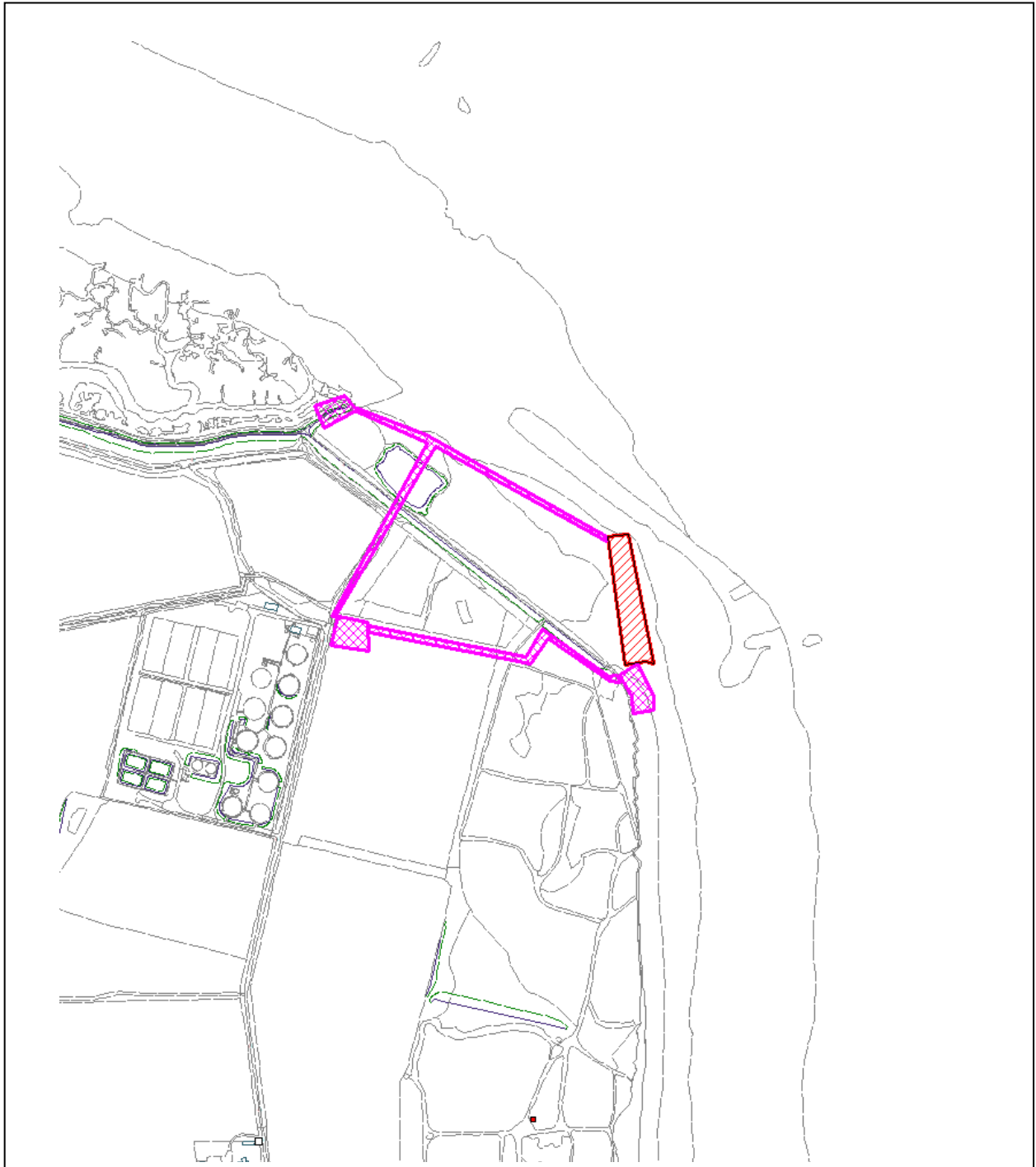


PLANNING COMMITTEE

26th October 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.7 PLANNING APPLICATION – 21/01450/FUL – THE NAZE PENINSULAR OLD HALL
LANE WALTON ON THE NAZE**



