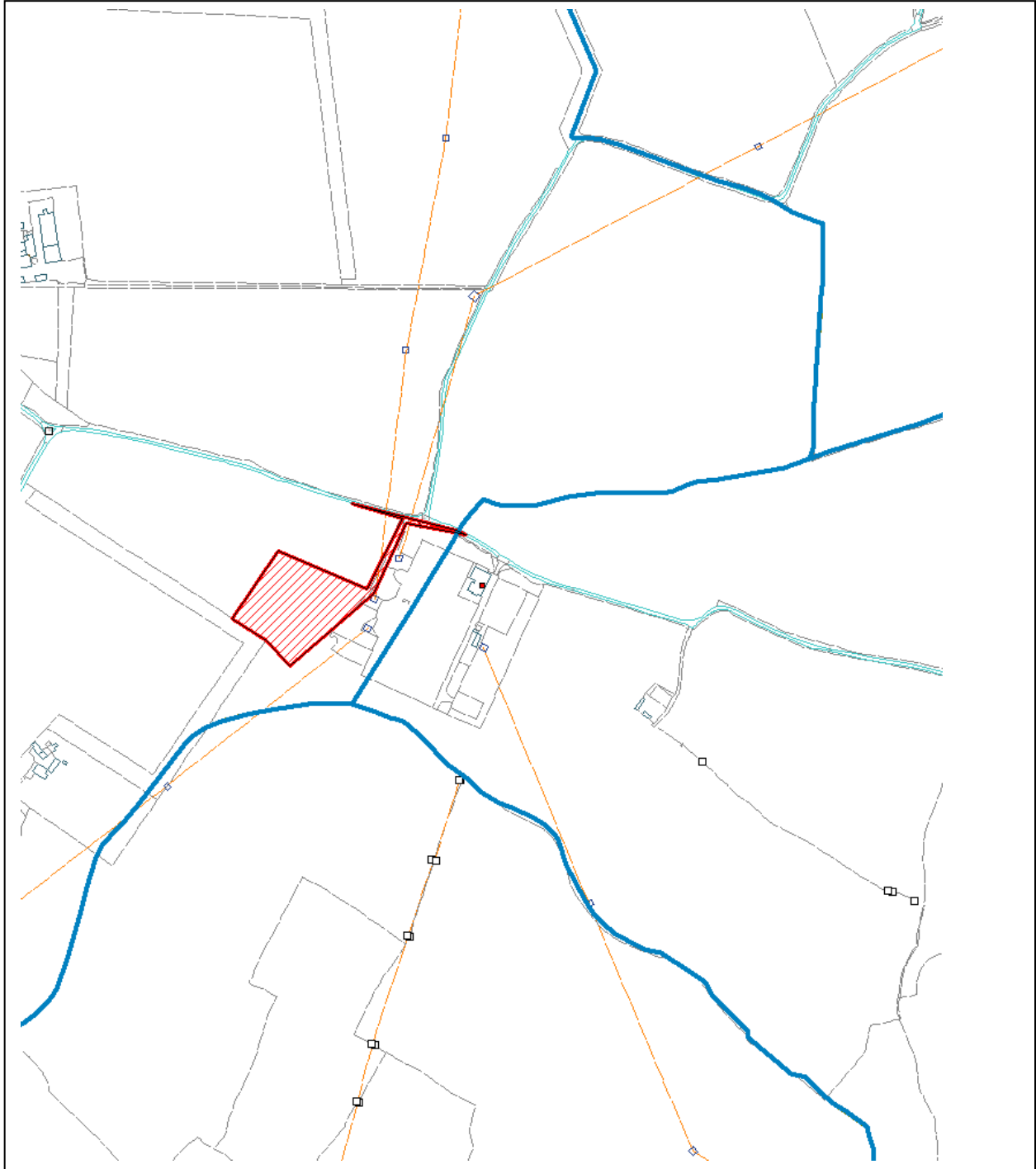


PLANNING COMMITTEE

27 September 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 21/02070/FUL – LAND ADJACENT TO LAWFORD GRID
SUBSTATION ARDLEIGH ROAD LITTLE BROMLEY CO11 2QB**



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Application:	21/02070/FUL	Town / Parish:	Ardleigh Parish Council
Applicant:	Lawford Power Ltd		
Address:	Land adjacent to Lawford Grid Substation Ardleigh Road Little Bromley Essex CO11 2QB		
Development:	Construction and operation of a 50MW Battery Energy Storage System, and related infrastructure with associated access, landscaping and drainage.		

1. Executive Summary

- 1.1 Under Part 3 of the Council's Scheme of Delegated Powers, Planning Committee clause (vii) the Assistant Director has taken the decision to refer this application to Members due to the wider public interest and the proposal is the first of its kind in Tendring.
- 1.2 Ardleigh Parish Council and a number of local residents raise concerns. The majority of the objections relate to the development being linked to the East Anglia Green Energy Enablement project (East Anglia GREEN), highway safety and harm to residential amenities from noise and disturbance, together with harm to biodiversity and landscape impact.
- 1.3 The application relates to a parcel of land abutting the existing Lawford Grid Substation located to the south of Ardleigh Road / Little Bromley Road, Little Bromley. The application seeks full planning permission for the construction and operation of a 50MW Battery Energy Storage System (BESS) and related infrastructure with associated access, landscaping and drainage.
- 1.4 A BESS is referred to by the National Grid as a 'balancing service' that will assist the operation of the grid in balancing electrical frequency at times of system stress. BESSs are able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that are related to local and national energy demand and fluctuations in the output from renewable energy sources.
- 1.5 Concerns have been expressed with regard to the proposals relationship with the East Anglia GREEN project. This is a separate proposal by National Grid Electricity Transmission (National Grid) to reinforce the high voltage power network in East Anglia. The project will support the UK's net zero target through the connection in East Anglia of new low carbon energy generation, and by reinforcing the local transmission network. The reinforcement would comprise mostly overhead line (including pylons and conductors – the 'line' part) and underground cabling through the Dedham Vale Area of Outstanding Natural Beauty (AONB) and a new 400 kV connection substation in the Tendring district.
- 1.6 Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.
- 1.7 Chapter 14 of the National Planning Policy Framework 2021 (NPPF) directs the planning system to meet the challenge of climate change, flooding and coastal change. Adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) Section 2 Policy PPL10 deals with Renewable Energy Generation and Energy Efficiency Measures. Battery Storage Systems are identified within paragraph 7.9.3 of the supporting text of Policy PPL10 as one of the supported technologies aimed at maximising energy efficiency. The proposal is therefore acceptable in principle.

- 1.8 Essex County Council Highway Authority are satisfied that, through the imposition of appropriately worded planning conditions the development can be made acceptable in highway terms. These conditions are to secure; a revised Construction Management Plan; a Traffic Management Plan outlining a designated route to and from the development site for all HGV movements, and details of how any damage to the highway resulting from traffic movements generated by the application site will be repaired.
- 1.9 Furthermore, the application is accompanied by appropriate technical reports including a Landscape Visual Impact Assessment, Noise Risk Assessment, Phase 1 Contaminated Land Report, Arboricultural Impact Assessment, Flood Risk Assessment and an Ecological Assessment, satisfactorily addressing the related material considerations.
- 1.10 In relation to the impact on residential amenities, the nearest dwelling is approximately 240 metres away and the development will not result in any noise or disturbance from operational use, as confirmed by the accompanying Noise Impact Assessment. Any noise, disturbance or disruption during construction can be managed through conditions and will be for a limited time only. Temporary disruption during construction is not a justifiable reason for refusal.
- 1.11 Officers are satisfied that the proposal does not warrant refusal and an acceptable development can be secured using conditions in line with Paragraph 55 of the NPPF.

Recommendation: Full Approval

- 1) That the Assistant Director for Planning be authorised to Grant Planning Permission subject to conditions as stated at paragraph 8.2 (or as need to be varied*) and those as may be deemed necessary by the Assistant Director for Planning; and,
- 2) Any informative notes as may be deemed necessary.

**To account for any errors, legal and necessary updates*

2. Planning Policy

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

National:

National Planning Policy Framework July 2021
National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP7	Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1	Managing Growth
SPL3	Sustainable Design
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity

PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
PPL10	Renewable Energy Generation and Energy Efficiency Measures
PP4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
DI1	Infrastructure Delivery and Impact Mitigation

Neighbourhood Plan

Draft Ardleigh Neighbourhood Plan (Regulation 14 consultation between 8 August and 23 September 2022)

Supplementary Planning Guidance

Essex Design Guide

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Other Relevant Documents

Energy White Paper Powering Our Net Zero Future (2020)

Draft Overarching National Policy Statement for Energy (EN-1) (2021)

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History on land to east of Application Site

02/00876/FUL	Extension of the grid substation compound to accommodate the installation of 2 new electricity transformers and connecting structures	Approved	10.07.2002
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4. Consultations

**Anglian Water
Services Ltd
21.01.2022**

Thank you for your consultation. Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

**Environment
Agency
12.04.2022**

We reviewed the application and did not find that it fell within our remit as per our DMPO checklist, attached for your reference.

If you believe it falls within the remit within our DMPO checklist, please confirm the reason it falls within the checklist and we will re-review the application.

**ECC SuDS
Consultee
28.02.2022**

Thank you for your email received on 18/01/2022 which provides this Council with the opportunity to assess and advise on the proposed surface water drainage strategy for the above mentioned planning application.

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission for planning application 21/02070/FUL based on the following:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Provide the inclusion of 10% urban creep. In any storage calculations, we would also want to see 'urban creep' included in line with the Document 'BS 8582:2013 Code of practice for surface water management for development sites' which states: "To allow for future urban expansion within the development (urban creep), an increase in the paved surface area of 10% should be used, unless this would produce a percentage impermeability greater than 100%, or unless specified differently by the drainage approval body or planning authority' (page 32).
- Provide detailed engineering drawings of each component of the drainage scheme.
- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and

approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory comments:

- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.
<https://www.essex.gov.uk/protecting-environment>

In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

**Essex County
Council
Archaeology
03.02.2022**

The site lies adjacent to a site recorded on the HER as linear cropmark features (HER 17472). Google imagery appears to show further cropmark features within the proposed site which may represent an enclosure of possible agricultural or settlement origin which indicates potential for archaeological remains to be preserved within the site. In the surrounding area aerial photography reveals a landscape of surviving multiperiod archaeological remains.

It is unclear from the application details the extent of groundworks that will be required for the development, in areas of topsoil removal there is likely to be an impact on surviving archaeological remains.

There is potential that currently unidentified heritage assets will be impacted upon by the proposed development. Due to the scale of harm or loss, the applicant is required to carry out an evaluation to determine the nature and significance of any heritage assets that may be affected (Para 194, 2021) and to make this publicly available.

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

RECOMMENDATION: A Programme of Archaeological Evaluation and Excavation

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

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

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

Reason for recommendation

The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

Further Recommendations:

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

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) and Magic Maps (<https://magic.defra.gov.uk>) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

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

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

The mitigation measures identified in the Ecological Assessment (Hopkins Ecology, November 2021) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and priority species particularly nesting bird and Bats.

Furthermore, as recommended by the Ecological Assessment (Hopkins Ecology, November 2021) a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be implemented, to mitigate any impacts particularly to bats during the construction stage of the development. This should therefore be secured by a condition of any consent.

**Essex County
Council
Ecology
11.04.2022**

In addition, the Ecological Assessment (Hopkins Ecology, November 2021) suggests that there is suitable habitat and therefore a risk of small mammals such as hedgehogs and potentially Brown Hare, using the site. Precautionary mitigation method statements should be considered and outlined within the CEMP: Biodiversity.

As highlighted in the Ecological Assessment (Hopkins Ecology, November 2021), it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts and secured by a condition of any consent. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

We also support the proposed reasonable biodiversity enhancements which include wildflower margins and a mixed scrub buffer, which have been recommended in the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) to secure measurable net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by 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.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Hopkins Ecology, November 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological

expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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

3. PRIOR TO ANY WORKS ABOVE 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) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation 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).

4. 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)

**Essex County
Council
Heritage
13.04.2022**

The proposed development is adjacent to the existing Lawford Grid substation/point of connection to the grid.

No designated heritage assets are located within the Site. A number of designated heritage assets are located within the environs of the Site which include (but not limited to) Grade II Listed Bounds Farmhouse, Rose Cottage, Jennings Farmhouse and a Pump to the rear. Grade II* listed Church of St Mary is located approximately at 1.8km from the site. There are also a number of potentially non-designated heritage assets in close proximity to the site, particularly Cattsgreen Farm, Waterhouse Farm and Badley Hall.

Generally, the intervisibility between the proposed site and the designated and non-designated heritage assets is mostly limited to glances in the long distance due to the topography of the site, mature trees throughout the landscape and the presence of Lawford Grid Substation and associated infrastructure. However, there is the potential that the Proposed Development would constitute a degree of change to the wider agricultural setting of Waterhouse Farm and Badley Hall.

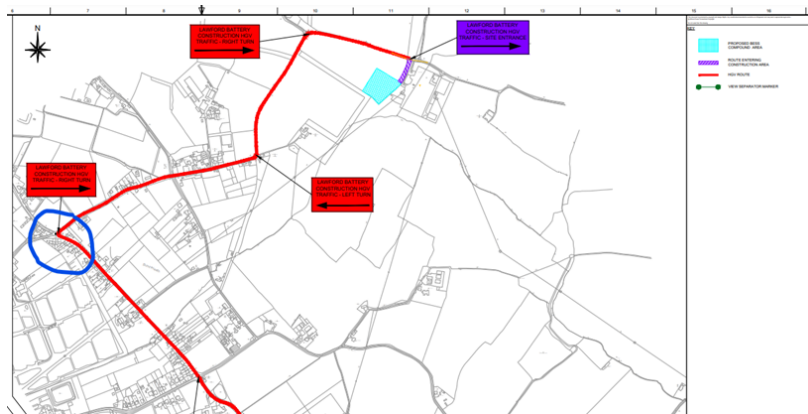
As a non-designated heritage asset, Paragraph 203 of the NPPF is relevant and the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset.

Were permission to be granted, I request the following conditions are imposed. Please note that inclusion of potential conditions does not imply compliance with national/local legislation policy.

- Prior to commencement, a schedule of drawings that shows details of the proposed soft and hard landscape at appropriate scales, including fencing treatment, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.
- All proposed compounds shall be black, dark grey or dark green painted or powder-coated metal and shall be permanently maintained as such.

**ECC Highways
Dept
11.04.2022
INITIAL
COMMENTS**

The main issue I have is with construction phase of the scheme and routing strategy for HGV's. Waterhouse Lane forms part of the route and is classed as a local road and is narrow to take two-way traffic, particularly HGV's.



This is particularly the case at the junction with Frating Road and Waterhouse Lane, potentially preventing vehicles to complete the turn into Waterhouse Lane from Frating Road; the visibility to the north-west for traffic exiting the lane onto Frating Road, is not good and these vehicle movements will intensify at this junction albeit over a short period while the site is being constructed.



I feel they need to review the HGV routing strategy for the construction phase, in particular the section from Frating Road to the site. It will be necessary to incorporate a pre-condition survey for those minor roads that will be used by construction traffic to and from the site, incorporating 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.

In relation to the site access for the development I couldn't see any Stage 1 Road Safety Audit for the junction.

**ECC Highways
Dept
27.05.2022
LATEST
COMMENTS**

The amended / additional information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. It is noted that the development will be situated off Little Bromley Road classed as a local road. There is no evidence of any personal injury accidents in the vicinity of the proposed access for the most recent 3-year period. The applicant has demonstrated that the proposed access will have adequate visibility and will provide adequate off-street parking and turning, while the overall scheme is set back from the main public highway and does not directly affect any Public Rights of Way, taking these factors into consideration:

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

1. Prior to occupation of the site, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway and in accordance with drawing no. 211271 C-700. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction 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.
2. No unbound material shall be used in the surface treatment of the vehicular access within 15 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.
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 construction 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 access and internal layout shall be provided in principle with drawing number: 0126/006 Proposed site plan.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

5. Prior to the commencement of any work on the site, including any ground works or demolition, a revised Construction Management Plan as detailed in the supporting documents is submitted to and approved in writing by the Local Planning Authority which shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for but not restricted to:
 - i. the parking of vehicles of site operatives and visitors,
 - ii. loading and unloading of plant and materials,
 - iii. storage of plant and materials used in constructing the development,
 - iv. wheel and underbody washing facilities.
 - v. temporary road works entrance and exit/ construction traffic signage,
 - vi. Provision of informal passing places,
 - vii. Swept path analysis drawings for the access and any restricted bends.

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.

6. Prior to the commencement of any work on the site a joint inspection of the local roads 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.

Reason: To preserve the integrity and fabric of the highway, in the interests of highway safety and in accordance with Policy DM1.

7. Prior to the commencement of any work on the site, an appropriate Traffic Management Plan shall be provided outlining a designated route to and from the development site for all HGV movements restricting deliveries between the hours of 9:30am – 3:30pm Mon – Fri and Saturdays 9:30am - midday to be agreed in advance with the Local Planning Authority in consultation with the Highway Authority.

Reason: To control the location and direction of HGV vehicle movements to and from the site in the interests of highway safety and Policy DM1.

8. The proposed development shall not be occupied until such time as the vehicle parking area for site operatives indicated on the approved

plans, has been hard surfaced. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

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:

- i. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority.
- ii. A formal Stage 2 Road Safety Audit outlining the junction detail/ footway design/ improvements 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

2: 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.

**National Grid
06.09.2022**

This is NOT associated with East Anglian GREEN projection (EAG) and my understanding is that it is an independent 3rd party applying to build a battery storage facility.

The application was submitted some time ago before EAG proposals that were consulted upon were finalised.

Our understanding of its location is that it does not materially affect EAG proposals, though becomes additional context for cumulative effects if consented.

**Network
Planner - UK
Power
Networks**

No comments received.

5. Representations

Parish Council Consultation

5.1 The application site lies within the Parish of Ardleigh but borders Little Bromley Parish. Therefore, consultation with both Ardleigh Parish Council and Little Bromley Parish Council has been undertaken.

5.2 **Little Bromley Parish Council** support the application.

5.3 **Ardleigh Parish Council** have submitted comments against the application on 4 separate occasions. Councillors noted recognition of the need for more sustainable and resilient energy supplies. However, a number of concerns have been raised. These can be summarised as follows. The issues raised are addressed in the main report below. However, where relevant, an officer note is included in italics:

- Should be referred to Planning Committee for a decision.
- Damage the ecosystem.
- Harm to countryside and landscape.
- Loss of prime agricultural land.
- Highway safety concerns from poor access and volume of traffic during construction.
- Cause disruption to residents.
- Fire risk and poor access for emergency vehicles and construction vehicles.
- Waterhouse Lane is narrow, unsuitable and unsafe for all road users including pedestrians, cyclists and horse riders.
- Damage to the narrow country lane(s) leading to the sites if used by construction vehicles.

Officer Note - Access and highway safety have been considered in the main assessment section of the report below. ECC Highways raise no objection to the development subject to a number of conditions, including the submission and approval of a construction traffic management plan, the undertaking of road inspections and repair works, the submission and approval of a traffic management plan and a Road Safety Audit. Construction will be for a limited period only and carefully managed via the requirements of the conditions.

- Concerned about the lack of strategic approach between service providers and future plans.
- Would set a harmful precedent. (i.e. that the facility would need other infrastructure close by to make it useful and operational.)
- Could culminate in physical connections (via cabling underground and over ground pylons) and at least 3 new substations all within close proximity to this site and very considerable industrialisation of the landscape.
- Consideration should include combined impact with off-shore wind farms.
- New National Grid (NG) substation and new off-shore wind farms could seek transmission stations in the vicinity of the site.
- The original concerns raised have now magnified - could be a proliferation of transmission stations.
- Would be premature for TDC to give permission given all the uncertainties of the NG pylon proposals.
- This battery storage facility will not be required if NG substation rejected.

