

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	24/03/2021
Planning Development Manager authorisation:	TF	25/03/2021
Admin checks / despatch completed	DB	25.03.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	25.03.2021

Application: 20/01823/FUL **Town / Parish:** Brightlingsea Town Council
Applicant: Mr John Carr - Brightlingsea Town Council
Address: The Hard Waterside Marina Brightlingsea
Development: Proposed heritage pier (Phase 1).

1. Town / Parish Council

Brightlingsea Town
Council
26.02.2021

The above application was discussed at our Town Council Planning meeting held last evening, however as it is our own application, we make no comment.

2. Consultation Responses

Environment Agency
23.02.2021

No objection to the application, provided the conditions below are included within any grant of permission.

Flood Risk Management Structures

We have no objection to the works at Brightlingsea as these do not affect assets maintained by the Environment Agency.

We have no objection to the landing stage at St Osyth, so long as there is clear access to the crest for routine cutting of the embankment, and the following conditions are adhered to as already discussed:

A granular surface is added around the entrance to the landing stage
The ongoing maintenance of the landing stage and concrete pad will be the responsibility of the Brightlingsea Harbour Commission

The seawall erosion protection is to be keyed into the structure

Environmental Permitting

The operator has applied for a marine licence under Section 65 of the Marine and Coastal Access Act.

Under the terms of The Environmental Permitting (England and Wales) Regulations 2016, Schedule 25, Part 2, Section 2, Paragraph 3 the Environment Agency considers that an environmental permit is not necessary.

Natural England
23.02.2021

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Essex County Council
Heritage
19.03.2021

The application is for a heritage pier.

The application has been reduced to a single pier which has potential to provide the impetus for a wider scheme.

The applicant has undertaken additional consultation in formulation of the revised scheme.

ECC Heritage have no objection and support this application.

Essex County Council
Archaeology
22.02.2021
INITIAL COMMENTS

The proposed access improvements lie within the historic maritime settlement of Brightlingsea. The archaeology report submitted acknowledges the rich historical and cultural heritage of the area since Roman times and assesses the impact on the known heritage assets recorded in the immediate area on the Essex Historic Environment Record, including historic wrecks as well as WWII defences. The report uses information from previous investigations within the surrounding area, however it does not provide sufficient information on the proposed development and potential impact of the proposed works.

Historic mapping depicts the presence of structures within the intertidal zone in the proposed location of the Heritage Pier probably associated with the shipbuilding yard at Brightlingsea. Remains of these and other associated structures may survive within the intertidal

deposits. A site specific desk-based assessment should have been submitted which included a map regression survey to determine the potential for the remains of historic buildings or structures to survive within the area proposed for the hard and pier and to assess the impact of the proposals on them.

Much of the work will be by piling into the intertidal zone, to assess the impact of these works a site visit should be carried out by a trained archaeologist to record any visible historic remains within the proposed development area. This would enable a record to be made of any heritage assets within the areas of improvement that may be disturbed or destroyed by the proposed works and enable a mitigation strategy to be proposed such as monitoring under archaeological supervision.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological evaluation - Site visit and recording and mitigation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above and the submission of a mitigation strategy.

3. The applicant will submit to the local planning authority a report (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority).

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions about this advice, please do not hesitate to contact me.

Essex County Council
Archaeology
10.03.2021
AMENDED COMMENTS

Further information has been received regarding the first stage of the proposed development involving the installation of a jetty and pontoon. The work required for this will be negligible in terms of archaeological impact as they will largely re-use existing structures. There will be no requirement for archaeological investigation or mitigation for this phase of the development.

Prior to the commencement of the second phase of the proposals, involving the Heritage Quay, a site visit by a trained archaeologist will be required to be carried out to record any potential upstanding remains or features within the area of development. This information should be included in a site specific assessment report of the site of

the Heritage Quay to determine the impact of the groundworks on any potential surviving archaeological remains.