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Application: 21/01450/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: Mr James Ennos

Address: The Naze Peninsular Old Hall Lane Walton On The Naze

Development: Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee as the development is proposed by Tendring District Council on a section of coastline that is owned by Tendring District Council. The site is located outside the Development Boundary within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 1.2 The application site is located north of Walton on the Naze at the Naze Peninsular at the point the land and sea meet. The site is located outside any settlement boundary as defined within the emerging and adopted local plans. The proposed works take place between the current extent of the formal flood wall at the northern extent of the Naze Peninsular.
- 1.3 The application seeks full planning permission for the installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion in the area. By protecting the sea wall from further damage, the proposals will also protect the surrounding farmland and Anglian Water sewage treatment works that serves the surrounding population and other assets such as Hamford Saltmarshes, which includes part of the SPA and Ramsar site.
- 1.4 The proposed development, subject to the suggested conditions, would be of a scale and form appropriate for the intended use. The impact on biodiversity has been closely assessed and deemed acceptable. The proposed development would not result in any significant material loss of residential amenities. The works are expected to be completed in 8 weeks from start to finish. The application is, therefore recommended for approval subject to conditions.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2
- b) 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

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

National

National Planning Policy Framework (NPPF 2021)

National Planning Guidance (Online)

Local

Tendring District Local Plan (2007)

QL3	Minimising and Managing Flood Risk
QL11	Environmental Impacts
COM1	Access for All
COM7	Protection of Existing Recreational Open Space
COM32	Sea Defences
EN1	Landscape Character
EN3	Coastal Protection Belt
EN6	Biodiversity
EN6a	Protected Species
Policy EN11a	Protection of International Sites: European Sites and Ramsar Sites
EN11b	Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review Sites, Geological/Geomorphologic sites
TR1a	Development Affecting Highways
TR3a	Provision for Walking

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

• Adopted

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

• Emerging

SPL3	Sustainable Design
PPL2	Coastal Protection Belt
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The ‘development plan’ for Tendring comprises, in part, the ‘saved’ policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the ‘development plan’ for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard ‘Proposed Modifications’ to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council’s Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. Relevant Planning History

96/00223/FUL	(Northbourne Depot, Northbourne Road, Clacton on Sea) Proposed single storey flat roof structure for office use	Approved	29.03.1996
13/60186/HOUENQ	Site 5000 litre red diesel tank.		07.02.2013

18/00111/FUL	Proposed change of use from storage facilities, B8 to new office accommodation, B1(a).	Approved	08.03.2018
19/01189/FUL	Proposed construction of a single storey building to house new dog kennels.	Withdrawn	12.03.2020
20/00160/FUL	Proposed single storey extension to existing storage building, extended compound and relocation of footpath.	Approved	22.06.2020
21/01450/FUL	Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.	Current	
21/30032/PREAPP	Proposed installation of temporary measures such as sand filled bags as groynes and gabions to prevent/slow down erosion.		18.05.2021
21/01450/FUL	Proposed installation of temporary measures such as sand filled bags as groynes, gabions to cliff face, and clay fill to earth embankment to slow down/prevent coastal erosion.	Current	

4. Consultations

Environment Agency
13/10/2021

Flood Defences

We require further information regarding the proposed development drawing De/01/03/21/100 details improvement works (crest raising and revetment) to an existing groyne at the Western end of the tarmac crested defence wall on the northern side of the Naze defences. The proposals outline how the groyne will be raised and protected but do not show how the new construction will link into the existing defences.

Condition

Prior to the commencement of the works the applicant should provide a detailed scheme to show that the proposed works will not impact on the integrity of the

existing flood defence. This must demonstrate that a weakening of the defence does not occur.

Reason for Proposal

To protect the existing flood defences and ensure that the existing level of flood protection is maintained.

