

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	KH	26/08/2021
Planning Development Manager authorisation:	JJ	27/08/2021
Admin checks / despatch completed	DB	27.08.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	27.08.2021

**Application:** 20/01608/FUL **Town / Parish:** Lawford Parish Council

**Applicant:** V Saunders - Conrad Energy (Developments) Limited

**Address:** Land South of Harwich Road Lawford

**Development:** Erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

### **1. Town / Parish Council**

Mrs Peachey Lawford  
Parish Council  
30.12.2020

- a) Concern that only three properties were notified despite around 50 houses being affected. The application being dated 2 December 2020 it was not received by the resident until 14 December 2020 giving a very short window to respond, which includes the Christmas and New Year break. It was not acceptable for affected residents to be left to notify one another.
- b) Shocked non-renewable energy is being considered
- c) Plans are not accurate with affected properties not being correctly identified
- d) A residential property on the boundary of the development is shown as being commercial.
- e) There is much wildlife in the paddock on the perimeter of the proposed development including bats and owls.
- f) The noise and pollution will affect residents.
- g) An Annexe for an elderly asthmatic resident is not identified on the plans and being nearer to the proposed development than the actual property it would be more affected by the pollution, noise and visual aspect.
- h) A listed residential property is not identified on the plans.
- i) Sequential Test is required. Has land near the substation been properly explored? Could it be sited on an Industrial Development where the required elements are available? The company should demonstrate they have considered other options for siting the Flexible Electricity Generating System
- e) Given the scale of the development it is difficult to see how it can be screened from view.

### **2. Consultation Responses**

Tree & Landscape Officer  
11.12.2020

The application site is in agricultural use and does not contain any trees or other vegetation in the main body of the land.

The site is relatively well screened from view from the north and the

west by existing vegetation. There are open views from the eastern and southern aspects although views are distant.

In order to quantify the potential impact of the development on the local landscape character the applicant has provided a Landscape and Visual Impact Assessment (LVIA). The document accurately describes the baseline qualities and current condition of the local landscape character. It identifies several locations (visual receptor viewpoints) from which the application site can potentially be viewed.

The LVIA also identifies steps that would be taken to mitigate any harm that would be likely to arise from the implementation of the development.

The conclusion section LVIA quantifies the impact of the development on the local environs and identifies mitigation measures, primarily soft landscaping, to address potential harm. The harm resulting from the development is considered to be localised and low level.

On balance when the soft landscaping, associated with the development proposal matures the perimeter fencing and internal structures will be relatively well screened and will not be an incongruous feature in the landscape.

ECC Highways Dept  
15.07.2021

Following ECC Highways previous consultation comments amended information was submitted and ECC Highways have now made the following comments: The information that was submitted in association with the application together with the additional information provided has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on additional submitted material, google earth image dated March 2021.

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. vehicle routing,
  - ii. the parking of vehicles of site operatives and visitors,
  - iii. loading and unloading of plant and materials,
  - iv. storage of plant and materials used in constructing the development,
  - v. wheel and underbody washing facilities.
  - vi. Before and after condition survey to identify defects to highway in the vicinity  
of the access to the site and where necessary ensure repairs are undertaken  
at the developer expense were caused by developer.
  - vii. Temporary construction access
  - viii. For the largest type of construction vehicles visiting the site some form of  
traffic management proposal would need to be proposed and implemented

prior to first use to allow access on and off the public highway.

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

2. Prior to occupation of the site, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres x 215 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.

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

3. Prior to occupation of the site 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.

4. Prior to the occupation of the site, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 12 metres from the back of Carriageway / Footway / Highway Boundary.

**Reason:** To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. No unbound material shall be used in the surface treatment of the vehicular access within 12 metres of the highway boundary.

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

6. 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.

7. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 15 metres from the back edge of the footway or where no provision of footway is present, the carriageway.