Much of the work will be by piling into the intertidal zone, the report will allow assessment of the impact of these and enable a mitigation strategy to be proposed such as monitoring under archaeological supervision. This report should be submitted to discharge the condition prior to the construction of the Heritage Quay.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological evaluation - Site visit and recording and mitigation

1. Prior to the construction of the Heritage Quay a desk-based assessment and walkover survey should be completed and submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place within the area of the proposed Heritage Quay until a programme of archaeological mitigation has been secured in accordance with a written scheme of investigation which has been submitted and approved in writing by the local planning authority.
3. The applicant will submit to the local planning authority a report (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority).

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request following submission of the site assessment report. Tendring District Council should inform the applicant of the recommendation and its financial implications.

If you have any questions about this advice, please do not hesitate to contact me.

Essex County Council
Ecology
15.02.2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Ecological Assessment (Hopkins Ecology, December 2020) and the Habitats Regulations Assessment (Exo Environmental, February 2021), relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

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

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

We have also reviewed the shadow Habitats Regulations Assessment (Exo Environmental, February 2021) submitted by the applicant. We note that the scheme has been designed so no Likely Significant Effect on the adjacent Habitats Sites is anticipated. We note that the habitats onsite are considered as low ecological value, and there is substantial disturbance currently present, as the site is a current active harbour with commercial and recreational shipping vessels and machinery. We note that the Shadow Habitats Regulations Assessment (Exo Environmental, February 2021) also identifies a reduced level of disturbance post construction, through the resituating of the landing area away from habitats suitable for nesting birds that are currently not utilised due to human disturbance. The Ecological Assessment (Hopkins Ecology, December 2020) also states that "the intrinsic value of the site is considered to be low due to the existing levels of disturbance. It is not suitable as habitat for estuarine or brackish-water species with priority status, such as the native oyster. The location is next to an already busy location and it is not thought that its use would alter the level of disturbance locally. The scheme is assessed as having negligible ecological impact." We recommend that the embedded mitigation for this project can rule out LSE and LPA adopts the Shadow HRA Screening report.

The mitigation measures identified in the Ecological Assessment (Hopkins Ecology, December 2020), should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

No biodiversity enhancements have been highlighted in the Ecological Assessment (Hopkins Ecology, December 2020), to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. However, we note that the proposals have been designed to allow breeding wetland birds access to new areas of habitats that have previously been unsuitable due to the level of disturbance, and the walkway has been designed to allow sunlight and water to pass through to encourage ecologically valuable halophytic macrophytes. We are satisfied that this is reasonable to support this application.

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.

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 Ecological Assessment (Hopkins Ecology, December 2020) and the Habitats Regulations Assessment (Exo Environmental, February 2021) 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 BENEFICIAL USE: 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 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).

Please contact us with any queries.

TDC Environmental
Protection
08.02.2021

Environmental Protection recommend the following comments:

Noise from piling works

- 1) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 2) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Environmental Protection prior to the commencement of works.

Construction Method Statement

Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) 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 Monday to Saturday

(finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site.

3) All reasonable step, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Dust Control

1) Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Protection. 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).

Lighting

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. (www.theilp.org.uk)

Brightlingsea Harbour
Commissioners

No comments received.

Royal Society For The
Protection of Birds

No comments received.

Marine Management
Organisation
03.02.2021

Marine Licensing, Wildlife Licences and other permissions

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

Response to your consultation

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are;

marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

Marine Licensing

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

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

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

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

You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in English waters.

The MMO is also the authority responsible for processing and determining Harbour Orders in England, together with granting consent under various local Acts and orders regarding harbours.

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

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

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

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

Environmental Impact Assessment

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

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

If this consultation request relates to a project capable of falling within either set of EIA regulations, then it is advised that the applicant

submit a request directly to the MMO to ensure any requirements under the MWR are considered adequately at the following link

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

Marine Planning

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

Marine plans will inform and guide decision makers on development in marine and coastal areas. Proposals should conform with all relevant policies, taking account of economic, environmental and social considerations.

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

The East Inshore and Offshore marine plans were adopted on the 2nd April 2014. The South Inshore and Offshore marine plans were adopted on the 17th July 2018. Both plans are a statutory consideration for public authorities with decision making functions. The East Inshore and East Offshore Marine Plans cover the coast and seas from Flamborough Head to Felixstowe; the South Inshore and South Offshore Marine Plans cover the coast and seas from Folkestone to the River Dart in Devon.