It should be noted that any damage that occurs to the existing defences during the construction process will be repaired by the applicant. The Environment Agency will not be held responsible for future maintenance of any new structures or improvements described in these proposals.

Environmental Permitting Regulations

The applicant is a protected undertaker, as defined by the Environmental Permitting Regulations 2016 Schedule 25 Part 3, Sub-paragraph (2), therefore these works are not considered to be a Flood Risk Activity (according to the previous Schedule, Part 1) and subsequently do not require a Flood Risk Activity Permit.

Natural England
06.10.2021

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

European sites - Hamford Water Special Area of Conservation Special Protection Area Ramsar

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

Hamford Water Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

ECC Highways Dept
04.10.2021

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 submitted material. The England Coast Path route goes along the top of the seawall here and has been approved by the Secretary of State, but the access rights won't come into effect until probably the end of 2022. The PROW team have confirmed that this is a very popular area to visit and based on the information provided appreciate that without these works the public footpath will be lost so for this reason the proposals are supported. The duration seems quite short at eight weeks so any disruption to walkers will be minimal. It is acknowledged that the visual appearance will change, but faced with the loss of the footpath entirely or it migrates inland the views could be lost anyway, taking these factors into account:

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 works 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 applicant's expense when caused by these works.

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. The public's rights and ease of passage over public footpath no.39 (Frinton and Walton_164) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

3. No works shall take place until temporary signage is put in place either side of public footpath no.39 at the proposed crossing point to warn walkers and drivers that construction traffic and/or walkers will be crossing at this point.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Policies DM1 and DM11.

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: Note: Should the applicant need to apply to the TTRO Team (details on Essex Highways website) for a temporary diversion of the PROW during works in good time (currently a 12-week lead-in time).

2: 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

3: 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.

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.

TDC
Environmental
Protection

EP have reviewed the above application and the construction method statement states that the work will use minimal plant and will take place in daylight hours. With consideration to the urgency of the works EP can confirm that they have no comments to make.

Please note however that if the works are likely to use more heavy machinery and/or is going to operate outside the core construction hours (outside of 08.00 to 18.00 Monday to Friday or 18.00 - 12.00 on Saturday and any time on a Sunday) and likely to cause a noise disturbance then the applicant may want to consider applying for a section 61 consent under the control of pollution act 1974

Essex County Council
Ecology
13.10.2021

We are satisfied that the applicant's HRA is sufficiently robust that we can recommend its adoption by TDC.

04.10.2021

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

ECC Ecology have reviewed the Proposed Plans and Sections Drg No DE01/03/21/100 (Hestur Limited, May 2021), Planning Statement (Hestur Limited, undated), Ecological Reports for Location 1- Long Wall, Location 2- Groynes and Location 3-Cliff protection (Ecologylink, July 2019), Ecological Method Statement (Ecologylink, undated), HRA stage screening for Coastal Protection Works (Ecologylink, updated August 2021), Outline Construction Environmental Management Plan CEMP (Ecologylink, undated), the consultation response from the MMO (Sept 2021) and our pre-application ecology advice 21/30032/PREAPP (May 2021), relating to the likely

impacts of development on designated sites, protected species and Priority species & habitats.

ECC Ecology note that Natural England reviewed and accepted the HRA screening report (August 2020) as part of the site assessment process and no fundamental changes have been suggested in terms of working area or access.

ECC Ecology also note that Natural England has agreed that the temporary works proposed will not result in any likely significant effects on Hamford Water SPA, SAC or Ramsar either alone or in combination with any plans & projects. Subject to Natural England's formal comments, ECC Ecology agree that there is no need to progress to Appropriate Assessment.

ECC Ecology are therefore 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 Outline Construction Environmental Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), should be secured and implemented in full. This is necessary to conserve and enhance designated sites, protected and Priority species and habitats.