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

8. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

**Reason:** To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

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

**Notes:**

- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 or Minor Works Licence to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- A formal Stage 1 Road Safety Audit outlining for the junction detail design will be required.

**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](mailto:development.management@essexhighways.org) or by post to:

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

**2:** Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.

The construction vehicle route to the site should be clearly signed and a strict regime of wheel washing and street cleaning should be in place.

Given the location of the site, a haul route for the delivery of large-scale plant and materials may also be required. Should this prove to be necessary, any route or routes should be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

**3:** The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the

Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Network Planner - UK  
Power Networks

Essex County Council  
Ecology  
22.12.2020

No response received

Thank you for consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

We have reviewed the Preliminary Ecological Appraisal (Tim Moya Associates, October 2020) 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 note that the development is approximately 2km from the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar. However, as the proposals are for an area of 50.2 hectares and are non-residential so consideration in line with the Essex Coast RAMS is not required.

The mitigation measures identified in the Preliminary Ecological Appraisal (Tim Moya Associates, October 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species, particularly Great Crested Newts, reptiles and nesting birds.

Despite the site being in arable cultivation, we note the presence of nearby electricity pylons and hedgerow trees acting as perches for predators and the small size of the development footprint. We therefore do not consider it reasonable to request a condition for a farmland bird mitigation strategy.

We strongly support the use of infra red security lighting for this facility to avoid light spillage and wildlife friendly lighting scheme as detailed in the Preliminary Ecological Appraisal (Tim Moya Associates, October 2020). We therefore recommend that this is secured by a condition of any consent.

We also support the proposed reasonable biodiversity enhancements recommended in the Preliminary Ecological Appraisal (Tim Moya Associates, October 2020), 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 Preliminary Ecological Appraisal (Tim Moya Associates, October 2020) 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 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).

**3. PRIOR TO BENEFICIAL USE: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used

for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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

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

Environmental Protection  
07.12.2020

With reference to the above application; can confirm that we have had the opportunity to review the proposal and submitted documents, and the Environmental Protection team have the following comments to make:

Noise Impact - with regard to the Noise Impact Assessment, dated 30.10.2020; we can confirm we are satisfied with the recommended mitigation actions in order to minimise any potential disturbance to nearby residential properties. Providing the following steps are taken, we have no reason to object to this proposal -

1. Installation of a 2.5m close boarded fence, with a minimum of 10kg/m<sup>2</sup> density
2. No unit is to exceed a sound level of 55dBA at 10 meters distance

Reason: to protect the amenity of nearby residential dwellings

Air Quality - with reference to the AQ report, dated 30.10.2020; I can confirm we are satisfied with its contents, and have no observations to make.

Contaminated Land: Our contaminated land database shows no indication of contamination however an observation strategy is recommended during any groundwork. If any unforeseen contamination is encountered during the development works this should be reported immediately so that appropriate action can be taken.

British Horse Society  
28.04.2021

Follow up comments from BHS

Many thanks for your email.

The issue in question appears to be whether the noise generated by the proposed development will have a detrimental effect on the hearing of any horses resident on the surrounding land, and considering the extract from the BHS guidance 'Impact of Noise on Horses'. Reading the updated noise report from Nova dated 13/4/2021, the turbines are likely to generate a noise level overall of approximately 55dBA, although this has been questioned by the

resident, stating it is likely to be around 63dBA. Taking into account the acoustic fence which has been requested by Environmental Services as a condition, data suggests that this will reduce the noise level by approximately 10dBA.

By way of comparison, a domestic petrol lawnmower gives a noise reading of 98dBA and whilst it is not something you would expect to be hearing for long periods, it is a normal everyday item of domestic paraphernalia which does not require any mitigation or has any restrictions on its use, and is something that is generally accepted as background noise. If it were harmful to human/dog/horse then such items would not be available to the general public without restriction.

