

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	BO'B	14.01.2022
Planning Development Manager authorisation:	JJ	14/01/2022
Admin checks / despatch completed	DB	14.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	14/01/2022

Application: 21/01520/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Christopher Titchmarsh - Titchmarsh Marina Ltd

Address: Titchmarsh Marina Coles Lane Walton On The Naze

Development: Proposed erection of a workshop measuring 12 Meters x 15 Meters next to the blasting bay for necessary repairs.

1. Town Council

FRINTON & WALTON
TOWN COUNCIL
13.12.2021

Recommends - Approval

2. Consultation Responses

Essex County Council
Ecology

Apologies for a delay in providing a response so please take this as our comments on this application

13.01.2022

Holding objection due to insufficient ecological information

As there is no ecological report available for review, we are unable to assess likely impacts to designated sites (Hamford Water SPA, SAC and Ramsar) to inform the LPA's bespoke Habitats Regulations Assessment report, and we are not aware of any comments from Natural England on this application.

We advise that if the applicant is willing to embed mitigation into the development, then the LPA may be able to screen out any Likely Significant Effects on Hamford Water Habitats sites.

We also recommend that reasonable biodiversity enhancements are provided to deliver net gain for biodiversity as required by NPPF 2021 para 174d and 180d.

We look forward to working with the LPA and the applicant to remove our holding objection.

Officer Comment: *The above holding objection is noted and covered*

in the 'Officer Appraisal' section below.

Tree & Landscape Officer
01.12.2021

No trees or other significant vegetation will be affected by the development proposal.

The proposed layout appears to provide little opportunity for, or public benefit to be gained, by new planting associated with the development.

In terms of the visual impact of the proposed structure on the local landscape character the existing extensive use of the site for the storage and repair of boats and yachts is such that the proposed structure will not appear incongruous in its setting.

Whilst outside the remit of the role of Tree and Landscape Officer the intensification of the use of the site may have an adverse impact on the wildlife using the Hamford Water Nature Reserve. In this regard the views of natural England may need to be obtained.

Environmental Protection
26.11.2021

With reference to the above application, I can advise I have reviewed the proposal and the submitted documents, and should the application be approved, the EP team request the following is applied as a condition -

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

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

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

REASON: to protect the amenity of nearby residential premises

Should you have any queries concerning this, please do not hesitate to contact me.

3. Planning History

00/00953/FUL	Variation to approval TEN/98/1678 to enlarge the marine engineering workshop extension, and extension to first floor offices - retention of building works already commenced	Approved	21.07.2000
01/00043/FUL	Retention of chandlery building (renewal of permission TEN/95/1282)	Approved	22.02.2001
91/00501/FUL	Renewal of consent TEN/670/91 - retention of houseboat	Approved	26.06.1991
91/00995/FUL	Renewal of TEN/942/86 - Chandlery building.	Approved	23.10.1991
94/00446/FUL	Retention of houseboat - renewal of permission TEN/91/0501	Approved	01.07.1994
95/01282/FUL	Retention of chandlery building (renewal of permission TEN/91/0995)	Approved	30.11.1995
96/01186/FUL	Retention of cold room	Approved	11.03.1997
97/01479/FUL	Retention of stores (portable)	Approved	17.11.1998
98/01369/FUL	Erection of Calor gas tank	Approved	12.11.1998
98/01678/FUL	(Titchmarsh Marina Ltd, Coles Lane, Walton on Naze) Extension to existing office building to form Marine Engineering Centre and retail area	Approved	16.02.1999
99/01643/FUL	Retention of houseboat (renewal of TEN/94/0446)	Approved	03.12.1999
02/01729/FUL	Erection of temporary workshop adjacent to existing, to be used for boat repair and maintenance	Approved	04.03.2003
03/01854/FUL	To raise level of land at 2 locations.	Approved	24.06.2004

05/02104/FUL	Porta cabin to be used for temporary office accommodation for a 3 year period	Withdrawn	01.03.2006
05/02255/FUL	Workshop adjacent to existing, to be used for boat repair and maintenance (Renewal of 02/01729/FUL)	Approved	15.02.2006
06/00059/FUL	Retention of chandlery building	Approved	17.03.2006
06/02113/FUL	New porta-cabin to be used for temporary office accommodation for a 2 year period.	Approved	05.04.2007
90/00010/FUL	Proposed extension to pool No. 2.	Refused	20.02.1990
08/01034/FUL	Erection of 1 pre-fabricated garage to store machinery and vehicles owned by the Marina.	Approved	02.12.2008
08/01277/FUL	Erection of 1 pre-fabricated garage to store machinery and vehicles owned by the Marina.	Approved	02.12.2008
08/01278/FUL	Erection of 1 pre-fabricated garage to store machinery and vehicles owned by the Marina.	Approved	02.12.2008
08/01554/FUL	Siting of 6 no. containers to be used for storage.	Approved	06.02.2009
09/00233/FUL	Siting of porta cabin for 3 years.	Approved	07.05.2009
09/00301/FUL	Erection of workshop building.	Approved	14.05.2009
10/00232/FUL	Construction of blasting bay.	Approved	27.07.2010
10/00818/FUL	Erection of single storey building to act as a sailing school to complement the practical instruction given to sea cadets by the T.S Rebel Cadet Sea School.	Approved	15.09.2010