ECC Ecology note that no details were submitted relating to biodiversity enhancements. As all planning applications should secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework 2021, ECC Ecology recommend that reasonable biodiversity enhancements should be included in a Biodiversity Enhancement Strategy and secured as a condition of any consent.

This will enable LPA to demonstrate compliance with their statutory duties including the 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 Outline Construction Environmental Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will 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. WITHIN THREE MONTHS OF CONSENT: 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).

Essex Wildlife Trust

Anglian Water Services Ltd
06.10.2021

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/>

Please note that if diverting or crossing over any of our assets permission will be required. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

Marine Management Organisation
27.09.2021

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

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

Marine Licensing

Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or

improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence. You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in England and parts of Wales. The MMO is also the authority responsible for processing and determining harbour orders in England, and for some ports in Wales, and for granting consent under various local Acts and orders regarding harbours. A wildlife licence is also required for activities that that would affect a UK or European protected marine species.

Marine Planning

As the marine planning authority for England the MMO is responsible for preparing marine plans for English inshore and offshore waters. At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark, there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark. Marine plans will inform and guide decision makers on development in marine and coastal areas. On 2 April 2014 the East Inshore and Offshore marine plans were published, becoming a material consideration for public authorities with decision making functions. The East Inshore and East Offshore Marine Plans cover the coast and seas from Flamborough Head to Felixstowe. For further information on how to apply the East Inshore and Offshore Plans please visit our Marine Information System. The MMO is currently in the process of developing marine plans for the South Inshore and Offshore Plan Areas and has a requirement to develop plans for the remaining 7 marine plan areas by 2021.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. For marine and coastal areas where a marine plan is not currently in place, we advise local authorities to refer to the Marine Policy Statement for guidance on any planning activity that includes a section of coastline or tidal river. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise. Local authorities may

also wish to refer to our online guidance and the Planning Advisory Service soundness self-assessment checklist.

Minerals and waste plans and local aggregate assessments

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

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

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

TDC Tree
& Landscape Officer
29.09.2021

The application site is on the seaward side of the existing seawall and does not contain any significant trees or other vegetation.

In terms of the impact of the development proposal on the local landscape character it should be noted that the application site is within the Hamford Water Marshes Landscape Character Area (LCA) as defined and described in the Tendring District Council Landscape Character Assessment.

The landscape is noted for its wild 'remote' character with high ecological value. The area is unsuitable for built development as it would be likely to compromise the existing qualities of the landscape.

With regard to the development proposal it is considered that the coastal defence works will be unlikely to significantly compromise the overall quality of the local landscape character.

5. Representations

- 5.1 Frinton and Walton Town Council supports the application. No public comments were received.

6. Assessment

- 6.1 The main planning considerations are:

- Principle of Development
- Design and visual impact
- Impact on natural environment
- Residential amenity
- Highway Safety and Parking
- Other matters

Site Context

- 6.2 The application site is located north of Walton on the Naze at the Naze Peninsular at the point the land and sea meet. The site is located outside any settlement boundary as defined within the emerging and adopted local plans. The proposed works take place between the current extent of the formal flood wall at the northern extent of the Naze Peninsular. The plans also include a storage compound some 200m inland. The storage area is located adjacent to an existing Anglian Water sewage treatment works. A track runs alongside the treatment works down to the coastline.
- 6.3 Ownership of the land in question belongs to Tendring District Council. This site is the only area the Local Authority is responsible for without formal flood defences. The existing nearby flood wall is the responsibility of the Environment Agency, and not Tendring District Council. The area around the planning application site comprises of public open space adjacent to the coastline, there are no residential dwellings in the immediate locality the nearest being some 900m away.
- 6.4 The area to the southwest of the formal flood wall also consists of Local and National Nature Reserves including John Weston Nature Reserve. The area provides important habitat to migratory birds, and rare flora and fauna. This is recognised with the foreshore, mudflats, saltmarsh, tidal ponds and area to the immediate southwest of the host site as an international designation, known as the Hamford Water (SPA) Special Protection Area, Hamford Water Special Area of Conservation (SAC) and the site is also known as a RAMSAR location again internationally designated.
- 6.5 These areas relate to the following:
- Special Areas of Conservation (SACs) – animal and plant habitats designated under the Habitats Directive
 - Special Protection Areas (SPAs) – wild bird habitats designated under the Wild Birds Directive

- Ramsar sites – wetlands of international importance.
- 6.6 Furthermore, the area is protected by a national designation as a Site of Special Scientific Interest (SSSI) 'The Naze' to the south and John Weston Nature Reserves and The Naze Nature Reserve. A footpath (number 39) runs adjacent to the coastline in the local area. The site also falls within the Coastal Protection Belt under local policy EN3.

Background

- 6.7 The Naze is a low-lying area of land and as such is at risk from coastal flooding. To reduce the risk, the area is protected by an existing sea wall (known as the Short Wall) which extends to the northern limit of the London Clay cliffs.
- 6.8 The current Essex and Suffolk Shoreline Management Plan identifies the policy relating to the wall as being Htl+ (Htl + being Hold the Line with + identifying that the policy is to maintain, or upgrade, the current Standard of Protection) for Epoch 1 (Present day to 2025) and Epoch 2 (2025 to 2055). The sea wall was put in place as part of the 'Hold the Line' policy needed to protect assets inland, such as the Anglian Water sewage treatment works and protected nature reserves nearby. In 2017, a clay embankment was built to provide the land behind the sea wall some additional protection against tidal surge and erosion.
- 6.9 The area of the natural cliffs immediately to the south of the formal wall is identified as having the policy of NAI (No Active Intervention) over the same period, allowing the cliff to realign as part of the natural process. These 'soft' cliffs are actively eroding at an average rate of 1.03m/year. The aim of these currently proposed works is to manage the coastal erosion at this point.

Proposal

- 6.10 The purpose of the proposal is to protect the existing sea wall, which is being degraded by the action of the sea whilst a longer-term solution is determined for the area. By protecting the sea wall from further damage, the proposals will also protect the surrounding farmland, Anglian Water sewage treatment works that serves the surrounding population and other assets such as Hamford Saltmarshes, which includes part of the SPA and Ramsar site.
- 6.11 The Plans indicate three specific locations for the works named 'Location 1, Location 2 and Location 3'. Location 4 involves the storage area and the access routes. In total the completion of works will take 8 weeks start to finish. There are expected to be 6 staff working on the project during daylight hours only. There is no external lighting required to deliver these works. Materials will be dropped off at the compound then transported via dump trucks to the coastal locations. The works at each location are expected to last 5 years without maintenance; with maintenance they should last 20 years. The principle, however, is that they are 'temporary measures', while future policy is decided upon and allow the current area to be defended from coastal erosion.
- 6.12 The specific works at each location are as follows:

- **Location 1:** This is the Short Wall, some 250m north of the storage compound and 400m west of the other coastal work locations. It is proposed to simply reinstate the profile of the wall by infilling the erosion that has occurred to its core and to reinstate the external slopes. It is not proposed to extend the wall, simply restore its integrity.
- **Location 2:** It is proposed to install five new groynes using Soiltain (sand filled) bags. The sand will be transported into the area via road, stored at the compound area and moved to the beach via low pressure dump trucks. The three groynes closest to the sea wall will be 15m long and the two furthest out will be 20m long. The typical bag will measure some 1.5m wide and 0.5m in height. The overall site area given is 25m in width and 125m in length for this work.
- **Location 3:** This extends along the base of the cliff for 75m. The proposed works involve the installation of gabion baskets at the toe of the cliff. The gabion baskets will be filled with rock brought into the area by road. Additionally, concrete from the loss of the sea wall and collapsed path will be broken up and placed behind the gabion baskets, to provide additional robustness to the gabions whilst also clearing up the foreshore. The gabions measure 2m in height and consist of three sections forming a stepped nature opposite the cliff toe.
- **Location 4:** Is the storage compound and access route to the work areas. The storage compound area measures some 40 metres by 30 metres. Within this area shall be a temporary staff compound 4.9m (l) x 2.74m (w) x 2.5m (h), in blue, known as the 'Ecologic 250'. This will house a toilet and small canteen, and lockers. The site compound is to be enclosed with Herras fencing.

Principle of Development

- 6.13 The National Policy Planning Framework sets out within paragraphs 170 to 173 the policies for the protection of areas at risk from Coastal change. As the proposed works are fundamentally designed to improve coastal defences and stabilise the coast, the works fall within the remit of what is permitted to take place in such places.
- 6.14 With respect to the ecology and biodiversity protection in the NPPF, these areas are covered within Chapter 15, in particular paragraphs 179 to 182. The application includes a number of supporting documents relating to these matters. Furthermore, the Local Planning Authority has undertaken consultation with amongst others, Natural England and Essex County Council Ecology. Subject to the findings of the technical reports and associated mitigation strategies being acceptable, the application would adhere to the requirements of NPPF to protect and enhance both biodiversity and geodiversity in such internally designated sensitive areas.
- 6.15 At a local level, the adopted Local Plan 2007 covers such coastal and geophysical protection within policies; COM32 (Sea Defence), EN3 (Coastal Protection Belt), EN11a (Protection of International Sites) and EN11b Protection of National Sites. The emerging plan reflects these policies areas in policies PPL2 (Coastal Protection Belt), PPL1 (Development and Flood Risk) and PPL4 (Biodiversity and Geodiversity). While the adopted local plan assesses the amenity and highway related impacts via policies QL11 (Environmental Impacts) and TR1a (Development Affecting Highways). With

emerging policies SPL3 (Sustainable Design) and CP1 (Sustainable Transport and Accessibility) support these goals.

- 6.16 The area is located within a sensitivity landscape for ecological, geological and recreational reasons. However, the works are proposed by the Tendring District Council in relation to their responsibility for coastal protection. By protecting the sea wall from further damage, the proposals will protect the surrounding farmland, Anglian Water sewage treatment works that serves the surrounding population and other assets, namely Hamford Saltmarshes, which includes part of the SPA and Ramsar site. The justification is accepted, although Officers accept there will be a modest level of deterioration to the visual amenity of the area.

Appearance, Layout and Scale

- 6.17 The three development sites are critical to the coastal defence infrastructure. Subject to height limitations given in the plans, Officers do not object to visual impact of the proposals. The area is remote from the nearby built-up area of Walton on the Naze to the south and not heavily used as a recreational beach. In both locations, the beach slopes away from the sea wall and cliff, thus the overall height of the proposed revetments would appear proportionate at both high and low tide. Also, in the case of the gabions, they are already on the beach. This work extends their use, therefore the works will ultimately not look particularly incongruous once completed within the existing setting of the beach.
- 6.18 Therefore, the critical flood defence measures are accepted despite their robust appearance.
- 6.19 Also, of importance from the visual perspective is the positioning of the rock store and temporary staff cabins while the works are being undertaken. The site chosen is some 250m inland next to the existing Sewage Treatment works. There is no objection to the use of this area, especially given the temporary 8 week timeframe proposed.
- 6.20 There is a public footpath which the works will need to cross to get the materials to the shore, however this is accepted given the alternative could be a total loss of the coastal path.
- 6.21 The detailed design, appearance, layout and scale is considered acceptable.

Highway Safety/Parking

- 6.22 In relation to Highway Safety and Parking. ECC Highways have been consulted on this application and offered no objections. The total number of vehicle movements to deliver materials for the duration of the proposed works is considered to be 70 movements. These vehicles will be 22 tone vehicles at a maximum of 3 vehicles per day over an initial period of 5 days at the start of the works, then for a further 20 days later in the process also at (3 per day) as the works progress.
- 6.23 The submitted plans show sufficient room for turning of the trucks to the site via the compound and similarly sufficient room for parking. A public footpath (footpath 39) will be crossed to get the goods to the shore, however this is considered acceptable given the vital works involved.

6.24 Overall, there are no objections to the scheme on Parking or Highway Safety grounds.

Landscaping/Biodiversity

6.25 A key policy under this consideration is Policy EN11a (Protection of International Sites: European Sites and Ramsar Sites) This policy states, *“Development, which may affect a European Site, a proposed European Site or a Ramsar site, will be subject to the most rigorous examination.”* In particular, developments resulting in any likely significant or unascertainable effects on the sites will not be permitted unless there is no alternative solution or that there are, “imperative reasons of over-riding public interest”.

6.26 Equally, Policy EN11b states, *“Development in or likely to affect Sites of Special Scientific Interest will be subject to special scrutiny. Where such development may have an adverse effect, directly or indirectly on the special interest of the site it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard such sites.”*

6.27 In support of the application, the applicant has submitted a Stage 1 Habit Regulations Assessment (Ecology Link, Aug 2020) together with associated Planning and Transportation Statements, relating to the likely impacts of development on designated sites, protected species and Priority species & habitats. These reports provide certainty for the LPA of the likely impacts on protected and priority species & habitats. ECC Ecology has confirmed no objection subject to securing biodiversity mitigation and enhancement measures. ECC Ecology have confirmed there is no need to progress to Appropriate Assessment.

6.28 Natural England have reviewed and accepted the HRA screening report (August 2020) as part of the site assessment process and no fundamental changes have been suggested in terms of working area or access. Natural England has also agreed that the temporary works proposed will not result in any likely significant effects on Hamford Water SPA, SAC or Ramsar either alone or in combination with any plans & projects. The Environment Agency have offered no objections subject to a condition on the wellbeing of the existing sea wall being demonstrated. The applicant has accepted this condition and at the time of writing was in the process of getting the required information together for the Environment Agency for the suggested planning condition.

6.29 Overall, the HRA screening/likely significance test undertaken concludes that there will be no likely significant effects as a result of the construction or operation of the proposed scheme on any qualifying features of the European Sites. Subject to planning condition as stated above, the application would adhere to Policy EN11a and Policy EN11b and the associated NPPF guidance on such matters.

Policy COM32 – Sea Defences and Policy EN3 - Coastal Protection Belt

6.30 These adopted policies set out the requirements on coastal protection works which may be permitted. The type of defence appropriate for a location will depend on a number of factors, including the type of erosion, nature of the land effected, nature of the land effected, nature conservation and length of coast concerned.

- 6.31 The proposal is essential for ensuring the continued effectiveness of the sea defence infrastructure. Also, the works would ensure protection of the sewage works and nature reserves nearby. In this case, the use of 'soft engineering' is not considered an appropriate measure due to the imminent threat of tidal flooding. The 'hard' revetments features are deemed essential to ensure public safety. As such, no objection to this policy is being raised.

Impact on Residential Amenity

- 6.32 With regards to the revetments on the beach themselves, they shall have no demonstrable impact upon residential amenity. The methods of construction and associated vehicle movements is likely to have some impact on the on the amenity of nearby residents. However, the vehicle movements are relatively limited in number and during daylight hours only.
- 6.33 The nearest residential dwelling is some 900m away so it is unlikely that noise would be a significant problem. A Construction Management Plan (CMP) has been provided and accepted by the Council's Environmental Protection Team. Overall, given the physical separation distance to residential dwellings and temporary nature of the disturbance, this would not be considered a reason to object to the development. Although the CMP was accepted by Environmental Protection; ECC Highways required some further input, this has been received in an updated CMP received on the 13/10/2021. Therefore, ECC Highways have removed their request for an update to this document, as the required information has been provided.
- 6.34 The use of warning signs for pedestrians using the coastal path is considered acceptable when passing the construction access routes.

Other Matters

- 6.35 The applicant shall require a licence from the Environment Agency as they are working in close proximity to one of their assets (the existing Flood Wall). In addition, a licence may be required from the Marine Management Organisation. However, these are separate to the Planning process and are dealt with independently via the aforementioned external bodies.

7. Conclusion

- 7.1 Notwithstanding the short-term disruption to local residents and recreational users of the Naze Peninsular during the construction process, this scheme is undoubtedly in the public interest due to its importance in ensuring the continued effectiveness of the sea wall providing protection from tidal surges and extreme weather events.
- 7.2 The impact on biodiversity and ecology has been assessed by both EC Ecology and Natural England who have no objections subject to planning conditions. TDC Environmental Protection and ECC Highways have both offer no objections also subject to planning conditions.
- 7.3 Overall, Officers fully support this proposal subject to the conditions detailed below.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives outlined below.

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. The proposed works shall take place between the months of September and March only.

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. In the interest of residential amenity.

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

De01/03/21/100 Proposed plans and sections
De01/03/21/101 Existing plans and sections
Tdc01/03/19/104 a Location 2 - proposed plans and sections
Tdc01/03/19/107 Block plan
Tdc01/03/19/100 a Location 4 access works
Tdc01/03/19/105 a Location 3 - existing plans and sections
Tdc01/03/19/103 a Location 2 - existing plans and sections
Tdc01/03/19/106 a Location 3 - proposed plans and sections
Ecologic 250 unit information (including plans) received 12 October 2021
Location plan received 16th August 2021

Habitat regulations assessment, Ecology Link 2021
Outline construction Environmental method plan, Hestur Limited, August 2021
Outline construction management plan, Hestur Limited, received 13th October 2021
Ecological method statement, Ecology Link, received 16th August 2021
Pre-habitat regulations assessment, Ecology Link, August 2020

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

3. The public's rights and ease of passage over public footpath no.39 (Frinton and Walton_164) shall be maintained free and unobstructed at all times.

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

4. No works shall take place until temporary signage is put in place either side of public footpath no.39 at the proposed crossing point to warn walkers and drivers that construction traffic and/or walkers will be crossing at this point.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility.

5. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Outline Construction Environmental

Management Plan (CEMP) (Ecologylink, undated) and Ecological Method Statement for reptiles (Ecologylink, undated), already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will 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).

6. Within Three Months of Consent, 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).

7. No external lighting shall be permitted unless agreed in advance with the Local planning authority.

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

8. This permission gives the approval for the Soiltian bags at location 2 to be filled with sand only.

Reason: In the interests of good planning and to allow for a fuller assessment of more permanent sea defence features in this location.

9. Prior to the commencement of the works the applicant should provide a detailed scheme to show that the proposed works will not impact on the integrity of the existing flood defence. This must demonstrate that a weakening of the defence does not occur.

Reason: To protect the existing flood defences and ensure that the existing level of flood protection is maintained

10. Within 3 months of the date of commencement, unless otherwise agreed in writing by the Local Planning Authority. All the plant, machinery, temporary portacabin, security fencing and any excess debris from the development, shall be removed from the site /s and the land restored to its previous natural state.

Reason: In the interests of visual amenity

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.

- Highways

1: Note: Should the applicant need to apply to the TTRO Team (details on Essex Highways website) for a temporary diversion of the PROW during works in good time (currently a 12-week lead-in time).

2: 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

3: 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.

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.

- Environment Agency

It should be noted that any damage that occurs to the existing defences during the construction process will be repaired by the applicant. The Environment Agency will not be held responsible for future maintenance of any new structures or improvements described in these proposals.

Environmental Permitting Regulations

The applicant is a protected undertaker, as defined by the Environmental Permitting Regulations 2016 Schedule 25 Part 3, Sub-paragraph (2), therefore these works are not considered to be a Flood Risk Activity (according to the previous Schedule, Part 1) and subsequently do not require a Flood Risk Activity Permit.

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

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/>.