The point is that whilst the proposal may well be contrary to policy in many ways (not the subject of this email) it must be determined against national and local policy and have regard to the local area (NPPF para 180 is relevant here in that the introduction of a low-level of noise pollution in a previously tranquil undisturbed area would be contrary to this) the actual noise level itself, whilst unacceptable in the rural area and in my opinion contrary to national policy, is not physically harmful.

As far as suitability or otherwise to give a considered opinion is concerned, the fact that I am 'just a bridleways officer' who also has several decades' experience of horse ownership and riding, and an excellent working knowledge of planning issues was the reason that the query was passed to me. However, to satisfy any doubters, I have copied this email to Janet Holmes, whose details are as follows. I have kept her fully apprised of the situation.

Regional Manager for the Eastern Region  
The British Horse Society  
Abbey Park, Stareton,,  
Warwickshire CV8 2XZ

Kind regards,  
Sue Dobson  
County Access and Bridleways Officer, Essex  
British Horse Society

Natural England  
21.12.2020

Thank you for your consultation which we received on the 02 December 2020. However despite best intentions Natural England has not been able to fully assess the potential impacts or opportunities of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on this application. If you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require advice.

The lack of detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the local planning authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision making process.

Generic advice is provided in the Annex below.

Annex - Generic advice on natural environment impacts and

opportunities

#### Sites of Special Scientific Interest (SSSIs)

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's 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 Natural England Open Data Geoportal. Our initial screening indicates that one or more Impact Risk Zones have been triggered by the proposed development, indicating that impacts to SSSIs are possible and further assessment is required. You should request sufficient information from the developer to assess the impacts likely to arise and consider any mitigation measures that may be necessary.

#### Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

#### Protected Species

Natural England has produced standing advice<sup>[1]</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

#### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. The list of priority habitats and species can be found [here](#)<sup>[2]</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

#### Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry

Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

#### Protected landscapes

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The National Planning Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

#### Landscape

Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

#### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance. Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to

discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

#### Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

#### Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

#### Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance

and improve access.

- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Should you have any queries regarding the above, please contact us again.

Essex Wildlife Trust  
26.03.2021

Thank you for consulting Essex Wildlife Trust regarding this application. We have no objection to these proposals, subject to full implementation of conditions relating to ecology as recommended by ECC Place Services in their response dated 21 December 2020. In addition, the applicant should make provision for biodiversity enhancements as recommended in the TMA Preliminary Ecological Appraisal.

Dedham Vale & Stour  
Valley Project  
02.03.2021

Proposal - Erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

Thank you for consulting the AONB team on the above planning application.

The site for the flexible electricity generating facility sits approximately 200m south of the boundary of the Dedham Vale AONB and is therefore considered to fall within the setting of the AONB. Planning Practice Guidance states the following 'Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed, development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account. (Paragraph: 042 Reference ID: 8-042-20190721

Following a site visit, the AONB team is satisfied that the proposal will be unlikely to significantly impact on the natural beauty or special qualities of the AONB. Views from rights of way running northwards from Harwich Road towards the AONB and from the Essex Way are restricted by the well maintained network of hedges and trees to the north of .

One potential indirect impact may arise from light spill from the 3 PIR floodlights proposed for use at the site. The lights are to be mounted on CCTV poles but it is not clear what height these poles will be? If minded to approve the application, the Local Planning Authority should be satisfied that impacts from light spill from the development will be negligible on the AONB and nocturnal wildlife using the site and its environs.

British Horse Society  
25.03.2021

Made the following comments regarding this application.

Horses tend to be affected by sudden noise - as flight animals, they will react to sudden noises rather than any constant, low level noise which is something they would get used to in time.

Reading the application documents, I understand that the proposal is for an electricity generating plant which will be used to back up the generation of renewable energy and as such, the generator will only power up when needed. It therefore has the potential to 'kick in' at any time, day or night, dependent on the need.

From a flight animal point of view, the sudden 'kicking in' of the generator will bother them far more than a constant noise, although the resultant sudden noise level is difficult to ascertain from the documents as it appears that the applicant's noise report findings have been based upon a generic scheme rather than specific equipment. Having said that, horses can get used to all sort of noises - for example there are examples of bridleways being located alongside major airport runways which are used without problem, once the horse has become acclimatised to the sudden noises.

I hope that helps, please let me know if you would like any further information.

Essex County Council  
Heritage  
19.02.2021

The application is for erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

There is no objection to this application.

Environmental Protection  
06.04.2021

With reference to the below; I was concerned as I was sure we had suggested the "cumulative" units do not exceed 55dBA; however my initial response (copy attached), does say "no unit to exceed". Please be advised, that we agree with the wording on the report, which states mitigation is to include ALL proposed units (cumulative noise productive from ALL units) -

Recommendations and Mitigation Measure Overview

- A 2.5m close-boarded fence should be installed as shown in Appendix C. The fence needs to provide a minimum density of 10 kg/m<sup>2</sup>.

- All the proposed units must produce a maximum of 55 dBA at 10m.

Based on this and the predicted levels as the nearest NSR, providing mitigation is imposed, we have no reason to object to the application, as the predicted noise levels at the nearest NSR (as identified within the report) will be in line with the relevant British Standards and that of other applicable guidance.

I hope this confirms any outstanding queries.

Cadent Gas Limited

No reply

Essex County Council  
Heritage  
22.02.2021

The application is for erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

Two heritage assets are located in the environs of the site including:

- Grade II listed Lower Farmhouse
- Grade II listed Barn to the west of Lower Farmhouse

Whilst the proposal may be visible from these heritage assets, they are located some distance away. The wider setting of the historic farmhouse and barn is formed by an agrarian character. Given there is a large field in between the heritage assets and the proposal site, I do not consider the development to cause harm to the significance of the heritage assets or the contribution made to significance by their setting.

I do not object to this proposal. I recommend a landscape condition is attached to any permission requiring appropriate screen planting.

### 3. Planning History

20/30063/PREAPP	Proposed construction of a small scale flexible electricity generating facility, including up to 4 reciprocating gas engines and ancillary plant.	24.06.2020
20/01608/FUL	Erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.	Current

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded):

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN13A Renewable Energy

TR1A Development Affecting Highways

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

Relevant Section 1 policies (adopted):

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

Relevant Section 2 policies (emerging):

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **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 26<sup>th</sup> 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 10<sup>th</sup> 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 adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> 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)**

### Application site and surrounding area

The application site is located on the south side of Harwich Road (A137), south west of Lawford. The site comprises of 3,840 square metres of agricultural farmland. The surrounding area is predominantly agricultural with a number of residential properties to the west. The site is not within a Conservation Area or a Special Landscape Area. There is a listed building to the south east of the site known as Lower Farm located off Hungerdown Lane. Dedham Vale Area of Outstanding Natural Beauty is to the north of Harwich Road. The site is clearly visible from Hungerdown Lane as well as from Harwich Road (when travelling west).

### Description of Development

Planning permission is sought for the erection of a flexible electricity generation facility with associated ancillary infrastructure, access and boundary treatment.

In terms of the appearance and location of the proposed development, the facility will consist of four gas engines and enclosures with plant on top, equally spaced and each with a maximum height of 7m (this height includes the plant on top of the gas engines and enclosures) and each with a width of 6 metres. Various other associated cabins and equipment are also proposed, such as a HV switchroom and welfare cabin. The proposed development as a whole will be enclosed by a proposed 2.5m high close boarded timber acoustic fence with what is indicated as 'proposed landscaping' (on the key of the 'Site Layout (Planning) drawing nr LWD-PSP-01 Rev F) – the proposed 'landscaping' would appear to be located on the inside of the proposed enclosure, submitted supporting statements such as the 'Planning, Design and Access Statement repeatedly refers to 'landscaping will be located around the site to minimise its impact on the surrounding landscape' however it is unclear what these landscaping details will entail. It is however clear on the above mentioned Site layout (Planning) drawing, and having regard to the key on this drawing, as well as the elevations (drawing nr LWD-EP-01 Rev D that the landscaping strip will be on the inside of the proposed 2.5m high enclosure. Access would be created off Harwich Road to the northeast of the site, whilst no parking is provide on-site, given the proposed access and the nature of the scheme, it is not considered necessary in this instance.