11/00089/FUL	Siting of 6 no. containers to be used for customer storage and Marina Storage.	Approved	20.04.2011
11/00962/FUL	Erection of workshop building to be used as sail loft.	Approved	06.10.2011
12/00944/FUL	Erection of new workshop to be used as a sail loft (variation to approval 11/00962/FUL).	Approved	30.10.2012
12/00999/FUL	Replacement chandlery building (following removal of old chandlery building).	Approved	15.08.2013
12/01393/FUL	Proposed replacement workshop.	Approved	05.03.2013
14/00221/FUL	Siting of portacabin for a period of three years.	Approved	21.05.2014
15/01398/FUL	Permission is sought for a small field of ground mounted solar panels to provide green electricity for use on site.	Approved	10.11.2015
21/01520/FUL	Proposed erection of a workshop measuring 12 Meters x 15 Meters next to the blasting bay for necessary repairs.	Current	

4. Relevant Policies / Government Guidance

National:

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

TR1A Development Affecting Highways

COM16 Hamford Water, the Stour Estuary and the Colne Estuary

COM23 General Pollution

EN3 Coastal Protection Belt

COM19 Contaminated Land

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

Section 1 (adopted):

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

Section 2 (Emerging):

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL2 Coastal Protection Belt

PP13 The Rural Economy

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022

which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, in some instances the level of weight to be afforded to the policies in the 2007 Plan may be reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

5. Officer Appraisal

Site Description

The application site is located on the eastern side of an expansive boatyard and docking site known as Titchmarsh Marina which lies to the north-west of Walton-on-the-Naze. The application site is an area of land that is set within the wider 18 hectare site of Titchmarsh Marina. Aside from its housing of floating vessels, the boatyard supplies dry storage and boat repair services. It is home to a number of nautical businesses. The site is characterised by its floating marina, berths and services building to the west of the site, and moving further east across the site there are stored newer vessels, and further east, there are many older, disused boats waiting for repair or salvage. To the north of the site and further to the east, predominantly along the site boundary, are a number of workshop or storage buildings and containers used in association with the boatyard.

The location of the proposed development is on the south-east boundary of the site, directly adjacent to a raised bank and treeline which obscures the area from views across the water, 'The Twizzle', and from longer viewpoints.

The precise location of the application site contains older dilapidated boats, those waiting for repair and a blasting bay where boats are pressure blasted. This makes the area of the application site feel 'industrial' rather than 'recreational' when compared to the western fringes of the wider site.

The site is accessed via a long un-adopted driveway from Coles Lane, a road that leads into the Town of Walton.

The site lies within the Coastal Protection Belt of Coastal Area at Pennyhole Bay and The Naze.

The site is adjacent to, but not within, the Hamford Water Natural Nature Reserve, RAMSAR area and a Special Area of Conservation for Fisher's Estuarine Moth.

The lower section of the site is in Flood Zones 2 and 3. The proposed development lies outside of the Flood Zones.

Proposal

This application proposes the erection of a workshop building set adjacent to the aforementioned blasting bay. It would measure 15m x 12m and 6.4m high. It would have a slack pitched roof and would be made of rolled steel in green, with a roller shutter door to its front. There would be 6 roof lights in the building.

Principle of Development

The development that is the subject of this application is linked to the wider nautical/repair operations of the marina/boatyard site and its businesses. As such, given the long-standing use/s on the site, the principle of the development of the land in the applicant's ownership, for purposes in relation to the workings of the marina, has long been established, subject to compliance with local policy considerations.

Assessment

Appearance, Layout and Scale

Paragraph 130 of the NPPF states that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.

Saved Policy QL11 of the adopted Tendring District Local Plan (2007) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

The proposed building shall appear as a typical utilitarian building within its contextual setting. As highlighted in the proposal section, the building would be of a steel frame construction, with the walls clad in green profile sheeting, similar to the appearance of other light industrial/storage buildings at the site.

Although the proposed building would be significant in its scale, its location to the east of the site, set down beside a raised bank, would mean that the building would not be visible from the wider public realm or harmfully obtrusive from more distant viewpoints across open water and countryside. Therefore, given that the building would appear as a functional building as part of a wider enterprise, it is considered that the building would not appear incongruous or harmful in its setting and is in accordance with the requirements of saved policy QL11 and emerging policy SPL3.

Landscape and Visual Amenity

The site is set in a location outside of any defined settlement boundary and is therefore designated as being within the countryside. Paragraph 174 of the National Planning Policy Framework (2021) states that planning decisions should recognise the intrinsic character and beauty of the countryside.

This tenet is reflected in saved policy EN1 and emerging policy PPL3, which state that any planning application will be refused if harm is caused to the overriding character and appearance of the rural landscape.

