think?

[More Details](#)



Notes:

53.5% of consultees either strongly agreed or agreed with this proposal

23.6% of consultees either strongly disagreed or disagreed with this proposal

Note: the balance of responders neither agreed nor disagreed

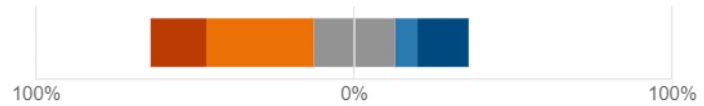
8. A digitalised Service

The Council is considering installing new software to improve services to licence holders and allow them to complete processes online. This would also be used to gather and record appropriate information about conditions, including which huts are licenced to rent and to make complaints easier to report and manage.

What do you think?

[More Details](#)

■ Strongly Agree ■ Agree ■ Neither agree nor disagree ■ Disagree ■ Strongly Disagree



Notes

51.3% of consultees either strongly agreed or agreed with this proposal

23.2% of consultees either strongly disagreed or disagreed with this proposal

Note: the balance of responders neither agreed nor disagreed

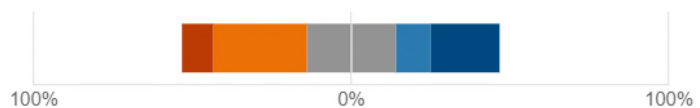
9. Building New Beach Huts

The Council is proposing to build new beach huts around the District, which will be accessible through a lease. The amount of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people.

What do you think?

[More Details](#)

■ Strongly Agree ■ Agree ■ Neither agree nor disagree ■ Disagree ■ Strongly Disagree



Notes

39.4% of consultees either strongly agreed or agreed with this proposal

32.7% of consultees either strongly disagreed or disagreed with this proposal

Note: the balance of responders neither agreed nor disagreed

10. A move from licences to leases

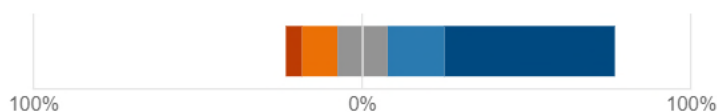
It has become clear throughout the consultation that beach huts are changing hands for very significant values and in many cases with little knowledge of what licence agreements afford in terms of security. As such, it is now suggested that licences are phased out over the next year and are replaced by leases from 1 April 2024. Leases will also provide those with beach huts on Council land with additional security of tenure, which they do not currently have with a licence agreement. The cost of a lease will increase the annual amount paid by those with beach huts, which will be identified by establishing the market value once the strategy has been adopted. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Further to this, consideration has been given as to how the revised specification could be embedded into Beach Hut Agreements. As such, the conditions for which beach hut users have to comply with for design, would form part of the agreement.

. What do you think?

[More Details](#)

■ Strongly Agree ■ Agree ■ Neither agree nor disagree ■ Disagree ■ Strongly Disagree



15.7% of consultees either strongly agreed or agreed with this proposal

69.1% of consultees either strongly disagreed or disagreed with this proposal

Of the Tendring residents completing the questionnaire, 18.4% either strongly agreed or agreed with this proposal and 66% either strongly disagreed or disagreed.

Note: the balance of responders neither agreed nor disagreed

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Draft HOTs for Commercial Beach Hut Leases – Part of Beach Hut Review Strategy 2022/2023

1 PROPERTY

- 1.1 Address of the Property
- 1.2 Description of the Property
- 1.3 Rights specifically granted –
 - i) Tenant is permitted to sublet the Property for unlimited number of days per year.
 - ii) Access to the Property via promenade as shown on the lease plan will be limited duringam and ...pm
- 1.4 Rights specifically reserved

2 Parties

- 2.1 Landlord – Tendring District Council, Town Hall, Station Road Clacton-on-Sea Essex CO15 1SE
- 2.2 Landlord’s Solicitors – Tendring District Council Legal Services
- 2.3 Tenant – name and address
- 2.4 Tenant’s Solicitors

3 Term Break and Notices

- 3.1 Duration - 5 years.
- 3.2 Commencing on
- 3.3 Break Clause - exercised by either party provided that the Tenant is in not in rent arrears and has not breached any of the Tenant’s covenants. If any breaches come to light at the time of either party serving notice to the other, those breaches must be remedied before the lease can be terminated
- 3.4 Notice period – two months.

4 Rent

- 4.1 Rent - £.....per annum (exclusive of VAT?) to be paid in advance unless otherwise stated.
- 4.2 Commencing on
- 4.3 Rent payment date(s) -
- 4.4 Payment method -
- 4.5 Rent Review dates – 1 April in each year

- 4.6 Rent review basis – CPI/in line with inflation/valuation carried out by surveyor/ in accordance with TDC’s Fee and Charges?
- 4.7 Dispute – if rent is not agreed by review date then, either party may refer to an independent valuer for determination – applicable?
- 4.8 Time of essence?

5 Interest

- 5.1 Late rent payment – interest at 4% above base rate for rent unpaid for 21 days after due date.
- 5.2 Post rent review - Interest at base on difference between old and new rent at review from specified review date to date of whether or not matter decided by independent valuer.

6 Outgoings, rates and utilities

- 6.1 Tenant will be responsible for business rates and other outgoings
- 6.2 The tenant is responsible for any rates, taxes or other payments relating to the Property, together with other property he/she may own or have a lease for. It is the Tenant’s responsibility to declare rental income from beach huts and pay the income tax amount payable to HMRC.

7 Insurance

- 7.1 The Landlord will insure the land stage
- 7.2 Tenant to insure the Property and all contents contained therein.
- 7.3 Public liability – Tenant to insure a minimum of £10million.
- 7.4 Date of cover to commence on lease completion date.

8 Tenant’s Conditions/Covenants

- 8.1 Current Beach Hut Site Licence Conditions to be observed by Tenant will be covered in the lease along with any additional conditions that the Landlord requires the Tenant to comply with.
- 8.2 No trade, profession or business to be carried in or out from the Property save for subletting the Property for a rental fee.
- 8.3 No signs to be placed at the Property advertising trade/business. Only signs advertising subletting approved by the Landlord can be placed at the Property. The sign will be of a standard design and issued by the Landlord.

9 Permitted Use and Hours of Use

- 9.1 Permitted Use – private recreational use.
- 9.2 Hours of Use 7am-10pm.

10 Legal Costs

- 10.1 Lease – payable by Tenant.
- 10.2 Any consents – payable by Tenant.

11 Assignments

- 11.1 Assignment of whole not permitted.
 - i) Should the tenant wish to sell the Property, Tenant will need to surrender this/her lease to the Landlord and a new lease will be granted to the buyer. Any new lease granted following this process will be of a non-commercial nature.
- 11.2 Assignment of part not permitted.
- 11.3 Sub-lease of whole – permitted provided the Tenant obtains written and signed agreement from the licensees (sublets will be short –term) that they agree to observe and comply with the Tenant’s covenants contained in the lease.
- 11.4 Sub-lease of part not permitted.
- 11.5 Group sharing – not permitted.

12 Landlord and Tenant Act 1954.

- 12.1 Lease is excluded from the Act.

13 Repair and Maintenance/Alterations and Decorations

- 13.1 External and internal structure – to be carried out by Tenant.
- 13.2 External and internal decoration – to be carried out by Tenant.
- 13.3 Tenant responsible for the Property and ground directly under the Property and any patio/grass area/alterations to the Property carried out by the Tenant-depending on location.
- 13.4 Boundaries – Landlord?
- 13.5 Ground maintenance to the open space – to be carried out by the Landlord.
- 13.5 Schedule of condition – Tenant to provide this with dated photographs prior to lease completion date.

13.7 Force Majeure Clause – collapse of the cliff following an act of God to the extent that it is dangerous or wholly impractical to have the Property on the land stage for the Permitted Use will result in terminating the lease by both parties by way of entering into a deed of surrender.

14 Planning

14.1 Asset to confirm what works will need planning consents, if required.

15 Indemnity

15.1 The Tenant is to indemnify the Landlord against any claims arising from the Tenant's or its sub-lessees' occupation of the Property.

16 Other Terms

16.1 The Tenant shall compile and maintain a file containing all certificates, warranties, risk assessments, maintenance records and all other such information necessary to comply with law, statutory guidance and Landlord's requirements and shall provide copies of the same when requested by the Landlord.

16.2 Maximum number of people at the Property at any given time is 12 people.

16.3 Tenant/licensee not to cause or permit noise or nuisance whilst occupying the Property.

16.4 Yield up – at the end of the lease term the Tenant shall return the land to the Landlord in repair and condition as required by the lease and Tenant shall remove from the Property and all chattels (any fixtures and/or fittings, which include decking, patios etc that beach hut owners leave behind) belonging to or used by it unless agreed by the Landlord that the Property and chattels are to remain at the Property at the end of the term.

16.5 If Tenant does not comply with 16.4 above TDC's options are either to remove the beach hut and store or destroy the beach hut for a 10/14 day and bill the Tenant or buy the beach hut from the tenant?

District Wide Beach Hut Association Meeting
Thursday 15th December 2022 – 10:30am-12:30pm

Attendees Present:

Kieran Charles, Sports Facilities Business Manager
Yana Humphreys, Seafront Business Manager
Hayley Hill- New chair for Frinton Beach Hut Association
Mandy Martin- Harwich & Dovercourt Beach Hut Association
Sarah Chandler- Chair for Brightlingsea Beach Hut Association
Cydney Janes-Hendy, Administrator (Minutes)
Jennie Wilkinson, Assets Surveyor
Michael Carran, Assistant Director, Economic Growth & Lesiure (Chair)
Peter Dias- Frinton Beach Hut Association
Sheila Crow- Patrol officer for Brightlingsea Beach Hut Association
Graham, Frinton Beach Hut Association
Corinne Simons, Clacton/Holland Beach Hut Association.

Welcome and apologies

Apologies:

Derick Fisher - Harwich & Dovercourt Beach Hut Association
Ray Lafferty- Chair, Clacton/Holland Beach Hut Association
Lee Heley, Coporate Director, Project Delivery
Cllr. Alex Porter, Portfolio Holder for Leisure and Tourism

M.C: Starts off the meeting by explaining the reasoning on the pre-consultation, which was to establish stakeholder's opinions on the Beach Hut Strategy questionnaire. This was produced following Cabinet's agreement to consult on the draft strategy. The points raised are the views of the representatives of the various Beach Hut Associations.

Key outcomes: To capture all thoughts and opinions on each BHA points.

The report will return to Cabinet in February 2023, which will include the final draft strategy and consultation responses will be included to ensure decisions are taken in context of stakeholder opinions.

The consultation section will include:

1. The wider consultation/online survey
2. BHA views (objections, comments, recommendations)
3. Overview and Scrutiny Task and Finish Group.

Comments on the pre-consultation/last meeting (note: the following captures the views of the attendees):

Frinton Association:

Shared their concerns on the consultation and non-hut owners and those living outside of the District answering the questionnaire. Concerned that a lot of people may have submitted their views multiple times from the pre-consultation and the current one. Asked if it was possible to touch base with the people who rent their huts and ask if they've contacted the people who have rented from them to complete questionnaires.

Would like for TDC to look into this.

Expressed that the online questionnaire does not allow people to save their results, there should be copy of comments have been put forward – ~~Brightlingsea agree on this~~. There was a discussion about how entries could be saved as pdf files.

There has been multiple hut owners who have had a licence for years, why do things need to change when it is worked fine previously. They would like to establish what benefits are for the hut owners who will change over.

The Association understands the concept of the leases, however there is no detail on this and there is no clear benefit from changing over.

- **Questionnaires**
- Why is it that the online questionnaire does not allow people to save their results, there should be copy of comments and the comments should include within the summary?
- Why can't entries be saved as pdf files?
- When cabinet agreed to consulting with the local community and beach hut owners, why was the consultation open to all, regardless as to geographical location?
- Queried why the questionnaire wasn't limited to one response per person? TDC agreed to investigate and filter multiple responses and publish revised survey results including how many duplicate/multiple responses were submitted.
- Request to share comments from the survey.
- There have been multiple hut owners who have had a licence for years, why do things need to change when it is worked fine previously?
- What are the benefits for the hut owners who will change over?
- Why are changes being proposed?
- The Association understands the concept of the leases, but where are the details and consequently no clear benefit can be perceived
- Request for lease details denied
- Query raised around leases and crown estate, TDC as custodians of the seafront, how can changes be made without prior consultation with crown estate and sea defences?

Brightlingsea BHA agreed with Frinton that:

- The responses to both surveys could have been limited to one per device if TDC wished to only receive one from every respondent or household.
- At the pre-survey stage in the summer, TDC invited comments, and those who had submitted one response often thought of further points to make, so they completed multiple surveys which seems reasonable. The current survey does not have much space for comments, so it is more like a voting process. Beach Hut Associations have asked their members to restrict the number of responses they make to one this time at TDC's request, but this has not been communicated to other responders. Therefore, the statistics that TDC may wish to collate and quote in future reports will be based on potentially skewed data caused by responders completing the survey multiple times.
- It should have been possible for TDC to prepare a survey to have a 'save as a PDF' and/or 'print' command at the end of the survey to enable responders to easily keep a copy of their answers and comments.

Harwich Association:

Reference the draft strategy in total, Harwich made the point that they will only be in a position to agree and accept the draft strategy when there is more info available on the leases & everyone has seen and read. Only then after consultation agreement with the leases from all association, will they accept the changes from licence to leases and the draft strategy.

The Association have had sight of a lease which was put out to Felixstowe in 2016, explaining the whole process of what the council will be doing, which they feel TDC have not done at this stage. However they are concerned that it was mentioned in the draft strategy that changing to a lease would be more expensive - need to know more info before they agree to this.

Clacton and Holland Association:

Made the point they had no knowledge of the pre questionnaire and was not contacted to complete a questionnaire. MC made the point that letters were sent to all Associations and a press release was issued.

In the draft strategy it says the lease will be a bigger security but there has been no info on how it will be. How can a lease be increased security of tenure when nothing at the moment is enforced? I.e. payment of licence & maintenance.

- The TDC report to Cabinet of November 2022 states "the council contacted all licence holders" [my underlining of 3057 TDC managed huts in April 2022 the letter that accompanied my own invoice simply says "we will be consulting"

- The Report to Cabinet notes:

- 2673 people completed a questionnaire [but it is not known whether any were duplicated]
- Of this, 1551 (55%) live outside TDC and 67% do not have a beach hut licence. Only 34% had a licence. [My underlining].
- At the meeting Beach of Hut Associations and various council officers [on 15 December] Mr Mike Carran stated that “all Beach Hut Associations were contacted and there was a press release” but that “there was no wider consultation due to cost” [my underlining].

However:

- Only a minority of licence holders are members of Beach Hut Associations [I am a member of C&HBHA but the Consultation was not drawn to my attention by them]
- Very few people now take or read local papers. An older generation is less likely to access them online.
- Licence holders who live outside TDC area would be unlikely to have access to them.
- **Therefore** – the figure of [only] 34% licence holders responding to the “Consultation” gives a false impression – that the majority aren’t interested or concerned about TDCs proposals to, for example, change from licences to leases.
- There is no evidence that hut owners who rent out their huts as a business made contact with their customers for their views.
- **MAY I SUGGEST** that it is made clear to Cabinet that “all licence holders were contacted” is a misleading [and inaccurate] statement, therefore the analyses of the figures needs to be considered in that context.

All:

Stated that they felt the change of lease is a way for TDC to profit from owners. What’s in place right now works well, so there is no need to change this.

Need an opportunity to go away from this meeting and get a legal representative on this, before agreeing on anything.

J.W. explained the difference between a licence and lease for all of the association’s benefits.

1. LEASES

Brightlingsea Association (BBHA):

Members sent more comments and questions regarding this policy in the strategy than any other.

- Members expressed concerns about the greater cost of leases compared with the licence fees and they felt that the strategy provides insufficient details on the security offered by leases.
- Some members were concerned about the fairness of maintaining the difference in charge between residents and non-residents for leases as proposed in the strategy. A lease has the same value regardless of where a beach hut owner lives. If selling on a lease to a new owner with the hut, it needs to have a uniform value dependent on the number of years left on the lease. Members felt this point might be more relevant to Brightlingsea hut owners than some other areas as the location is close to the Tendring District Council border with Colchester City Council, e.g in Alresford and Wivenhoe.
- One member was concerned about the effect that replacing a licence with a lease may have on NNDR which is currently zero rated for non-business owners. Brightlingsea Association committee thought that there would be no change to the NNDR position but please could TDC confirm this?
- Many members expressed concerns about the impact that the introduction of leases could have on elderly hut owners who can’t afford significant increases and are already feeling anxious. - All associations agreed with this point.

Need to know:

- What are clauses are in the lease?
- What are the costings?
- What would be the duration of the lease?
- What would be their protection under the lease?
- What happens when the lease ends?
- At the end of lease, who will own the hut?

Frinton Association: (highlighted text added)

Need to know:

- In the absence of information being shared within the draft strategy relating to lease T&C's and detail of changes from a licence to lease, Frinton Beach Hut Association and it's members wish to raise the very strongest objection and opposition to the proposal within the Draft Strategy Document to replace existing beach hut licences with a lease.
- What are clauses are in the lease?
- What are the costings?
- What would be the duration of the lease?
- What would be their protection under the lease?
- What happens when the lease ends
- At the end of lease, who will own the hut
- It can also be positive for beach huts owners to get a lease for a longer time, but they just need more details on this.
- The section in the Waling's is crown estate- this is a concern.
- The association and its members strongly disagree with the change from licences to leases, without knowing detail it is not possible to agree.
- Request for lease detail has been refused.
- Request for the association and its legal representative to meet with TDC to discuss the DRAFT strategy, including leases which is the biggest concern. Awaiting a response.
- What are the clauses in the lease?
- What are the costings?
- What is the duration of the lease?
- What is the added protection under the lease, how will this differ to the licence?
- What happens when the lease ends?
- At the end of lease, who will own the hut?
- more details on this.
- The section in the Waling's is crown estate, how can this be changed to a lease?

Clacton/Holland Association:

- Cannot impose conditions without proper consent, therefore need to know what's on the lease.
- Need to make provision for what happen when the lease comes to an end
- Will there be and up front charge on top of the lease and how will this be assessed? - All of this need more clarity.
 - "Page 4 – Clacton & Holland I said that a) rentals do not seem to happen in my (H) section – I cannot speak as to the rest [- A – G and J of the Clacton & Holland area.]

All: they feel that the lack of clarity regarding the terms and costs of leases this is a missed opportunity with this beach hut strategy and consultation.

Clarification from TDC:

TDC are not looking for immediate action and the proposals for leases to be implemented in 2024/25. There is enough time to put all comments throughout the process into consideration. This will help the Council to look at different opportunities.

It was identified during the pre-consultation process, that here is a lack of understanding/knowledge of what people are selling/buying, with the lack of understanding of what security a beach hut owner has (security wise). Within the bylaws it explains that fixed notices for sales cannot be placed on huts. There has been letters sent to Estate Agents with TDC huts specs/conditions, which will now need to be reiterated to all potential buyers.

All associations agree that there is not enough resources from TDC to challenge anything.

2. RENTING OF BEACH HUTS

What is the Council proposing?- The Council is proposing to issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year, which will regulate the market for rentals. It is proposed that commercial agreements are open to all to apply but only issued to those meeting a strict criteria. This will cover key points such as accessibility and safety of huts, to ensure those with commercial agreements are able to provide a high quality service and support the appropriate points set out in the Council's Tourism Strategy. New agreements would be through a lease and not a licence. A specific clause will be included on all other agreements to prohibit renting for more than 10 days per year. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

The council are minded to issue commercial leases to those who meet requirements.

Brightlingsea Association (BBHA):

Some beach hut owners do not want huts to be rented out at all, but the representatives here today think that the majority of owners would say that some rental of huts is reasonable, providing the noise generated is not too loud and numbers using the huts are not excessive.

BBHA committee members think that many of the owners who currently rent out their huts will confine their rentals to 10 days a year. But how will TDC know that people are not renting out their huts for more than this?

Harwich Association:

- Who will actually check on those who are renting? How will it be policed?
- The current leases explain that you cannot be there past 10pm. – how is this going to be policed in the future.
- How strict are the rules? – worried on this.
- Is for the strict guidelines. There seems to be a lot of huts owners who have parties, which spoil it for others.
- Need to know the amount of people who can use a hut.
- The noise of the hut (timings)
- Use outside of hours

- **Frinton Association:**
- How strict are the rules going to be on rentals? – worried on this & how it will be policed.
- Is for the strict guidelines as there seems to be a lot of huts owners who have parties, which spoil it for others.
- Need to know the amount of people who can use a hut and the noise of the hut (timings)
- What are the use outside of hours?
- The other side of the rentals need to be policed. I.e. paying tax, insurance etc.
- Existing bylaws- needs to be looked at as well.
- How strict are the rules going to be on rentals? – worried on this & how it will be policed.
- Risk raised by TDC themselves on lack on resources to support the changes.
- Will there be strict guidelines as there seems to be a lot of huts owners who have parties, which spoil it for other – but again how will this be policed?
- How many people who can use a hut and the noise of the hut (timings)
- What are the use outside of hours?
- The other side of the rentals need to be policed. I.e. paying tax, insurance etc.
- Existing bylaws- needs to be reviewed as well.
- Will rental huts need to comply with current health and safety/disability guidelines? This could rule most huts out.

Clacton/Holland Association:

- Rentals does not happen in their particular area
- Needs to be a greater regulation.
- Does need to have strict guidelines.

All agree that more than a few huts rented out- is a business.

3. OWNING BEACH HUTS

What is the Council proposing? - The Council is proposing to limit new beach hut agreements to one per household. We are however proposing to honour multiple existing agreements. However, if a household already has a beach hut, then they would not be able to apply for a second agreement- **This is only going forward.**

Brightlingsea Association (BBHA):

- Members seem to have a fairly neutral opinion on this.
- Members would like TDC to consider an agreement for owners who wish to move from one hut site to another as they may be in possession of two huts for a period of time.

Harwich Association:

- Agree that it should be stopped and only one per household & to local people.
- Could be problems with those who currently have multiple huts, who are stuck with a hut that they do not want.
- There should a period of time for people to transfer from one to another. – Timeframe allowance.

Frinton Association: (FBHA did not agree on the proposal, sentence replaced with the highlighted text below)

- Needs further discussion, what happens to those of a big family/multiple children, second marriage/relationship where there are two sets of children and extended family - one hut may not be sufficient. Consider more than one hut, but not for. commercial gain
- TDC need to take into consideration the size of the family.
- What happens when the licence holder passes away- who does this go to? Is this free of charge?
- Undecided on this at the moment.
- More local people should have these huts.
- What happens when children of the household become adults and wish to purchase a hut for themselves?
- TDC state the licence holder is not the legal owner, what happens when the licence holder passes away - who can the hut be transferred onto? Is the hut subject to probate? How does this work? Is the licence holder transfer of name free of charge?

Clacton/Holland Association:

- Gradually this will push the residents out if non-local people are using the huts as a business.

All: agree that there should be a transition period if one hut is owned, but purchasing a different hut.

4. THE CURRENT BEACH HUT SPECIFICATION

What is the Council proposing?- The Council is minded to work through a review of the current specification and consider adding new products, such as modern cladding and brighter colour schemes which do not currently meet the specification. This can also consider how beach huts could support the Council's carbon neutral agenda;

Brightlingsea Association (BBHA):

- The huts are varied and approximately 80 out of a total of 300 huts at Brightlingsea comply with the current specification.
- Current suppliers recommend and build huts that do not meet the current specification, e.g they may have double doors at the front, no windows or a back window or door.
- The current specification does not minimise the risk of vandalism
- Timescale of implementation- would older huts need to be modified or would a new specification only apply when a hut needs to be replaced?
- What action would be taken if it is agreed that the older huts need to comply immediately the strategy is implemented?
- In Brightlingsea a hut plot is 77.3% the size of a typical beach hut in Tendring. This needs to be considered in the revised specification.
- TDC will need to share the new beach hut specification with the local suppliers as they will need to be able to fulfil the design criteria. The design must be practical and capable of being built using modern weather resistant materials.
- Please offer advice to hut owners who need to replace their huts soon. They may have to wait until the new specification is agreed but they are concerned that their huts will deteriorate further and could be damaged by weather or vandalism in the meantime.

Harwich Association:

- Do not suggest the current plan to new buyers, as the current specs can be easily vandalised.
- TDC need to revise the current specs.
- BH owners need to have the ability to have security bars in front of hut at Dovercourt.

Frinton Association:

- Do not want to change the materials of their hut.
- There is issues for those who comply with the specs, as those who don't can restrict people's views, it ruined it for owners who do comply.
- TDC need to enforce owners with additional parts of huts.
- Materials need to be considered with how environmentally friendly they are.
- Why do we need to change the materials of their hut? What is the issue with wooden huts?
- Are there any issues for those who don't comply with the specs, as they can restrict people's views,
- TDC need to enforce owners with additional parts of huts to amend them.
- Are materials going to considered with how environmentally friendly they are?
- Suggestion to use clad, if huts get washed into the sea this is not environmentally friendly, how can clad be considered when it isn't environmentally friendly doesn't meet TDC green plan?

Clacton/Holland Association:

- Agrees that it varies according to where the hut is in the district.
- Need to consider the size of the huts- a lot of people cannot get down the sides of the hut for proper maintenance.
- Could make recommendations of materials for the specs. (stainless steel) steel screws – not as a construction material.

All: Agree there should be different specs for different locations. – Yet to be decided.

5. BEACH HUT ADAPTATIONS

What is the Council proposing?

Over the years, it has become apparent that some huts breach the current specification due to adaptations that have taken place that fall outside of the stated plot dimensions i.e. the addition of patios, balconies, decking areas, etc. In these instances the current site licence does not cover those adaptations.

Following a review of the specification, the Council is proposing to work with beach hut owners to either:

- (i) remove those adaptations which fall outside of the revised specification or

(ii) where adaptations are included in the revised specification, they can be added to beach hut agreements and an additional charge levied for the increased space

Brightlingsea Association (BBHA):

- There is a need for additional details about how this would be implemented.

Harwich Association:

- Consideration of how the process of the transfer takes place for new buyers.

Frinton Association:

- Agrees with TDC on this matter.
- The problem are for those who have bought a hut which is already altered and are not aware of the adaptations.
- Frinton agree to the proposal to either remove adaptations or charge additional fees to cover the additional space. Will planning permission be needed to ensure neighbouring huts are agreeable?
- Why has TDC not followed up on huts where owners have been asked to remove adaptations, this has been ongoing for 6 or 7 years with no action or consequences?
- How are TDC going to in force new rules when they don't in force them now?
- What about those who have bought a hut which is already altered and are not aware of the adaptations – will it be the responsibility of the buyer to check dimensions prior to purchase?
- What happens to those hut owners who have dug into the cliff or constructed patios next to their huts, will they need to remove them and repair the damage to the cliff structure?

All agree that there is a need for detail on this.

6. MONITORING OF BEACH HUT LICENCE CONDITIONS & COMPLAINT MANAGEMENT

What is the Council proposing? - The Council is considering providing resourcing to take appropriate enforcement action where necessary. The Council will also need to determine how this would be funded to ensure complaints are acted upon in a timely manner.

Brightlingsea Association (BBHA):

- Responses received from owners are that they want to see that they're getting value for money.
- Beach hut owners do not want to pay a lot more for services which should be of benefit to TDC, e.g. efficient and reliable means of holding customers' data and communicating with them.
- Currently patrollers monitor damage to huts every day. There is good communication regarding faults and problems with the Town Council and the council is responsive to complaints.
- Hut sites facing the boating lake are managed by Brightlingsea Town Council.

Harwich Association:

- Have been lucky to monitor any issues themselves, but will go to TDC if they cannot solve any problems. Don't see where extra staff will go to be able to police this. All issues come from the associations to raise any problems.
- CCTV – deployable cameras were added too late in date-Huts were already damaged by then.
- Have members who will pay towards monitoring with additional costs for TDC.

Frinton Association:

- Where does it say the risks are noted? Will this always remain a risk?
- FBHA asked how TDC would manage the risk to implementing, monitoring and managing the new strategy noted in the Public Reports Pack dated 04.12.22)
- Risk raised by TDC on limited resources to manage and monitor the strategy – will this always remain a risk? What's the plan to mitigate risks, how will TDC implement, monitor and manage the new strategy?
- Would be good to have more support from TDC.
- Need people from different areas to act as a 'warden' who have authority.

- Did offer to help fund this for wardens with authority to go along the seafronts.
- It's the bigger issues which are the problem, need professional witnesses i.e. retired/ ex-police.
- CCTV- not sure if would be could use at Frinton- Currently have PCSO.
- Looked at peak areas/times- then had AGS go at night, which is paid for via Frinton Assoc.
- Proposal is for additional resourcing; how would this be funded? – TDC recognise this themselves as a high risk and have not set out a proposal on how this will be managed and/or funded.
- Will we have people from different areas to act as a 'warden' who have the relevant authority?
- Frinton BHA has previously offered to help fund wardens with TDC to go along the seafronts, offer declined.
- It's the bigger issues which are the problem, need professional witnesses i.e., retired/ ex-police.
- CCTV- not sure if would be could use at Frinton- Currently have PCSO.
- Frinton BHA looked at peak areas/times- then had AGS patrol at night, which is paid for via Frinton Assoc.
- Where changes are not in line with current seafront bylaws, will bylaws be reviewed and updated?

Clacton/Holland Association:

- Suggestion for having police patrol- even if it's Adhoc.

7. BUILDING NEW BEACH HUTS

What is the Council proposing? - The Council is proposing to build new beach huts around the District, which will be accessible through a lease. The amount of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people.

Brightlingsea Association (BBHA):

- Close to the huts, in Promenade Way there are a commercial camp site for tents and caravans and a Leisure Village. These provide alternative but complementary facilities.
- Beach hut owners and local residents struggle to think where additional sites for the extra huts would be.

Harwich Association:

- Agree to this- if there is the space.
- Hopes the 3 empty plots at Dovercourt gets filled- please consult with the colouring of hut.
- Not in favour of the overnight sleeping huts. - How would this be policed? There is signs of no overnight staying/parking, so it would go against the current signs and only encourage more people.

Frinton Association:

- Not in favour of the overnight sleeping huts/camping.
- Bylaws say there should be no parking overnight.
- The only way with how this can work is if this is policed.
- Proposal is to build new huts around the district accessible through leasing – the association strongly disagree to changing from a licence to lease, without knowing the detail of the leases, it is not possible to agree. TDC have so far refused to share lease details.
- Request to share lease detail, duration and clauses – request for association legal representative to review draft new lease.
- We are not in favour of the overnight sleeping huts/camping.
- The local bylaws say there should be no parking overnight.
- The only way with how this can work is if this is policed – recurring issue is how can it be policed.

Clacton/Holland Association:

- Not in favour of the overnight sleeping huts-camping on the beach is not a good idea.
- This just encourages people to come down - not something that is wanted.