From 14 January 2020 the draft North East, draft North West, draft South East, and draft South West Marine Plans are now a material for consideration for public authorities with decision making functions. This is the final stage of statutory public consultation before the marine plans are submitted.

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

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

Minerals and waste plans and local aggregate assessments

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

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

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

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

Essex Wildlife Trust
10.02.2021

We wish to submit a holding objection to this application.

The application site lies within the Colne Estuary Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The proposed development may result in impacts on statutory designated sites (including Habitats sites) and/or impacts on designated features of those sites.

The applicant has not provided an ecological assessment. Tendring DC currently do not have sufficient information to rule out impacts on designated habitats and features.

Natural England should be consulted for their opinion regarding the likelihood of significant impacts on protected sites. A Habitats Regulations Assessment will be required to assess the effects of the development against the conservation objectives of the Colne Estuary SPA SAC SSSI.

Essex Wildlife Trust
12.02.2021

Further to our receipt and examination of the HRA and Ecology Assessment reports we can confirm that we have no objection to the application for the proposed heritage quay.

Please note that these comments apply only to this current application; we will provide further comments on the proposed new landing stage at St Osyth when the separate application for this element comes forward.

3. Planning History

00/00587/FUL	Mixed use development of 181 residential units, marina and commercial units and associated car parking (amended scheme)	Refused	09.08.2001
01/02098/CON	Demolition of existing sheds, workshops, warehouses, offices, jettys and slipways	Approved	19.06.2002
01/02099/FUL	Mixed use development comprising 148 residential units, 5 commercial live/work units, marina, retail shops, restaurant, public conveniences and associated car parking and environmental improvements.	Approved	23.06.2004
88/00457/OUT	Redevelopment to provide a mix of residential/leisure/ marina and ancillary retail	Approved	11.02.1994
97/00076/OUT	Redevelopment to provide a mix of residential/leisure/ marina and ancillary retail (Variation of Condition 2 imposed upon planning permission TEN/88/0457 relating to the extension of time limit for submission of reserved	Approved	28.08.1997
04/01621/FUL	Mixed use development of residential units and retail units.		02.10.2009
04/02023/FUL	Redesign and alterations to buildings B, D and G to provide a total of 99 residential units, 4 retail units and 2 live work units		02.10.2009
04/02024/FUL	Car Park (Revised layout)	Approved	01.03.2005
05/01279/FUL	Mixed use development of residential and retail units.		02.10.2009
07/01240/FUL	Change of use of retail units to include A1, A2 and A3 uses.	Withdrawn	27.11.2007
07/01241/FUL	Amendments to pedestrian access and service area.	Withdrawn	19.10.2009
20/01635/MMO	Access improvements.	Determination	14.12.2020

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
COM15	Coastal Water Recreation Facilities
COM15A	Protection of Existing Water Recreation Facilities
COM16	Hamford Water, the Stour Estuary and the Colne Estuary
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN17	Conservation Areas
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
BR1	Brightlingsea Waterside Regeneration
BR5	Protection of River Frontage

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL3	Sustainable Design
PPL4	Biodiversity and Geodiversity
PPL7	Archaeology
PPL8	Conservation Areas
PPL9	Listed Buildings

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan

have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopted Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to The Hard, Waterside Marina, Brightlingsea located immediately south of the Colne Yacht Club and Copperas Road, with the pier extending southwards across an intertidal area.

The site is located within the Brightlingsea Conservation Area and adjacent to the Grade II Listed Anchor Hotel.

Description of Proposal

In order to improve the accessibility of Brightlingsea harbour, a heritage pier is proposed.

The application as originally submitted included an overarching 'access improvements' project including a ferry landing stage and heritage quay (including works to the St Osyth side of the water). Due to heritage and archaeology issues that require further studies, together with time constraints for grant funding, the application has been amended. This application now seeks to deliver the Heritage Pier element of the works as 'Phase 1' with the view to progress the Heritage Quay works at a later stage (subject to all necessary additional reports not covered within the application).