Policies EN6 of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013- 2033 and Beyond Publication Draft requires that development proposals protect and enhance biodiversity or geodiversity and that compensation measures would ensure net gains to mitigate any impacts.

The application site is located to the east/south-east of the Titchmarsh Marina site and would be set directly adjacent to a high grass bank which is topped by a tree belt.

The Council Trees and Landscaping Officer has been consulted and concludes that:

'No trees or other significant vegetation will be affected by the development proposal.

The proposed layout appears to provide little opportunity for, or public benefit to be gained, by new planting associated with the development.

In terms of the visual impact of the proposed structure on the local landscape character the existing extensive use of the site for the storage and repair of boats and yachts is such that the proposed structure will not appear incongruous in its setting.'

The proposed development would be hidden from wider public view and set against the backdrop of the wider boatyard. As such it is considered that there would be no material adverse impact upon the locality in terms of visual impact.

Therefore, the proposal is in accordance with Paragraph 174 of the National Planning Policy Framework (2021), saved policy EN1 and emerging policy PPL3, and the biodiversity uplift requirements of Policies EN6 of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan.

Highways

Paragraph 112 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policies TR1a and TR7 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. These objectives are supported by emerging policies CP1 and SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Access to the wider site is via a lengthy, well established, tarmacadam access road which adjoins the public highway at Coles Lane. Access to the site is currently used by a variety of vehicles, and as a boatyard, this presumably includes large vehicles for the transportation of marine craft.

It is considered that the proposed building would not have an impact on the transportation of boats or other vehicles travelling to and from the site. The building would be used for repairs to boats that are on the site for blasting purposes. As such, highways impacts are considered to be neutral, the Highways Authority were not asked for comments and the proposal is considered acceptable with regards to saved policy TR1A and emerging policies CP1 and SPL3.

Ecology

The site is adjacent to, but not within, the Hamford Water Natural Nature Reserve, RAMSAR area and a Special Area of Conservation for Fisher's Estuarine Moth.

Paragraph 180 of the National Planning Policy Framework (2021) states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for, then planning permission should be refused.

Saved policies EN6 and EN6a and emerging policy PPL4 support this overriding principle through the protection of designated areas and species and the reception of ecological assessments and contributions to mitigate impacts.

There is no ecological report available to assess the likely impacts of development on designated sites, protected species and priority species & habitats or identification of appropriate mitigation.

Whilst the comments and holding objection made by ECC Ecology are fully recognised, a site visit by an officer has resulted in a different view regarding the possible presence of protected species on the development site and any requirement for a biodiversity uplift.

The area where the proposed building would be placed is a previously developed brownfield area, currently used for the repair and storage of boats and is clearly contained within the site. Given the current status and uses of the area, it is considered that it is unlikely that there would be any wildlife remaining on the development site in general and this part of the development site in particular, and impacts that would be created by an enclosed workshop space would be minimal. Construction disturbance would be short-term and its impacts would not extend to the nearby Hamford Water area due to the separation created by the presence of the adjacent tree-lined bank. Given the above, the proposed development is unlikely to significantly impact upon or have an adverse effect on the integrity of Hamford Water, and the application does not require the support of a Habitats Regulation Assessment (HRA), and to require mitigation in this respect would be imbalanced.

Inspection of the site also leads to agreement with the view of the Tendring Landscape Officer who stated that '*The proposed layout appears to provide little opportunity for, or public benefit to be gained, by new planting associated with the development.*' No trees or vegetation would be lost by way of the development and therefore no request for replacement planting shall be made.

To summarise, the development would not have an adverse effect on the integrity of the nearby nature/conservation site, there would be no significant impacts upon any protected species and there would be a neutral impact on biodiversity.

Therefore, it is considered that the proposed development is in accordance with saved policy EN6, EN6a and emerging policy PPL4.

Impact on Residential Amenity

Paragraph 130 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. 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'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

The site of the proposed building is set within a wider site which has similar uses and is well-distanced from residential development. It is considered that there is sufficient distance retained to the nearest residential properties to ensure any impact upon residential amenity would be minimal.

There is an approximate 750m distance to the nearest residential area, a caravan park. Any noise or odours associated with the development and its proposed use, due to distances involved, would not cause nearby residents unacceptable nuisance.

As such, the proposed development is in accordance to Paragraph 130 of the NPPF (2021), policy QL11 of the Tendring District Local Plan (2007) and policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Other Considerations

Frinton & Walton Town Council recommends approval.
No further letters of representation have been received.

Conclusion

This current proposal is for a building in the countryside related to an existing boat marina, storage and repair yard, the development of which is supported by both local and national policy, subject to policy compliance. The building would have a similar character to the other buildings on the site and would appear in context with the surrounding area and would not be highly visible in wider landscape views.

Although the site is adjacent to a sensitive ecological location, it is considered that any impacts on the biodiversity of the area would have a neutral effect.

Furthermore, the proposed building would have negligible impacts on highways and residential amenity.

As such the application is recommended for approval, subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Location Plan (Block Plan), Access Route Plan and Gable Floor Plans and Elevations as received ; 22.10.2021

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

8. 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.

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