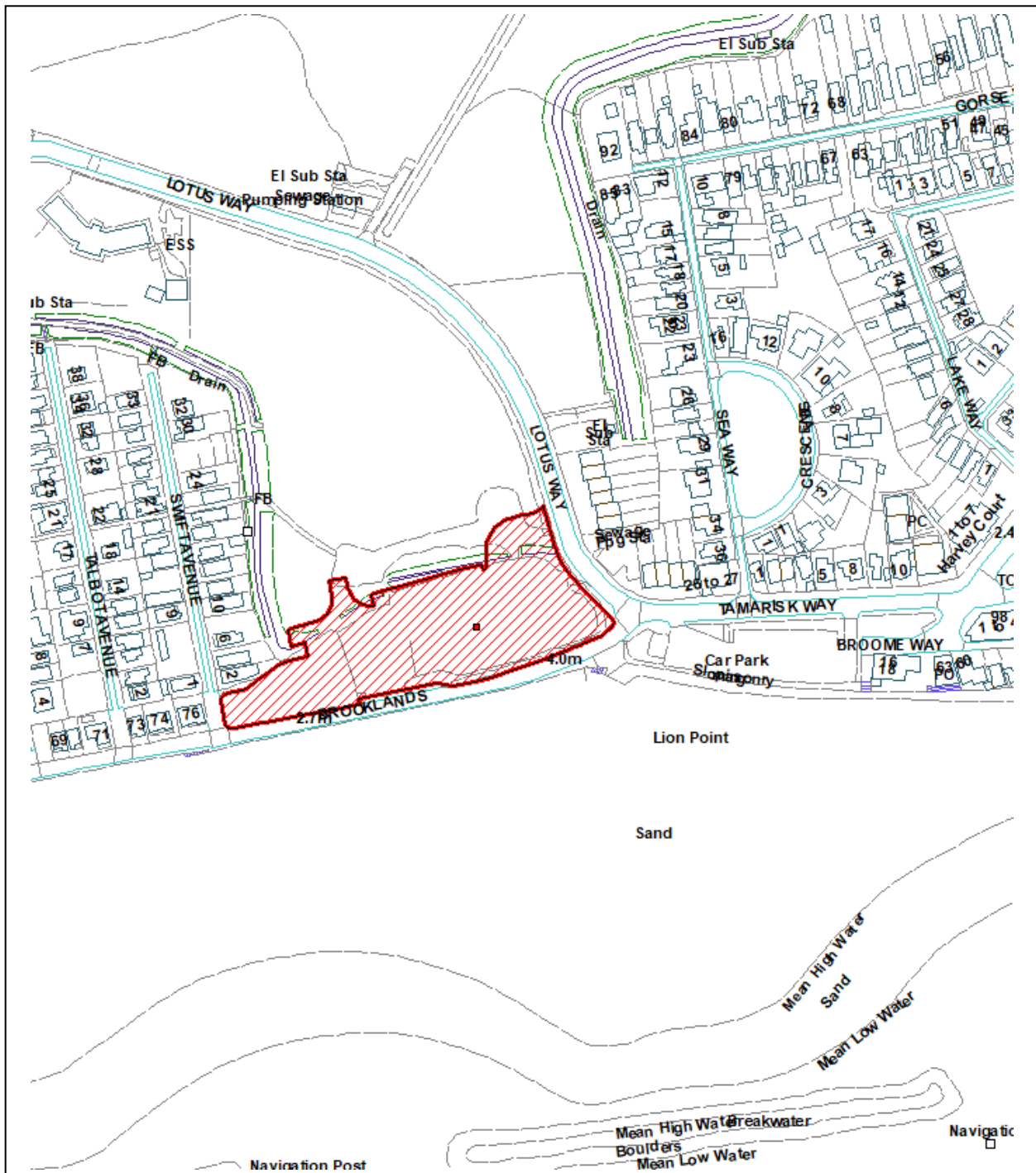


PLANNING COMMITTEE

06 JULY 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 21/00871/FUL – LAND ADJACENT TO LOTUS WAY AND BROOKLANDS JAYWICK CO15 2JE



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Application: 21/00871/FUL

Town / Parish: Clacton Non Parished

Applicant: Tendring District Council

Address: Land adjacent to Lotus Way and Brooklands Jaywick CO15 2JE

Development: Proposed business units, covered market, community garden, public WCs and associated public realm.

1. **Executive Summary**

- 1.1 The development applied for relates to proposed business units, a covered market, a community garden, public WCs and associated public realm on Land Adjacent to Lotus Way and Brooklands, Jaywick. The application is placed before members of the Planning Committee as the applicant is Tendring District Council.
- 1.2 The site is located between the Brooklands and Village parts of Jaywick Sands, on the site of what was formerly the amusements and village centre of Jaywick Sands. The site is currently hardstanding on the central and eastern side of the site and scrubland at the western end. Brooklands, an un-adopted road, runs along the southern boundary, and Lotus Way, an adopted road built in the early 2000s runs to the east of the site.
- 1.3 Saved Policy CL15a (Jaywick Regeneration) of the adopted Local Plan states that *“To facilitate the phased redevelopment of the original Brooklands, Grasslands and Village area of Jaywick in accordance with the Jaywick Masterplan, the Council will allow residential and mixed-use development... on the Land west of Lotus Way and north of Brooklands (mixed-use on southern part of site).* Furthermore, Jaywick Sands is identified under emerging policy PPL4 (Priority Areas for Regeneration) as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 1.4 Moreover, the proposed Covered Market and Managed Workspace development responds directly to the corporate priorities identified within the Council’s 2020-2024 Corporate Plan and accords with the Community Leadership and Tendring4Growth themes, which are central to that Plan.
- 1.5 Taking into consideration the three strands of sustainability namely economic, social and environmental considerations the development is considered to represent a sustainable development by: creating local job opportunities; improving Jaywick Sands’ reputation; and the visual appearance of a key site in the community, which will complement the other regeneration projects resulting in raising property values for both commercial and residential properties; improved public realm including community garden and space for outdoor markets and other events; and improved walkability of the area and road safety.
- 1.6 The application and supporting documents/surveys demonstrate that there will be no overriding harm which cannot be mitigated in respect of flood risk, landscaping, ecology or highways considerations.
- 1.7 Subject to the recommended conditions within section 8.2 of this report and the completion of a legal agreement to secure contributions towards highway waiting restrictions and RAMS, the proposal is considered to be acceptable with no material harm to visual or residential amenity,

ecology interests or highway safety, and the application is therefore recommended for approval.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

a) Within 6 (six) months of the date of the Committee's resolution to approve, 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 (where relevant):

- **Financial Contribution towards RAMS**
- **ECC-Highways Contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way.**

b) Subject to the conditions stated in section 8.2

c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL6	Urban Regeneration Areas
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER7	Business, Industrial and Warehouse Proposals
ER16	Tourism and Leisure Uses
ER31	Town Centre Hierarchy and Uses
ER32	Town Centre Uses Outside Existing Town Centres
ER39	Market Trading and Car Boot Sales
COM1	Access for All
COM2	Community Safety
COM4	New Community Facilities (Including Built Sports and Recreation Facilities)
COM23	General Pollution
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
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

EN11C	Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites
EN13	Sustainable Drainage Systems
EN13A	Renewable Energy
EN29	Archaeology
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development
CL15a	Jaywick Regeneration

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP7	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP2	Community Facilities
PP1	New Retail Development
PP2	Retail Hierarchy
PP3	Village and Neighbourhood Centres
PP6	Employment Sites
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
DI1	Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.
- 2.3 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.

- 2.4 The Council has now formally adopt 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.
- 2.5 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.
- 2.6 The confirmation from the Inspectors that the Section 2 Local Plan can progress to the next stage of the process is a positive step in the plan-making process that allows the Council to increase further the weight that can be given to the emerging Local Plan when determining planning applications – particularly those policies where either no changes are being recommended or where the changes are relatively subtle. However, where policies are the subject of main modifications that represent a material change in approach, it will be necessary for decision makers, whether Officers or Planning Committee members, to carefully consider how much weight can sensibly be applied to both those policies and the modifications given that the modifications are recommendations and are still subject to consultation and potential further changes ahead of the Council's final decision to adopt.
- 2.7 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.

3. Relevant Planning History

91/00112/FUL	Continued use of Sunday market and car park 1 March to 31 December each year	Approved	03.09.1992
91/00866/FUL	Use of site for Saturday car boot sale and Sunday market 1 March to 31 December each year with ancillary car park.	Approved	03.09.1992
21/00871/FUL	Proposed business units, covered market, community garden, public WCs and associated public realm.	Current	

4. Consultations

Essex County Council Ecology 07.06.2021	No objection subject to securing biodiversity mitigation and enhancement measures
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Summary

We have reviewed the Ecological Impact Assessment (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 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.

The mitigation measures identified in the Ecological Impact Assessment (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 2021) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species. As mentioned in the report, a Construction Environmental Management Plan for Biodiversity should be secured as a condition of any consent.

We note that this application will require the LPA to prepare a bespoke project level HRA Appropriate Assessment as the development lies approximately 40m from the Essex Estuaries SAC, and 1km from the Colne Estuary SPA and Ramsar and is within the Zone of Influence (ZOI) for the Essex Coast RAMS.

Delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites, when considered both alone and 'in combination' with other plans and projects. The Ecological Impact Assessment (Woodfield Ecology, May 2020) identifies that there would be no likely significant effects on the adjacent designated sites as a result of the construction phase of the development. However, recreational impacts arising from the operational phase of the development need to be considered in combination with other plans and projects. We recommend that a financial contribution is secured, in line with the Essex Coast RAMS, to mitigate the impacts of recreational pressure on the adjacent designated sites.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy

Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as 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.

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 Impact Assessment (Woodfield Ecology, May 2020) and the Reptile Mitigation Strategy (Woodfield Ecology, March 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 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 (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.

i) Containment, control and removal of any Invasive non-native species present on site

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 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 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).