The Heritage Pier is an 85 metre long pontoon consisting of 7 floating pontoon units (each 11.5 x 2.5 m) and a short hinged bridging section connecting the pontoons to the existing quay retaining wall. The pontoon will be secured using 5 marine piles and will facilitate the mooring of 2 or more heritage barges.

Assessment

The main considerations in this instance are;

- Principle of Development;
- Design and Visual Impact;
- Impact on Heritage Assets;
- Archaeology;
- Ecology and Biodiversity;
- Residential Amenities; and,
- Representations.

Principle of Development and Impact

The application relates to improvement works to the existing, well established Waterside Marina at Brightlingsea. Saved Policy COM15 of the adopted Tendring District Local Plan 2007 supports such proposals subject to detailed considerations. The development must be appropriate to its setting and not result in any harm to visual amenity, residential amenities or biodiversity and must not result in any safety hazards the users of the seafront amenities.

Having regard to the context of the site, the fairly minor scale of the works and the appearance of the development being wholly appropriate in its setting, the principle of development and its visual impact is considered acceptable subject to the detailed considerations set out below.

Impact on Heritage Assets

The application has been reduced to a single pier, which has potential to provide the impetus for a wider scheme. The applicant has undertaken additional consultation in formation of the revised scheme and Essex County Council raise no objection to the application.

The applicant has been advised of the potential impact from 'Phase 2' of the development upon the Conservation Area, adjacent listed building and non-designated heritage assets. Any future application will need to be accompanied by a detailed and thorough Heritage Statement to satisfy the requirements of the NPPF.

Archaeology

The work required for this will be negligible in terms of archaeological impact, as the development will largely re-use existing structures. There will be no requirement for archaeological investigation or mitigation for this phase of the development.

The applicant has been advised that prior to the commencement of the second phase of the proposals, involving the Heritage Quay, a site visit by a trained archaeologist will be required to be carried out to record any potential upstanding remains or features within the area of development. This information should be included in a site specific assessment report of the site of the Heritage Quay (and submitted with the planning application) to determine the impact of the groundworks on any potential surviving archaeological remains.

Ecology and Biodiversity

Given the simplicity of the design, the construction phase is expected to only take a few days and would be done prior to the bird breeding season and on local visitor economy. The pontoons can be floated into place with no impact on the identified receptors.

The application is accompanied by an Ecology Appraisal and Habitat Regulations Assessment that satisfies all requirements of the Habitat Regulations and associated national and local plan policies. Natural England and Essex County Council Ecology raise no objection to the application subject to conditions securing that the development be carried out in accordance with the reports and that a biodiversity enhancement strategy is submitted and approved.

Residential Amenities

The development site is located a sufficient distance from residential properties and is of a scale and nature that will not result in any harm to residential amenities.

Representations

Brightlingsea Town Council are the applicants of the application.

St Osyth Parish Council offer their support to the overall improvement scheme proposed for both Brightlingsea and St Osyth.

2 letters of representation have been submitted, predominately in support of the proposed works and the resultant benefits it will bring to the local area. Concerns have been raised with how the application has been made (now broken down into 2 separate applications for the Brightlingsea and St Osyth works with a further application for the Brightlingsea works to come forward at a later stage).

The amendments to the application and reduction in the works included as part of this application minimises the impacts and is considered wholly acceptable for the reasons set out above.

Conclusion

The development will provide a long-term sustainable and resilient heritage and tourist facility, which supports the local economy and helps improve visitor accessibility and experience.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before 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 the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Heritage Pier project site plan
Heritage Pier Block Plan
Heritage Pier piling set out plan with pontoon units
Heritage Pier overview drawing
Walkway General Arrangement Drawing No. S21/WW1 - ga
Access Bridge AB Steel - Short Series - GA

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall be carried out in strict accordance with all mitigation and enhancement measures contained in the Ecological Assessment (Hopkins Ecology, December 2020) and the Habitats Regulations Assessment (Exo Environmental, February 2021) as already submitted with the planning application. 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).

- 4 Prior to the beneficial use of the development hereby approved, 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 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).

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns (splitting the proposals into 'Phase 1' and 'Phase 2'). As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO