



PLANNING COMMITTEE

DATE:	Tuesday, 5 November 2024
TIME:	5.00 pm
VENUE:	Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

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

Councillor McWilliams
Councillor Smith
Councillor Sudra
Councillor Wiggins

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

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DATE OF PUBLICATION: Monday, 28 October 2024

AGENDA

1 Apologies for Absence and Substitutions

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

2 Minutes of the Last Meeting (Pages 9 - 14)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 10 September 2024.

3 Declarations of Interest

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

4 Questions on Notice pursuant to Council Procedure Rule 38

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

5 Report of the Director (Planning & Communities) - A.1 - 23-00923-FUL - Clacton FC, Rush Green Road, Clacton-on-Sea, CO16 7BQ (Pages 15 - 38)

Extension to existing football club to provide additional weather training pitch area.

6 Report of the Director (Planning & Communities) - A.2 - 23-01196-FUL - Lower Farm East End Green, Brightlingsea, Colchester, CO7 0SX (Pages 39 - 116)

Mixed use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary activity uses such as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works.

7 Report of the Director (Planning & Communities) - A.3 - 24/00721/FUL - Land to the Rear of Taylor Cove, Harwich Road, Beaumont, Clacton-on-Sea, CO16 0AX (Pages 117 - 130)

Retrospective double field shelter comprising of a hay/storage barn and a stable.

8 Report of the Director (Planning & Communities) - A.4 - 24-01379-FUL - 29 Landermere Road, Thorpe Le Soken, Clacton-on-Sea, CO16 0LQ (Pages 131 - 140)

Demolition of 1.2 tall front boundary fence, post and gravel boards.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 5.00 pm on Tuesday, 3 December 2024.

INFORMATION FOR VISITORS

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

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

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

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

Rights of members of the public to film and record meetings

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

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

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

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

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

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

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

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

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

Tendring **District Council**



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

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

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

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

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

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

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

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

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

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

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

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

WHICH MATTERS ARE COVERED BY THIS SCHEME?

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

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

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

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

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

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

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

Email: democraticservices@tendringdc.gov.uk.

OR

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 5.00pm) and speak to the CSO.

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

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

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

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

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

WHAT SHOULD I SAY AT THE MEETING?

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

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

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

WHO DO I CONTACT FOR MORE INFORMATION?

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

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

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

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

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 10TH SEPTEMBER, 2024 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman) (except item 21), White (Vice-Chairman) (in the Chair for item 21 only), Alexander, Everett, Goldman, Smith, Sudra and Wiggins
Also Present:	Councillor Land
In Attendance:	John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Michael Pingram (Senior Planning Officer), Maddie Adger (Leadership Support Manager), Bethany Jones (Committee Services Officer) and Christopher Bailey (Elections and Leadership Support Officer)
Also in attendance:	Ian Davidson (Chief Executive) and Keith Simmons (Head of Democratic Services and Elections)

17. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor McWilliams (with no substitution).

18. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the meeting of the Committee, held on Tuesday 9 July 2024, be approved as a correct record and be signed by the Chairman.

19. DECLARATIONS OF INTEREST

Councillor Fowler (Chairman) declared for the public record, in relation to the Planning Application **A.1 – 23/01757/FUL – 610 Main Road, Harwich, CO12 4LW** that due to her being the Ward Member and being predetermined, she therefore would not participate in the Committee’s deliberations and decision making for this application and that Councillor White (Vice-Chairman) would take over as Chairman for this item.

20. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

21. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01757/FUL - 610 MAIN ROAD, HARWICH, CO12 4LW

Earlier on in the meeting as reported under Minute 19 above, Councillor Fowler had declared for the public record that she was the Ward Member and was predetermined. She therefore withdrew from the meeting and took no part whilst the Committee deliberated and made its decision on this application. The Chair was thereupon occupied by the Vice-Chairman (Councillor White).

The Committee was informed that the application was before the Planning Committee at the discretion of the Head of Planning & Building Control and that it sought full planning

permission for the change of use from a dance studio (Class E(d)) to a mosque community centre (Classes F1(a), F1(f) and F2(b)). As part of the proposal external works included the erection of a pergola to the side (east) of the building over the side access, and the installation of the rear elevation windows at ground floor level.

Officers felt that the proposal would result in the retention of a community facility that was currently vacant and that the building would be used in part as a place of worship. Furthermore, the principle of development was supported by local and national planning policies.

Members were made aware that the proposal involved only minor external alterations and following the submission of amended drawings to remove the proposed timber cladding, ECC Heritage had raised no objections. In addition, whilst there were neighbouring properties within the surrounding area, the external alterations and noise associated with the proposal were not considered to be so harmful as to justify Officers recommending a refusal on that basis.

The Committee was advised that ECC Highways had initially required additional information before being able to provide formal comments; however, following the submission of additional details related to the previous and proposed usage of the site, including vehicular movements, they had raised no objections. Officers acknowledged that there was no parking provision, but also gave weight to the fact that the existing use of the site equally had had no parking provision, and also that the existing lawful use likely had had additional users to the use being proposed.

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

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

An update sheet had been circulated to Members prior to the meeting including a letter from Councillor J Henderson (Ward Member) which was as follows-

“I would like to add as one of the ward Councillors, I have no objection to the planning application 23/01757/FUL. The summary in the agenda item 1.4 regarding ECC Highways, states they raise no objections.”

In addition, the update sheet reported that one further letter of support had been received.

Azam Azam, the applicant’s agent, spoke in support of the application.

Christina Richardson, a member of the public, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Are the red and blue lines coterminous or not?</i>	<i>The applicant did make it clear this morning that they weren’t sure who owned the land to the rear. As part of the submission that Officers have got, there is no blue line on the plans.</i>

<p><i>So, Officers are clear on the red line but not of the blue line?</i></p>	<p><i>The application is submitted in respect of the red line plans and the red line is the defined area should it be determined, and any blue line is additional bonus information. The application itself is only determined on the red line area. In this case, looking at the two, the perceived rear area is larger than where the red line is shown to be, but any change of use will only be to the red line area.</i></p>
<p><i>With the space at the back, parking could be placed on the site if required and the parking could quite easily be dealt with, what are Officers comments on that?</i></p>	<p><i>The application needs to be determined on the merits presented. It is not proposed to have parking at the rear of this property so that is not for Members' consideration, therefore for your consideration is the application that does not propose parking. Half of the possibly proposed parking would be outside the red line. Officers understand that there might be a future consideration around parking, but that is not for determination right now.</i></p>
<p><i>Are there any plans that the Council or Officers are aware of for parking provisions in the future?</i></p>	<p><i>There are no separate planning applications submitted to address this, and Officers are not aware of any future applications. This may happen, however there is no guarantee of this.</i></p>
<p><i>Could Members refuse the application based on inadequate parking provision?</i></p>	<p><i>That is within your gift as the decision maker. Officers have provided you with material considerations in relation with the historic use of the building and Highways considerations as part of your report.</i></p>
<p><i>Can Officers reassure Members that Planning are trying to get to a better position rather than a worse position?</i></p>	<p><i>It is outlined in Paragraph 8.24 of the Officer report, but where Officers have fallen in their position is that the existing base line use as a dance studio equally has no parking, but it has been demonstrated that it had a much higher usage in terms of vehicular usage and parking requirements than what is being proposed. In some ways, it is kind of a neutral impact, but it certainly is not a worse position in Officers' view. There is less need for parking with the current proposal.</i></p>
<p><i>Am I correct in thinking the movement in traffic anticipated is less than half than when it was a dance studio?</i></p>	<p><i>Yes, those figures are reasonably accurate. The expected weekly visitors with the proposed use is 122 and the existing lawful use as a dance studio generated movements of approximately 300 so it is a little bit more than half.</i></p>
<p><i>Is the building considered to be in a poor state and in need of TLC?</i></p>	<p><i>Repair works would not require planning permission and are not part of this application. That would be down to the applicant.</i></p>
<p><i>Would the ancillary works that could be carried out be considered an improvement?</i></p>	<p><i>There is a long list that could be arguably considered as an improvement. It is in a sustainable location. Planning has a range of roles and in some cases, improvement is part of that, but avoidance of harm is the other part of that balance to be taken, and Officers have concluded</i></p>

	<i>to Members that they do not foresee there to be any demonstration of harm that would warrant refusal that would be defensible at an appeal.</i>
<i>Within part 8.22 of the Officer report, could Members have more elaboration on the last sentence of that paragraph "Should planning permission be forthcoming a condition can be included to secure full details of this prior to first occupation of the building", what does that involve?</i>	<i>Condition 4 of the recommendation is requiring the submission of a travel plan with details of travel arrangements to and from the site for employees, customers etc and that would be prior to the first occupational use of the development. The travel plan document that has been provided to Officers has included some potential details of what could be incorporated. A future document should be submitted as part of that condition.</i>
<i>What does the Foul Drainage Assessment say?</i>	<i>Officers would have to check as this is an existing building so normally it would not be considered to apply, but it is reasonable to assume that being in a built-up area such as this, that the existing drainage of the dance studio facilities would have applied and therefore would apply again with this which is only for change of use. If Members are concerned about this issue, there is no reason as to why a condition couldn't be added for the existing drainage.</i>
<i>What was the site used for before it became the existing building?</i>	<i>Between 1888 to 1915 it looks like it was agricultural land.</i>
<i>Is the Mosque going to be used for prayer at any other times of the day and week and what happens during festival times in terms of usage?</i>	<i>Officers do not know. How the applicants manage their time in the hours they have is their choice of how they run their facilities. Officers feel that it is adequate in planning terms to mitigate any antisocial timeframe which is why there is a condition included which had not been imposed before. This time around, Officers have the opportunity to make improvements in planning terms and a condition has been made in regard to hours as set out in the Officer report, but what they do within those hours is going to be varied and unreasonable to control in a timeframe.</i>
<i>In normal practice, would Officers improve an application to add something to it that the applicant/developer had not thought of?</i>	<i>An aim for a planning officer is to seek an opportunity to better an application. If applicants want Officers to decide their application that is in front of Officers, then the decision would have to be made whether or not it causes harm to warrant refusal and if it has dealt with all of the issues that maybe a burden to the local community.</i>
<i>In part 8.6 of the Officer report, the opening hours proposed by the applicant, are these correct?</i>	<i>Yes, they are correct.</i>
<i>Under condition 3, Sundays were not asked for by the applicant and that length of</i>	<i>Officers have to balance what is reasonable to oppose as a planning condition. Tests have to be passed for planning conditions. As Planning</i>

<i>time was not asked for by the applicant, any comments?</i>	<i>Officers, it has to be borne in mind that the existing use dance studio for commercial use is an unrestrictive use in terms of hours. It could be challenged either way around.</i>
<i>Could the Committee decide different hours?</i>	<i>Yes, Members would also have to apply reasonable tests for the considerations of that decision.</i>
<i>If Members could change the hours, then that also applies to the number of people on the site as well?</i>	<i>Yes, Members could but then Members would need to think about how reasonable they are being in the operation of the site and how that could affect how the site might operate. In paragraph 56 of the NPPF, it states “planning conditions should be kept to a minimum and only imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.” Members should keep that in mind when imposing conditions that are not already recommended.</i>
<i>In regard to noise, are Officers comparing the noise from a Mosque compared with the noise accumulated with a group of children and young adults and older adults playing music from the dance studio?</i>	<i>Yes, under the impact of residential amenities section of the Officer report, Paragraphs 8.28 and 8.29, the potential impact for noise has been discussed. The conclusion has been that the current lawful existing use of the building would probably generate slightly more noise than what is being proposed, but the use overall is of a low-key nature, counter in the fact that there will be a reduction in vehicular movements and the existing building could have been operated at any time regardless of the determination of this application. With all of those considerations, Officers do not recommend refusal on these grounds.</i>
<i>Are Officers content that the hours of operation will stop an external noise from waking up residents locally?</i>	<i>The hours of operation means exactly that and the use of speakers would be allowed.</i>

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

RESOLVED that –

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

NOTE: in accordance with the provisions of Council Procedure Rule 19.6, Councillor Everett requested that it be recorded in the Minutes that he had voted against the motion.

The meeting was declared closed at 6.18 pm

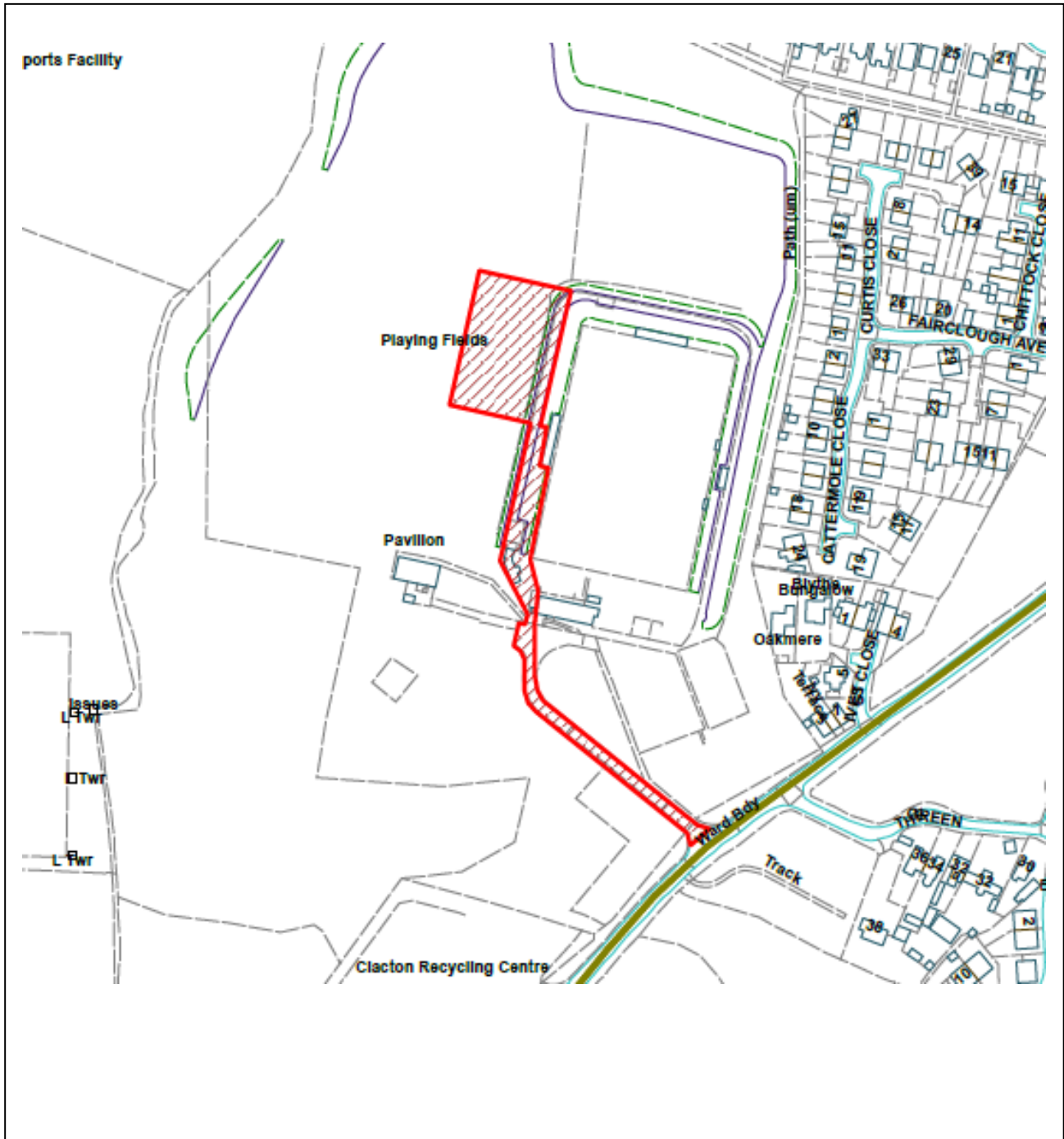
Chairman

PLANNING COMMITTEE

05TH November 2024

REPORT OF THE DIRECTOR OF PLANNING

A.1. PLANNING APPLICATION – 23/00923/FUL – CLACTON FC RUSH GREEN ROAD CLACTON ON SEA CO16 7BQ



DO NOT SCALE

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Application:	23/00923/FUL	Expiry Date:	20th September 2023
Case Officer:	Naomi Hart	EOT Date:	25th September 2024
Town/ Parish:	Clacton Non Parished		
Applicant:	S Andrews - FC Clacton Community Benefit Society		
Address:	Clacton FC Rush Green Road Clacton On Sea Essex CO16 7BQ		
Development:	Extension to existing football club to provide additional all weather training pitch area.		

1. Executive Summary

- 1.1. The proposal is for the extension to the existing Clacton Football Club (FC) to provide an additional all weather training pitch area. The Artificial Grass Pitch (AGP) is proposed to be located on land which forms part of the Rush Green Safeguarded Open Space and is before the Planning Committee as the land is owned by Tendring District Council and because the proposal represents departure from the development plan.
- 1.2. Policy HP4 of the Local Plan 2013-2033 identifies areas of safeguarded open spaces to be protected. The policy states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space will not be permitted unless the certain criteria are met. The proposal will result in the permanent loss of a section of safeguarded open space because the scheme includes a 4.5 metre fence around the proposed AGP, and its use is exclusively for Clacton FC members and other potential sport users while not including the wider public and removing this area of land from general recreational open space use. Whilst the proposal will benefit members of Clacton FC and other potential sport users that may be subject to commercial payment, access to the area by the wider general public would be permanently lost without replacement.
- 1.3. The proposal would bring some health benefits and benefits to Clacton FC and their members, making the club more agile in respect of their offer and equipping them with a much-needed facility. Against these benefits, the pitch will be sectioned off and the loss of the safeguarded open space will therefore be permanent. Sport England offer strong support despite the part loss of the safeguarded open space.
- 1.4. Furthermore, the proposed development will result in some visual harm due to the fencing and floodlighting proposed and its intrusion outwardly into the remaining open space. The landscaping proposed would be largely ineffective in mitigating this harm, and this weighs further against the proposal. Neutral elements include no harm to neighbouring amenity, there is considered to be sufficient parking provision and ECC Highways offer no objections subject to conditions. Similarly, ECC Ecology do not object to the proposal subject to conditions.
- 1.5. Taking all of the detailed considerations above into consideration, Officers have concluded that on this occasion the principle of development is not acceptable as it fails to comply with Policy HP4 of the Local Plan 2013-2033 and the health benefits and benefits to Clacton FC through the provision of this facility will not outweigh the loss of the safeguarded open space and the character harm. Accordingly, the planning application is recommended for refusal.

Recommendation: Refusal

- 1) That the Head of Planning and Building Control be authorised to refuse planning permission subject to the reason(s) as stated at paragraph 10.1, or varied as is necessary to ensure the wording is precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the reasons for refusal as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. **Status of the Local Plan**

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

3. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no neighbourhood plan(s) in place for this area.

4. **Planning Policy**

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP4 Safeguarded Open Space

HP5 Open Space, Sports and Recreation Facilities

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

[Essex Design Guide](#)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

01/01946/TELCO M	Mobile telephone base station with a 15m high monopole mast, incorporating 3 no. antennas providing 3 no. sectors of cover, two 400mm and 1 no 600mm microwave dish, new equipment cabinet, compound	Prior Approval Not Required	17.12.2001
93/01057/FUL	(Rush Green Bowl, Rush Green Road, Clacton on Sea) Proposed toilet block	Approved	02.11.1993
95/00007/FUL	Extension to existing clubhouse and erect 2 No. portacabins	Approved	16.02.1995
99/00822/FUL	Electric lighting to youth training pitch	Approved	26.08.1999
99/00823/FUL	New football stand	Approved	26.08.1999
99/01134/FUL	New entrance porch to existing clubhouse	Approved	15.09.1999
19/00235/FUL	Proposed replacement floodlights and spectator rail.	Approved	23.04.2019

6. Consultations

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

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

Sport England

19.09.2024 (Latest Comments)

In our most recent formal response to the consultation dated 19th July 2024, an objection was made as a statutory consultee because the amended 'Site Layout' showed tree planting sited on the natural turf playing field around three sides of the proposed artificial grass pitch (AGP). Concerns were raised about the potential impact of the tree planting on the ability to mark out football pitches on the remaining playing field area to the west and south of the AGP. It was

suggested that a revised playing pitch layout be provided which demonstrated how football pitches could still be accommodated if the tree planting was implemented as proposed. In response to this objection the applicant has now submitted further information about the impact on the surrounding playing field. I am now in a position to review our position on the application based on the further information that has been submitted. This response should be treated as superseding our previous formal responses to the consultation on this application.

Summary

Statutory consultee role

Sport England raises no objection to this application as a statutory consultee which is considered to meet exception 5 of our adopted Playing Fields Policy and paragraph 103 of the NPPF subject to a planning condition being imposed relating to artificial grass pitch certification as set out in this response:

Non-statutory consultee role

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

Sport England - statutory consultee role and policy

We understand that you have consulted us as a statutory consultee in line with the above Order. Therefore, we have considered the application in light of the National Planning Policy Framework (NPPF), in particular paragraph 99, and Sport England's Playing Fields Policy, which is presented within our 'Playing Fields Policy and Guidance Document': www.sportengland.org/playingfieldspolicy

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

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

unless, in the judgement of Sport England the development as a whole meets with one or more of five specific exceptions. The exceptions are provided in the Annex to this response.

The proposal and impact on playing field

The proposal involves the siting of a floodlit artificial grass pitch (AGP) with a 3G surface that would be designed principally for football training use by Clacton Football Club but would have markings for 7v7 and 5v5 football pitches. The AGP would be sited on part of Clacton FC's playing field to the west of the club's first team stadium pitch. Tree planting is proposed on three sides of the AGP which would encroach onto the playing field.

Assessment against Sport England's Playing Fields Policy and NPPF

As the proposal relates to the provision of a new outdoor sports facility on the existing playing field it can be considered against exception 5 of the above policy (see Annex to this response). I have therefore assessed the proposal against the above policy to determine whether the proposals meet exception 5.

Sports Development Benefits

In summary, the proposed floodlit AGP would provide a modern all weather surface that would be capable of intensive use throughout the year for training, matches and coaching. The facility is intended principally for meeting the club's training needs. At present, the club trains on multiple facilities across the Clacton area, some of which are unsuitable for training use and some of the teams do not train due to the lack of suitable or affordable facilities. The lack of dedicated training facilities places pressures on the natural turf pitches on the club's site which results in the quality and carrying capacity of these pitches being adversely affected which is pertinent as the pitches have qualitative issues due to the playing field being a former landfill site. As well as Clacton FC's use, the AGP would also be made available to other clubs and community groups to use when not required by the club especially during the daytime and outside of the football season.

I have consulted the Football Foundation (who represent the FA and Essex County FA) who has advised that they are supportive of the principle of the club developing facilities to meet their needs. The rationale for the project has been explained in the information that has been submitted in support of the application. The design and layout of the AGP would also broadly accord with the FA's design guidance on AGPs.

Impact on Playing Field

In relation to the impact on the playing field, the AGP would be sited to the west of the football club's first team stadium pitch. The rationale for the siting of the AGP in this location is as follows:

- The existing fencing around the adjoining stadium pitch could be extended to incorporate the AGP.
- The siting would be further away from residential properties than other potential locations on the club site and therefore would prevent or minimise any residential amenity impacts.
- This area is understood to have been granted planning permission for floodlighting the natural turf playing field in the past for training use.

The playing pitch layouts that has recently (September 2024) been provided have shown that the AGP and tree planting could be sited on the playing field without affecting the senior football pitch that is currently marked out immediately to the west as this could be realigned slightly to accommodate the proposals. While there would no longer be sufficient space to the south of the AGP to accommodate a small 5v5 football pitch due to the tree planting it would appear that this area has not been marked out for playing pitches in recent years due to the poor ground conditions in this area. No existing football pitches would therefore be affected and the prejudicial impact on space for marking out additional pitches would be limited.

Sport England's position

Given the above, Sport England withdraws the objection set out in our previous response dated 19th July 2024 and raises no objection to the application because it is considered to accord with exception 5 of our Playing Fields Policy and paragraph 103 of the NPPF. This position is strictly subject to the following condition being attached to the decision notice should the local planning authority be minded to approve the application:

- Artificial Grass Pitch Certification: A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of certification that the artificial grass pitch has met the FIFA Quality Standard accreditation or equivalent International Artificial Turf Standard (IATS) requirements prior to first use of the artificial grass pitch. This is justified because AGPs can only be sanctioned for FA affiliated community football match use where the pitch has been tested to meet these requirements. As the club proposes to use the AGP for mini soccer league matches it will need to meet this the FIFA Quality standard. Further details of the FIFA standard is on FIFA's website at <https://www.fifa.com/technical/football->

technology/standards/footballs/fifa-quality-marks-explained. As a pitch can only be tested for certification when it is completed it would not be possible to request the information to be provided at planning application or pre-commencement stages. Following meeting the tests, the facility will need to be registered on the Football Foundation's Register of Football Turf Pitches <https://footballfoundation.org.uk/3g-pitch-register> to enable it to be sanctioned for FA affiliated community football match use. The Essex County FA can provide further advice to the applicant upon request. It is requested that the following condition and informative be imposed (which is based on condition 9b of our model conditions schedule https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport?section=playing_fields_policy):

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

Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy **. Informative. The applicant is advised that the pitch should be tested every three years by an accredited testing laboratory in order to achieve and maintain FIFA Quality accreditation.

If the LPA is minded to approve the application without imposing the above condition then Sport England objects to the application as it is not considered to accord with any of the exceptions to our Playing Fields Policy or paragraph 103 of the NPPF.

If you wish to amend the wording of the condition or use another mechanism in lieu of the condition, please contact us to discuss. Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments.

Should the local planning authority be minded to approve this application without the above condition, then given Sport England's subsequent objection the Town and Country Planning (Consultation) (England) Direction 2021 requires the application to be referred to the Secretary of State via the National Planning Casework Unit.

Sport England - Non Statutory Role and Policy

The Government, within their Planning Practice Guidance (Open Space, Sports and Recreation Facilities Section) advises Local Planning Authorities to consult Sport England on a wide range of applications. <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space>

This application falls within the scope of the above guidance as it relates to development which creates opportunities for sport. Sport England assesses this type of application in line with its planning objectives and with the National Planning Policy Framework (NPPF). Sport England's planning objectives are to PROTECT existing facilities, ENHANCE the quality, accessibility and management of existing facilities, and to PROVIDE new facilities to meet demand. Further advice is provided in Sport England's Planning for Sport guidance which can be found here: <https://www.sportengland.org/facilities-and-planning/planning-for-sport/planning-for-sport-guidance/>.

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

Principle of the Development

Principles 6 and 7 of Sport England's Planning for Sport guidance relate to the 'Enhance' objective and in summary support improvements to existing sports provision where they are needed (principle 6) and encourage/secure wider community use of existing and new sports provision (principle 7). The proposed development would provide an enhanced sports facility that would offer potential to make a contribution towards meeting community sports facility needs in the Clacton-on-Sea area for the reasons set out above. The proposals are therefore considered to meet principles 6 and 7 of the guidance. Sport England would therefore wish to confirm its support for the principle of the proposed development as a non-statutory consultee.

Hours of Use and Sports Lighting

The proposal for the AGP to include sports lighting is welcomed and considered essential as this will offer significant sports development benefits in terms of facilitating use by the community during peak periods of demand. Without suitable sports lighting, it would not be possible for the facility to meet the needs that it has been designed to address. While Sport England would not require a planning condition to be imposed relating to the hours of use of the AGP or its sports lighting, it is acknowledged that the Council may wish to impose such a condition in order to address potential impact on residential amenity or the environment. If planning permission is granted, it is recommended that any condition that may be imposed by the Council relating to the hours of use of the lighting and the use of the AGP is not overly restrictive. In this regard, it is advised that peak community use of AGPs on similar sites usually extends until 10.00 p.m. on weekday evenings. If the Council wishes to impose a planning condition restricting the hours of use of the AGP or its sports lighting, consideration should be given to using condition 14 from our model conditions schedule.

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

If the design of the lighting scheme is material to the assessment of the planning application, I would recommend that consideration be given to Sport England's 'Artificial Sports Lighting' guidance note <https://www.sportengland.org/guidance-and-support/facilities-and-planning/design-and-cost-guidance/artificial-lighting> and the FA's Guide to 3G Football Turf Pitch Design and Layouts <https://www.thefa.com/get-involved/player/facility-development-and-technical-guidance>.

Noise

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

Please note that this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Annex

The Five Exceptions to Sport England's Playing Fields Policy

Exception 1

A robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

Exception 2

The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.

Exception 3

The proposed development affects only land incapable of forming part of a playing pitch and does not:

- reduce the size of any playing pitch;
- result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);
- reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;
- result in the loss of other sporting provision or ancillary facilities on the site; or
- prejudice the use of any remaining areas of playing field on the site.

Exception 4

The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and
- in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.

Exception 5

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

The full 'Playing Fields Policy and Guidance Document' is available to view at: www.sportengland.org/playingfieldspolicy

Essex County Council Ecology

15.07.2024 (Latest Comments)

Thank you for re-consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the newly submitted Preliminary Roost Assessment (Matthew Game, June 2024) relating to the likely impacts to bat roosts.

We also re-reviewed the non-ecological documents submitted by the applicant in support of this application.

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

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

The mitigation measures identified in the Preliminary Roost Assessment (Matthew Game, June 2024) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

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

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

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment (Matthew Game, June 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

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

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

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

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

ECC Highways Dept

16.07.2024 (Latest Comments)

The revised information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material. It is noted that the amended proposed Site Layout Plan shows an increase in the size of the application site and includes the provision for new planting on the perimeter of the site, again the proposal site is set well back from the highway. As with the original supporting information no changes are proposed to the established vehicular access off Rush Green Road or to the internal off-street parking within the site. In relation to the amended proposals the Highway Authority has no additional comments to make, therefore:

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

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

The Plan shall provide for:

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

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

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

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety and in accordance with Policy DM1.

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

Informative:

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

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

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

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

Environmental Protection

25.07.2024 (Latest Comments)

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

Contaminated Land: Given the site is located on historic, registered contaminated land, the EP team are requesting that a Watching Brief be conditioned on any subsequent approval and adhered to throughout the construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:
 - o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment;
 - o treatment of material on site to meet compliance targets so it can be re-used;
 - o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the site workers and future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises.

Tree & Landscape Officer

10.07.2024 (Latest Comments)

The amended Proposed Site Layout Plan shows an increase in the size of the application site and makes provision for new planting on the perimeter of the site

At the present time the plan shows only indicative details and location of planting.

Should planning permission be likely to be granted then details of plant species, specification and quantities can be secured by a planning condition. Alternatively, this information could be provided prior to the determination of the application.

7. Representations

7.1. Parish / Town Council

Clacton is non parished.

7.2. Neighbour / Local Representations

No letters of representation have been received.

8. Assessment

Site Context

- 8.1. The application site relates to a parcel of land located to the south western side of Clacton Football Club, Rush Green Road, Clacton on Sea. The application site is located within Rush Green Safeguarded Open Space.
- 8.2. To the east of the application site, beyond Clacton Football Club are dwellings which are located along Cattermole Close. Approximately 300 metres to the west of the application site is Bishops Park which consists of Market Field College, Tendring Education Centre, Sigma Sixth Campus and West Clacton Library. The site also comprises of three tennis courts and a football pitch. To the south of the application site is the Groundsman Flat.
- 8.3. The application site falls within the Settlement Development Boundary for Clacton on Sea within the adopted Local Plan 2013-2033.

Description of Proposal

- 8.4. This application seeks planning permission for the proposed extension to the existing football club to provide an additional all weather training pitch area. The 3G Artificial Grass Pitch (AGP) will measure approximately 37 metres by 63 metres. The pitch will be bounded by 4.5 metre perimeter fencing with a double leaf gate which will form an enclosure around the pitch's perimeter as well as 4 x 12 metre high LED floodlights.
- 8.5. The applicant has confirmed that the Football club is open 7 days a week 9am – 10pm. The proposed pitch will impose the same opening days and times.

Principle of Development

- 8.6. Paragraph 102 of the National Planning Policy Framework (NPPF 2023) states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.
- 8.7. This application is to extend the existing football club to provide an all weather training pitch. Clacton Football Club and the application site (where the training pitch is to be located) are both located with Rush Green Safeguarded Open Space.
- 8.8. The key and most important local plan policy insofar as the principle of development is concerned is Policy HP4 of the Tendring District Local Plan 2013-2033.
- 8.9. Policy HP4 states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space, as defined on the Policies Map and Local Maps will not be

permitted unless the following criteria are met (criteria first followed by the officer assessment under the said criteria in *Italic*):

- a. The site is replaced by the provision of new site at least equal in quality and size and accessible to the community which the existing site serves;

The proposal does not seek to replace the safeguarded open space which is to be lost by this development and will not be accessible to the wider public, therefore failing to meet this criteria.

- b. It is demonstrated that there is no longer a demand for the existing site;

No evidence has been provided to demonstrate that there is no longer a demand for the existing site (as safeguarded open space) and therefore fails to meet this criteria.

- c. The site is not appropriate for other open space functions;

No evidence has been provided to demonstrate that other open space functions have been explored (and found to be not appropriate) by the applicant and therefore the proposal fails to meet this criteria.

and

- d. The development of the site would not result in the loss of an area important to visual amenity.

The application site is adjacent to the existing Football Club which is currently unfenced and accessible to the wider public. Around the perimeter of the proposed pitch will be a 4.5 metre high fence which will remove public access to the safeguarded open space. Although the proposed pitch would be a community benefit to a select number of members of the public (i.e. Clacton FC members and other users associated directly or indirectly with Clacton FC), it would represent land removed from the general access to the public and their enjoyment without any form of replacement. It is considered that the introduction of the pitch as well as the proposed fencing would result in the loss of an area important to visual amenity.

- 8.10. The principle of development is therefore not supported by Policy HP4 and Paragraph 102 of the NPPF 2023. The remainder of the assessment will now turn to the other relevant material planning considerations including statutory consultee responses.

Expansion of Existing Sporting Facility

- 8.11. Policy HP1 of the Local Plan states that the Council will work to improve the health and wellbeing of residents in Tendring. Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types.
- 8.12. Sport England are a statutory consultee on this planning application as the proposal affects an existing playing field. Sport England were originally consulted on this application and provided their formal consultation however insufficient information was provided and a holding objection was submitted. The applicant provided a response with additional information to try and overcome the objection and Sport England objected again due to insufficient information being provided in relation to the design and layout of the pitch. Further additional information was provided and Sport England removed their holding objection on the basis that the proposal will comply with exception 5 of Sport England's adopted Playing Field Policy (as set out in their latest consultation response). The 'exception 5' criteria that Sport England relies on in support of their position is based on when a proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field. The area of safeguarded open space that makes

up the application site is only informally used as a playing field during the times when Clacton FC (and other members of the public) are using it as football playing field. Officially the site is safeguarded open space and there is no change of use planning permission in existence on the site authorising the use of the site as a playing field, whether that is a football playing field or any other playing field. For these reasons the weight that can be given to the Sport England comments is reduced.

- 8.13. In addition to the above, after discussions with the applicant in regards to the principle of development, concerns were raised from Officers in regards to the lack of ecological surveys and landscaping to help screen the proposed development. The applicant provided an ecological survey and indicative landscaping to help soften the appearance of the development to overcome Officers concerns. Sport England were re-consulted and raised concerns that the indicative landscaping would encroach into the 'realigned senior pitch to the west'. The applicant after discussions directly with Sport England provided an amended plan demonstrating that the proposal as well as the landscaping would retain a sufficient distance to the senior pitch. Sport England were reconsulted and have no objections subject to conditions.
- 8.14. As a result, Policy HP1 and HP5 of Tendring District Local Plan 2013 – 2033 lend support to the proposal.
- 8.15. The proposed floodlit Artificial Grass Pitch (AGP) would also provide a modern all weather surface that would be capable of intensive use throughout the year for training, matches and coaching. The facility is intended principally for meeting the club's training needs. At present, the club trains on multiple facilities across the Clacton area, some of which, it has been argued, are unsuitable for training use and some of the teams do not train due to the lack of suitable or affordable facilities. The LPA accepts that the lack of dedicated training facilities places pressures on the natural turf pitches on the club's site which results in the quality and carrying capacity of these pitches being adversely affected which is pertinent as the pitches have qualitative issues due to the playing field being a former landfill site. As well as Clacton FC's use, the applicant explained that the AGP would also be made available to other clubs and community groups to use when not required by the club especially during the daytime and outside of the football season.
- 8.16. The proposal is clearly to expand the Clacton FC and to provide an additional facility for Clacton FC members, and clubs and individuals directly or indirectly associated with Clacton FC. However a section of safeguarded open space to the wider public will be permanently lost in exchange for an engineered 3G pitch, which will only be available for a certain members of the community as set out above. The weight that can be afforded to the benefits as set out in the paragraphs above is therefore reduced. These benefits will be returned in the planning balance and conclusion section and be weighed against any harmful elements/areas of policy conflict.

Impact to Character of the Area

- 8.17. Paragraph 135 of the NPPF (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.18. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout which create a unique sense of place.
- 8.19. This application seeks to extend the existing football club to provide an additional all weather training pitch area. This will include 4.5 metre fencing, 4 x 12 metre high floodlight columns and goal storage

areas. The proposed pitch will be located to the south west of the existing Clacton Football Club grounds and located within Rush Green Safeguarded Open Space.

- 8.20. The pitch measures approximately 63 metres by 45 metres. Whilst its siting would function well for the Football Club in connection with the existing facilities, it will protrude out into the existing open space in a jarring manner and affect the public area as a whole in terms of its visual impact. It is considered that due to the 4.5 metre fencing located around the perimeter of the pitch, the proposal will be a prominent and dominant feature within the heart of open space, acting as a visual barrier across the area and as a result will cause visual harm to the character of the area. Discussions were had with the applicant and amended plans were provided which demonstrates that the pitch has been relocated slightly to the south as well as indicative landscaping to the North, South and West of the site which helps to soften the proposed fencing and overall development. It is considered that the indicative landscaping will help reduce the visual harm, however landscaping of this nature can take a very long time to establish itself, and the proposed floodlighting (four in total) would be the most prominent of that being proposed from wider views. Floodlighting is a typical addition to a 3G pitch such as the one proposed and Officers acknowledge that these floodlights are necessary to ensure that the pitch can be used during winter months (and to make the investment stack up from a financial perspective). However, the floodlights will naturally be visible from certain views and will be prominent in the localised landscape. Again, the landscaping proposed would largely be ineffective during in the short and medium term, and even longer term the floodlighting will continue to be visible due to their height. The proposal will therefore conflict with policies SP7 and SPL3 of the Local Plan.

Impact to Neighbouring Amenities

- 8.21. Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.22. Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.23. To the east of the application site, beyond Clacton Football Club site are dwellings which are located along Cattermole Close. Approximately 300 metres to the west of the application site is Bishops Park which consists of Market Field College, Tendring Education Centre, Sigma Sixth Campus and West Clacton Library. The site also comprises of three tennis courts and a football pitch. To the South of the application site is the Groundsman Flat, although there will be views of the proposal from the neighbouring building, due to the distance and the high quality landscaping scheme which will be put forward as part of the discharge of condition application, the proposed pitch is not considered to cause any significant impact upon the neighbouring amenities. Due to the location of the proposed pitch as well as the proposed landscaping which will help to screen the proposal, it is not considered to cause any significant impact upon the wider neighbouring amenities.
- 8.24. Tendring District Councils Environmental Health Team have been consulted on this application and have stated that given the historic, registered contaminated land, the team are requesting a watching brief is conditioned and adhered to throughout the construction phase. The team have also recommended working hours for construction works to minimise any potential nuisance caused by the construction works.

Highway Safety

- 8.25. Paragraph 115 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires

that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

- 8.26. Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.
- 8.27. There are no changes proposed to the established vehicular access off of Rush Green Road or to the internal off street parking within the site. The site consists of an existing car park which serves the football club and public open space. No additional parking spaces are provided as part of the proposal. Essex Parking Standards states that for an outdoor sport pitch, 20 spaces are required for one pitch. In the applicant's response to Sports England, it has been outlined that the proposed pitch will be used for roughly the same number of users as they currently have. However, in the winter months, due to the weather conditions this will likely see an increase in the number of users, maintaining the same number of users in the summer months.
- 8.28. It is noted that there are approximately 58 parking spaces serving the existing facilities and whilst it is noted that there is no additional parking provided for this application. There is an overspill car park located to the east of the existing car park which can also provide additional parking. It is concluded that as the proposal is to extend the existing sport facilities of Clacton FC and ECC Highways has not raised an objection to the proposal in terms of highway safety, on balance, the unchanged parking provision compared to the existing situation is considered acceptable.

Trees and Landscaping Impacts

- 8.29. The application site currently forms part of the recreation ground and is set to grass. The boundary of the application site with the football ground is demarcated by an established coniferous hedge. Although the hedge provides a good screen to the football ground, it is in poor condition. The hedge is not an attractive feature in its setting and is not considered to be a significant constraint on the development potential of the land. As part of this application, the hedgerow is to be removed which is not considered to have a significant impact on the character or appearance of the locality.
- 8.30. Due to concerns raised in regards to the 4.5 metre high fencing, the floodlights and the location of the proposed pitch jutting into the public open space the applicant provided amended plans to demonstrate indicative landscaping to the North, South and West of the application site to help screen the 4.5 metre fencing and the proposed development particularly due to the open nature of the site. For the reasons set out in the Impact to character section above, the soft landscaping will be ineffective in providing the required screening however a soft landscaping condition can be imposed to secure these details in the event of an approval.

Renewable and Energy Conservation Measures

- 8.31. Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 8.32. Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 8.33. for electric cars, and potentially additional renewable features. No details, however, are provided within the application submission. Therefore, in the event of an approval it will become reasonable

and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

Biodiversity and Geodiversity

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

General duty on all authorities

- 8.36. The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 8.37. This development is subject to the general duty outlined above. The proposal is for a football pitch on a site currently utilised as part of safeguarded open space. Although indicative landscaping has been demonstrated on the proposed plans, a condition will be imposed to ensure that full landscaping details are provided to secure planting. An informative recommending the applicant is strongly encouraged to improve the biodiversity of the site through appropriate additional planting and wildlife friendly features is included.
- 8.38. Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, may be likely to conserve and enhance biodiversity interests.

Biodiversity net gain

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

Protected Species

- 8.40. In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal includes for a football pitch on part of the wider school playing field. The impacts to protected species have been carefully addressed within the report above, and it is considered that the proposal is unlikely to adversely impact upon protected species or habitats.
- 8.41. Paragraph 180(d) of the National Planning Policy Framework (2023) states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising

impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 186(a) of the NPPF adds that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

- 8.42. Adopted Policy PPL4 (Biodiversity and Geodiversity) states that as a minimum, there should be no significant impacts upon any protected species, including European Protected Species and schemes should consider the preservation, restoration or re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.
- 8.43. ECC Place Services Ecology were originally consulted on this application and raised a holding objection due to insufficient ecological information on European Protected Species, including Bats. The applicant provided a Preliminary Roost Assessment which includes a ground level bat tree assessment. The assessment concluded that the trees within and adjacent to the proposed site have negligible value for roosting bats due to the lack of potential roost features. The report recommends the installation of two bat boxes on mature trees around the site boundaries which will provide roosting habitats for bats.
- 8.44. ECC Place Services Ecology were reconsulted on the Preliminary Roost Assessment and are satisfied that there is sufficient ecological information available. In the event of an approval the proposed mitigation measures as set out in the ecology assessment will be imposed as conditions to conserve and enhance protected and priority species particularly bats. The team also support the proposed reasonable biodiversity enhancements which will need to be confirmed within a Biodiversity Enhancement Strategy and this can also be a condition in the event of an approval.
- 8.45. In accordance with the overarching duty outlined above, this development, subject to conditions is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

9. Planning Balance and Conclusion

- 9.1. The proposal is for the expansion of an existing sporting facility on safeguarded open space and the proposal will bring forward considerable health benefits for its users. Moreover, a 3G pitch will clearly improve the facilities that Clacton FC have on offer and allows for more widespread usage including during wet winter months, which will cast the health benefits even wider.
- 9.2. Against these benefits clear policy conflict has been identified in terms of the principle of development (in particular the permanent loss of portion of safeguarded open space) and character harm that will ensue as a result of the expansion, the 4.5m fence and the floodlighting. These harmful element attracts significant weight in the overall planning balance because it results in clear policy conflict in terms of the former, including the permanent loss of safeguarded open space, and moderate policy conflict in terms of character harm as set out within the body of the report.
- 9.3. All other third party representations, including those from technical consultees and members of the public have been carefully considered, and where necessary, considered as part of the officer assessment of this scheme. It is considered that the revised proposals, subject to the imposition of conditions, have addressed all other technical policy matters. The application site and area is also located in a sustainable location in one of the districts Strategic Urban settlements. All these elements are neutral in the planning balance.
- 9.4. Overall, the proposals benefits are modest especially when judged against the fact that a fairly large proportion of safeguarded open space will be permanently lost to the wider public contrary to the Local Plan that has full weight. The adverse impacts as identified above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. The

proposal would conflict with the development plan as a whole, and there are no other considerations including the provisions of the Framework which outweigh this finding.

10. Recommendation

10.1. The Planning Committee is recommended to refuse planning permission.

10.2. Reason for Refusal

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

Policy HP4 of the Local Plan 2013-2033 aims to protect open spaces as defined on the Policies Map and Local Maps. The policy states that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space, as defined on the Policies Map and Local Maps will not be permitted unless the following criteria are met;

- The site is replaced by the provision of new site at least equal in quality and size and accessible to the community which the existing site serves,
- It is demonstrated that there is no longer a demand for the existing site
- The site is not appropriate for other open space functions
- The development of the site would not result in the loss of an area important to visual amenity.

The proposed development, if approved, would reduce public accessibility to part of Rush Greens Safeguarded Open Space, reducing public benefit for recreation and wider community benefit. No evidence has been provided to demonstrate that the tests of Policy HP4 can be satisfied, including provision for a new site, or no longer a demand for the existing site and other open space functions. Moreover, the proposed expansion, including a 4.5 metre perimeter fencing and floodlighting, while removing public access, will result in a harmful protrusion of the pitch into the remaining safeguarded open space. The proposal would result in the loss of an area important to visual amenity and public views of the protected area. The proposal is therefore contrary to Policies HP4, SP7 and SPL3 of the Local Plan 2013-2033 and Paragraphs 102 and 135 of the NPPF 2023.