ECC Highways Dept
11.06.2021

Essex County Council in their capacity as Highway Authority has thoroughly assessed the highways and transportation information submitted in support of the above planning application. The assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework in particular, the following aspects were

considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures. It is noted that the application proposes to provide a total of 47 parking spaces, based on the 1,374 sqm internal floorspace; this is off-set by the recommended submission of a workplace travel plan for an anticipated number of 40 full-time employees, together with the provision of 38 cycle parking spaces plus existing local transport and car park facilities close to the site, the conclusions of the Highway Authority are as follows:

From a highway and transportation perspective the impact of the proposal is acceptable to the 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. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

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 DM 1

2. Prior to occupation of the development, a financial contribution of £3,000 (index linked) towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way subject to any scheme being put forward by the North Essex Parking Partnership. The contribution (£3,000) will be returned to the applicant if a scheme is not forthcoming or required at the end of the 5-year period, from the date of first occupation.

Reason: To control and manage the location of on-street parking for the area to minimize inconsiderate parking in the interests of highway safety and Policy DM1.

Note: the financial contribution will form part of a Section 106 contribution which will be for the North Essex Parking Partnership.

3. The opening of the development shall not take

place until the following have been provided or completed:

- a) A priority junction off Lotus Way to provide access to the proposal site with Kerb radii measuring a minimum of 8 metres with a 2- metre-wide footway provide around each kerb radii and extended to the nearest crossing point and provided with appropriate drop kerb/ tactile paving.
- b) The access road shall have a minimum width of 6.75 metres for the first 15 metres.
- c) Improvements to footway to an affective width of 2 metres across the entire site frontage with Lotus Way.
- d) Where possible provision of pedestrian drop kerb at appropriate crossing point(s) from the District Council Car Park off Tamarisk Way to the main site entrance including the provision of appropriate tactile paving.
- e) To current Essex County Council specification, the upgrade of the two closest bus stops or provide a new stop(s) which would best serve the proposed site (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- f) Appropriate vehicle visibility splays in accordance with current policy standards.

Reason: To protect highway efficiency of movement and to make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1 and DM9.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. The provision of a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

6. 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 be retained in this form at all times. 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.

7. Any barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst the barrier is 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.

8. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

9. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage and any lighting requirements) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 & 6.

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 or by

post to:

SMO1 – Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: Although not a requirement based on the supporting information and anticipated number of full-time employees, consideration should be given to producing a Workplace Travel Plan, prior to first occupation of the proposed development. The Developer may wish to contact the Travel Plan team via: Travel.PlanTeam@essex.gov.uk to seek some advice in the interests of reducing the need to travel by car and promoting sustainable development and transport as indicated in the Design and Access Statement.

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.

Natural England
15.06.2021

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.

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.

ECC SuDS Consultee

No comments received

Anglian Water Services Ltd

No comments

TDC Environmental Protection

Contaminated Land:

15.06.2021

With reference to the submitted Contaminated Land report, Environmental Protection confirm that they agree with its findings and would like to highlight the below is adhered to throughout the development phase –

- Drainage: As recommended within the report the surface water run-off must be discharged to mains drainage.
- Gas Monitoring: Gas monitoring found relatively high methane levels and elevated levels of carbon dioxide, therefore appropriate gas protection measures will be required at the site. Details of the proposed gas protection measures, evidencing gas levels are reduce to acceptable levels, must be submitted to the local authority for approval.
- Soil Remediation: The report states and Environmental Protection agree that there may be zones of contamination within the site which were not encountered. Therefore the Environmental Protection team recommend further soil samples are taken at the proposed community garden, in order to identify any potential contamination and any necessary remedial measures if required.
- Site Workers: Due to some findings of asbestos at the site, risks to construction workers will need to be addressed in the site Health & Safety Plan.
- Watching Brief: A watching brief is recommended during the groundworks to ensure that any potential contaminated soil encountered is disposed of in a safe and controlled manner.

Demolition & Construction Method Statement: The applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection, this document should include, but not be limited to the following information –

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

5) 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. 6) 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 Pollution and Environmental Control prior to the commencement of works.

- 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 steps, 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. 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)

Lighting:

Any car park or external lighting shall not trespass beyond the property boundary and into neighbouring residential property. The applicant shall demonstrate compliance with the Institute of Lighting Engineers code of practice.

Essex County Council Archaeology
10.06.2021

The proposed development lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains. Sediments from a former river channel laid down by the ancestral Thames before it was diverted have yielded internationally significant Palaeolithic remains and Pleistocene faunal remains within the area. In addition findspots from along the foreshore have yielded Mesolithic and Neolithic remains which suggest early prehistoric settlement and activity within the immediate area.

A Desk-based assessment has been submitted with the application which highlights the high potential of the site for significant archaeological remains and geoarchaeological deposits. The site investigation report also records that peat deposits have been recorded in boreholes, these deposits may hold significant palaeoenvironmental evidence. Samples from the site investigation work have been briefly assessed and further work has been recommended to determine the nature of the deposits within the site. A brief has been written and provided for the geoarchaeological evaluation of the site, once the evaluation is complete the significance of the geoarchaeological deposits can be determined.

A historic sea wall runs through the site, now evident as a low bank which separates the area of concrete hardstanding with an area of grass and gravel. Drawings indicate that much of the site will be built up, including the area across the historic sea wall, however it is unclear what groundworks may be required in the area of the new access.

Any groundworks within the area of the historic sea wall and access area will require archaeological investigation, details of the groundworks required within these areas will need to be provided once consent is granted to determine the impact of the development upon historic and potential archaeological remains.

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

RECOMMENDATION: A Programme of Archaeological and geoarchaeological evaluation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological 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.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Environment Agency
03.06.2021

No objection to this planning application, providing that the local planning authority have taken into account the flood risk considerations which are your responsibility.

We have highlighted these in the flood risk section below.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for Proposed business units, covered market, community garden, public WCs and associated public realm., which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Test (s) and be supported by a site specific Flood Risk Assessment (FRA). To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced 61121 and dated May 2021, are:

Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences. However they would overtop in a 0.5% (1 in 200) annual probability design flood event therefore the site is at 'actual' risk of flooding.
- Finished ground floor levels have been proposed at 3.50 m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change of 5.15 m AOD and therefore at risk of flooding by 1.65 m depth in this event.
- Flood resilience/resistance measures have been proposed.
- The site level is a minimum of 2.10 m AOD and therefore flood depths on site are 3.05 m in the 0.5% (1 in 200) annual probability flood event including climate change.
- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in

200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.

- Compensatory storage is not required.

TDC Building Control and Access Officer

Discussions had with applicant prior to submission.

TDC Waste Management
24.05.2021

No comments.

TDC Tree & Landscape Officer
02.06.2021

The application site is derelict land with large areas of concreted surfacing and low mounds of rubble and soil. The land has become colonised with rank and ruderal vegetation. It does not contain any trees or other significant vegetation.

Consequently no trees or other vegetation will be adversely affected by the development proposal.

In terms of soft landscaping the Proposed Block Plan shows a new area of landscaped open space and other incidental planting that appears to be aimed at softening the appearance of the development. The aims and purpose of the open space/community garden are described in some detail in the Design and Access Statement submitted in support of the application.

Should planning permission be likely to be granted then a condition should be attached to secure details of the indicative planting shown on the above plan.

Essex Police
11.06.2021

It is noted that the TBC Tree & Landscape Officer has highlighted as a potential planning condition to review the indicative planting to this development. Essex Police concur, effective landscaping could mitigate the perceptions of crime in and around the main building and the community gardens and we would like to review the landscaping and future maintenance details.

Essex Police, provide a no cost, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain the nationally acknowledged Secured by Design accreditation and would invite the them to contact Essex Police via designingoutcrime@essex.police.uk

5. Representations

5.1 No third party representations have been received.

6. Assessment

Site Context

- 6.1 The site is located between the Brooklands and Village parts of Jaywick Sands, on the site of what was formerly the amusements and village centre of Jaywick Sands.
- 6.2 The site is currently hardstanding on the central and eastern side of the site and scrubland at the western end. Brooklands, an un-adopted road, runs along the southern boundary, and Lotus Way, an adopted road built in the early 2000s runs to the east of the site. The site reaches Swift Avenue at the western end, and is partly bounded by residential properties on the north-west.
- 6.3 The sea wall lies on the other side of Brooklands, with steps over the wall at either end of the site. Brooklands does not have a pavement on either side and a bus stop is located just west of the site, between Swift Avenue and Talbot Avenue.
- 6.4 The site is prominent and has good road access from Lotus Way. It is adjacent to the public car park which provides visitor car parking, and a small cluster of commercial premises.

Proposal

- 6.5 This planning application proposes to create a range of new facilities on this site in Jaywick Sands, those facilities include:
 - Workspace units ranging from small office and kiosk type units to larger light industrial (Use Class E);
 - Training space for provision of business support services;
 - Covered market and events hall;
 - New public WCs to replace the existing poor quality WCs;
 - Outdoor hard landscaped public realm for markets and events;
 - Community garden
- 6.6 The application also proposes ancillary facilities to be created include parking and cycle parking, refuse storage, market equipment storage and loading/servicing space. The project will also create a safe pavement along Brooklands from Swift Avenue to Lotus Way as part of the public realm works.
- 6.7 The proposal is for Use Class E commercial uses and has been designed to be flexible so that a wide variety of potential uses could be accommodated depending on demand. The building itself and the letting of units will be run by an operating partner to be appointment by the Council.
- 6.8 Car parking provision in the proposal is 45 car parking spaces, including fully accessible parking bays. It is proposed that five (5) double car charging points are provided. Car parking spaces are 5m x 2.5m, and fully accessible spaces have an additional 1.2m clear on two sides.
- 6.9 Cycle parking provision is for 34 cycles (17 Sheffield stands) in covered parking areas, and space for 18 cycles (9 Sheffield stands) in uncovered parking areas.

Principle of Development/Policy Considerations

- 6.10 Under emerging policy SPL1 (Managing Growth) Jaywick is included within the Clacton-on-Sea settlement boundary, which is ranked as one of the highest Strategic Urban Settlements in the Settlement Hierarchy. Unlike in the 2007 Local Plan, the settlement boundary is drawn to include the area north of Brooklands and in between Brooklands and the Village, but not the

'Tudor Fields' area that lies within the Place Plan boundary. The policy states that there is a presumption in favour of new development within settlement boundaries, and outside of settlement boundaries, the Council will consider any planning application in relation to the Settlement Hierarchy and any other relevant policies in this plan.

- 6.11 Policy PP3 Village and Neighbourhood Centres three areas of Jaywick Sands - Broadway, Tudor Parade and the junction of Tamarisk Way/Broadway are defined as neighbourhood centres to be protected and enhanced.
- 6.12 Saved Policy CL15a (Jaywick Regeneration) of the adopted Local Plan states that: '*...to facilitate the phased redevelopment of the original Brooklands, Grasslands and Village area of Jaywick in accordance with the Jaywick Masterplan, the Council will allow residential and mixed-use development on the Land west of Lotus Way and north of Brooklands (mixed-use on southern part of site).*'
- 6.13 Furthermore, Jaywick Sands is identified under emerging policy PPL4 (Priority Areas for Regeneration) as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.14 Moreover, the proposed Covered Market and Managed Workspace development responds directly to the corporate priorities identified within the Council's 2020-2024 Corporate Plan and accords with the Community Leadership and Tending4Growth themes, which are central to that Plan.
- 6.15 The proposed development responds to a number of priorities in the Corporate Plan as set out below:
- Support existing businesses
 - More and better jobs
 - Develop and attract new businesses
 - Maximise our coastal and seafront opportunities
- 6.16 The Project has been identified by Council's Cabinet as a Key Priority Action for 2021/22 with milestones to deliver against the Corporate Plan and will be included within its corporate performance monitoring report.
- 6.17 As such, the proposed development aligns with the strategic vision for the Council's emerging Local Plan (2013 – 2033) which seeks to create resilient, successful mixed communities that address issues of deprivation and support a thriving local economy. Jaywick Sands is identified under Policy PP14 Priority Areas for Regeneration as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.
- 6.18 The development of the site for the purposes outlined within the application is therefore acceptable in principle. Matters now turn to the detailed considerations of the scheme including the layout, design, highway, ecology considerations and flood risk issues.

Layout/Design

- 6.19 Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states all new development should reflect the following place shaping principles, and where applicable, respond positively to local character and context to preserve and enhance the

quality of existing places and their environs; and provide buildings that exhibit individual architectural quality within well-considered public and private realms.

- 6.20 Paragraph 124 of the NPPF (2019) states that the creation of high-quality 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.
- 6.21 Given the linear shape of the site the proposed building would take on a linear footprint that provides an active frontage to Brooklands with the parking and servicing areas located to the rear. At either end of the building, areas of public realm are proposed. At the eastern end, a hard landscaped space is proposed to create a forecourt to the building with the opportunity for outdoor seating, small stalls or pop-ups such as an ice-cream van or similar, with some ancillary planting. At the western end, there would be hard and soft landscaping and a larger area of hard landscaping along the front and to the side of the building would create the opportunity for more extensive outdoor events, markets, performances and seasonal activities. The covered market space, has been positioned on the west side of the building, so that markets and events can take place both indoors and outdoors.
- 6.22 The building itself is two storey in scale and would consist of an extensive gabled roof. The supporting Design and Access Statement confirms that the '*...proposal draws on the heritage of other waterfront buildings that have long frontages and simple, bold forms, such as ship sheds and arcades*'. This design approach is considered to be represent an appropriate response to the character and appearance of buildings in the vicinity.
- 6.23 The building would be clad in a powder-coated sinusoidal aluminium in different colours to provide a vibrant and resilient finish. As stated above the elevations have been composed to create active frontages to the public realm. The ground floor units have extensive shopfront glazing with perforated roller shutters for security.
- 6.24 At the western of the application site, a community garden area is proposed. This area would consist of:
- Raised berms at the rear of the garden using spoil from the groundworks required for the building. This will create shelter and wind protection for the garden, as well as the opportunity for views from the top of the berm;
 - Bench seating in different configurations to suit larger and smaller groups as well as individuals;
 - Grassed areas for informal use, sized for picnics and exercise but not for formal games;
 - Wildlife pond (with safety features to prevent accidents);
 - Natural play features (rocks for climbing); and
 - Planted areas.
- 6.25 The detailed planting specification is proposed to reflect the coastal location and to create a variety of habitats that support local biodiversity.
- 6.26 In terms of carbon reduction, the building has been designed to ensure that the orientation, layout, design and construction technology used passively reduces the amount of carbon needed to heat and light spaces, as well as lowering the energy required to maintain the building. The building is also designed as an all-electric building to allow renewable energy sources to be used. Air source heat pumps form a primary heat source.
- 6.27 Overall the design approach and layout of the development would result in a significant enhancement to the character and appearance of the locality. The layout and landscaping proposed to the areas of public realm are well-considered and the proposed building would respond positively to the local character.

Highway Safety/Parking

- 6.28 Paragraph 108 of the NPPF requires Councils, when making decisions to ensure:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.29 Saved policy TR1a in the adopted Local Plan requires that development affecting highways, be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.
- 6.30 The site will be accessed from the rear with vehicle access off Lotus Way which is adopted highway, as Brooklands is an un-adopted private road and therefore not suitable for access. The existing access will be widened and reconfigured to meet ECC Highways standards and will be controlled by an access barrier positioned to prevent unauthorised access to the site. This barrier will be positioned so that vehicles can pull off the highway fully while waiting for the barrier to be raised.
- 6.31 The development also proposes to create a safe, well-lit pavement all the way along the Brooklands frontage from Swift Avenue to Lotus Way.
- 6.32 Essex Council Highways have reviewed the submitted information and have no objections subject to conditions/legal agreement securing the following:
- the vehicular/pedestrian access configuration, vehicular turning areas and parking provision shown on the submitted plans being provided prior to first use of the building;
 - the submission of a Construction Method Statement prior to commencement;
 - a £3000 financial contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way;
 - upgrade of the two nearest bus stops;
 - no surface water discharge to the highway;
 - any barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway;
 - cycle/two wheeler powered vehicle parking provided prior to first use of building; and
 - precise details of the access road and footways (including layout, levels, gradients, surfacing and means of surface water drainage and any lighting requirements) being provided prior to commencement.
- 6.33 These details are to be secured via conditions outlined below in section 8.2. The financial contribution towards to potential waiting restrictions will be achieved by the completion of a legal agreement.
- 6.34 The application proposes to provide a total of 47 parking spaces, based on the 1,374 sqm internal floorspace; this provision is considered to be acceptable given the recommended submission of a workplace travel plan for proposed employees, together with the provision of 38 cycle parking spaces plus existing local transport and car park facilities close to the site.

Biodiversity

- 6.35 Paragraph 170 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission. Saved policies EN6 of the adopted Local Plan and emerging policy PPL4 of the emerging Local Plan give special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.36 An Ecological Impact Assessment (Woodfield Ecology) has been submitted and accompanies this application. This provides a summary overview of the site and identifies the habitats on site and the potential further survey work that might be required. The appraisal concludes the following:
- The site lies entirely on previously developed land, with much (c. 60%) of it comprising bare tarmac/concrete and compacted aggregate, with mosaics of tall ruderal, semi-improved grassland, ephemeral/short perennial vegetation present on mounds of spoil and rubble and areas of un-compacted aggregate. Habitats recorded were considered to be commonly occurring across the UK and throughout Essex, and given their small size, are considered to be of below local importance.
 - Based on the findings of the detailed surveys, the site was assessed to be of negligible importance for foraging bats, breeding birds, wintering birds and Great Crested Newt, and of below local importance for reptiles and invertebrates.
 - While no impacts on designated sites are considered likely, precautionary control measures, including the production of a CEMP (Construction Environmental Management Plan), to further reduce any risk of pollution events during construction are proposed.
 - A reptile mitigation strategy has been prepared and agreed in advance for the capture and translocation of reptiles from the Site to a pre-prepared receptor site at the Brook Country Park.
 - To address potential impacts on invertebrates, specific features and habitats of value to invertebrates would be created within the Community Garden. The production of and implementation of a long-term management plan would ensure all habitats created would be maintained and long-term biodiversity benefits maximised.
- 6.37 ECC-Place Services (Ecology) have reviewed the submitted information and conclude that there is sufficient ecological information available for determination and that this provides certainty for the Local Planning Authority of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 6.38 The mitigation measures identified in the Ecological Impact Assessment (Woodfield Ecology) should be secured and implemented in full. These requirements are secured via condition and request the submission of a construction environmental management plan (CEMP) and a detailed biodiversity enhancement plan.
- 6.39 A HRA/AA (Habitats Regulations Assessment/Appropriate Assessment) has been prepared by the Council which rules out any adverse impacts upon nearby designated sites. This assessment outlines the mitigation measures noted above along with a financial contribution due to potential recreational impacts arising from the operational phase of the development when considered in combination with other plans and projects. A financial contribution is therefore to be secured via a legal agreement, in line with the Essex Coast RAMS, to mitigate the impacts of recreational pressure on the adjacent designated sites.

- 6.40 Natural England have reviewed the application details and confirm that they have no objections in respect of the impact of the development upon statutorily protected nature conservation sites or landscapes.

Impact on Residential Amenity

- 6.41 The NPPF at paragraph 127 states that planning should secure developments with a high standard of amenity for existing and future users. Saved Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.42 The proposed building would be situated approximately 34m from the nearest dwellings to the east of the site and 53m from the dwellings located in Swift Avenue to the west. This degree of separation combined with the height of the building ensures that any impacts upon residential amenity in terms of outlook, privacy and light would be minimal.
- 6.43 Opening hours of 7am to 9pm are proposed for the units and in respect of the events area it is intended that these would be controlled via the licensing system. Although it is envisaged that one-off events could last until 11pm on occasion. Given the degree of separation to local residences and the infrequent nature of events these timings are considered to be acceptable.
- 6.44 The Council's Environmental Protection Team have requested the details to control noise and emissions during the construction phase. These details are to be secured through a condition requiring the submission of a construction method statement prior to works commencing.

Flood Risk/Drainage

- 6.45 The NPPF (paragraph 155) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
- 6.46 The site is located within Flood Zone 3. New development in this part of the settlement of Jaywick can help enhance or maintain the vitality of a community and this is a key objective of the Council's overarching strategic objective and the NPPF. Therefore, for this area which is entirely within Flood Zone 3 as defined by the Environment Agency's Flood Map, the area for the purposes of the sequential test is the area within flood zone 3 only and inside the settlement boundary of Jaywick. This approach follows discussions with the Councils leadership team and will ensure that regard is still given to flood risk but will also allow some regenerative development to be approved in this part of Jaywick to maintain and enhance its vitality.
- 6.47 So in terms of the Sequential Test, it is considered that the geographical area over which the test should be applied in this instance is the area as identified above, rather than the district as a whole. Given that the site falls within Flood Zone 3 and there are no other sites in the sequential search area at lower risk of flooding, it is considered that the site passes the sequential test.
- 6.48 With regard to the exception test, part one of the test requires the application to demonstrate that the development provides wider sustainable benefits to the community to outweigh the flood risk. In this instance, the proposal would provide much needed employment opportunities for the area and represents a regeneration led development that would provide significant community benefits. As such, it is considered that the development passes this part of the test.

- 6.49 The application is also accompanied by a flood risk assessment that demonstrates that the mitigation measures, such as the building being designed so that, in the event of flooding, the building fabric and services are flood resilient. This will include non-return valves to drainage; robust finishes; and ensuring that, where possible, electrical services are located above the 100year+CC 0.5% AEP flood datum, combined with the fact that site benefits from Environment Agency protection ensures that the proposal is safe in terms of flood risk. The Environment Agency were consulted on the proposal and offer no objection to the development on flood risk grounds, therefore the proposal is considered to pass part two of the exception test.
- 6.50 Taking into account the above, and having passed both the sequential test and the exception test, it is considered that the principle of commercial development on this site is acceptable and in line with the relevant local and national policies and objectives on flood risk.
- 6.51 In terms of surface water management, the redevelopment of the existing site will provide a new surface water drainage outfall location. The site provides attenuation, therefore this will create a betterment to the existing sewer serving the area. It is proposed to discharge surface water to the Anglian Water surface water sewer within Lotus Way, as compliance with the surface water hierarchy.
- 6.52 The surface of the site will be graded in such a way as to divert extreme event flows away from the buildings, into the permeable asphalt and landscaped areas.
- 6.53 To improve the quality of the surface water run-off - which will be collected by the proposed drainage system serving the new development - the surface water run-off will pass through permeable asphalt, providing the required treatment indices as set out in the CIRIA SuDS manual.
- 6.54 It is proposed to collect foul flows on site and gravitate to the west and connect into the existing Anglian Water foul sewer within the site. Anglian Water have confirmed through discussions with the applicant that the Jaywick Water Recycling Centre currently has capacity to treat the flows from the proposed development.

Archaeology

- 6.55 ECC-Place Services confirms that the proposed development site lies within a region of high potential for both Palaeolithic archaeological remains and early prehistoric archaeological remains.
- 6.56 Consequently, they recommend a programme of archaeological and geoarchaeological evaluation works prior to commencement of the development. These evaluation works will be secured, via condition as set out below.

7. Conclusion

- 7.1 The development is considered to represent sustainable development and when having regard to the three strands of sustainability as set out within the National Planning Policy Framework the overarching benefits of the development include:

Economic Benefits

- Around 40 FTE jobs will be directly created and brought into the area with an additional economic impact to the local economy of £1.7m per annum;
- Indirect and induced impacts are estimated to comprise around 16 FTE jobs;
- Improving Jaywick Sands' reputation, and the visual appearance of a key site in the community, which will complement the other regeneration projects resulting in

raising property values for both commercial and residential properties. Raising values will increase the viability of development and redevelopment of sites in private and public ownership and this will be a significant catalytic impact;

- Encouraging wider entrepreneurship in the local community and a mutually supportive local business network, leading to an increased rate of start-up of businesses in the community, and a higher survival rate for businesses;
- Creating training opportunities leading to higher average earnings among Jaywick Sands residents, and therefore increased consumer spend locally supporting business growth among local shops and services; and
- Increased tax receipts to local and national government through increased income and commercial activity locally and rising values.

Social Benefits

- Increased employment opportunities leading to a reduction in deprivation due to unemployment and involuntary exclusion from the labour market, and a reduction in deprivation caused by low income;
- Increased training opportunities leading to a rise in skills and employability, and a rise in aspiration among young people in particular; and
- Access to a wider range of fresh food creating positive health impacts across age groups.

Environmental Benefits

- Improved public realm including community garden and space for outdoor markets and other events; and
- Improved walkability of the area and road safety.

7.2 In conclusion, the proposed development aligns with the strategic vision for Jaywick Sands as set out in both the Council's saved Local Plan (2007) and emerging Local Plan (2013–2033) which seek to create a resilient, successful mixed community that address issues of deprivation and support a thriving local economy. Jaywick Sands is identified under both saved and emerging policies as a Priority Area for Regeneration as a priority for focused investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	Financial contribution towards RAMS. Contribution amount TBC.
ECC-Highways financial contribution	£3000 financial contribution towards the introduction of any future parking restriction scheme for the surrounding roads and/or at the junction to the site and junction with Lotus Way/ Brooklands/ Tamarisk Way

8.2 Conditions and Reasons

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:

- 182_HAT_PL_100 Revision P1 (Block Plan)
- 182_HAT_PL_110 (Proposed Ground Floor Plan)
- 182_HAT_PL_111 (Proposed First Floor and Roof Plan)
- 182_HAT_PL_120 (Proposed Streetscene)
- 182_HAT_PL_121 (Proposed East and South Elevations)
- 182_HAT_PL_122 (Proposed West and North Elevations)
- 182_HAT_PL_130 (Proposed Sections)

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

3. Prior to the commencement of any above ground works, a detailed scheme of hard and soft landscaping works for the site (aside from the community garden) shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out 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 agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

5. Prior to the commencement of works to the community garden a detailed scheme of hard and soft landscaping works for this aspect of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason – To enhance the visual amenity of the proposed works.

6. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Woodfield Ecology, May 2020) and

the Reptile Mitigation Strategy (Woodfield Ecology, March 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).

7. 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 (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.
 - i) Containment, control and removal of any Invasive non-native species present on site

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).

8. 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).

9. 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:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities
- details of construction noise mitigation methods (including for any proposed piling)
- dust suppression techniques
- details of a waste/demolition removal management plan

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.

10. The opening of the development shall not take place until the following have been provided or completed:

- a) A priority junction off Lotus Way to provide access to the proposal site with Kerb radii measuring a minimum of 8 metres with a 2 metre-wide footway provide around each kerb radii and extended to the nearest crossing point and provided with appropriate drop kerb/ tactile paving.
- b) The access road which shall have a minimum width of 6.75 metres for the first 15 metres.
- c) Improvements to footway to an affective width of 2 metres across the entire site frontage with Lotus Way.
- d) Where possible provision of pedestrian drop kerb at appropriate crossing point(s) from the District Council Car Park off Tamarisk Way to the main site entrance including the provision of appropriate tactile paving.
- e) To current Essex County Council specification, the upgrade of the two closest bus stops or provide a new stop(s) which would best serve the proposed site (details shall be agreed with the Local Planning Authority prior to commencement of the development).
- f) Appropriate vehicle visibility splays in accordance with current policy standards.

Reason - To protect highway efficiency of movement and to make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development.

11. There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

12. The proposed development shall not be occupied until such time as the vehicle parking areas 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 areas and associated turning area shall be retained in this form at all times. 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.

13. The Cycle/Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards prior to the first use of the development. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason - To ensure appropriate cycle/powered two-wheeler parking is provided in the interest of highway safety.

14. The barrier provided at the vehicular access shall be set back a minimum of 15 metres from the back edge of the footway/cycleway or where no provision of footway/cycleway is present the carriageway, in perpetuity.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst the barrier is 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.

15. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage and any lighting requirements) shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

16. No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological 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.

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.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason – To protect potential archaeological and geoarchaeological heritage assets.

17. The hereby approved units shall only be open to the public between the following hours;

7am – 9pm (All week).

18. The hereby approved events area shall only be used for events between the following hours;

7am – 11pm (All week).

19. No development shall take place until a drainage strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the use of the building commencing and maintained thereafter for the lifetime of the development.

Reason - To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal is incorporated into the design and the build and that the

principles of sustainable drainage are incorporated into this proposal and maintained for the lifetime of the proposal.

20. Prior to the first use/occupation of the development a Flood Warning & Evacuation Plan shall be submitted to and approved, in writing, by the Local Planning Authority. The Flood Warning Evacuation Plan shall remain in force for the duration of the lifetime of the development and shall remain a live document and be updated where required.

Reason - The site lies within flood zones 3 and a detailed evacuation plan is essential to safeguard occupiers of the development.

21. The development shall be carried out in full accordance with the recommendations contained within the submitted 'Site Investigation Report' (as prepared by Soil Consultants – Report Reference 10607/JRCB). This includes the submission of the following details prior to commencement;

- Details of the proposed gas protection measures, evidencing gas levels are reduced to acceptable levels;
- Soil samples taken at the proposed community garden, in order to identify any potential contamination and any necessary remedial measures if required; and
- Details of a watching brief during the groundworks to ensure that any potential contaminated soil encountered is disposed of in a safe and controlled manner.

These details shall be submitted to the Local Planning Authority and approved, in writing, prior to the commencement of works. The approved details shall then be adhered to during the construction phase.

Reason – To safeguard against potential contaminates on site.

8.3 Informatives

Positive and Proactive Statement

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

Highway Informatives

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 or by post to:

SMO1 – Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

Although not a requirement based on the supporting information and anticipated number of full-time employees, consideration should be given to producing a Workplace Travel Plan, prior to first occupation of the proposed development. The Developer may wish to contact the Travel Plan team via: Travel.PlanTeam@essex.gov.uk to seek some advice in the interests of reducing the need to travel by car and promoting sustainable development and transport as indicated in the Design and Access Statement.

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.

Crime Prevention Informative

Essex Police, provide a no cost, impartial advice service to any applicant who request this service; they are able to support the applicant to achieve the requirements to gain the nationally acknowledged 'Secured by Design' accreditation and would invite the applicant to contact Essex Police via designingoutcrime@essex.police.uk

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the 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 to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a

public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 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.

10. Background Papers

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