### Assessment

The main considerations in this instance are;

- Principle of development;
- Landscape Impact & Visual Impact;
- Environmental Impact
- Impact upon neighbours
- Biodiversity and Protected Species; and
- Highway safety

#### 1. Principle of development

Chapter 14 of the National Planning Policy Framework direct the planning system to meet the challenge of climate change, flooding and coastal change. The opening paragraph 152, directs that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Paragraph 157 sets out that, in determining planning applications, local planning authorities should expect new development to; comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

Further paragraph 158 directs that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Locally saved Policy EN13a of the adopted Tendring District Local Plan (2017) states that planning permission will be granted for development proposals for renewable energy generation, subject to there being no material adverse impact on the local environment in relation to noise; vibration; smell; visual intrusion; residential amenity; landscape characteristics; biodiversity; culture heritage; the water environment; the treatment of waste products and highway and access considerations. These sentiments are carried forward into Draft Policy PPL10 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

It is important when considering the merits of the application to acknowledge that the generation of electricity would occur through the consumption of a non-renewable energy source that is as per the submitted Design and Access Statement said to be low carbon. As such, in principle the development can be considered to follow the direction of national policy set out in the National Planning Policy Framework. The Council note that the development proposed would itself generate energy through low carbon sources and would also assist in such purposes nationally so that it can be considered to fall within the definition of associated or supporting infrastructure to low carbon energy for the purposes of planning policy. The proposal is a method of providing for the transition to a new greener energy supply to ensure supply meets demand until green energy systems are self-sustaining in line with paragraph 152 of the NPPF.

The application site is located beyond any defined settlement boundary and is located in open countryside for the purposes of planning policy. Whilst the development would principally be at odds with the direction of the TDC Development Plan in regard to the above mentioned policies, Planning Policy SP1 and SP7 of TDC Local Plan 2013-2033 and Beyond Section 1 and Policy QL11 of the TDC Development Plan specifically states that planning permission will be granted for new buildings and structures in the countryside where the development will not adversely impact on the identified intrinsic character and beauty of the countryside and where the development is for local transport infrastructure and other essential infrastructure or development which supports existing or potential utility infrastructure.

Taking account of the above definition and in view of the purpose of the development to provide a power source, the development falls within the definition of paragraph 152 of the NPPF and Policy EN13a of the Tendring Local Plan and is therefore accepted in principle. Compliance with the direction of Policy SP1, EN13a and QL11 and the terms of the reasoned justification is, however, predicated on the whether the development would cause adverse impact to the intrinsic character and beauty of the countryside, residential amenity, highways and other considerations, all of which are covered below:

## 2. Landscape Impact & Visual Impact

Paragraph 8 of the National Planning Policy Framework 2021 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Saved Policy EN1 of the Tendring District Local Plan (2007) and draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) relate to landscape character and states, inter alia, that development control will seek in

particular to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees. Due regard is also given to policy QL11 (part suspended) of the 2007 Local Plan and adopted policy SP7. In terms of the impact of the development proposal on the local landscape character it is important to recognise the existing qualities and value of the landscape and to quantify the potential impact of the proposed development on the local landscape.

The application site is in agricultural use and does not contain any trees or other vegetation in the main body of the application land, there is however a mature tree(s) nearby. The site is not constrained by any landscape designations, however the site sits approximately 250m south of the boundary of the Dedham Vale AONB. There are open views from the eastern and southern aspects although views are distant.

Based on the information provided, with a potential overall height (including stack height) of up to 7metres, in order to appropriately assess the impact of the development proposal on the local landscape character a Landscape and Visual Assessment (LVIA) has been provided by the applicant.

Notwithstanding the above, consideration should be given to new soft landscaping to screen the site and proposed activity contained thereon. Ideally, a hard and soft landscaping scheme should accompany the formal planning application which should be informed by the findings of the LVIA.

As noted within the submitted LVIA the Dedham Vale Area of Outstanding Natural Beauty (AONB) is located approximately 250m away. The Dedham Vale AONB was designated to ensure the natural beauty and special qualities of the area are conserved and enhanced for future generations.

The AONB Management Plan recognises the importance to protect the area, including its setting, from developments that detract from its natural beauty and special qualities, including its relative tranquillity.

The proposed site is currently largely unscreened with the exception of a number of mature trees and hedgerow to the north of the site. The site is currently vacant of any built form and forms an integral part of the rural countryside surrounding Lawford. The site and its surroundings represent the intrinsic character and beauty of the countryside which National and Local Planning Policy seeks to protect and is highly sensitive to change, particularly given its proposed location within the wider rural countryside.

The proposal would erode the character of the open countryside and create (despite any landscape buffer) a visually dominant built form both in terms of the equipment as well as the track/road required to access the site. The development would be clearly visible from both Harwich Road and through frequent gaps in hedgerows along Hungerdown Lane, and would appear wholly out of character and at odds with the prevailing area.

The landscaping proposals put forward as part of the development proposals are not considered to mitigate against this development which will be clearly visible from a number of viewpoints and in this open countryside location. The propose development is therefore considered to have a significant detrimental impact on the character of the surrounding area and the open countryside in this location and as such, is contrary to Policies EN1, EN13a, QL11, of the Adopted Local Plan, adopted policy SP7 of section 1 of the Local Plan to 2033, and emerging Policies SPL3, PPL3 PPL10 of the Emerging Local Plan as well as paragraph 8, 130, 174 and 176 of the NPPF.

### 3. Environmental Impacts (with specific reference to/assessment of noise impacts)

Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. It goes onto say at Paragraph 185 that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of

pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Saved Policy (but part superseded) QL11 of the adopted Tendring District Local Plan (2007) stated that all new development should be compatible with surrounding land uses and minimise any adverse environmental impacts. These aims are carried forward within draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Consultation has been carried out with the Council's Environmental Protection Team who have no objection with the proposal as it is considered that the predicted levels as the predicted noise levels at the nearest NSR will be in line with the relevant British Standards. The LPA requested Sharps Redmore (SR) to undertake their own noise assessment on the proposal. It is noted from their report that whilst most of the points have been agreed there is still some elements of uncertainty as a result of the assessment. A local objector also carried out an assessment which challenge the findings of the applicants reports and evidence. All these reports, evidence and additional information have been taken into account as part of the assessment of this application, ultimately having regard to all the evidence, it is considered unlikely that the proposed facility, with the inclusion of a landscape buffer as suggested, as well as acoustic fencing and other enclosures, to result in an adverse impact in terms of noise. Due regard is also given to the proximity of residential properties and garden areas, Harwich Road to the north (at the time of the officer site visit, which took place late morning on a weekday, this stretch of road was reasonable busy and traffic noise was audible at the application site perimeter), as well as the prevailing south western wind direction. With necessary conditions the proposal is considered to comply with the relevant conditions insofar as environmental impacts are concerned.

#### 4. Impact upon neighbours (loss of outlook, light or privacy)

Paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, 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. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives supports these objectives.

Due to the remote location of the site, the proposed built form of development will not result in any material loss of outlook, light or privacy. Based on the information provided, as the site will operate on a remote unmanned basis with minimal maintenance approximately twice a month the associated traffic movements will not result in any noise or disturbance to neighbouring amenities.

Based on the information contained within both the Applicant's Noise Assessment as well as the LPA's independent assessment, the proposal is unlikely to cause a significant detrimental impact in terms of noise although it is noted that further analysis is required in order to determining the exact noise impact at night.

#### 5. Biodiversity and Protected Species

Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Paragraph 174 of the National Planning Policy Framework 2021 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under

planning conditions in exceptional circumstances". Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information".

Essex Place Services Ecology have been consulted and raise no objection subject to securing biodiversity mitigation and enhancement measures. A Preliminary Ecological Appraisal by Tim Moya Associates (October 2020) has been submitted as part of the application and identifies a number of mitigation measures which should be implemented to conserve and enhance protected and Priority Species, particularly Great Crested Newts, reptiles and nesting birds.

Given presence of nearby electricity pylons and hedgerow trees acting as perches for predators and the small size of the development footprint, it is therefore not considered reasonable to request a condition for a farmland bird mitigation strategy.

It is noted that the development is approximately 2km from the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar. However, as the proposed development is for an area  $\leq 0.2$  hectares and is non-residential as such consideration in line with the Essex Coast RAMS is not required.

The proposed development is considered acceptable in terms of biodiversity and protected species.

## 6. Highway Safety

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of these policies are carried forward within draft Policy SPL3 and draft Policy CP1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The development will be accessed from Harwich Road via a newly formed access road to be constructed. Internal access tracks will be used to enable both construction and maintenance vehicles to manoeuvre throughout the site. Essex County Council Highways have been consulted and following amended information the proposal is now considered acceptable subject to conditions relating to a Construction Management Place, visibility splays and surface materials.

## Representations

The application was publicised by site notice and neighbours of the site were notified in writing. A considerable number of third party objections were received, the contents of which may be summarised as follows:

- The site is outside of the Settlement Development Boundary in a countryside location which should be protected from unnecessary development
- Better locations to place development such as this for example already built up industrial areas
- The proposal would be harmful to highway and pedestrian safety.
- The proposal would be harmful to biodiversity
- Noise concerns
- Countryside harm
- Loss of agricultural land.

These objections, and the concerns raised by District Councillors Fairley have been covered and considered in the main body of the report above.

**6. The Planning Balance, Summary and Conclusion**

The proposal is considered to be an unacceptable form of development with significant detrimental impacts on the environment in terms of the impact on the existing character of the area. Whilst the proposal is considered as low-carbon flexible electricity generation facility, and due weight is given to this benefit, it is considered there are no discernible and overriding public benefits provided by the proposal, particularly when there are undoubtedly more suitable sites elsewhere where less harm would be attributed to the development. As such the recommendation is that of refusal for the following reason.

**7. Conditions / Reasons for Refusal**

1. The existing site and surrounding area is predominately rural countryside, the proposal by its very nature would have a significant detrimental impact on the open and rural character of the area. The proposal would result in a built form which is alien to the surrounding area and thus adversely impacting on the intrinsic nature and beauty of the countryside. Whilst mitigation has been proposed, it has not been demonstrated that the proposed landscaping will mitigate against this form of development which will continue to be clearly visible from a number of viewpoints and in this open countryside location. The mitigation will also take time to develop and whilst it can be safeguarded for a period of time by way of condition it is not a sufficient method of dissolving the harm caused to the character of the area and environment, indeed it does not mitigate the harm caused but merely seeks to disguise parts of it. The proposal is considered to be incompatible with the wider rural open countryside resulting in an overly urbanising built form. As such, the proposal is therefore considered to be contrary to adopted Local Plan Policies SP7, EN1, EN13A, QL11, and emerging Local Plan Policies SPL3, PPL3 and PPL10 as well as paragraphs 8, 130, 174 and 176 of the NPPF 2021.

**8. Informatives**

1. Positive and Proactive Statement

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

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

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