10.3. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- Drawing No. 04 Revision 01 - AGP Layout
- Drawing No. P01F - Proposed Layout

- Drawing No. P02b - Pitch Layouts
- Additional Information - Flood Lighting and Pitch Details - Scanned 28/07/23
- Amended Lighting Design Report - Dated 23/08/2023
- Preliminary Ecology Roost Assessment Inc. Ground Level Bat Tree Assessment – Dated 21/06/2024

11. Additional Considerations

Equality Impact Assessment

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

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

Human Rights

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

Finance Implications

- 11.7. Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

12. Background Papers

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

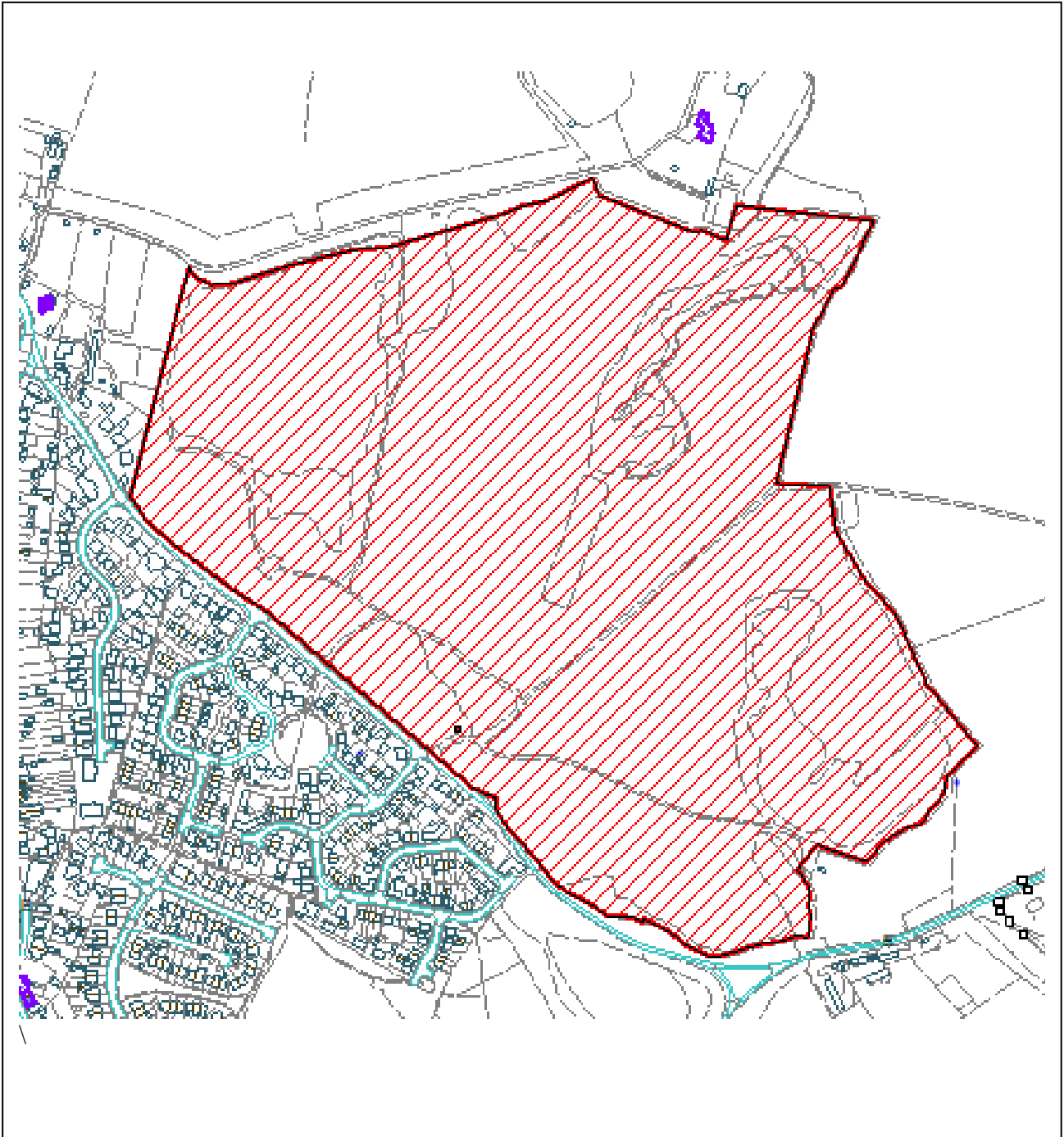
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PLANNING COMMITTEE

05TH NOVEMBER 2024

REPORT OF THE DIRECTOR OF PLANNING

A.2. PLANNING APPLICATION – 23/01196/FUL – LOWER FARM EAST END GREEN BRIGHTLINGSEA COLCHESTER CO7 0SX



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Application:	23/01196/FUL	Expiry Date:	11th December 2023
Case Officer:	Matthew Lang	EOT Date:	3rd May 2024
Town/ Parish:	Brightlingsea Town Council		
Applicant:	Artemis (Brightlingsea) Limited		
Address:	Lower Farm East End Green Brightlingsea Essex CO7 0SX		
Development:	Mixed use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary activity uses such as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works.		

1. Executive Summary

- 1.1. This application is referred to planning committee because of a ‘call in’ by Cllr Chapman. The application site is situated on the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes. The site is located outside of, but directly to the north of, the defined settlement boundary for Brightlingsea.
- 1.2. Full planning permission is sought for: “A mixed-use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary activity uses such as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works”. The site benefits from an implemented full planning consent (ref: 19/00188/FUL) for ‘the development of a mixed-use tourist and residential scheme comprising of retirement living apartments, detached farmhouses and holiday lodges with ancillary facilities such as glamping pods, toilet facilities, a club house/ hub, children’s play areas and boating jetties’. This application was submitted in February 2019 and granted full planning permission in March 2021.
- 1.3. This application seeks significant revisions to the previously approved scheme to propose a more contemporary, consistent and sustainable approach to the design of the various buildings located throughout the site. The quantum of accommodation remains as previously approved (i.e. 104 holiday lodges, 36 retirement units and 5 market dwellings), but the size, mix and arrangement of the various units of accommodation has been revised. The development now also proposes a wider range of tourism and leisure facilities predominantly at the western end of the site and revised retirement accommodation from the previously approved retirement apartments to individual retirement lodges supplemented by a communal retirement hub.
- 1.4. Whilst the revisions include an increase to the overall footprint of the development (approximately a 51% increase), they also provide for substantial enhancements over and above the approved scheme in terms of an improved tourism offer through more on-site facilities, ecological benefits via lake and reedbed creation and an enhanced and consistent design approach across the whole development, which incorporates improved sustainability credentials.
- 1.5. When considered against the backdrop of the existing implemented consent, the proposed development would not result in an adverse impact upon residential amenity, highway safety,

landscape impacts or ecological interests. Moreover, the submitted Environmental Impact Assessment has not identified any exceptional circumstances which contravene prevailing legislation or planning policy and, with the added input of statutory consultees who have reviewed the submitted documentation, it is concluded that the proposed development at Lower Farm Park will not result in any significant environmental impacts.

- 1.6. Subject to the applicant entering into a Section 106 agreement to secure contributions towards off-site affordable housing, RAMS, Public Open Space improvements and Highway/Public Right of Way upgrades, alongside obligations to control the occupation of the retirement lodges and the phasing of the development, the proposal is considered to be acceptable and recommended for approval subject to the Conditions outlined at Section 10.2 of this report.

Recommendation: Full Approval subject to conditions listed at section 10.2 and S106 securing the following;

- 1) On appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters:

- **Affordable Housing Contribution - £952,850 (index linked)**

- **RAMS Contribution - £163.86 per unit**

- **Public Open Space Contribution - £14,080 - Enhancements to Bayards Recreation Park**

- **Highway Contribution £27,300 – Bus Stop upgrade – Bayards Crescent**

- **Highway Contribution towards PRow Improvements (Currently Uncosted)**

- **Phasing Plan (Trigger Points outlined at Section 10.1)**

- **Restriction on Occupation of Retirement Lodges – Over 55's Only**

- 2) That the Head of Planning and Building Control be authorised to grant full planning permission subject to the agreed section 106 agreement and conditions as stated at paragraph 10.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,

- 3) The informative notes as may be deemed necessary.

Or;

- 4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

2. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory

Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

3. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There is not a neighbourhood plan in force within the Brightlingsea area.

4. **Planning Policy**

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3 Spatial Strategy for North Essex
SP4 Meeting Housing Needs
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design

HP1 Improving Health and Wellbeing
HP2 Community Facilities
HP3 Green Infrastructure
HP5 Open Space, Sports and Recreation Facilities

LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
LP5 Affordable Housing

PP8 Tourism
PP10 Camping and Touring Caravan Sites
PP11 Holiday Parks
PP13 The Rural Economy

PPL1 Development and Flood Risk
 PPL3 The Rural Landscape
 PPL4 Biodiversity and Geodiversity
 PPL5 Water Conservation, Drainage and Sewerage
 PPL7 Archaeology
 PPL9 Listed Buildings
 PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility
 CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
 Tendring Provision of Recreational [Open Space for New Development SPD 2008](#)
[Essex Design Guide](#)
[Technical housing standards](#): nationally described space standard Published 27 March 2015

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

89/02059/FUL	(Robinson Road, Brightlingsea) Restoration of sand and gravel workings - Renewal of permission TEN/1088/87	Approved	22.05.1990
90/00872/FUL	(Disused Gravel Pits at Robinson Road, Brightlingsea) Holiday leisure home park (200 lodges) and amenities	Refused	03.11.1992
02/01789/TELCO M	Installation of telecommunications mast and ancillary equipment.	Determination	07.11.2002
12/00127/LUEX	Certificate of existing lawful use for recreational fishing.	Granted	23.03.2012
19/00188/FUL	Mixed use tourist and residential scheme comprising enabling development of retirement living apartments (36 units), detached farmstead houses (5 units) and a lodge or club house serving a number of timber holiday lodges (104 units) and ancillary activities such as glamping, toilet facilities and play areas which will be the main focus of the development.	Approved	11.03.2021
23/01196/FUL	Mixed use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary activity uses such	Current	

as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works.

23/01473/NMA	Non-Material Amendment to planning permission 19/00188/FUL to alter the trigger for Conditions 6 (surface water drainage scheme), 8 (surface water drainage maintenance), 14 (revised road junction design), and 28 (local recruitment strategy) to be above slab level rather than pre-commencement.	Approved	06.11.2023
23/01655/DISCON	Discharge of conditions 7 (Scheme to minimise the risk of offsite flooding) and 11 (Construction Method Statement) of application 19/00188/FUL.	Approved	05.02.2024

6. Consultations

- 6.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 6.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

ECC Highways Dept 22.08.2024

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

1. Prior to occupation of the development, each road junction / access at its centre line shall be provided with a minimum visibility splay, with dimensions of 2.4-metres by 43-metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. No occupation of the development shall take place until the following have been provided or completed:

a) A priority junction off Robinson Road, as shown in principle on drawing no. 23180-MA-XX-DR-C-0131 - P01, to provide access to the proposed site, including a 2-metre-wide footway/ with tactile paving and a straight section of carriageway to be provided from the entrance junction for 15-metres with a minimum carriageway width of 5.5-metres.

b) A secondary access as shown in principle with drawing no. 23180-MA-XX-DR-C-0130 - P01, to include 7-metre kerb radii with a 2-metre-wide footway/ with tactile paving around the north-western kerb radii together with tactile paving for the existing footway on the opposite side of Robinson Road and a straight section of carriageway to be provided from the entrance junction for 6 metres with a minimum carriageway width of 5.5 metres.

c) A vehicular turning facility as shown in principle on drawing no. 5553/SP/23/SK0001.

- d) The provision of a 3-metre-wide shared footway/ cycleway linking the leisure hub with the secondary access, and Robinson Road.
- e) The upgrade of the nearest bus stop on Bellfield Avenue, to current Essex County Council specification to include but not restricted to, 5-metre raised Kassel kerbs, and cantilever shelter (details to be agreed with Essex County Council prior to commencement of the development).
- f) The extension of the existing waiting restrictions at the junction of Church Road/ Bateman Road, details to be agreed with the Local Planning Authority and in conjunction with Essex County Council.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM7 and DM9.

- 3. No unbound material shall be used in the surface treatment of the vehicular accesses within a minimum of 10-metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

- 4. Any gates retained at the vehicular access shall be inward opening only and shall be set back a minimum of 22-metres from the back edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

- 5. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall always be retained in this form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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

- 6. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

- 7. Prior to the occupation of the proposed detached farmstead houses and retirement lodges, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator, farmstead houses only).

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

- 8. Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

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

9. Prior to occupation and until such time as the public footpaths 161_8 & 161_27 (just beyond Marsh Farm) infrastructural improvements required for the upgrade of the natural surface by providing planings with timber edging; the extent to be agreed with the Highway Authority and has been provided entirely at the Developer's expense.

Reason: To make adequate provision within the highway for public footpath 8 and 27 (part) These areas currently have a natural surface so would benefit from an upgrade (a layer of planings with timber edging) due to the additional pedestrian traffic generated as a result of the proposed development.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and National Planning Policy Framework 2023.

Affinity Water **18.09.2023**

Affinity water has no comments to make regarding planning application 23/01196/FUL.

Anglian Water Services Ltd **19.09.2023**

ASSETS

Section 1 - Assets Affected

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

WASTEWATER SERVICES

Section 2 - Wastewater Treatment

The foul drainage from this development is in the catchment of Brightlingsea-Church Rd Water Recycling Centre that will have available capacity for these flows.

Section 3 - Used Water Network

This response has been based on the following submitted documents: FRA and Drainage documents Due to lack of information we are unable to make an informed assessment. A full assessment cannot be made due to lack of information, the applicant has not identified a connection point into the public network. Therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network.

Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. We therefore request a condition requiring phasing plan and/or on-site drainage strategy INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by

Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority were mindful to grant planning approval.

Used Water Sewerage Network (Section 3)

We have no objection subject to the following condition:

Condition - Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason To prevent environmental and amenity problems arising from flooding.

FOR THE ATTENTION OF THE APPLICANT - if Section 3 or Section 4 condition has been recommended above, please see below information:

Next steps

Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy.

If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team. This can be completed online at our website <http://www.anglianwater.co.uk/developers/pre-development.aspx>

Essex County Council Archaeology

25.09.2023

The Essex Historic Environment Record (HER) records cropmarks features within the area of the proposed development, these were plotted from historical photographs taken prior to the quarrying activities within the site boundaries. Any archaeological remains within the site are likely to have been previously impacted upon through quarrying activities.

There is unlikely to be any significant impact on any archaeological remains from the proposed development due to the former use of the site, there is no objection to the above application.

ECC Green Infrastructure

03.10.2023

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed landscape and green infrastructure (GI) strategy/plans for the aforementioned planning application.

ECC currently provides advice on green infrastructure schemes (GI) for major developments. ECC have been consultees on GI since 2018. Although there are no statutory requirements for GI, the 25 Year Environment Plan and Environment Act (2021) place significant importance on protecting and enhancing GI, accessibility and biodiversity net gain.

In providing advice we look to ensure that adequate provision, protection and improvements of high-quality GI comply with the objectives and planning principles set out in the following documents:

- Local Planning Authorities (LPA) Green Infrastructure Strategy/ SPD or equivalent green and open space strategies provides further guidance on the LPA's Local Development Plan policies regarding the Council's approach to green infrastructure provision in the local authority area.
- Essex Green Infrastructure Strategy, 2020, aims to enhance the urban and rural environment, through creating connected multi-functional GI that delivers multiple benefits to people and wildlife. It meets the County Council's aspirations to improve GI and green spaces in our towns, city and villages, especially close to areas of deprivation.
- Essex Green Infrastructure Standards, 2022, provide clear guidance on the requirements on both planning policy and planning application and processes.

ECC GI position

Having reviewed the Environment Statement (ES), Design and Access Statement (DAS), Soft Landscape Proposals and Schedules and the associated documents which accompanied the planning application, **we do not object** to the granting of 23/01196/FUL based on the following:

ECC GI Team welcomes the Soft Landscaping Proposal and schedule. If these, along with the green roofs mentioned in the ES and DAS, as well as the mitigation recommendations in the Preliminary Ecological Assessment (PEA) and Arboricultural Impact Assessment (AIA)

documents, are implemented, the potential harm from the proposed vegetation removal will be adequately mitigated.

Condition 1

The ES mentions that a Construction Environmental Management Plan (CEMP) will be created and that the landscaping will be delivered in stages, which is a positive. It is suggested that the CEMP be protected by a planning condition. In that no development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a Construction Environmental Management Plan (CEMP). With strategic elements of the GI framework brought forward in phase one of the development, to create a landscape structure or that substantive GI is secured as early as possible in each phase of delivery to allow early establishment. A CEMP will be required to set out how retained GI, such as trees, hedges and vegetation, will be protected during construction. As recommended within the ES, PEA and AIA.

Reason:

The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

Condition 2

The ES recommends that a Landscape Ecological Management Plan (LEMP) should be produced. No development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason:

To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

Failure to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

Condition 3

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

Reason:

To ensure the GI are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure the high-quality and multi-functional benefits of GI assets.

Other consideration -

Essex Climate Focus Area

The aforementioned planning application is situated within the Essex Climate Action Commission's (ECAC) recommended Climate Focus Area (CFA), which is formed of the Blackwater and Colne River catchment areas (please see Figure 1 for further details). The objective of this recommendation is for the CFA to "accelerate [climate] action and provide exemplars, for learning and innovation: adopting Sustainable Land stewardship practices: 100% by 2030 and Natural Green Infrastructure: 30% by 2030" (ECAC, 2021). Among the objectives of the CFA are to achieve net zero carbon, biodiversity net gain, improve soil health and air quality, reduce flooding and urban heat island effect, and enhance amenity, liveability and wellbeing of Essex communities. It will achieve this by wholesale landscape change in rural areas and urban areas and it will look to developments to contribute to these targets.

Figure 1: Map of ECACs Climate Focus Area

CFA require developments to take into account the following requirements in in line with meeting the requirements outlined in NPPF:

- a) biodiversity net gain to enhance biodiversity and the natural environment by creating Natural Green Infrastructure contributing to the CFA 30% by 2030 target and the wider Local Nature Recovery Network/Strategy.
- b) flood and water management, for those properties at risk of flooding to include Integrated Water Management and Natural Flood Management techniques.
- c) New developments to improve urban greening of our towns, and villages through the provision of street trees for example. New developments are necessary in terms of increasing greenspace creation, naturalizing existing green spaces, greening the public realm, and implementing sustainable drainage systems (SuDS).

ECC Planner Minerals

No comments received

ECC Schools Service

No comments received

Economic Growth Team

18.09.2023

Tendring District Council's Economic Growth Team would support this application due to it having the potential to bring tourism and growth to the district.

Environment Agency

03.11.2023

Thank you for your consultation we have reviewed the plans as proposed and we consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed

development on this site poses an unacceptable risk to the environment and we would object to the application.

Land Contamination

This site is located above a Secondary A Aquifer (Kesgrave Formation) and is close to drains leading to Flag Creek. The site is considered to be of moderately low environmental sensitivity. The past use could present potential pollutant linkages to controlled waters.

Due to significant resource pressures, we are unable to provide a full review of the submitted documents. However, we have carried out a partial review and place reliance on the competent person as to the accuracy of the conclusions and recommendations provided within the submitted reports. Based on our partial review, we make the following comments:

Given the relatively low environmental sensitivity setting, the proposed land use, past use as an inert landfill, and following partial review of:

- CET Preliminary Ground Investigation & Generic Risk Assessment of November 2017 (ref: 392576)
- Soiltechnics Ground Investigation Report of August 2023 (ref: STV6024-R01 Rev B)
- SLR Flood Risk Assessment and Surface Water Drainage Strategy of 15 August 2023 (ref: 425.64239.00001)

We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Our only comment on the Soiltechnics report is that VOC and TPH were contaminants of concern for groundwater in the conceptual site model, but these were not tested for in the groundwater sampling but given other assurances with soil testing and environmental setting, we do not consider this significant enough to object.

It is noted that infiltration is not proposed at this development. If this changes in future, please reconsult us.

We ask to be consulted on the details submitted for approval to your Authority to discharge these conditions and on any subsequent amendments/alterations.

Condition 1

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons

To protect and prevent the pollution of the water environment (particularly the Secondary A aquifer and drains leading to Flag Creek) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF 2021; paragraphs 174, 183 and 184), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.

Shoreline Management Plan

We have reviewed the application details, and Shoreline Management Plan, and it is clear that all the proposed works are well above potential Flood zones and therefore will not be affected by any impacts of coastal flooding irrespective of any realignment proposed.

Environmental Protection

23.10.2023

Environmental Impact Assessment: with reference to the submitted EIA, dated August 2023; I can advise the EP Team are satisfied with its contents and the methodologies utilised. Given the report covers several aspects of interest to the EP Team, we have broken them down for individual responses below -

- Air Quality and Dust: The findings of the submitted AQ report outlines the proposed development won't have an adverse impact on the local air quality, and as such we are satisfied with the outcome of the report, and the methodology used to confirm this aspect relating to the operational phase. However, as the proposed development is considered to be a medium risk of dust impacts, the EP Team are requesting a Dust Management Plan (DMP) to be conditioned/submitted to the LPA for approval; this report should include all highly recommended methods stated within the report.

- Noise and Vibration: A number of mitigation measures, as well as best practicable means have been identified in relation to noise during the construction phase; as such the EP Team are requesting the submission of a formal Construction Method statement, of which would need to include all relevant measures outlined within the EIA, and shall be submitted to the LPA for approval prior to the commencement of any works. Submission of section 61 applications should also be considered, should works need to take place outside of normal construction hours. With reference to the noise generated by the operational phase; due to some unknown factors in relation to plant noise, the EP Team would request a further information once the machinery has been confirmed. In addition, appropriate design and glazing should be implemented, as outlined in the report, to minimise any adverse impact. With additional reference to the submitted Acoustic assessment report by Blackbird Acoustics, dated July 2023 the EP Team would request all additional mitigation laid out within this assessment is implemented in relation to both construction and operational phases.

- Contaminated Land: The EP Team are satisfied with the findings of the phase 2 investigation and the additional information and proposed mitigation outlined in the EIA. Table 7.4 contained within the geotechnical report, outlines the proposed measures and significance of impact. Providing all methods laid out in this report are performed and adhered to along with any copies of remediation statements, we have no further comments to make in relation to contaminated land.

Arch. Liaison Off, Essex Police

25.09.2023

The Essex Police Designing out Crime team welcomes the opportunity to make comment on the planning application 23/01196/FUL.

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

the available documentation, Essex Police would welcome the opportunity to discuss the following considerations with the applicant.

Movement Strategy (Access and Egress) Essex Police would request further information regarding the access and movement proposals of the site ensuring that security cannot be easily compromised. This will mitigate the potential to design in 'crime and anti-social behaviour (ASB) generators,' which could breach the integrity, safety and compromise the suitability of the proposed development.

Landscape plan Effective public realm spaces are designed where safety and security are subliminal to the user of that space. We would welcome the opportunity to liaise regarding the green architecture and appropriate landscaping plan, especially with regards to the use and management of the proposed public realm spaces.

Lighting Considerations Lighting plays a pivotal role in deterring criminal activity, but also promotes a feeling of safety within that space. When designing both public and private space, (and when applied and designed correctly), lighting can reduce the potential for crime. Essex Police would wish to seek further clarity regarding the lighting proposals as it is imperative that the lighting provision must provide uniform illumination with due consideration given to the spill of light and ecological considerations.

Physical security

The physical security for the dwellings, communal and holiday units is not mentioned within the documents submitted to the planning portal. We would be keen to discuss how the applicant intends to secure these units to keep future residents and visitors safe whilst also preventing crime and anti-social behaviour.

Management and maintenance At the appropriate stage within the planning process, we would be keen to understand the finer detail of management and maintenance proposals. The long-term durability of security can only be guaranteed if it is maintained and regularly serviced with appropriate plans in place to ensure security does not fall into disrepair through neglect.

Security forms a key part of a sustainable and vibrant location and Essex Police considers that it is important that this site is designed incorporating the maximum achievable benefit of crime prevention through environmental design for which Secured by Design (SBD) is the preferred enabler.

SBD is the national official police security initiative that works to improve the security of building and their immediate surroundings to provide a safe and secure environment to help reduce the opportunities for crime and minimise the fear of crime, as referenced in the NPPF, 'Promoting Healthy and Safe Communities'.

We would welcome the opportunity to discuss with the applicant the security design aspects of the application to ensure provision of a safe and secure environment for potential residents. Contact with Essex Police Designing Out Crime team is via email: designingoutcrime@essex.police.uk.

Natural England

08.10.2024

DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for Essex Coast RAMS. It is anticipated that new residential development within this ZOI is 'likely

to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development. This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contribution, signage, client's visitor website, visitor/information leaflets, dog bins, and over 2.3 ha circular walks on site) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI, alone and combination with other plans and projects.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

Other advice

It is of note that, where tourist accommodation is open all year around, it is up to the local authority to decide if the applicant should pay the tariff for these units, as we advise that the development would become more similar to residential than tourism.

Functionally linked land Natural England confirmed in our response dated 21 February 2024 – that we were satisfied with the level of survey effort/ desktop study provided to agree that the application site is not being used as functional habitat associated with the Colne Estuary.

Biodiversity Net Gain (BNG)

Natural England agree that since the application was validated prior to mandatory net gain, no assessment is legally required.

Soils

We welcome the additional soils information contained in the Carter Jones letter dated 28 February 2024, we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20ha 'best and most versatile' (BMV) agricultural land.

For this reason, we do not propose to make any detailed comments in relation to agricultural land quality and soils, although sustainable soil management should aim to minimise risks to

the ecosystem services which soils provide, through appropriate site design / masterplan / Green Infrastructure. Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources, including the provision of soil resource information in line with the Defra guidance Construction Code of Practice for the Sustainable Use of Soils on Construction Sites.

NHS East Essex CCG

No comments received

UU Open Spaces

19.10.2023

Public Realm Assessment

Play Space - current deficit:

- Deficit of 6.43 hectares of equipped play in Brightlingsea

Formal Play - current deficit:

- Deficit of 7.25 hectares of Open Space

Settlement provision:

- Pawsons Playground LEAP and Open Space 1.7miles to development

- Bayard Rec Ground LEAP and Open Space 0.8 miles to development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?
to comply with CIL Regs*

- Although the development includes an on-site play area it is likely that this is going to be for holiday guests only and not available to residents. A contribution towards improvement existing open space and play facilities is relevant and justified to this application. The contribution will be used to improve Bayards Rec.

Network Planner - UK Power Networks

No comments received

Essex County Council Ecology

01.03.2024

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

Summary

Further to our comments on 13th December 2023, we have reviewed the Further Ecological Response Letter (Tim Moya Associates, February 2024), Bats and Lighting Response (Tim Moya Associates, January 2024), and Winter Bird Analysis (Tim Moya Associates, January 2024) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

We note that the Winter Bird Analysis (Tim Moya Associates, January 2024) concludes that "surveys undertaken of the proposed development site do not suggest that any bird species included in the citation for Colne Estuary SPA regularly makes use of the proposed development site in numbers that would classify the site as Functionally Linked to the SPA". We are satisfied that the submitted information.

Therefore, a Habitats Regulations Assessment will need to be prepared by the LPA (as the competent authority), to demonstrate that adverse impacts on integrity of the Habitats sites within scope, either alone or in combination with other plans and projects, can be avoided from the development.

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

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

The mitigation measures identified in the Preliminary Ecological Appraisal (Adonis Ecology, August 2022) and Ecological Constraints and Opportunities Summary (Tim Moya Associates, August 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Otter, Water Vole, Badger, nesting birds, Hedgehog, Common Toad and Brown Hare.

Furthermore, a Construction Environmental Management Plan for Biodiversity (CEMP: biodiversity) should be produced and submitted as condition of consent. This is to ensure that any potential impacts to retained habitat, Robinsons Road Ponds Te47 LoWS, and other protected and Priority species are mitigated.

European Protected Species - Bats

Within our previous comments on 13th December 2024, it was noted that the results of additional presence / likely absence surveys were advised as Trees T37, T112, T126, T1338, and T110 have potential for roosting bats. However, the Further Ecological Response Letter (Tim Moya Associates, February 2024) explains that these trees do not require removal to accommodate the development and rather a long-term issue with tree health and safety. We also note that the "The development is anticipated to be completed through many separate phases of works over a period of several years" and that "Any extensive survey data gathered now prior to the determination of planning consent will therefore quickly become obsolete". Given the reasonable justification provided within the Further Ecological Response Letter (Tim Moya Associates, February 2024) that these trees do not require removal to accommodate the development, no further surveys are considered necessary prior to determination.

In regard to the potential increase in lighting resulting in likely impacts to foraging and commuting bats, it was advised within our previous comments (13th December 2024) that bat activity surveys be undertaken to identify how and what species of bats are using the site. We note Bats and Lighting Response (Tim Moya Associates, January 2024) includes a proposed draft lighting plan, demonstrating lit areas and potential bat commuting routes. It is demonstrated that proposed lighting, assuming the unlikely event that all lighting will be on at any one time, will be low level (0.2 lux at any extent), have a Colour Temperatures of <3000k,

and only contained within areas that need to be lit. Therefore, we are now satisfied that foraging and committing bats within the site can be mitigated. As a result, we recommend that a finalised sensitive lighting scheme is submitted to the LPA and secured by a condition of consent.

Protected Species - Reptiles

We note the Further Ecological Response Letter (Tim Moya Associates, February 2024) provides clarification that the onsite translocation of reptiles, will not be restricted to a receptor known as the "Hills and hollows" within the southeast of the site. The Further Ecological Response Letter (Tim Moya Associates, February 2024) highlights that the "low" population of Slowworm and Common Lizard would be moved to suitable areas, which will be enhanced, throughout the site. It is considered that the LPA now has certainty of the likely impacts to these protected species. Therefore, a finalised Reptile Mitigation Strategy should be produced and submitted as part of the CEMP: Biodiversity. However, we advise that any reptiles translocated should not be placed within the "hills and hollows" area due to the isolated nature of this area, which could result in killing and injury.

Priority Habitats

Furthermore, the Further Ecological Response Letter (Tim Moya Associates, February 2024) explains that Lowland Fen Priority habitat no longer meets the categorisation for a Habitat of Principal Importance. However, the Lowland Dry Acid Grassland Priority habitat does meet the criteria, although confirmed to be outside of the development boundary. As a result, the LPA can be satisfied that Priority habitats will not be directly affected by the proposals.

Local Wildlife Sites (LoWS) - Robinsons Road Ponds Te47

We note that the Further Ecological Response Letter (Tim Moya Associates, February 2024) provides a recap of the proposed habitat enhancement measures throughout the site. These include the extension of the southern lake, marginal aquatic planting, provision of islands and rafts for wetland birds, and the creation of two new lakes within the site. Furthermore, we also support the new proposals of reedbed creation within the LoWS lakes stated within the Further Ecological Response Letter (Tim Moya Associates, February 2024). Considering the proposed enhancements throughout, it is considered that this development will likely not result in detrimental impacts to the condition of the Local Wildlife Site and that a net gain of biodiversity within the site can be demonstrated.

Additional Comments

We also support the proposed reasonable biodiversity enhancements which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (December 2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

As advised within the Further Ecological Response Letter (Tim Moya Associates, February 2024), it is recommended that a Landscape and Ecological Management Plan (LEMP) be secured by condition of consent to ensure that biodiversity enhancements are managed appropriately for the long-term benefit of biodiversity.

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

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

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Adonis Ecology, August 2022) and Ecological Constraints and Opportunities Summary (Tim Moya Associates, August 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures including a finalised Reptile Mitigation Strategy (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

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

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

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

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;

- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

4. PRIOR TO BENEFICIAL USE: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the beneficial use of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details"

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

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

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

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

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

ECC SuDS Consultee

03.11.2023

Thank you for your email received on 13/09/2023 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

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

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

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

Lead Local Flood Authority position

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

Condition 1

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

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SUDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme. Cover levels and invert levels are also to be included on the drainage plan.
- A final detailed drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

Condition 2

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

Reason

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

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

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

Condition 3

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

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

Reason

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

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

Condition 4

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

Reason

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

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>

- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures

- Please consider the use on non-return valves in this development.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Essex County Council Heritage

04.10.2023

The application is for mixed use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary

activity uses such as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works.

The proposal site was historically associated to Grade II Listed Marsh Farm, located in close proximity to the Northern boundary. A WWII pillbox recorder on the HER (EHER Ref. 21336) is also situated on the site boundary.

The proposal is a revision of the scheme previously approved under planning application 19/00188/FUL. The applicant also engaged in a pre-application process for this revised proposal in 2023.

As previously assessed, the historic agrarian setting of Marsh Farm and the WWII Pillbox has already been compromised due to the change of use of the surrounding land for mineral extraction. As noted in relation to the approved scheme, the introduction of a built form within an historically undeveloped land would further change those elements of the setting which contribute to the significance of the designated heritage assets and to the way this significance is experienced, perceived and understood.

With regards to the NPPF, the level of harm to Marsh Farm, similarly to the previous scheme and as also stated in the attached heritage assessment, would be considered at the lower end than less than substantial and Paragraph 202 of the NPPF is relevant. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use.

Similarly, effect of the proposal on the WWII Pillbox as non-designated heritage asset should be taken into account (Paragraph 203 of the NPPF) having regard for the scale of harm identified and the significance of the heritage asset.

Food Health and Safety

No comments received

Essex Wildlife Trust

13.10.2023

Thank you for consulting us regarding the above application. Essex Wildlife Trust objects to this proposal for the following reasons:

- The proposal will result in a significant net biodiversity loss
- The applicant has not provided a biodiversity net gain assessment
- The proposal conflicts with NPPF guidance on protecting biodiversity
- The proposal is in direct conflict with the Government's aspirations for Nature's Recovery
- The proposal will result in permanent harm to a designated Local Wildlife Site
- Disturbance impacts on designated features of the Colne Estuary Special Protection Area (SPA), Ramsar, Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR)

1. Biodiversity Net Gain

Essex Wildlife Trust recently attended a public meeting held by the applicants, Artemis Ltd, in Brightlingsea Parish Hall. The applicants stated that a biodiversity net gain assessment would be included as part of the application. However, they have not provided a biodiversity net gain

In 2018, the Government launched an ambition to create a Nature Recovery Network (NRN). Set out within its 25 Year Environment Plan, the proposal for the network is designed to provide an integrated, spatial approach to nature's recovery. It is based on the Lawton principle that in order to thrive, nature in this country needs bigger, better and more connected areas of wildlife-rich habitat.

Following this, the Environment Act 2021 introduced a number of new duties for local authorities which are of relevance to nature's recovery and biodiversity including:

- All planning permissions granted in England (with a few exemptions) will have to deliver at least 10% biodiversity net gain from January 2024
- Enhanced duty for LAs to conserve and enhance biodiversity and report on their actions
- LPAs will need to comply with the above duty and have regard to the Local Nature Recovery Strategy in local planning policy and decisions
- Responsible authorities appointed by the Secretary of State to lead the Local Nature Recovery Strategy (LNRS), working with a broad range of stakeholders

The proposal is in direct conflict with Government aspirations for nature's recovery, and conflicts with Tendring DC's enhanced mandatory duty under the Environment Act to conserve and enhance biodiversity. It is also contrary to NPPF guidelines for the protection of Local Wildlife Sites to recognise their importance and the contribution they make to wider ecological networks and as core areas of habitat vital to emerging Local Nature Recovery Networks.

The proposed development is considerably larger and more intrusive than the previously consented proposal. It encroaches right up to the edges of the existing lakes, which are designated as Robinson Road Ponds Local Wildlife Site. This will result in the loss of marginal habitats and increased disturbance to wildlife using the lakes.

Local Wildlife Sites play a critical conservation role. Tendring DC's local plan Policy PPL 4 states that:

Sites designated for their local importance to nature conservation, including Local Wildlife Sites (Lo WS), Ancient Woodlands, Protected Verges and aged or veteran trees will be protected from development likely to have an adverse impact on such sites or features. Proposals for new development should be supported by an appropriate ecological assessment. Where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

EIA Chapter 8 Ecology and Biodiversity states:

8.166 Furthermore, management will ensure that recreational aquatic activities are limited to 'Lake 01' (largest westernmost lake) and that the other lakes will be largely undisturbed. General awareness amongst residents and information packs will help ensure that no activities disturb the other lakes.

We strongly disagree with the above statement. The proposals indicate that the proposed lodges will be located around the edges of the lakes, frequently including decking that intrudes over the water. The degree of disturbance to any wildlife attempting to use the lakes and their margins for foraging, breeding, and shelter, will be considerable and is likely to preclude their use by all but a few species habituated to high levels of anthropogenic disturbance. We do not concur with the view that "general awareness" and information packs will prevent such disturbance.

EIA Chapter 8 Ecology and Biodiversity states:

Mitigation Measures

8.162 The inclusion of some areas of meadow grassland within the proposed development landscaping will compensate for some of the overall loss of grassland across the site.

We strongly contest the above statement. The proposed areas of "meadow grassland" within the development will be subject to considerable human disturbance. trampling and dog fouling. Under such pressures. the achievement of "meadow grassland" habitat quality will not be possible.

The extent of these proposed grassland areas will be insufficient to support ground-nesting birds such as skylarks. which require large areas of undisturbed habitat. For example. maximum population density of breeding skylarks in optimal arable habitat was found to be 6 pairs per 1km square, while the mean population density was 4.55 pairs per 1km square. National guidance on the creation of artificial skylark plots on farmland advises 2 skylark plots per hectare.

EIA Chapter 8 Ecology and Biodiversity states:

8.181 The PEA report (Adonis Ecology. 2022) (Appendix 8.1 of this chapter) concluded that the hedgerows. trees. shrubs and scrub were considered to provide some potential for Section 41 nesting bird species. Given the majority of these habitats will be retained within the proposed development. the risk of any impact to the local populations of Section 41 species which may use these habitats was considered to be negligible.

We strongly disagree with the above statement. Given the scale and quantum of proposed development. the anthropogenic disturbance impacts on nesting birds will be permanent and significant, resulting in an overall reduction in the number of breeding territories and a reduction in species diversity, giving a net biodiversity loss.

5. Conclusion

The application represents a development of hubristic scale and intrusiveness which is wholly inappropriate for such an ecologically sensitive location. It will result in considerable harm to wildlife, impacts on an internationally designated site, impacts on a site of County level importance, fragmentation, permanent loss of and reduction in quality of habitats, and an overall measurable net loss in biodiversity. The application is in direct conflict with Government legislation and policy guidance on the protection of biodiversity. The application is also in direct conflict with Tendring DC's local policy on the protection of biodiversity. We respectfully urge Tendring DC to refuse permission for this application.

Royal Society For The Protection of Birds

18.10.2023

The RSPB wishes to comment regarding the above planning application. We object to this application, in summary because of the additional recreational disturbance on the designated features of the adjacent Special protection Area (SPA) and the loss of wildlife habitat onsite.

In summary the RSPB is of the view that:

- The proposed development poses greatly increased risk of recreational disturbance impacts that, due to the proximity to the SPA (Special Protection Area), may not be effectively mitigated by Recreational Access Mitigation Strategy (RAMS) tariff contributions;

- We are concerned about the loss of biodiverse habitat and functionally linked land and an effective buffer zone between the urban areas and the SPA, particularly in regard to Curlew;
- The proposed building layout appears to leave little room for undisturbed grassland or wetland areas - although the lakes are retained, the area would be covered by buildings and paths, and disturbance would remove biodiverse habitat, rendering the site unsuitable for Curlew and other shy species;
- The development would increase noise pollution and routine disturbance as visitors will seek to head towards the coastal areas for recreation.

Recreational impacts of the development on the adjacent SPA and its waterbird assemblage

As it stands, the proposed development would add significant pressure to the Colne Estuary SPA through increased recreational disturbance and potentially noise disturbance. With over 100 holiday units planned, this is a large development. Visitors would be likely to visit the coast for recreation, more so than locals, and it would be reasonable to expect the coast to be one of the main attractions to those who would use the site for holidaying. Many would bring dogs which would greatly increase this disturbance, and visitors would likely be less aware of local wildlife sensitivities than locals who know the area. This disturbance would cause impacts on the wider designated Colne Estuary (Mid-Essex Coast Phase 2) SPA1 waterbird assemblage and designated species such as Redshank *Tringa totanus*, Dark-bellied Brent Goose *Branta bernicla bernicla* and Ringed Plover *Charadrius hiaticula*. Such species are particularly vulnerable to anthropogenic disturbance during migration times, cold weather, or during high tide, for example, when extra energy expenditure can impact feeding and resting, proving costly to their chances of survival.

The citation for the SPA designation states: The Colne Estuary is a site of significant international ornithological importance for overwintering birds, including raptors, geese, ducks and waders. The diversity of estuarine habitats provides good quality feeding areas for a diversity of waterbird species. At high tide, the birds roost along the shoreline and salt marsh fringe. The site is also important in summer for breeding birds.

Mitigation would appear difficult given the proximity of the site to the designated areas (around 130m away). It would not be enough to use leaflets or other communications to try to influence behaviour, or to provide diffuse contributions to wider RAMS schemes. A combination of stronger measures would also be needed as part of a coherent strategy, including landscaping measures and limiting and managing routine access to the SPA from the new site, such as preventing dogs accessing the SPA saltmarsh or intertidal areas. The proposal would need to include a barrier and landscaping/walls/hedge planting as appropriate, to funnel visitors towards the busy existing paths nearer town and away from immediate access to the quieter edges of the SPA, where roosting or feeding birds are present which may not be habituated to visitors. We have not seen such designs in the application, and it would be a challenge to implement the range of measures needed.

Any mitigation taking the form of retained or created habitat onsite is likely to be heavily disturbed, due to the extent and number of holiday accommodations and access roads. This would therefore not be effective wildlife habitat for many bird species. Such areas could absorb some of the additional recreational impacts. However, given that most visitors would wish to go to the coast because that is why they chose a coastal holiday park in the first place, this would be of limited effectiveness. There may be a possibility of a covenant to forbid dogs (excepting guide dogs) on site, though this would be challenging to enforce long-term. The RSPB remains unconvinced that this kind of mitigation would be sufficient or realistic to counteract the serious increased recreational disturbance impacts on the designated areas.

Loss of important land at the site itself, impacting Curlew and other species and affecting the SPA

We are also concerned that the effective loss of the site would have a negative impact on local biodiversity and may constitute a loss of potentially functionally linked land to the SPA, as grassland/wetland, impacting several bird species and Curlew in particular. There does not appear to have been a Biodiversity Net Gain (BNG) assessment. The Appendix 8.2 Wintering Bird Survey Report of 31 March 2023 accompanying the application reveals that Curlew were recorded using the site to rest during all but one of the winter survey visits, with a peak count of 23. In addition, Birds of Conservation Concern² red-listed species such as Woodcock were recorded on almost every winter visit during the surveys. Curlew is listed on the Colne Estuary SPA citation due to the nationally important wintering population of this species at that site.

The Wintering Bird Survey Report (p.24) states that: The following species are likely to be negatively impacted by the proposals and may be lost as wintering species post-construction due to potential loss of key habitats they are associated with and increased human disturbance: woodcock, curlew, and meadow pipit.

We are concerned that a current option for roosting Curlew and other birds would be removed, which could be significant at times of disturbance along the shoreline, for example. The land put forward for the application would appear to currently provide a useful buffer area between Brightlingsea's increasing developments and the SPA. The wide spread of the holiday pods and roads would effectively render this habitat useless for many of the birds that currently use it, both in terms of direct habitat loss and through removal of quiet undisturbed areas. Please also see below taken from the Appendix 8.2 Wintering Bird Survey Report of 31 March 2023 (page 24):

The site represents an undeveloped and relatively undisturbed area of valuable wintering bird foraging and resting habitat. The immediately surrounding areas are increasingly suburban in context and the site is considered to provide an important resource for wintering bird species in the local area. The value of the site to wintering birds was evidenced by the fact it was found to support low numbers of several notable species including; curlew, gadwall, meadow pipit, tawny owl, woodcock, curlew, meadow pipit, black-headed gull, and mallard.

Curlew is a species that requires open, unenclosed landscapes with clear sight-lines so that they can detect incoming threats, either perceived (recreational - people, dogs, drones) or real (birds of prey, foxes etc.). As a large, long-legged wader the distance at which they respond to disturbance and take flight is considerable. Research carried out on The Wash³ showed that this "Flight Initiation Distance (FID)" ranged between 88-570 metres (m), with a mean of 340m. Curlew on site would not remain if the development is built. In addition, given the closeness (under 200 metres) of the proposed development to the SPA we consider any that movements from within the development site, are likely to elicit a negative response from birds using the adjacent SPA land.

Any attempt at mitigation would need to recreate this quiet, biodiverse land that would act as a buffer between Brightlingsea and the SPA, and would need to be in addition to effective mitigation to restrict recreational access to the SPA from the new development.

It is widely acknowledged that landscape scale conservation is fundamental to halting and reversing declines in biodiversity. The Lawton review made clear recommendations about the need for bigger, better and more connected landscapes, and these principles have provided the foundations for subsequent government initiatives, including Nature Recovery Networks, Local Nature Recovery Strategies (LNRS), the emerging Landscape Recovery Scheme and the government's commitment to protect 30% of the UK's land by 2030. It is now widely acknowledged that the existing network of protected sites in the UK is not enough to halt the loss of biodiversity and that we must expand on this network by protecting and improving adjacent and connecting areas. This approach will be particularly important in the context of climate change, which will create additional pressure on species already impacted by habitat loss, inappropriate management, human disturbance, and development impacts.

The National Planning Policy Framework

The planning application also does not meet the National Planning Policy Framework (NPPF)⁴ requirements as follows:

174. Planning policies and decisions should contribute to and enhance the natural and local environment by: 15. Conserving and enhancing the natural environment, and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

There is no net gain for biodiversity associated with these development plans, but instead a likely net loss, and future recreational pressures would disrupt ecological networks around the estuary. In addition, under Habitats and biodiversity, NPPF paragraph 179 requires that:

To protect and enhance biodiversity... plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them... and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

Again, there is certainly no measurable net gain for biodiversity here, and the development would harm local wildlife-rich habitats and national and international designated sites of importance for biodiversity, as detailed earlier in this letter, and the survival of priority bird species.

Lastly, NPPF paragraph 180 gives strong grounds for refusal of planning applications which are likely to be harmful and create adverse effects that are difficult to mitigate for:

When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.

Conclusion

The recently published State of Nature Report details that a shocking one in six species may soon be lost in Great Britain. The Report states that the abundance of 753 terrestrial and freshwater species has on average fallen by 19% across the UK since 1970 and this country is one of the most nature-depleted in the world. It is paramount that local and regional authorities stand up for our struggling biodiversity if we are to start to turn things around.

In conclusion, the RSPB objects to this planning application that would negatively impact biodiversity such as Curlew through disturbance and loss of habitat, as well as the designated Colne Estuary SPA/Ramsar/SSSI and its waterbird assemblage through greatly increased recreational disturbance. We have not seen realistic proposals for mitigation that would adequately address these impacts and in this instance, we find it difficult to see how mitigation would be possible. We therefore urge the Council to reject this development.

Waste Management

26.09.2023

No Comments: Waste collection to be managed and organised by on site management company.

The Ramblers Association

No comments received

Essex County Fire Officer

09.10.2023

ECFRS Initial Response to 23/01196/FUL

National Fire and Rescue Priorities - Home Office

The priorities for fire and rescue authorities set out in the National Fire and Rescue Framework for England July 2018 are to:

- Make appropriate provision for fire prevention and protection activities and response to fire and rescue related incidents
- Identify and assess the full range of foreseeable fire and rescue related risks their areas face
- Collaborate with emergency services and other local and national partners to increase the efficiency and effectiveness of the service they provide
- Be accountable to communities for the service they provide
- Develop and maintain a workforce that is professional, resilient, skilled, flexible and diverse

The Fire and Rescue Plan - Essex County Fire and Rescue Service

The Fire and Rescue Plan sets out the priorities for fire and rescue services in Essex and a series of strong, tangible commitments to how we will help keep our communities safe.

The plan brings together the Service, partners and the public to build safe and secure communities and other efficient and effective prevention, protection and response activity.

The activities in this plan set out a clear direction for development of the Service and how, by working closer together with other emergency services and wider partners, we can deliver a better service while being closer to the communities we serve.

Our priorities are:

- Prevention, protection and response
- Improve safety on our roads
- Help the vulnerable to stay safe
- Promote a positive culture in the workplace
- Develop and broaden the roles and range of activities undertaken by the Service
- Be transparent, open and accessible
- Collaborate with our partners
- Make best use of our resources

Essex Design Guide

The Essex Design Guide provides high level direction for new developments which we would like to draw your attention to:

- Continuation of road design to ensure safe and timely access and egress to and from new developments.
- Continuation of road design to include turning circle provision plus future consideration to appliance sizes to ensure adequate space to manoeuvre on a development.
- Consideration for installation of an approved suppression system with better safety and more design freedom. Sprinkler considerations would help to isolate fire to the source and to ensure better safety for occupants / emergency services / reduce insurance costs. This may also afford developers more design freedom and scope for capacity in respect of distance from buildings to fire appliance access points.
- Continued consultation with Water Authorities for fire hydrant / water main provisions and consideration to ensure sufficient strategically placed resources are made available for operational firefighting and with appropriate water pressure considerations.
- Ensure new fire hydrant installations are fully operational before permitting residents to occupy dwellings.
- Ensuring new fire hydrants are not installed within private driveways / gardens.
- Continuation of at least 3 forms of fire hydrant asset indication. Hydrant indicator plate / post, painted FH cover and painted adjacent kerb. In the absence of a kerb then a thermoplastic yellow road 'H' applied to the road surface.
- Section 106 agreement at planning application stage to ensure that the developer will bear the costs for any new fire hydrant installations deemed necessary by the Fire Authority where the new development exceeds 10 dwellings.
- Where applicable door sets to carry dual certification ensuring compliance with fire and security regulations. Such recommendations align with both the Independent Review of Building Regulations and Fire Safety in the wake of and the review and recommendations resulting from the Grenfell Fire tragedy of 2017.
- Fire resistant cladding considerations that may fall outside of Building Control matters.

Initial Response to Consultation Document

Having reviewed the consultation document, at this time Essex County Fire and Rescue Service would ask that the following are considered during the continued development of the 23/01196/FUL:

- Use of community spaces as a hub for our Prevention teams to deliver Fire Safety and Education visits, with the shared use of an electric charging point.
- Adherence to the requirements of the Fire Safety Order and relevant building regulations, especially approved document B.
- Installation of smoke alarms and/or sprinkler systems at suitably spaced locations throughout each building.
- Implementation of vision zero principles where there are introductions of or changes to the road network.
- Appropriate planning and mitigations to reduce risks around outdoor water sources.
- Suitable principles in design to avoid deliberate fire setting.
- Consideration for 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).
- Access for Fire Service purposes must be considered in accordance with the Essex Act 1987
- Implementation of a transport strategy to minimise the impact of construction and prevent an increase in the number of road traffic collisions. Any development should not negatively impact on the Service's ability to respond to an incident in the local area.
- A risk reduction strategy to cover the construction and completion phases of the project.
- Implementation of a land management strategy to minimise the potential spread of fire either from or towards the development site.

Essex County Fire and Rescue Service welcomes the opportunity to continue these conversations as the development progresses to ensure opportunities to reduce risk and improve the emergency service provision are realised.

7. Representations

7.1 Brightlingsea Town Council

- Over Development - on the basis of 51.9% growth in footprint and resulting increase in bedrooms - an extra 186 bedrooms on site.
- The site appears not to have taken into consideration the earlier Eco mitigations i.e. wildlife pathways.
- Traffic - no compelling evidence that the current road structure would be capable of handling the increase in traffic.
- Increase in the number of potential bedrooms in the retirement homes. Local services would not be able to cope.
- Landscaping and Visual Impact - consideration of the density and height of some of the structures needs to be reviewed. Also, the impact and noise to local residents.
- Concern about maintaining holiday lodge status and the site not turning into a full-time residence and/or via sub-letting. We believe the main issue is the policing of this.
- The Fire Brigade report is very damning and nothing should go forward until this situation is resolved.

7.2 Neighbour / Local Representations

108 representations of objection have been received. The vast majority of areas of concerns have been addressed in the main report below.

The content of these representations are outlined below;

- Loss of important green space.
- Development is too big for the area and town.
- Too much traffic congestion along Robinson Road and roads leading to the development
- Areas for nature are being decreased.
- Infrastructure of town cannot cope with the development.
- Already too many holiday homes, care homes and housing in the town.
- More noise and pollution to local area.
- Town too busy at peak times already and only one road in and one road out.
- Destruction of abundant wildlife.
- Site is located outside any development boundary.
- Loss of treasured country lane.
- Increased traffic congestion and carbon footprint.
- Affordable housing should be provided.
- Economic benefits to local area should be queried.
- Adverse impact on local resident's amenity in terms of noise/light/privacy loss
- Light pollution impacts upon designated sites and local residents
- Long drawn-out building programme.
- No incentive after housing element is completed.
- Development is not a large job creator.
- Adverse impact on setting of listed building to the north.
- No junction capacity assessments have been undertaken.
- Pressure on local infrastructure
- Much larger than existing consented scheme.
- Different approach to existing consent, which was eco-centric.

- Overlooking and loss of privacy for existing residents due to leisure building being 10 metres high
- Noise pollution from MUGA, leisure uses and amphitheatre
- Traffic congestion, roads leading to the site are too narrow
- Glamping areas contain fire pits causing air pollution to local residents
- Holiday lodges likely to become permanent residences.

1 letter of support has been received outlining the following points;

- Creates employment for the town.
- Traffic flow may increase slightly but not to such an extent as visitors' arrivals would be staggered throughout the day.
- Wildlife would not be upset by development.

8. Assessment

Site Context

- 8.1. The application site is situated to the north-eastern edge of Brightlingsea on land to the north of Robinson Road. The site comprises approximately 81 acres of former gravel workings which established a low-level restoration profile. On the cessation of quarrying operations in the late 1980's the former quarry workings were backfilled with site sourced overburden and silt washings. Limited subsoil or topsoil was used to restore the site. The site has been left to self-seed, which has created areas of open scrub, grassland and woodland around three former silt lagoons, which have formed five open lakes with a total footprint of approximately 15 acres within the low-level landscape.
- 8.2. Access to the site is from the B1029 (which is defined as a B road of importance) and along Red Barn Road/Robinson Road. Direct access to the site is from the former quarry entrance along Robinson Road.
- 8.3. The site is bounded to the north by Marsh Farm (Grade II Listed) and arable fields that extend to Lower Farm to the east of the site. The southeast of the site is bounded by grassland and Freeland's Road, which runs around to bound the south of the site as Robinson Road. The southwest and west of the site is bounded by Robinson Road and the residential fringes of Brightlingsea. Directly on the southern side of Robinson Road is a recently constructed housing development.
- 8.4. Topographical data provided shows that natural ground levels surrounding the site form a plateau of higher ground around the northern, western and south-western boundaries of the site. The ground levels within the site generally fall in a northerly and north-easterly direction. Across the eastern area of the site ground levels fall from the raised plateau in a south-easterly direction.
- 8.5. The Adopted Local Plan Policies Map identifies that the site is located outside of the defined settlement boundary for Brightlingsea. Moreover, the site contains a Local Wildlife Site known as Robinson Road Ponds, Brightlingsea and to the south and east of the site lies the 'Coastal Protection Belt'. The Colne Estuary Ramsar and SPA is located 500m from the development.

Planning History

- 8.6. The site benefits from an implemented full planning consent (ref: 19/00188/FUL) for 'the development of a mixed-use tourist and residential scheme comprising of retirement living apartments, detached farmhouses and holiday lodges with ancillary facilities such as glamping pods, toilet facilities, a club house/ hub, children's play areas and boating jetties'. This application was submitted in February 2019 and granted full planning permission in March 2021.
- 8.7. The above-mentioned planning permission was then subsequently lawfully implemented through the discharge of the relevant pre-commencement conditions and legal obligations and a material

operation taking place on site via the installation of screw piles, which the Council's Building Control Team inspected.

Proposal

8.8. Full planning permission is sought for:

"A mixed-use tourist and residential development of retirement living lodges with an ancillary social hub, detached farmstead houses, and holiday lodges along with separate communal buildings providing dining, leisure and recreation facilities and ancillary activity uses such as glamping, a multi-use games area, events space and nature play areas with associated infrastructure works".

8.9. This application seeks significant revisions to the previously approved scheme to propose a more contemporary, consistent and sustainable approach to the design of the various buildings located throughout the site. The quantum of accommodation remains as previously approved (i.e. 104 holiday lodges, 36 retirement units and 5 market dwellings), but the size, mix and arrangement of the various units of accommodation has been revised, these changes are outlined in more detail below.

8.10. In addition, the supporting documentation outlines that the previously consented scheme did not consider the practicalities of site operations for a 104 unit holiday lodge development. Consequently, several additional storage buildings are now proposed for the secure storage of site maintenance, leisure and laundry paraphernalia. The estates building has also been increased in size to accommodate extra staff facilities and a compound for the day-to-day operation of the development. Additional leisure facilities are now also proposed on the shore of the large lake to the east of the site, including a swimming, gym and spa building and restaurant/dining area.

8.11. Other notable revisions concern a change in the approach of the proposed retirement units. The consented scheme approved a large two-storey building accommodating 36 retirement apartments. The current application now proposes individual low level retirement lodges and a retirement social hub, which will host social activities, event and entertainment for the occupants of these units. Overall, the retirement proposal involves an increase of 14.26% in the total floor area compared to the approved scheme (3942m² existing vs 4505m² proposed).

8.12. The mix of the holiday lodges has also been revised to include an increase in the number of larger family sized lodges, this is detailed within the table of holiday lodge accommodation below;

Holiday Lodge Type	Currently Submitted Application	Consented Scheme
	Number of lodges in brackets.	
1 Bed Lodge	None included.	75.2 m ² (51)
2 Bed Lodge	92m ² (29)	103 m ² (41)
3 Bed Lodge	114 m ² (31)	134 m ² (9)
3 Bed Lodge		187 m ² (3)
4 Bed Lodge	159 m ² (30)	249 m ² (3)
5 Bed Lodge	186 m ² (14)	None included.

8.13. The footprint of the consented lodges totals 10,572.2 sqm against a total of 13,576 sqm within the proposed scheme. This represents an increase of 28.4% overall.

8.14. The table below outlines the accommodation/building schedule now proposed as part of this application against the implemented approval. The table shows a footprint increase between the two developments of approximately 51%.

Accommodation Schedule - Original Full Application 19/00188/FUL			
Unit Type	No. of Building Units	GEA (m ²)	Overall GEA Divided by Number of Units
1-Bed Lodge	51	3,835.2	75.2
2-Bed Lodge	41	4,247.6	103.6
3-Bed Lodge	9	1,207.8	134.2
4-Bed Lodge	3	563.4	187.8
5-Bed Lodge	3	747.0	249.0
4-Bed Farmhouse	5	851.5	170.3
Glamping	0	0	0
1-Bed Retirement Apartments	24	1,891.2	78.8
2-Bed Retirement Apartments	12	1,316.4	109.7
Retirement Communal	0	410.0	410.0
Barrow Building	1	350.0 (estimated)	350.0
TOTAL	149	15,420.1	

Accommodation Schedule - Current Scheme			
Unit Type	No. of Building Units	GEA (m ²)	Overall GEA Divided by Number of Units
2-Bed Lodge	29	2,673.8	92.2
3-Bed Lodge	31	3,555.7	114.7
4-Bed Lodge	30	4,770.0	159.0
5-Bed Lodge	14	2,604.0	186.0
5-Bed Farmhouse - Option A	2	702.0	351.0
5-Bed Farmhouse - Option B	3	1,110.0	370.0
1-Bed Glamping	20	480.0	24.0
1-Bed Retirement	6	522.0	87.0
2-Bed Retirement	15	1,605.0	107.0
3-Bed Retirement	15	2,160.0	144.0
Reception & Guest Services	1	81.7	81.7
Estates Building	1	521.0	521.0
Main Leisure Building	1	1,898.0	1,898.0
Retirement Social Hub Building	1	218.0	218.0
Restaurant	1	352.0	352.0
Workshop	1	180.0	180.0
TOTAL	171	23,433.2	

8.15. Each element of the development is broken down as follows;

Holiday Lodges and Glamping Pods

- 8.16. The planning application proposes 104 timber holiday lodges comprising 29 two bedroom lodges, 31 three bedroom lodges, 30 four bedroom lodges and 14 five bedroom lodges. The lodges will be located within the central, northern and eastern extents of the site.
- 8.17. The planning application also proposes 20 glamping pods; each hut is single storey and will comprise of a living/dining/sleeping area, kitchenette and WC Shower. Each unit includes a raised external terrace overlooking the glamping site. These glamping units will be located within the western extent of the site. Three communal fire pit areas are proposed to serve the glamping pods.
- 8.18. The holiday lodges and glamping pods are targeted at the tourism market for short-term stays with an undertaking to not permit the sale or transfer of these for residential purposes or long-term let. The lodges will be occupied for holiday purposes only and not as a person's sole or main place of residence.

Retirement Living Lodges

- 8.19. The planning application proposes 36 retirement timber lodges comprising of 6 one bedroom lodges, 15 two bedroom lodges and 15 three bedroom lodges. These retirement lodges will be located towards the south-eastern extent of the site.
- 8.20. A retirement social hub is also proposed which will be located within the southern extent of the site and will comprise of open plan social space, communal kitchen, meeting rooms and toilets with consultation space available for healthcare professionals and care workers where required. The exterior of the hub will include timber cladding, aluminium bio-folding doors, textured layered concrete, flat roof lanterns and a green roof.

Private Dwellings

- 8.21. The proposed development proposes five dwellings, which are located towards the southwestern extent of the site and are accessed via a new and separate access onto Robinson Road.

Communal/Ancillary Buildings

- 8.22. The planning application also proposes a Spa/Retreat building ('The Retreat'), reception and guest services building, a restaurant, a workshop and an estates building.
- 8.23. The Retreat will comprise of three buildings located on the edge of the large lake to the east of the site. One will accommodate swimming, gym and spa facilities, one will provide a bar and dining space and a third building to provide facilities for cycle hire, boat/paddle board hire. This area will also provide other uses such as a MUGA/ paddle tennis court and outside space for small scale "pop-up" events which will be extended for access by local people as well as residents and visitors to the site. An artisan market with street food stalls/ vans and an opportunity for local business to sell locally produced products and crafts is envisaged.
- 8.24. The Reception and Guest Services Building will be located within the south-western extent of the site and will comprise of a single storey building which will include a staff kitchen, toilets, reception area as well as office facilities.
- 8.25. The estates building will be located within the south-western extent of the site and will comprise of two storeys which will include estate managers/groundsman facilities, machinery storage, warehouse, offices, meeting room, a laundry storage room, plant room, staff kitchen and toilets.

Open Space and Amenity Areas/Lakes

- 8.26. The proposed development includes areas of green space and landscaped open spaces which will create more habitats for wildlife as well as widen the biodiversity value of the site. Proposed planting

will comprise predominantly native species trees, shrubs and grassland that are appropriate to both the local landscape character and ecological habitats within and around the site.

- 8.27. The layout includes seven freshwater lakes on site which will enhance the biodiversity of the area as well as providing topographical interest, the lake to the east will provide opportunities for non-motorised activities such as paddle-boarding and small sailing dingy as well as fishing alongside the various waterbodies. Five of these lakes are already existing on site and two are proposed.

Car Parking/Cycle Spaces

- 8.28. A total of 449 car parking space are proposed across the whole development to serve both occupiers, visitors and employees. Approximately 158 of these spaces are to be served by EV Charging Points. 70 secure cycle spaces are also proposed throughout the development.

Summary

- 8.29. **The revised proposal seeks full planning permission for a mixed-use development comprising retirement living lodges, holiday lodges, detached houses, and a social hub, along with various recreational facilities. While the total number of units remains the same as the previously approved scheme (104 holiday lodges, 36 retirement units, and 5 market dwellings), there are notable changes in design and layout to enhance sustainability and practicality.**

- 8.30. **Key revisions/proposals include:**

1. Retirement Units: The original two-storey building is replaced with individual low-level retirement lodges and a dedicated social hub, resulting in a 14.26% increase in floor area for retirement living.

2. Holiday Lodges: The plan increases the number of larger family-sized lodges and introduces 20 glamping pods. The overall footprint for holiday accommodation expands by 28.4%.

3. Additional Facilities: New buildings are proposed for storage, maintenance, leisure (including a swimming pool, gym, spa, and restaurant), and operational management.

4. Communal and Ancillary Buildings: Additional amenities include a retreat with wellness facilities, reception areas, and workshop spaces.

5. Open Spaces: The plan incorporates landscaped areas and seven freshwater lakes to enhance biodiversity and recreational opportunities.

6. Parking and Sustainability: A total of 449 parking spaces, including EV charging points, and secure cycle spaces are included to accommodate visitors and residents.

- 8.31. **Overall, the proposal focuses towards a contemporary design and improved operational functionality while maintaining the scale of the development.**

Principle of Development

- 8.32. Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, the Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted in January 2021 and the Tendring District Local Plan 2013-2033 and Beyond Section 2 adopted in January 2022.

- 8.33. The site is located outside of, but directly to the north of the Brightlingsea Settlement Development Boundary. However, the principle of a mixed-use development, including tourism/leisure uses, residential, on this site has been established via the implementation of the previous planning permission 19/00188/FUL. This represents a significant material planning consideration as a potential 'fall back' position.
- 8.34. Matters of consideration therefore turn to the detailed impacts of the new proposal against the current 'fall back' position, particularly in relation to landscape, ecological, highway and amenity impacts. Whilst it is noted that the quantum of units and the uses proposed are the same as the previous permission, the development now proposed is more comprehensive and of a higher density due to an increase in the development footprint overall.

Landscape Impacts

- 8.35. Paragraph 180(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.36. Adopted Policy PPL3 confirms the Council will look to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Adopted Policy SPL3, Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 8.37. The site is a former mineral extraction site comprising of primarily unimproved grassland with established boundary vegetation. The main body of the land contains a few solitary trees and tree belts with an understory comprising of hedgerows and scrubby growth.
- 8.38. When viewed externally there are two clearly visible bodies of water that are the result of earlier mineral extraction works. Although there are five lakes on the land only two are visible externally. The proposed site layout plan shows the retention of existing lakes and the creation of additional bodies of water.
- 8.39. To show the potential impact of the development proposal on the existing trees and other vegetation on the land the applicant has provided an Arboricultural Implication Assessment (AIA). The AIA shows the full extent of the constraint that the existing trees are on the development potential of the land and considers the significance of the existing vegetation, especially for its screening value. The information contained in AIA is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, Recommendations.
- 8.40. The implementation of the proposed site layout will necessitate the removal of several individual trees, areas of trees, scrubby growth and brambles. Most of the trees identified for removal are category 'c' which are of moderate to low quality and are not considered to be a significant constraint on the development potential of the land. At the present time they make little contribution to the character or appearance of the wider landscape. The AIA makes provision for the retention of most of the boundary vegetation and large areas of trees within the site.
- 8.41. The AIA makes special provision for the retention and physical protection of a single veteran tree identified in the AIA - T131 Crack Willow (*Salix fragilis*).
- 8.42. In addition to tree retention, the information submitted relating to soft landscaping shows extensive new planting to soften, screen and enhance the appearance of the proposed development. This will increase plant diversity that will enhance the botanical interest of the site.
- 8.43. Regarding the amenity value of the trees on the land it is not considered necessary to make a new tree preservation order as individual trees do not meet the criteria under which they merit formal

- 8.52. It is also acknowledged that it will be important to secure the physical protection of the retained trees for the duration of the construction phase of the development. A condition is included to secure tree protection details during the construction phase.
- 8.53. Additionally, whilst the indicative information provided relating to soft landscaping, layout and species is acceptable, detailed soft landscaping plans are secured by a condition to include details such as tree, shrub and hedgerow species and specification. One of the key areas for new soft landscaping will be the north-eastern corner that does not currently benefit from strong boundary vegetation. The LVIA makes reference to the retention, regrading and planting of the existing sound attenuation bund in this location.
- 8.54. Taking the above into consideration, the majority of the effects on the landscape and visual character are lessened over time with the establishment and maturing of the proposed landscape planting, therefore resulting in an overall negligible impact of the development on landscape and visual amenity.
- 8.55. An assessment of cumulative impacts has not identified any developments within the study area (other than minor/domestic schemes), that could give rise to cumulative landscape or visual effects.

Appearance/Layout

- 8.56. Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 8.57. Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.
- 8.58. The approved scheme, whilst acceptable within its context, represented a fairly generic approach without any specific sustainable credentials aside from the proposed sedum roofs and timber lightweight construction. The retirement apartments were relatively bland in design terms and formed a large bulky building isolated at the south-eastern corner of the site.
- 8.59. The supporting documentation outlines that the design ethos now proposed represents a more contemporary and sustainable approach that provides a consistent and more sympathetic architectural language across the whole site.
- 8.60. The holiday lodges now take on a simpler and more contemporary form utilising timber finishes and large areas of glazing and terraces to provide views across the site. The lodges are now positioned to make better use of the existing and proposed waterbodies and with the use of external decking areas this assists in enhancing the occupier's experience of the various lakes present and proposed throughout the site. All holiday lodges will have green roofs with zinc perimeter detailing which continues partly on the external walls. The front and rear elevations are clad in a mix of light and dark timber.
- 8.61. The retirement lodges represent the main change from the previous permission. The retirement apartments have been re-designed to form independent single storey units arranged around two new waterbodies. The retirement lodges will be served by a communal hub which is situated in the south-eastern section of the site due to its proximity to the existing access and lower traffic flow. The location of the retirement uses is consistent with the previous approval and represents a compatible siting with the existing residential units along Robinson Road south. Whilst the footprint of these units is likely to represent an increase over the permission, due to the reduction in scale and the design enhancements proposed the visual impacts are likely to be reduced. The retirement lodges are also finished in a mix of timber and metal standing seam to be consistent with the materiality of the holiday

lodges. The associated retirement hub building will consist of significant areas of glazing on the façade and will comprise of an over sailing roof profile and lakeside deck.

- 8.62. The 5 no. residential units previously took on a farmhouse aesthetic. The houses now propose a minimalist contemporary design approach to appear more consistent with the remainder of the development. Again, this is considered acceptable and represents an enhancement over the approved scheme.
- 8.63. The leisure/tourism buildings are arranged around a large water body on the western section of the site and now accommodate a spa and pool to improve the tourism offer on-site, alongside a restaurant/dining area. This is supported within the Council's Tourism Strategy. A natural play area for children and a kitchen garden/allotment area for the retirement lodges also help to enhance the development offer and provides a greater sense of community whilst improving the development's sustainability credentials.
- 8.64. Overall, the positioning and space between the various buildings sets out a mixed-use development that allows for the continued protection and enhancement of the site's existing setting and habitat. Officers consider that the scale and density of the development has been sensitively set out within the confines of the footprint of the former quarry. The location, arrangement and interconnectivity of the various buildings and areas of open space within the site seek to enhance the existing site setting by maintaining an open environment. In addition, the contemporary design approach is considered to represent an enhancement over the existing consent.

Highway Safety/Parking

- 8.65. Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 117 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 8.66. Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 8.67. Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. In addition, planning applications for new major development likely to have significant transport implications will normally require a Transport Statement.
- 8.68. In this instance, the main vehicular access to the site is in the same location as the previous approval. However, the current application also includes the repurposing of an existing gateway positioned on Robinson Road to serve the 5 no. private dwellings and a shared footpath serving the leisure hub situated within the western section of the site.
- 8.69. As noted above, the proposed scheme includes the same number of holiday lodges, farmhouse units, retirement units' and 'glamping' pods as the extant scheme alongside additional leisure facilities. The main potential trip generating change between the extant and now proposed development is an increase in the number of bedrooms in some of the lodges and the ability for a number of external memberships to the gym and swimming facility to be offered to local residents.

- 8.70. The site is subject to an extant consent which is a material consideration in determining this application. The general ethos of the consented and current proposal remains unchanged, with most of the facilities for the sole use of site occupants and their guests only. However, 100 external memberships have been put forward by the applicant for the gym and swimming pool facilities. The exact number and extent of local resident membership will be secured via public access strategy conditioned as part of any approval. This condition was also included on the previous planning permission.
- 8.71. In addition, the development is underpinned by a Travel Plan, that outlines a proposed shuttle bus for guests and staff, a cycle hire scheme and a car club demonstrating the sustainable credentials of the proposals. Such a provision is in excess of the extant scheme which was approved under the same policy background.
- 8.72. Taking the above into account ECC-Highways initially raised concerns that the trip generation presented in the Transport Statement was too low and not representative of the development proposals. As such they requested that a sensitivity test was undertaken based on the additional data provided. The sensitivity test concludes that even as a worst-case scenario, when assuming the use of higher traffic survey data, full occupancy of the development and facilities being provided for visitors and residents, the park would generate between 1 and 2 additional vehicles per minute. In reality, this level of trip generation is not reflective of the proposals, but ultimately sets out a worst-case scenario.
- 8.73. In addition, modelling has been undertaken at 4 junctions leading to the application site, as requested by ECC-Highways. For the 3 priority junctions local to the site, the results demonstrate that they continue to operate well within capacity in all scenarios, with minimal delay and virtually no queueing. At the B1027 / B1029 double mini-roundabout, capacity issues and queueing are noted on the B1029 Brightlingsea Road arm in the AM peak in the current base scenario which is exacerbated in the future base scenario. However, it is considered that traffic associated with the proposed development has an insignificant impact to this junction and only a minimal number of development trips will use the junction in the morning peak hour period due to the staggered nature of arrivals and departures from the development.
- 8.74. ECC-Highways have now reviewed all the submitted data and have confirmed that they have no objections to the development and are satisfied that at peak times, the number of trips generated by this proposal can be accommodated on the local highway network. Conditions have been recommended including; the provision of visibility splays and tactile paving to the new upgraded access points, upgrades to the nearest bus stop and PRow, the provision of parking (vehicular and cycling) and vehicular turning heads within the development prior to the first occupation of the relevant phase of development, no unbound materials being used in the first 10 metres of the access points, restrictions around the siting of entrance gates, the provision of a workplace travel plan for employees and residential travel information packs for the permanent dwellings.
- 8.75. These requirements have been applied as conditions where they are considered reasonable and necessary to make the development acceptable. The bus stop upgrade is to be secured via the payment of a contribution of £27,300 (costed by ECC-Highways) along with the PRow enhancement works, which are yet to be costed.
- 8.76. In terms of parking provision, the current submitted application seeks to create adequate private parking to each individual lodge building and private dwelling, based on typical occupancies and highways standards, to ensure all vehicles can be adequately accommodated within the application site. Employee parking is to be provided adjacent to the various facility/storage buildings located across the site.
- 8.77. In summary, the proposed development would generate vehicle movements which would represent a small increase against the baseline traffic situation in areas of low sensitivity and are not considered, subject to the inclusion of recommended conditions and legal obligations, to result in an

utilised for a range of activities, including yoga/meditation classes, social activities, outside artistic activities and acoustic music events. Given that the nearest residential property is located approximately 120m to the south beyond intervening vegetation and changes in the site topography, any impacts in relation to noise emanating from this feature would be minimal and not significantly harmful to existing resident's amenity. The same can be said for noise emanating from the proposed restaurant area, plaza and spa/retreat building, the significant distances to the nearest residential properties on Robinson Road alongside the present of intervening vegetation and other structures means any noise impacts would be negligible.

Future residents

- 8.86. External noise levels affecting future occupants of the development and the need to provide a suitable internal ambient noise environment for the proposed uses have been considered as part of the design of the development buildings. Façade configurations, including glazing and ventilation specifications, have been finalised for all buildings of the development.
- 8.87. The specification of plant machinery with low noise emission and properly attenuated supply and extract terminations will help to ensure that noise emissions are minimised. The use of enclosures, local screening, and attenuators will also be used as appropriate. Plant to the lodges and retirement lodges will be contained in acoustic enclosures and will be local to each building rather than being central.

Traffic Movements

- 8.88. Changes in road traffic noise levels on the local road network due to the introduction of the development have been assessed and are summarised to be limited to a minor adverse effect. The resultant traffic movements will be perceptible to nearby residents but will be predominantly limited in number, in relation to the existing consent, and are likely to be staggered throughout the day, to reduce any perceivable impact in this regard.

Air Quality

- 8.89. An air quality impact assessment has been carried out and this has shown that for the proposed development, limited releases of dust and particulate matter are likely to be generated from on-site activities and construction activities. However, through good site practice and the implementation of suitable mitigation measures, including the implementation of dust suppression techniques and avoidance of on-site burning, the impact of dust and particulate matter releases may be effectively mitigated and the resultant impacts on nearby residents are considered to be minimal.
- 8.90. The Council's Environmental Protection Team have reviewed the Environmental Impact Information submitted and have confirmed that they are satisfied with the content and the methodologies utilised. In particular, they outline that;
- The proposed development won't have an adverse impact on the local air quality, however, as the proposed development is considered to be a medium risk of dust impacts, they request a Dust Management Plan (DMP) is secured via condition.
 - A number of mitigation measures, as well as best practicable means have been identified in relation to noise during the construction phase; as such they request the submission of a formal Construction Method Statement and further information once the plant equipment and machinery has been confirmed.
 - They are satisfied with the findings of the phase 2 investigation and the additional information and proposed mitigation outlined in the EIA. Providing all methods laid out in this report are performed and adhered to along with any copies of remediation statements, they have no further comments to make in relation to contaminated land.

would be considered at the lower end than less than substantial and Paragraph 208 of the NPPF is relevant.

- 8.100. Paragraph 208 of the NPPF states the following, 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'.
- 8.101. Taking into consideration the requirements of paragraph 208 (NPPF), officers are of the view that the development would, as with the previous approval, result in public benefits that outweigh the low-level harm identified by ECC-Place Services (Heritage). The harm identified, for the reasons outlined above, is evidently at the lower end of the 'less than substantial' spectrum. Consequently, the benefits associated with creating a tourism use that promotes both direct and indirect employment opportunities within the local area, attracts both national and international tourism and promotes economic growth of the immediate and local areas, are considered to outweigh the lower level of harm identified to the heritage asset at Marsh Farm and the non-designated WWII Pillbox. The development is therefore considered to meet the requirements of paragraph 202 of the NPPF.

Drainage Considerations

- 8.102. Policy PPL5 states that proposals for development must demonstrate that adequate provision exists, or can be provided in time, for sewage disposal to a public sewer and water recycling centre (sewage treatment works).
- 8.103. The conceptual surface water drainage strategy utilises the existing discharge locations and storage provided within existing lakes, new lakes and a new wetland area. Where there is suitable space, swales will be used to provide conveyance and ensure a SuDS management train for features such as car parks and roadways. These conveyance features will additionally slow water movement through the site.
- 8.104. Analysis indicates that this system will be sufficient to ensure that peak rates of discharge from the site does not exceed the estimated 1 in 1 annual probability greenfield rate for all storms up to and including the 1% AEP +45% climate change uplift design storm. It will also be sufficient to manage water quality and protect the receiving water environment.
- 8.105. ECC-SUDs Team have reviewed the conceptual drainage strategy and have no objections subject to the inclusion of several conditions securing precise details of the drainage system and its maintenance.
- 8.106. In terms of foul drainage, as with the consented scheme, the whole development will be served by mains sewerage. While one small area can be drained by gravity, foul flows from the remainder of the site will discharge by gravity to one of four pumping stations located across the development. From this water will be conveyed by foul rising mains towards the Anglian Water sewer to the south within Robinson Road.
- 8.107. Anglian Water has confirmed that the foul drainage from this development is in the catchment of Brightlingsea, Church Rd Water Recycling Centre that will have available capacity for these flows. A condition securing full details of the foul drainage strategy is recommended and therefore included as part of the recommendation.

Sustainability Considerations

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

Biodiversity net gain

- 8.117. Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand.
- 8.118. As the application was submitted prior to the introduction of the BNG regime there is not a requirement for the applicant to engage in a formal BNG assessment of the site.
- 8.119. However as outlined above, the applicant is proposing to enhance the biodiversity on site through the careful protection of existing habitats (where practical), through the provision of new habitats within the ground level landscape and through the inclusion of biodiverse green roofs to all buildings. There is an intent for the applicant to remain involved with the scheme post-development which will also ensure their long-term commitment to manage, maintain and protect established biodiversity on the site.

Protected Designated Habitats

European Designated Habitats

- 8.120. The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Furthermore, the Colne Estuary SPA and Ramsar and Essex Estuaries SAC are the closest European sites and are located around 4.5km south of the application site.
- 8.121. Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 8.122. In view of the above and the proximity of the site to the Colne Estuary SPA and Ramsar and Essex Estuaries SAC, a Habitat Regulations Assessment (HRA) has been completed for the proposal by Place Services (Ecology) on behalf of the Council. The HRA concludes the following;
- The applicant has provided a Wintering Bird Survey report Appendix 8.2 (Tim Moya Ecology Ltd, March 2023) which confirms that the site is not functionally linked to the designated sites and does not act as 'displacement habitat' during high water periods. Natural England is satisfied with the level of survey effort/ desktop study provided to agree that the application site is not being used as functional habitat associated with the Colne Estuary.
 - The applicant's Suitable Alternative Natural Greenspace letter (Corporate Architecture, 3rd September 2024) includes details of the Suitable Alternative Natural Greenspace (SANG) onsite and offsite Walking Routes. The mitigation will include information and education for visitors regularly updated information on their website, along with guidance in the form of booklets for the owner occupiers and visitors which can be updated. The site shall be a private / gated facility, and the use of the site restricted to use by residents and visitors staying within the holiday lodges.
 - The site contains 4.9km of pathways and access routes which are deliberately meandering to reflect the client's ethos and leisure use of the site, providing opportunities to capture various and diverse views across the site whilst limiting the impact on the natural surroundings with the waterbodies as a key feature. In addition, when combined with interlinking throughfares to make circular routes this increase to a total length in excess of 7km of surfaced and non-surfaced walkways and meandering pathways around the site so meeting the Natural England advice for 2.3km circular routes. As such the proposed development has adopted a landscape-led

approach to the master planning of the site to provide a high-quality development featuring informal, semi-natural (and natural) areas, with SANG-like features.

- Conditions are to be used to secure the details of these elements and the long-term maintenance and management of the SANG-like green spaces including a Landscape and Ecological Management Plan setting out their intended strategy for the long-term management and maintenance of the development. This project provides considerable on-site informal opportunities for recreation, as well as proposing to provide educational activities to promote responsible enjoyment of the countryside. This will be secured through a condition of any planning consent and provides bespoke onsite mitigation for both the tourist and resident element of the development.
 - A proportionate financial contribution will be secured in line with the Essex Coast RAMS requirements to ensure that the residential element of this proposal (retirement lodges and farmhouse dwellings) will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other development. As impacts from tourists staying on the site cannot be ruled out without mitigation, an additional financial contribution in line with the Essex Coast RAMS should also be secured by a legal agreement.
 - It is considered that the above mitigation is acceptable in terms of mitigating the in-combination effect of increased recreational disturbance to coastal European designated sites; and the provision of on-site/close to site recreational opportunities.
- 8.123. Natural England have reviewed the completed HRA and confirm that they have no objections to the application. In particular Natural England confirm that the specific measures (including financial contribution, signage, client's visitor website, visitor/information leaflets, dog bins, and over 2.3 ha circular walks on site) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI, alone and combination with other plans and projects. Natural England conclude by stating that, 'having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the HRA conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

Priority Habitats

- 8.124. The Further Ecological Response Letter (Tim Moya Associates, February 2024) explains that Lowland Fen Priority habitat (to the north of the site) no longer meets the categorisation for a 'Habitat of Principal Importance'. However, the Lowland Dry Acid Grassland Priority habitat does meet the criteria, although confirmed to be outside of the development boundary. As a result, Place Services (Ecology) confirm that Priority habitats will not be directly affected by the proposals.

Protected Species / Local Wildlife Designation

- 8.125. In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.
- 8.126. It is noted that the site contains areas of waterbodies designated as a Local Wildlife Site (LoWS) – known as Robinsons Road Ponds Te47.
- 8.127. The supporting documentation clarifies that the LoWS is designated on the basis of 'ponds with associated marginal vegetation, grassland and scrub'. Priority habitats of the LoWS are stated as Wet Woodland and Reedbeds.

- 8.128. The applicant's Further Ecological Response Letter (Tim Moya Associates, February 2024) provides a recap of the proposed habitat enhancement measures throughout the site in respect of the LoWS. These include the extension of the southern lake, marginal aquatic planting, provision of islands and rafts for wetland birds, and the creation of two new lakes within the site. Furthermore, the proposals include reedbed creation within the LoWS lakes.
- 8.129. Place Services (Ecology) have reviewed this information and conclude that considering the proposed enhancements throughout, it is considered that this development will likely not result in detrimental impacts to the condition of the Local Wildlife Site and that a net gain of biodiversity within the site can be demonstrated.

Protected Species

- 8.130. The Preliminary Ecological Appraisal (Adonis Ecology, 2022) concludes that, overall, the site is of moderate value for wildlife at a local level, largely due to the size of the site, proximity of the site to numerous statutory wildlife sites and variety of vegetated habitats, albeit it that many of the habitats on site were likely in poor condition. The impacts upon particular protected species found on the site are outlined below, along with outlined mitigation measures;

Bats

- 8.131. The Preliminary Ecological Appraisal (Adonis Ecology, August 2022) identifies that the site has moderate to high value for foraging and commuting bats. The appraisal confirms that the lakes/ponds, areas of trees and shrubs and taller areas of grassland/tall herb habitat are considered to provide a significant amount of likely moderate to high value foraging habitat for bats and the grassland areas are considered to provide only very low potential foraging grounds for bats. The survey goes on to state that *'given the existing lakes/ponds are to be retained and additional lakes/ponds provided, and as significant areas of trees, shrubs and scrub will be retained, including all the site boundary features, it was considered the risk of any significant direct impact to foraging and/or commuting bats would be negligible'*.
- 8.132. Place Services (Ecology) originally requested that bat activity surveys be undertaken to identify how and what species of bats are using the site. Following this the applicant provided a Bats and Lighting Response (Tim Moya Associates, January 2024) which also included a proposed draft lighting plan, demonstrating lit areas and potential bat commuting routes. This response demonstrates that the proposed lighting, assuming the unlikely event that all lighting will be on at any one time, will be low level (0.2 lux at any extent), have a Colour Temperatures of <3000k, and only contained within areas that need to be lit. As such, in terms of commuting and foraging bats Place Services are now satisfied that foraging and committing bats within the site can be mitigated. As a result, they recommend that a finalised a sensitive lighting scheme is submitted to the LPA and secured by a condition of consent.
- 8.133. With regards to the potential for trees to be used by roosting bats, the submitted Bat Scoping Survey Report (Appendix 8.6 to the Environmental Statement), outlines a substantial survey effort has been undertaken to identify the trees with features suitable for use by roosting bats, including climbed inspections of many of them. Where trees have been identified to possess features suitable for roosting bats, further inspections or surveys are proposed to be undertaken in advance of any physical works. This development is anticipated to be completed through many separate phases of works over a period of several years. Any extensive survey data gathered now prior to the determination of planning consent will therefore quickly become obsolete given the sporadic use of trees by bats and the changing nature of suitable features within trees.
- 8.134. Following a review of the submitted information in this respect, Place Services (Ecology) originally stated that presence / likely absence surveys were advised as Trees T37, T112, T126, T1338, and T110 have potential for roosting bats. However, the Further Ecological Response Letter (Tim Moya Associates, February 2024) explains that these trees do not require removal to accommodate the development and rather a long-term issue with tree health and safety. As such given the reasonable

justification provided within the Further Ecological Response Letter (Tim Moya Associates, February 2024) that these trees do not require removal to accommodate the development, Place Service conclude that no further surveys are considered necessary prior to determination.

Reptiles

- 8.135. The Preliminary Ecological Appraisal found evidence of two “low” populations of Common Lizard and Slowworm onsite. Place Services (Ecology) originally requested additional information on the suitability of a particular receptor area on the site. However, the Further Ecological Response Letter (Tim Moya Associates, February 2024) provides clarification that the onsite translocation of reptiles, will not be restricted to a receptor known as the “Hills and hollows” within the southeast of the site. The Further Ecological Response Letter (Tim Moya Associates, February 2024) also highlights that the “low” population of Slowworm and Common Lizard would be moved to suitable areas (i.e. other more sporadic/peripheral areas, for example in the wilder interfaces between scrub/woodland and grassland). The applicant’s response also confirms that the aim of the translocation strategy will be to move any captured reptiles to the closest suitable habitat area. Areas intended to provide reptile receptor habitat will be enhanced by the addition of sheltering habitats such as occasional scrub planting, log piles and hibernacula.
- 8.136. Consequently, Place Services (Ecology) have confirmed that there is now certainty of the likely impacts to these protected species. Therefore, a finalised Reptile Mitigation Strategy will be produced and submitted as part the conditioned Construction Environmental Management Plan (CEMP).

Other Protected Species

- 8.137. The mitigation measures identified in the Preliminary Ecological Appraisal (Adonis Ecology, August 2022) and Ecological Constraints and Opportunities Summary (Tim Moya Associates, August 2023) are to be secured by a condition and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly Otter, Water Vole, Badger, nesting birds, Hedgehog, Common Toad and Brown Hare.
- 8.138. In particular, the following mitigation measures are recommended;
- Habitat clearance necessary at the site will either be undertaken between October and the end of February (outside the nesting bird season) or only following a ‘bird nesting check’ and/or search of the vegetation to be removed by a suitably qualified ecologist.
 - Any taller grassland (above 10 cm) or ruderal habitat to be removed should be strimmed in two stages. If any reptiles, hedgehogs, common toads or other animals are found during the works, the ecologist should capture the animal(s) if possible and place them within an area of the site that is away from the working areas.
 - To prevent any risk of harm to otters and/or water voles, an ecologist should be present during the clearance of any lake/pond bank habitats. If any signs or evidence of a water vole burrow, or otter holt or resting places is found, works should cease and the ecologist would advise on how to proceed lawfully.
 - Any trenches or holes which will be left overnight should either be fully covered, or have a wooden plank placed in them in such a way that any wildlife that falls in can climb out safely. Materials brought to the site for the construction works should be kept off the ground on pallets and rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge.

- 8.139. In view of the conclusions outlined above and following the formal review and comments of Place Services (Ecology), and in compliance with relevant wildlife legislation and planning policies, the

development will adhere to best practices to protect and enhance the habitat for these protected species. The information submitted provides certainty of the likely impacts on priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

Biodiversity/Ecology Conclusions

- 8.140. In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the recommended planning conditions, namely;
- A Construction Environmental Management Plan for Biodiversity (CEMP: biodiversity) to ensure that any potential impacts to retained habitat, Robinsons Road Ponds Te47 LoWS, and other protected and Priority species are mitigated;
 - A Biodiversity Enhancement Strategy to enhance protected and Priority species & habitats;
 - A Landscape and Ecological Management Plan (LEMP) to ensure that biodiversity enhancements are managed appropriately for the long-term benefit of biodiversity;
 - A lighting design scheme for biodiversity in accordance with GN:08/23 Bats and Artificial External Lighting (Institute of Lighting Professionals).
- 8.141. **Essex Wildlife Trust and the RSPB, whilst not statutory consultees, have objected to the application, but following the submission of additional information to satisfy requirements of the Habitat Regulations, including the submission of wintering bird surveys and additional information pertaining to the priority habitats and Local Wildlife Site present on the site, Place Services (Ecology) are satisfied that the points raised within those submissions have been suitably addressed through mitigation and significant enhancements, particularly in relation to additional water bodies being proposed and reedbed creation. Moreover, the Council's Habitats Regulations Assessment has been reviewed by Natural England and they have confirmed that the development would not adversely harm the integrity of the nearby European Designated Sites.**
- 8.142. **In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.**

Other Considerations – Fire Safety

- 8.143. Essex County Fire & Rescue Service have provided comments regarding layout and design of the scheme. They raised queries concerning turning facilities to dead end access routes and required distances for fire fighting vehicles.
- 8.144. In response the applicant has confirmed that these matters will need to be addressed at Building Regulations stage. However, they have provided a Fire Strategy Technical Appraisal Drawing which demonstrates the intended turning facilities to dead-end access routes longer than 20m in accordance with standards and within 45 metres of every point of the footprint of the building.
- 8.145. Moreover, they have confirmed that at Building Regulations stage further measures will need to be considered for a bespoke solution which may include dry risers, hydrants, private firefighting infrastructure, and automatic water suppression systems not the subject of planning control. Officers are therefore satisfied that these matters would need be addressed at a later stage to accord with the requirements of the Building Regulations and planning should not duplicate powers and responsibility of other authorities.

Section 106 of the Town and Country Planning Act 1990

- 8.153. Officers have reviewed this phasing of development and consider that the thresholds outlined above strike an appropriate balance between securing the construction of the tourism function against the occupation of the residential units whilst sufficiently incentivising the developer to complete various sections of the mixed used development proposed. These trigger points will therefore be secured as a legal obligation within the S106.

Highway Works

- 8.154. Essex County Council Highways have requested improvements to a nearby bus stop and enhancement to the PRow that borders the site on its north-western boundary. The developers have asked that these works are costed by ECC and secured via contributions contained within the S106. The bus stop enhancements are proposed to cost in the region of £27,300, whilst the PRow upgrade costs are yet to be confirmed.
- 8.155. These enhancements were secured as part of the original approval and are considered to meet the requirements of the CIL Regulations, in so far that they are;
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

Public Open Space

- 8.156. As before, the Council's Open Space Team have confirmed that a contribution towards improvements to existing play facilities is both relevant and justified to this planning application. The contribution would be used to improve the facilities at the nearest play area located at Baynards Recreation Ground. The contribution would equate to approximately £14,000.

RAMS

- 8.157. As detailed above, a financial contribution (currently £163.86 per unit) towards RAMS is required to mitigate the recreational impacts of the proposal upon the nearby European Designated Sites.

EIA Development

- 8.158. In accordance with Regulation 6(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, an Environmental Impact Assessment (EIA) has been produced, which accompanies the planning application.
- 8.159. It is considered that within the submitted EIA appropriate mitigation measures have been identified, where necessary, which will prevent, reduce or off-set any likely adverse effect of the proposed development on other environmental facets during the construction and operational lifetime.
- 8.160. The EIA concludes that due to the design of the scheme, Geotechnical and Environmental Impacts, Archaeology and Heritage, Landscape and Visual, Traffic and Transport, Air Quality and Dust and Hydrology and Water Quality do not pose a constraint to the proposed development, either during construction or once operational and residual effects are considered to be Negligible.
- 8.161. Moreover, the residual effects on Ecology and Biodiversity in the construction phase are considered to be Moderate albeit these are temporary impacts. The residual effects on Ecology and Biodiversity in the operational phase are considered to be Low.
- 8.162. Construction phase works are anticipated to result in temporary, short term noise impacts, and can be limited to an effect of Moderate - Minor Adverse significance. It is considered that noise effects of operational building services and plant noise can be limited to an effect of Negligible significance. Changes in road traffic noise levels on the local road network due to the introduction of the

Open Space	£14,080 - Enhancements to Bayards Recreation paid upon first occupation of market units
Highways Contribution	- £27,300 – Bus Stop upgrade – Bayards Crescent - Contribution towards PRow Improvements (Currently Uncosted) Both paid upon first occupation
Retirement Lodges	Restriction to occupants over 55 only.
Development Phasing	No more than 60% (25No) of the dwellings to be occupied until: - The humps and hollow ecological feature and associated planting are in place - The footpaths and jetty to the southern side of lake 04 and the footpaths to the humps and hollows is in place No more than 75% (31No) of the dwellings to be occupied until: - The Retirement communal building is in place. - The 2 show units for the holiday lodges are in place (lodges L99 & L100, a 4 bed unit and a 2 bed unit respectively). The remaining 25% (10 No) of the dwellings cannot be occupied until: - Bases for the first 31 holiday lodges are in place - Roads are provided (to base level) to serve the 31 holiday lodges (indicated yellow on phasing plan)

10.2 Conditions and Reasons

1). COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2). APPROVED PLANS & DOCUMENTS

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

5553/SP/23/0000 P1 (Red Line Site Plan)
23180-MA-XX-DR-C-0009 P02 (Amended Junction Dimensions – Proposed Crossing Points)
23180-MA-XX-DR-C-C-0140 P03 (Amended Junction Dimensions – Visibility Splays)
162-01-04 01 (Amended Illustrative Sections)
5553/SP/23/1023 P1 (Footpath/Open Space Plan)
5553/SP/23/1024 P1 (Viewpoint/Pedestrian Signage Plan)
5553/SP/23/3030 P2 (Site Section AA)
5553/SP/23/3031 P2 (Site Section BB)
5553/SP/23/3032 P2 (Site Section CC)
5553/SP/23/3033 P2 (Site Section DD)
5553/SP/23/3034 P1 (Site Section EE)
5553/SP/23/3035 P1 (Site Section FF)
5553/SP/23/3036 P1 (Site Section GG)
5553/SP/23/3045 (Lake Buffer Zones)
5553/SP/23/3012 P1 (Preliminary Fire Fighting Appraisal)
162-01-01 06 (Landscape Proposals)
162-01-10 01 (Soft Landscape Proposals & Schedules)
5553/SP/23/3021 P1 (Proposed Earthworking)
Environmental Impact Assessment (August 2023)
Arboricultural Impact Assessment (Ref – 230238-TMA-XX-XX-RP-AP-5300 – August 2023)
Planning Design & Access Statement (August 2023)
Climate Change and Energy Statement (Faarup Associates Ltd; 2023)
Construction Strategy and Traffic Management Plan
Preliminary Ground Investigation & Generic Risk Assessment (CET; Nov 2017)
Ground Investigation Report (Soiltechnics; August 2023)
Preliminary Ecological Appraisal (Adonis Ecology Ltd; 2022)
Winter Bird Survey (ACJ Ecology Ltd; 2023)
Great Crested Newt Survey (TMA; 2023)
Reptile Survey (TMA; 2023)
Water Vole And Otter Survey (TMA; 2023)
Bat Tree Scoping Survey (TMA; 2023)
Botanical HPI Survey (Sound Ecology; 2023)
Ecological Constraints and Opportunities Summary (TMA; 2023)
Heritage Statement (Archaeology South-East; 2023)
Transport Statement (Markides Associated; 2023)
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 5553/SP/23/4020 P1 (4 Bedroom Holiday Lodge – Floor Plan)
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 5553/SP/23/4100 P1 (1 Bedroom Retirement Lodge – Floor Plan)
 5553/SP/23/4101 P1 (1 Bedroom Retirement Lodge – Roof Plan)
 5553/SP/23/4102 P1 (1 Bedroom Retirement Lodge – Elevations)
 5553/SP/23/4104 P1 (1 Bedroom Retirement Lodge Visuals – Sheet 1)
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 5553/SP/23/4110 P1 (2 Bedroom Retirement Lodge – Floor Plan)
 5553/SP/23/4111 P1 (2 Bedroom Retirement Lodge – Roof Plan)
 5553/SP/23/4112 P1 (2 Bedroom Retirement Lodge – Elevations)
 5553/SP/23/4114 P1 (2 Bedroom Retirement Lodge Visuals – Sheet 1)
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 5553/SP/23/4120 P1 (3 Bedroom Retirement Lodge – Floor Plan)
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 5553/SP/23/4122 P1 (3 Bed Retirement Elevations)
 5553/SP/23/4124 P1 (3 Bedroom Retirement Lodge Visuals – Sheet 1)
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 5553/SP/23/4126 P1 (3 Bedroom Retirement Lodge Visuals – Sheet 3)
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 5553/SP/23/4431 P1 (Retirement Hub – Elevations)
 5553/SP/23/4432 P1 (Retirement Hub – Sections)
 5553/SP/23/4434 P1 (Retirement Hub – Visuals)
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 5553/SP/23/4204 P1 (5 Bedroom Farmhouse A – Visuals)
 5553/SP/23/4210 P1 (5 Bedroom Farmhouse B – Floor Plans)
 5553/SP/23/4211 P1 (5 Bedroom Farmhouse B – Roof Plan)
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 5553/SP/23/4300 P1 (Glamping Unit GA – Roof Plan)
 5553/SP/23/4301 P1 (Glamping Unit – Elevation Sheet 1)
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 5553/SP/23/4304 P1 (Glamping Unit Visuals – Pontoon)
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 5553/SP/23/4400 P1 (Estates Building GA – Floor Plan)
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 5553/SP/23/4402 P1 (Estates Building – Elevations)
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 5553/SP/23/4410 P1 (Reception GA – Roof Plan)
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5553/SP/23/4412 P1 (Reception – Sections)
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5553/SP/23/4420 P1 (Leisure Building – Floor Plans)
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5553/SP/23/4440 P1 (Restaurant Building GA – Floor Plan)
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5553/SP/23/4442 P1 (Restaurant Building – Elevations)
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5553/SP/23/4450 P1 (Workshop – Floor Plans)
5553/SP/23/4451 P1 (Workshop – Elevation, Roof Plan and Sections)
5553/SP/23/4454 P1 (Workshop – Visuals)

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

NOTE/S FOR CONDITION:

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

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

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

3). FURTHER APPROVAL: AGREEMENT OF MATERIALS

CONDITION: No development/works shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.

REASON: To secure an orderly and well-designed finish sympathetic to the character of the existing building(s) and in the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

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

While this condition does not detail in what form the materials sought shall be detailed to the Local Planning Authority, it is suggested that a plan is submitted with the details to show where the materials will be located and the extent of coverage.

4). COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

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

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

5). COMPLIANCE: TREE/LANDSCAPE PROTECTION

CONDITION: No development shall be commenced until the existing tree/s on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions, as shown on the approved Tree Protection Plan, prior to the commencement of development. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree/s to be protected. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

REASON: For the avoidance of damage to protected tree/s included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of lost and damage to trees.

6). FURTHER APPROVAL - FOUL WATER DRAINAGE DETAILS

CONDITION: Full details of foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to the beginning of any works to the building it would serve are commenced. No part of the building/s shall be first occupied or brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use for that building/s. The foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. This condition as detailed will apply to the development at all times once agreement is obtained unless varied or removed legally.

7). FURTHER APPROVAL - SUDS WATER DRAINAGE DETAILS & MAINTENANCE

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

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SUDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme. Cover levels and invert levels are also to be included on the drainage plan.
- A final detailed drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

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

NOTE/S FOR CONDITION:

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

8). FURTHER APPROVAL - SUDS WATER DRAINAGE DETAILS (FOR CONSTRUCTION)

CONDITION: No development shall commence until details of a construction surface water management plan, including timetable, detailing how surface water and storm water will be managed on the site during construction, are submitted to and agreed in writing by the local planning authority. No part of the development shall be commenced and/or developed except as may be agreed and in

accord with the approved timetable. The drainage scheme shall thereafter be maintained as approved or as be agreed to be retained by the local planning authority in writing.

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

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

9). FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

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

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

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

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed

prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details. Please note the provisions of the Highways Act 1980 Para 131 are likely to apply and may need to be discussed with the Highways Authority, this legislation includes details and penalties for any damage and/or alterations to the highway including verge, highway signage and surface materials of pavement/footpath and carriageway.

10). ACTION REQUIRED: PROVISION OF ACCESS

CONDITION: The hereby approved accesses shall be completed in all respects in accordance with the approved drawing no. 23180-MA-XX-DR-C-0009 Revision P02 and be available for use before first occupation/use of the development hereby approved and served via the relevant access. The accesses shall then be retained in their approved form.

REASON: In the interests of highway safety to ensure the access is properly designed and constructed and made available for use.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

11). HIGHWAYS VISIBILITY SPLAYS

CONDITION: Prior to first use of the site accesses, visibility splays shall be provided as shown on approved drawing no. 23180-MA-XX-DR-C-C-0140 Revision P03 and shall then be retained in their approved form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

REASON: To ensure vehicles exiting the access would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

12). ACCESS MATERIAL

CONDITION: The access/s hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 10 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally defined by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

13). HIGHWAYS ON GOING REQUIREMENT – REMOVAL OF PERMITTED DEVELOPMENT

CONDITION: Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no gates/fence and/or other means of enclosure within 22 metres from the edge of the carriageway at the point of the accesses unless details are first agreed, in writing, by the local planning authority. Any gates to be erected on site that may be approved, shall only open into the site and not over any area of the public highway at any time.

REASON: In the interests of highway safety.

NOTE/S FOR CONDITION: Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

14). HIGHWAYS PROVISION OF PARKING AND TURNING

No building, holiday lodge or dwelling shall be occupied or brought into first use until such time as the car parking and turning areas serving that building, holiday lodge or dwelling have been provided in accord with approved drawings. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

15). RESIDENTIAL TRAVEL INFORMATION PACK

CONDITION: Prior to first occupation of each dwelling (market dwellings and retirement lodges only), a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

16). FURTHER APPROVAL – TRAVEL PLAN

CONDITION: Prior to the first occupation/use of the development, a Travel Plan including details of the travel arrangements to and from the site for employees, customers and monitoring provisions shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved Travel Plan arrangements shall be implemented and followed prior to first occupation/use.

REASON: In the interests of sustainable development.

NOTE/S FOR CONDITION:

This condition only applies to commercial elements of the development.

17). ACTION REQUIRED: REFUSE BINS AND COLLECTION AREAS

CONDITION: Prior to first use/ occupation of the development, or in accordance with an alternative timetable for provision as may be agreed in writing by the Local Planning Authority, the area/s to be provided for storage of refuse/recycling bins as shown on the approved drawings shall be provided and then retained.

REASON: In the interest of highway safety to ensure that refuse recycling bins do not cause any obstruction or danger on the highway.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

18). COMPLIANCE – CYCLE//PEDESTRIAN PATHWAY

Prior to the first use of the main leisure hub building, the proposed shared cycle/pedestrian pathway accessed via the secondary access serving the 5 private dwellings from Robinson Road, shall be constructed in full and made available for use, and retained as approved thereafter.

REASON: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

19). COMPLIANCE - ECOLOGICAL APPRAISAL RECOMMENDATIONS

CONDITION: All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Adonis Ecology, August 2022) and Ecological Constraints and Opportunities Summary (Tim Moya Associates, August 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

20). FURTHER APPROVAL - CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

Prior to commencement of development a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved, in writing, by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following;

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures including a finalised Reptile Mitigation Strategy (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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

21). FURTHER APPROVAL - CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved, in writing, by the Local Planning Authority.

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

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

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

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

22). FURTHER APPROVAL - LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

Prior to any works above slab level a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved, in writing by, the Local Planning Authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details

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

23). FURTHER APPROVAL – WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

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

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

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

24). SPECIFIC RESTRICTION ON DEVELOPMENT: HOLIDAY OCCUPATION

CONDITION: The tourism lodges and glamping pods hereby approved, and as clearly indicated on approved drawing no. 5553/SP/23/3010 P1, are exclusively designated for holiday purposes of the occupier/s only and shall not be utilised as a person's sole or main place of residence nor permanent residential dwelling of individuals not engaged in such holiday purpose at any time, including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended. Furthermore, the following restrictions shall apply:-

1. Occupation Period: The duration of occupation by any one person shall not exceed more than 100 days in any given year (Jan to Dec) and no continuous occupation period of an individual person shall exceed 28 days without a break of at least 7 days between occupation.
2. Primary Residence Prohibition: The approved tourism lodges shall only be occupied by persons who have available an alternative primary residential address, it shall not be utilised as a person's sole or main place of residence.

3. Register of Occupants: A comprehensive register containing the names, full details of permanent home addresses, and vehicle registrations (if travelling by car) of occupants shall be maintained for all periods of occupation each year. This register must be made available to the Local Planning Authority for inspection at any time in a form that can be digitally provided upon request, and all records shall be retained for a minimum of ten years.

REASON: The site of the permission is outside any area where planning permission would normally be forthcoming for residential development without either harm or conflict with planning policies. The development is expressly permitted for holiday use to contribute significantly to local tourism and the economic well-being of the area. This contribution is considered paramount, justifying the exceptional approval of this development that would otherwise be a departure of the Local Plan and unsustainable development.

NOTE FOR CONDITION: Holiday Purpose: This term refers to the usage of the development site for short-term stays, primarily for recreational or leisure purposes, individuals occupying the site are doing so for holidays and vacations. Continuous Occupation: Continuous occupation, as mentioned in the condition, indicates the uninterrupted stay of an individual on the development site. In this context, the condition restricts the continuous occupation of any individual person to no more than 28 days without a break of at least 7 days between periods of occupation. This restriction is designed to ensure that the site is not used as a permanent residence and aligns with its intended holiday purpose to generate active tourism within the District.

25). AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

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

- An electric car charging point scheme
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day for new dwellings.
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

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

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

NOTES FOR CONDITION:

Slab level normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab

level to be the point before any walls and/or development can be visualised above ground level or seek confirmation from the Local Planning Authority for your development.

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will directly change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering plants, aerators to taps and other water saving options can be considered.

26). FURTHER APPROVAL - AGREEMENT OF LOCAL RECRUITMENT STRATEGY

CONDITION: No development before any works on foundations shall commence until a Local Recruitment Strategy has been submitted to and approved in writing by the Local Planning Authority. The Local Recruitment Strategy shall include details of how the applicant/ developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The approved Local Recruitment Strategy shall be adhered to thereafter.

REASON: To promote and encourage the recruitment of employees and other staff in the locality of the application site.

NOTES FOR CONDITION:

Locality of the application site is taken to refer to the administrative boundaries of Tendring District Council unless otherwise specified and agreed in writing by the Local Recruitment Strategy.

27). FURTHER APPROVAL – PUBLIC ACCESS STRATEGY

CONDITION: Prior to the first occupation of the development a public access strategy that outlines details to enable local public access onto the site and use of the park facilities, including details of numbers, opening hours for public members and access/security arrangements, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved strategy shall be adhered to at all times as approved thereafter.

REASON: To facilitate public access onto the site in the interests of promoting health and amenity benefits to local residents.

28). COMPLIANCE – POWERED WATERCRAFT

CONDITION: There shall be no use of motorboats or engine powered watercraft on any of the water features located on the site at any time.

REASON: In the interests of residential amenity and biodiversity preservation.

29). FURTHER APPROVAL - SOUND MITIGATION MEASURES TO BE AGREED

CONDITION: Before any machinery/plant is first used on any premises as hereby approved as part of this permission, it shall be enclosed with sound insulating material and mounted in a way which will minimise transmission of structure borne sound in accordance with a scheme to be approved, in writing, by the Local Planning Authority. The scheme shall thereafter be maintained as may be approved.

REASON: In the interest of the amenity of neighbouring residents having regard to the background noise levels in the area.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to first use. This condition is imposed due to concern/s over potential noise that may harm amenity and is imposed as it is considered necessary to control potential noise that would have otherwise warranted a refusal.

30). ONGOING REQUIREMENT IMPOSED - NOISE RESTRICTION ON AMPLIFICATION

CONDITION: No equipment for the amplification of sound and/or the playing of music shall be operated outside any of the approved buildings on the site (defined by the red line plan) at anytime.

REASON - In the interest of the amenity of neighbouring residents.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects.

2) Please note this condition does include PA systems and/or similar. This does not prevent the playing of live music or singing but should not use speakers/mics to amplify the sound and/or voice singing.

31). COMPLIANCE – ACOUSTIC FENCING

CONDITION: Prior to the first use of the estates building compound yard the acoustic fencing shall be fully installed, as outlined on approved drawing no. 5553/SP/23/3131 P1, and shall be retained in its approved form thereafter.

REASON: In the interests of visual and residential amenity.

32). APPROVAL REQUIRED: LANDSCAPE MANAGEMENT PLAN

CONDITION: No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a landscape management plan for a minimum of 5 years. Both new and existing planting (including SUDs features as applicable) will be required to be included in a long-term management plan.

The landscape management plan shall also include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan and thereafter retained.

REASON: To support plant establishment and ensure the proper management and maintenance of the approved landscaping in the interests of amenity, functionality and the character and appearance of the area.

33). SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS BUILDINGS, STRUCTURES AND ENCLOSURES

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development)

Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- no garage, car port, fence, gate, wall or any other means of enclosure, building or structure shall be erected except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

10.3 Informatives

Positive and Proactive Statement

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

Highway Informatives

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over public footpaths 161_8 & 161_27 (Brightlingsea) shall always be maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

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

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

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Reporting Of Unexpected Contamination

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out.

If necessary, the minimum requirements for dealing with unexpected ground conditions being encountered during construction;

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of

solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.

4. The unexpected, contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions.
12. After consultation with the Local Planning Authority, materials should either be: re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or treatment of material on site to meet compliance targets so it can be re-used; or removal from site to a suitably licensed landfill or permitted treatment facility.
13. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority before development can proceed.

Drainage Informatives

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

11. Additional Considerations

Equality Impact Assessment

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

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

Human Rights

- 11.4 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 11.5 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

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

Finance Implications

- 11.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 11.8 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

12. Background Papers

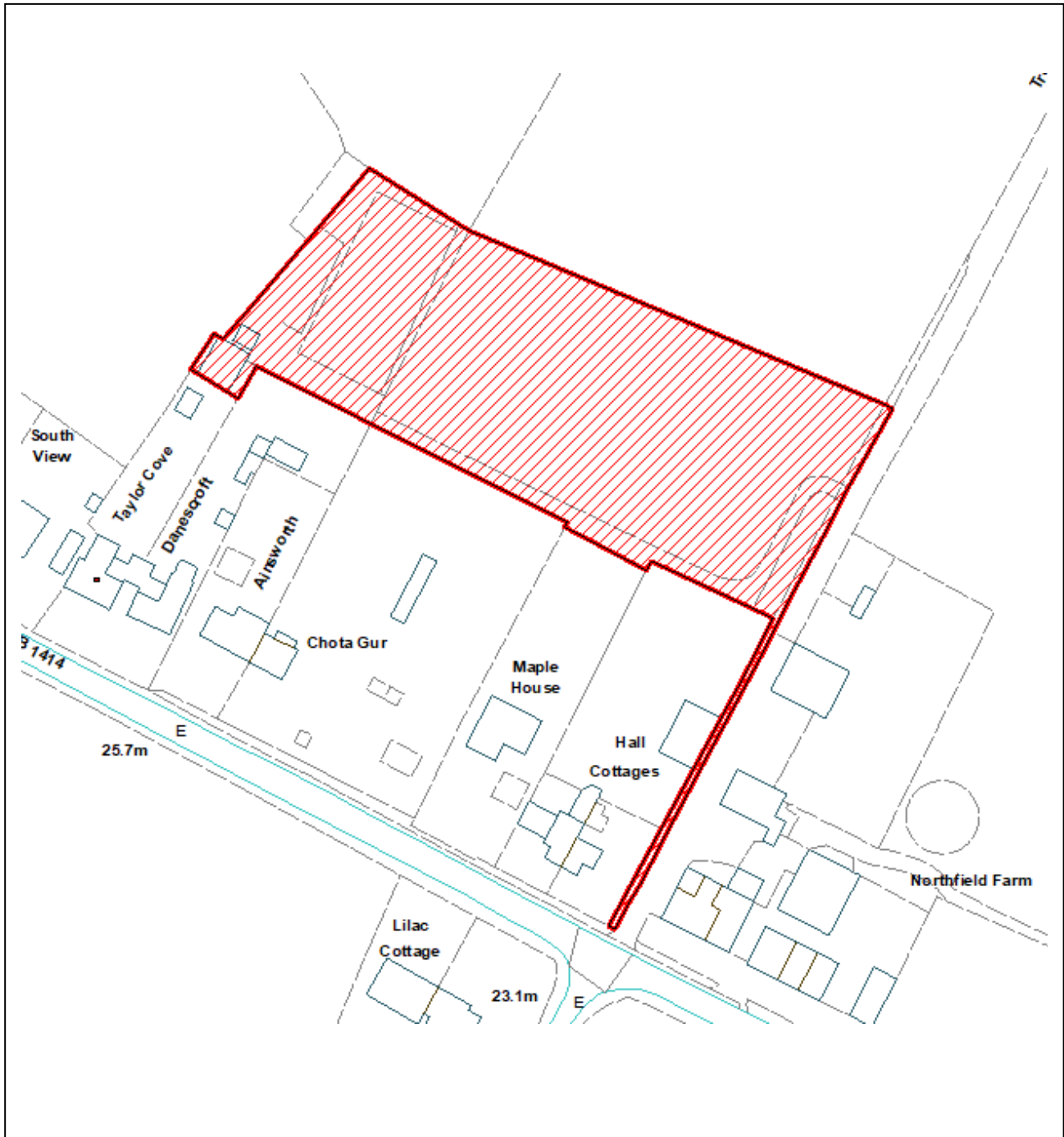
- 12.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

5TH NOVEMBER 2024

REPORT OF THE DIRECTOR OF PLANNING

A.3. PLANNING APPLICATION – 24/00721/FUL – LAND TO THE REAR OF TAYLOR COVE HARWICH ROAD BEAUMONT CLACTON ON SEA CO16 0AX



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Application:	24/00721/FUL	Expiry Date:	3rd October 2024
Case Officer:	Alison Pope	EOT Date:	
Town/ Parish:	Beaumont Parish Council		
Applicant:	Mrs H Beach		
Address:	Land to The rear of Taylor Cove, Harwich Road, Beaumont, Clacton On Sea, Essex, CO16 0AX		
Development:	Full Planning Application - Retrospective double field shelter comprising of a hay/storage barn and a stable.		

1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Daniel Land on grounds of intrusion into the open countryside, blocking views of the Hamford Water Site of Special Scientific Interest (SSSI) with no detail of how environmental factors will be dealt with.
- 1.2 The application seeks retrospective planning permission for a double field shelter comprising of a hay/storage barn and one stable and is recommended for approval subject to the necessary conditions set out below.

Recommendation: Approval

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

2. Status of the Local Plan

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

3. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are

considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>.

4. **Planning Policy**

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

5. **Relevant Planning History**

04/00975/FUL	Proposed entrance gates to Taylor Cove and Danes Croft	Approved	03.07.2004
18/01087/FUL	Creation of manège exercise area associated with adjacent grazing land and stables.	Approved	08.11.2018
18/01276/FUL	Proposed new stables and change of use of agricultural land to grazing for horses.	Approved	08.11.2018
18/01497/FUL	Proposed front wall with railings.	Approved	29.11.2018
19/00011/DISCON	Discharge of Condition 4 (Waste Management Plan), Condition 7 (Floodlighting) and Condition 9 (Boundary Fencing) of application 18/01276/FUL.	Approved	22.02.2019

6. **Consultations**

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

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

Environmental Protection **19.08.2024**

No objections subject to conditions relating to:

- Effluent originating from the shelter floor must be considered foul water and thus conveyed and disposed of in the same manner as domestic foul water.
- A plan for storage and removal of horse manure is to be confirmed with this authority.
- No burning of horse manure should be carried out on site.

ECC Highways Dept **21.08.2024**

The information provided with the application has been assessed by the Highway Authority and conclusions reached from a desktop study based on the submitted material and google maps. No site visit was undertaken in conjunction with this planning application. The proposal site is set back from the public highway and is accessed from a private farm track which also forms part of Public Footpath 11 (Beaumont Cum Moze_159). No new or altered means of access is proposed for this application and it is not considered that the introduction of a hay/storage barn and single stable would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to a condition ensuring the public right of way remains free and unobstructed at all times.

7. Representations

7.1 Parish/Town Council

No comments have been received from Beaumont Parish Council

7.2 Neighbour/Local Representations

Two representations objecting to the application have been received and they raise the following concerns:

- Located in the Coastal Protection Belt
- Impact on the rural landscape which will change the character of the open fields
- Obtrusive within the broader natural landscape
- Adjacent and close to neighbouring residential properties
- Increase in vermin and flies due to the location of the muck pile
- Fire hazard

8. Assessment

Site Context

- 8.1 The application relates to a property known as Taylor Cove, Beaumont a south-west facing link-detached dwelling on the northern side of Harwich Road (linked by single storey garages only). The application site itself comprises land to the rear of the dwelling and neighbouring properties to the south east also encompassing an existing farm access track to the eastern side of Hall Cottages. This access is also a Public Right of Way.
- 8.2 The field to the rear of the residential properties which forms part of the application site lies outside of but adjacent to the Beaumont-cum-Moze Settlement Development Boundary within the adopted Local Plan 2013-2033, and lies within the Coastal Protection Belt of Walton Backwaters, Horsey Island and Irlams Beach. There are no neighbourhood plans to consider.
- 8.3 Beyond the area subject of this planning application the area is semi-rural in character with open fields on the opposite side of Harwich Road and to the rear of the dwellings.

Planning History

- 8.4 Planning permission (18/01276/FUL) for approximately 0.65 hectares of land, to the rear of Taylor Cove which also stretches behind the neighbouring properties to the south east, granted in November 2018 for a change of use of the land to grazing for horses and a stable block immediately behind the dwelling of Taylor Cove.
- 8.5 Further to this, planning permission (18/01087/FUL) was granted in November 2018 for a manège enclosed by post and rail fencing at the north western end of the land behind the previously approved stable block.
- 8.6 The conditions imposed on planning permission pertaining to waste management, floodlighting and boundary fencing were satisfactorily discharged in February 2019.

Proposal

- 8.7 The application seeks retrospective planning permission for a double field shelter comprising of a hay/storage barn and a stable located on the eastern side of the application site. The shelter is finished in timber with a low pitched black Onduline corrugated roof with fibreglass roof light. The shelter stands on a concrete floor base. In front of the shelter plastic mud mats are laid on the ground with the area enclosed by a post and wire fence to create a corral.

Design, Appearance and Landscape Impact

- 8.8 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 8.9 Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 state that new development within the Coastal Protection Belt will protect the open character of the undeveloped coastline and its design should respond appropriately to the landscape and historic character of its context.
- 8.10 Policy PPL3 seeks to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to estuaries, rivers and undeveloped coast.
- 8.11 The land where the double field shelter has been sited, at the eastern corner of the application site, is within the area of land approved planning permission in 2018 for the grazing of horses. The eastern boundary of the site is largely defined by mature hedging with a metal gate restricting free access to the field.

- 8.12 The field shelter measures 7.265 metres in width, 3.650 metres in depth with an overall low pitched roof height of 2.947 metres with a 1.2 metres roof canopy/overhang at the front of the building. The floor area of the building is 26.51 square metres, while the area of the corral is 35.9 square metres.
- 8.13 The timber building with post and wire fencing is recognisable as a stable for the associated equestrian use. Its siting is close to the established muck heap enclosure at the edge of the application site. There are other examples of equestrian uses with associated buildings in the immediate vicinity of the application site, including Blacksmiths Corner Bungalow, land to the rear of Coronation Villas and the neighbouring Faith Farm/Northview Farm.
- 8.14 The timber field shelter cannot be seen from Harwich Road, however it can be viewed from the public footpath that runs along the eastern side of the site. When travelling north east along the public footpath, the application site and field shelter will be on the north western side of the path with views over Hamford Water on the eastern side.
- 8.15 The design and scale of the proposal is considered to be acceptable and would result in no material harm to visual amenity given its low height and small footprint.
- 8.16 The proposal is not considered to significantly harm the landscape character and quality of the undeveloped coastline, regarded as a minor incidence on the edge of the field for existing private equestrian use, adjacent to the settlement development boundary of Beaumont-cum-Moze with mature hedging on the eastern boundary and approximately 2kms west of Hamford Water.

Highway Safety

- 8.17 Paragraph 114 of the National Planning Policy Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.18 The existing vehicular access from the private farm track along the public footpath granted planning permission under application 18/01276/FUL will remain the access point for the equestrian use.
- 8.19 The application site remains for private use by the applicant for her own horses and there is not anticipated to be a significant increase in vehicle movements resulting in a material change to traffic in the vicinity of the site.
- 8.20 Essex Highways consider the proposal acceptable subject to a condition ensuring the public right of way remains free and unobstructed at all times. An appropriate condition is deemed reasonable and necessary, and will be imposed on the grant of planning permission.

Impact on Residential Amenity

- 8.21 Paragraph 135(f) of the National Planning Policy Framework states that planning should always seek to secure a high standard of amenity for all existing and future occupants.
- 8.22 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 8.23 The field shelter is visible from neighbouring properties, however the minor, low level development and distance of 47 metres from the closest rear garden boundary with intervening vegetation is not considered to have an adverse impact on loss of privacy, light or outlook.

8.24 The Council's Environmental Protection team were consulted on the application and they recommend conditions relating to the disposal of effluent from the shelter floor, storage and removal of horse manure and no burning of horse manure on site in the interests of residential amenity and the environment. Appropriately worded conditions are deemed reasonable and necessary, and will be imposed on the grant of planning permission.

Ecology and Biodiversity

8.25 This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

8.26 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

8.27 This development is subject to the general duty outlined above. On that basis a biodiversity enhancement strategy will be secured via condition. Such a strategy may look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures.

8.28 Therefore, the development with the inclusion of this condition, on balance, and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

Biodiversity net gain

8.29 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals (excluding Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

8.30 The statutory framework for BNG applies. This involves the imposition (automatically applied as a deemed condition) of a planning condition on approvals to ensure the objective of at least 10% net gain over 30 years. The determination of the Biodiversity Gain Plan (BGP) under this planning condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Development may not normally be begun until the BGP, via planning condition discharge, is approved, however in this case as a retrospective application this will result in a breach of planning condition that will need to be resolved as soon as possible as the LPA has no power to change this government required condition to allow a more appropriate timeframe.

8.31 Given this position, the government strictly provides it would generally be inappropriate for decision makers to refuse an application on the grounds that the biodiversity gain objective will not be met. This further supports the position that the biodiversity gain objective can always be met in some form.

Protected Species

- 8.32 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.
- 8.33 It is considered that the proposal is unlikely to adversely impact upon protected species or habitats by virtue of the small area of land where the stable and store is located previously being in use as grazing for horses.
- 8.34 In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. The development aligns with the statutory framework for biodiversity net gain, striving to achieve a 10% net gain in biodiversity value over 30 years. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

9. Conclusion

- 9.1 The proposal will not result in any adverse impact on the character and appearance of the area and will not significantly harm the landscape character and quality of the undeveloped coastline. In addition, the proposal will avoid adverse impacts on neighbouring amenities and the environment and therefore in the absence of any material harm resulting from the development, the application is recommended for approval.

10. Recommendation

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

10.2 Conditions and Reasons

1 APPROVED PLANS & DOCUMENTS

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

The approved red line plan drawing is site plan produced by UK Planning Maps scale 1:1250 labelled in handwriting as Plan 1 Existing received 12 June 2024
Dwg no. 0/A600/PR/001

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

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if

found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

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

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

2 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON USE

CONDITION: The double field shelter comprising of a hay/storage barn and a stable hereby approved shall be used solely in connection with private stabling of horses and no business or commercial use including livery or riding school activities shall be carried on from the site whatsoever.

REASON: To prevent the generation of unnecessary traffic in the interests of highway safety, local amenity, and character and appearance of the area.

3 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON EXTERNAL OPEN AIR STORAGE

CONDITION: No goods, products, raw materials, scrap material or other materials of any other sort shall be stored in the open air outside the confines of the building/s included in the approved red line site plan related to this permission, except pursuant to the grant of separate planning permission on an application made in that regard.

REASON: The external storage of these items would be harmful to the local amenity, character and appearance of the area.

NOTE/S FOR CONDITION:

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

4 FURTHER APPROVAL - WASTE MANAGEMENT

CONDITION: Within 3 months of the date of this decision, precise details of the proposed interim storage, management timetable and disposal arrangements of all liquid and solid animal/vegetable/other waste from the site outlined in red on the approved plans shall be submitted to and approved, in writing, by the Local Planning Authority. The development thereafter shall be carried out only in accordance with the details as approved by the Local Planning Authority.

REASON: In the interests of the amenities of the locality and to safeguard the environment.

NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed within 3 months of the date of this decision. This condition is imposed to ensure harm to the environment is avoided.

5 RESTRICTION - BURNING OF MATERIALS

CONDITION: There shall be no burning of horse manure on the site at any time.

REASON: The site is in the proximity of residential dwellings and therefore suitable control is necessary in order to protect the amenities of residents of such properties.

6 FURTHER APPROVAL REQUIRED - BIODIVERSITY ENHANCEMENT STRATEGY CONDITION

Prior to first occupation of the dwelling a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

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

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

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

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

7 FURTHER APPROVAL: BIODIVERSITY NET GAIN PLAN

CONDITION: The development may not be begun unless (a) a biodiversity gain plan has been submitted to the planning authority (see note), and (b) the planning authority has approved the plan (see note).

REASON: In order to accord with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024

NOTE - CONTEXT AND APPLICATION:

Planning conditions are typically established upon the granting of planning permission under sections 70(1) and 72 of the Town and Country Planning Act 1990. However, it's essential to note that the biodiversity gain condition operates under a distinct statutory framework, specifically outlined in paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

This condition is deemed to apply to all planning permissions granted for land development in England, unless specific exemptions or transitional provisions are applicable (for further details, please refer to the provided web link <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments> or contact us directly.

The government advises against including this condition in decision notices to avoid confusion. However, for clarity and accountability, we have opted to highlight this condition within the decision notice. This ensures that all involved parties are aware of its requirements, facilitating effective tracking and monitoring throughout the development process, including the discharge of conditions.

In certain instances, this condition may be imposed even if the applicant believes that biodiversity net gain (BNG) does not apply. Based on the available information, it is determined that this permission necessitates the approval of a biodiversity gain plan before commencing development, as none of the statutory exemptions or transitional arrangements apply.

For further details, please consult the officer report as needed. If you believe this condition does not apply, we strongly recommend contacting the Local Planning Authority (LPA) for clarification. Tendring District Council serves as the planning authority responsible for determining the approval of a Biodiversity Gain Plan in relation to this permission.

BIODIVERSITY GAIN PLAN REQUIREMENTS:

For the Biodiversity Gain Plan requirements, please refer to both paragraphs 14 and 15 of the Environment Act Sch 14 Part 2 as amended by The Biodiversity Gain (Town and Country Planning) Modifications and Amendments (England) Regulations 2024.

<https://www.legislation.gov.uk/ukpga/2021/30/schedule/14/enacted>

In summary, the Biodiversity Net Gain (BNG) plan must achieve a minimum biodiversity net gain of 10% and should typically include the following:

- Steps taken or to be taken to minimize adverse effects of the development on the biodiversity of the onsite habitat and any other habitat.
- Pre-development and post-development biodiversity assessments of the onsite habitat.
- Allocation of any registered offsite biodiversity gain to the development and its biodiversity value in relation to the development.
- Details of any biodiversity credits purchased for the development.
- Plans for maintaining and securing the net gain on and/or off site for at least 30 years after completion of the development.

The Local Authority will ensure the submitted details meet the requirements of the Town and Country Planning Act 1990 as amended, Environment Act as amended, associated legalisation and guidance.

Ways to achieve 10% BNG may include:

- 1) Enhancement and restoring biodiversity on-site (within the red line boundary of a development site).

2) If proposals can only achieve part of their BNG on-site, they can deliver through a mixture of on-site and off-site. Developers can either make off-site biodiversity gains on their own land outside the development site or buy off-site biodiversity units on the market as close as possible to the site.

3) If developers cannot achieve on-site or off-site BNG, they must buy statutory biodiversity credits from the government. This must be a last resort. The government will use the revenue to invest in habitat creation in England.

Developers may combine all 3 options but must follow the steps in order. This order of steps is called the biodiversity gain hierarchy.

CONDITIONS AND LEGAL AGREEMENT:

The Local Authority is responsible for ensuring that the biodiversity gain objective is achieved, whether it be onsite, offsite, or through the purchase of credits, and that it is secured by legal agreement as necessary. It is essential to highlight that planning conditions operate within a strict timeframe. Therefore, any legal agreements required to secure the biodiversity gain must be completed prior to the consideration of the planning condition. Failure to comply with this requirement may result in the refusal of the condition.

8 COMPLIANCE REQUIRED: PUBLIC RIGHT OF WAY

CONDITION: The public's rights and ease of passage over public footpath no. 11 (Beaumont Cum Moze_159) shall be maintained free and unobstructed at all times.

REASON: To ensure the continued safe passage and accessibility of the public on the definitive right of way.

10.3 Informatives

Positive and Proactive Statement

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

Highways Informative

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

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

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

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no. 11 (Beaumont

Cum Moze_159) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

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

11. Additional Considerations

Equality Impact Assessment

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

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

Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
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Human Rights

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

Finance Implications

- 11.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 11.8 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

12. Declaration of Interest

Please refer to the minutes of this meeting, which are typically available on the councils website which will be published in due course following conclusion of this meeting.

13. Background Papers

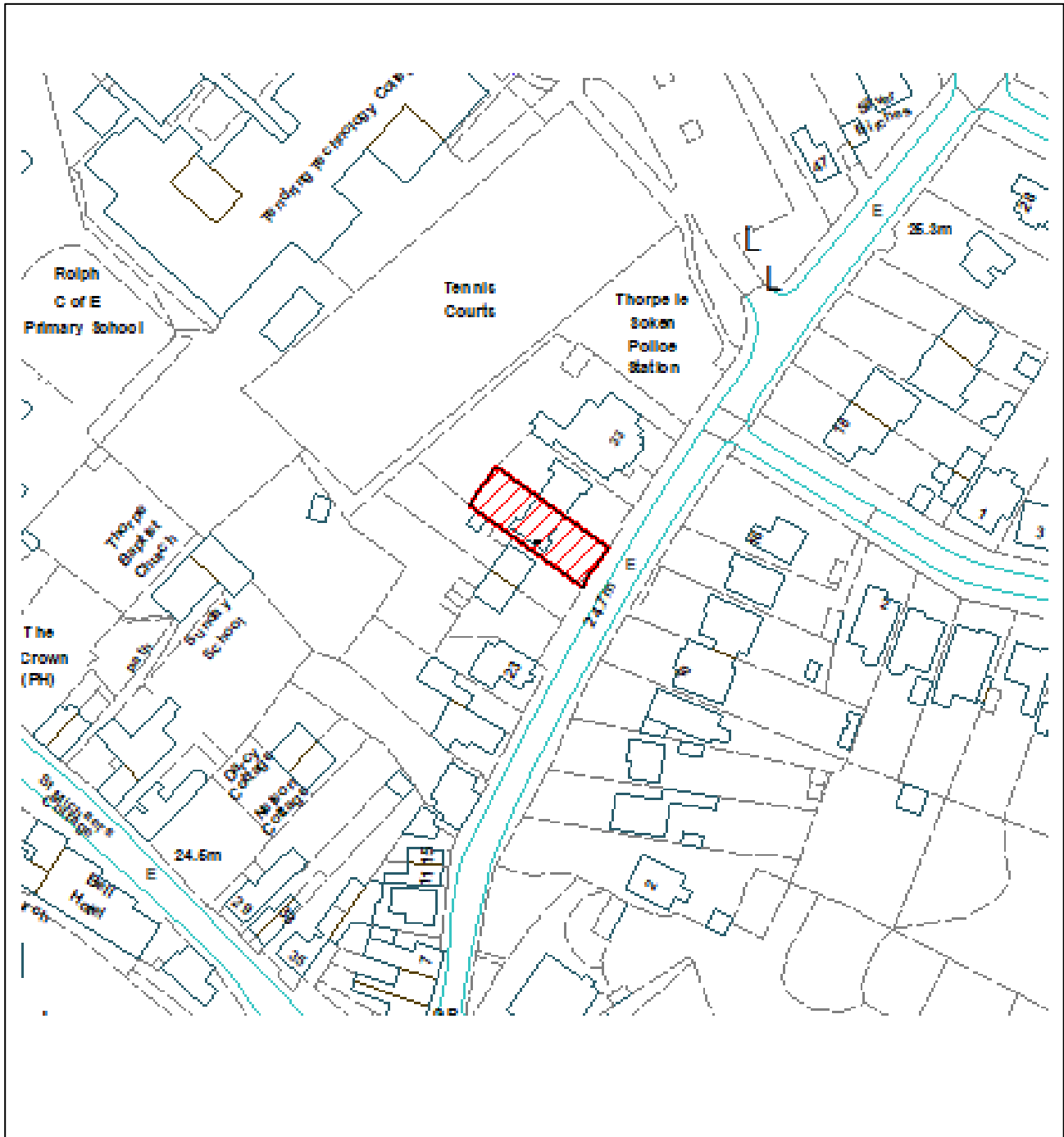
- 13.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report)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

PLANNING COMMITTEE

05TH NOVEMBER 2024

REPORT OF THE DIRECTOR OF PLANNING

A.4. PLANNING APPLICATION – 24/01379/FUL – 29 LANDERMERE ROAD THORPE LE SOKEN CLACTON ON SEA CO16 0LQ



DO NOT SCALE

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Application:	24/01379/FUL	Expiry Date:	7th November 2024
Case Officer:	Ben Bowler	EOT Date:	
Town/ Parish:	Thorpe Le Soken Parish Council		
Applicant:	Mr and Mrs Nicholas		
Address:	29 Landermere Road Thorpe Le Soken Clacton On Sea Essex CO16 0LQ		
Development:	Planning Application for Demolition in a Conservation Area - Demolition of 1.2 tall front boundary fence, post and gravel boards.		

1. Executive Summary

- 1.1 The application is brought to Planning Committee as the applicant is employed by Tendring District Council and the recommendation is approval, as required by the delegation arrangements and for no other reason.
- 1.2 The proposal seeks planning permission to remove a 1.2m high close board fence, post and gravel boards. Permission is required as the fence exceeds 1m.
- 1.3 The proposed works will result in a minor enhancement to the character and appearance of the area, whilst posing no detrimental harm to existing neighbouring amenities.

Recommendation: Approval

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

2. Status of the Local Plan

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

3. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the

strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>.

There are currently no neighbourhood plans for this area.

4. Planning Policy

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

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

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

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PPL8 Conservation Areas

Supplementary Planning Documents

Essex Design Guide

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Relevant Planning History

24/01378/TCA	Trees in a Conservation Area Notification - T1 - Ornamental Crab Apple (Malus) - Fell Tree. T2 - Flowering Cherry (Prunus) - Fell Tree.	Approved	11.10.2024
24/01379/FUL	Planning Application for Demolition in a Conservation Area - Demolition of 1.2 tall front boundary fence, post and gravel boards.	Current	
24/01430/TCA	Trees in a Conservation Area Notification - T1 - Small flowering cherry - Fell tree. T2 - Culinary apple tree - Fell tree.	Current	

6. Consultations

6.1 No consultees were consulted within the determination of this planning application.

7. Representations

7.1 Thorpe-le-Soken Parish Council have not commented.

7.2 There have been no other letters of representation received.

8. **Assessment**

Site Context

- 8.1 The application sites lies inside the Settlement Development Boundary and Conservation Area for Thorpe-le-Soken.
- 8.2 The site is located on the north-western side of Landermere Road and consists of a semi-detached two-storey dwelling, which faces south-east. The site is separated from the highway via a close board fence behind which the front garden is a mix of hard and soft landscaping.
- 8.3 The surrounding area consists of a mix of single and two storey dwellings, which are well set back within their sites with open frontages or low brick walls along the front boundary.

Proposal

- 8.4 The proposal seeks planning permission to remove a 1.2m high close board fence and all associated additions.

Appearance

- 8.5 Paragraph 131 of the NPPF states: The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 adds planning decisions should ensure that developments are visually attractive as a result of good architecture, and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 8.6 Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to ensure all new development makes a positive contribution to the quality of the local environment and protect or enhance local character. The following criteria must be met: new alterations are well designed and maintain or enhance local character and distinctiveness; and the development relates well to its site and surroundings particularly in relation to its siting, height, scale and design.
- 8.7 The existing fence being sited along the front boundary is extremely prominent within Landermere Road and appears incongruous with the surrounding area which consists of open frontages or low brick walls. The removal of the fence which has a rather bland and modern aesthetic, will result in the host site match the neighbouring plots helping create cohesion within the streetscene and producing a small visual enhancement to the area.

Impact on Residential Amenity

- 8.8 The NPPF, Paragraph 132, states that planning should always seek to secure a high standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SP7 of the adopted local plan states that all development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. These sentiments are carried forward in emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022).

8.9 The proposed works which seek to remove an existing close board fence are considered minor in nature. While there are neighbouring properties located within close proximity to the site, the works proposed will bear no harmful impacts to the amenities of the adjacent dwellings that would warrant Officers recommending a reason for refusal in the public interest.

Heritage Impact

8.10 Policy PPL8 of the Tendring District Local Plan seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: materials and finishes, including boundary treatments appropriate to the context.

8.11 The application site lies inside the Conservation Area for Thorpe-le-Soken. The existing fence with its rather bland and modern design appears incongruous to the locale and poses a significant visual harm to the character of the area, which is predominately defined by open frontages or low brick walls. The removal of the fence therefore, will provide a small visual enhancement to the Conservation Area.

Habitats, Protected Species and Biodiversity Enhancement

General duty on all authorities

8.12 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

8.13 This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests and the authority has considered what actions are available for this limited development.

Biodiversity net gain

8.14 Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). This proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

8.15 In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

8.16 In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

9. Conclusion

9.1 The proposed development is consistent with the above mentioned national and local planning policies and, in the absence of material harm the proposal is recommended for approval.

10. Recommendation

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

10.2 Conditions and Reasons

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 APPROVED PLANS & DOCUMENTS

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

Drawing showing the site outlined in red at a scale of 1:1250 – Rec'd 12/09/2024

Drawing showing the position of the proposal outline in red at a scale of 1:1250 – Rec'd 12/09/2024

Document showing a photograph of the fence with metric measurement annotated – Rec'd 12/09/2024.

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

NOTE/S FOR CONDITION:

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

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

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

10.3 Informatives

Positive and Proactive Statement

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

Ecology Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

11. Additional Considerations

Equality Impact Assessment

- 11.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.
- 11.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning

decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

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

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

Human Rights

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

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

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

Finance Implications

11.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

12. Declaration of Interest

12.1 Please refer to the minutes of this meeting, which are typically available on the councils website which will be published in due course following conclusion of this meeting.

13. Background Papers

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

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