Officer Note - The agent has provided additional information in direct response to the objections raised by Ardleigh Parish Council (scanned to the planning file as 'Agent response to Ardleigh PC objections' and dated 7 July 2022). This report explains that this proposed BESS is completely unrelated to National Grid's East Anglian Green proposals that have recently been subject to public consultation. The proposed BESS would not connect to the proposed East Anglia Green 400kv Substation but would

connect directly to the existing 132kv Lawford sub-station operated by UK Power Network (UKPN) which the proposed BESS is located directly adjacent to. The proposed battery energy storage facility is subject to a Grid Connection Offer from UKPN (which has been accepted and secured) for the facility to connect to the existing Lawford substation. It is viable on its own terms and can proceed and is needed irrespective of how or whether the National Grid's East Anglia Green Proposals (or any specific off-shore wind proposals) proceed.

Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.

- Cambridge Power should explore siting on other larger existing substations that may have the capacity or look for alternative brown-field sites.

Officer Note - The LPA are required to consider the application and judge the individual planning merits of the scheme as submitted.

- Contrary to Local Plan policies and draft Neighbourhood Plan policies.

Officer Note - The site is not located within an area subject of any adopted Neighbourhood Plans. Ardleigh Parish has been confirmed as a Neighbourhood Planning area and Ardleigh Parish Council is, at the time of writing, consulting the public on its first draft Neighbourhood Plan. Policies considered to be contrary are not identified by the consultation response.

Public Consultation

5.4 23 individual letters of objection from local residents have been received. The concerns raised can be summarised as follows. The issues raised are addressed in the main report below. However, where relevant, an officer note is included in italics:

- Harm to the landscape, rural character and character of the area.
- Harm to visual amenity.
- Loss of prime agricultural land.
- Destroy wildlife and habitats.
- Noise pollution.
- Inflict enhanced levels of radiation causing health concerns.
- Highway safety concerns from poor access, no footpaths, volume of construction traffic, noise and disturbance to residents and hazards to all road users including pedestrians, school children, cyclists and horse riders.
- Dust pollution.
- Damage to the narrow country lane(s) leading to the sites if used by construction vehicles.
- Harm to protected roadside trees from large vehicles using the proposed route.
- Concerned for the structure of my property close to highway used by construction vehicles.

Officer Note - This would be a private matter between The Highway Authority and any affected third party.

- No information has been provided as to how this site will be part of a much larger scheme in the future and the cumulative impact.

Officer Note - This development proposal is not associated with the East Anglian GREEN project.

- Lack of public consultation.

Officer Note – Publication and notification of this application has been carried out in accordance with all legal requirements and as directed by the community statement. This includes any available neighbouring properties, an orange site notice erected at the entrance to the site and the application was advertised in the local press as a major development proposal.

Non-planning issues raised:

- Negative impact on property values.

Officer Note - The impact of development upon property values does not constitute a material planning consideration.

6. Assessment

6.1 The main considerations in this instance are:

- Site Context;
- Development Proposal;
- Principle of Development;
- Access and Highway Safety;
- Landscape & Visual Impact;
- Heritage Impact;
- Biodiversity and Protected Species;
- Environmental Protection – Contamination and Noise;
- Residential Amenities;
- Sustainable Drainage; and,
- Archaeology.

Site Context

6.2 The application site comprises approximately 1.15 hectares of cultivated agricultural land, situated approximately 2km to the east of Ardleigh and 2km to the west of Little Bromley. It is located to the south of Little Bromley Road / Ardleigh Road. To the north-east of the site, and accessed from Bromley Road / Ardleigh Road, is the existing Lawford substation – a large electricity substation compound covering approximately 3.3 hectares.

East Anglia GREEN Project

6.3 Concerns have been expressed with regard to the proposals relationship with the East Anglia GREEN project. This is a separate proposal by National Grid Electricity Transmission (National Grid) to reinforce the high voltage power network in East Anglia. The project will support the UK's net zero target through the connection in East Anglia of new low carbon energy generation, and by reinforcing the local transmission network. The reinforcement would comprise mostly overhead line (including pylons and conductors – the 'line' part) and underground cabling through the Dedham Vale Area of Outstanding Natural Beauty (AONB) and a new 400 kV connection substation in the Tendring district.

6.4 Confirmation has been received from National Grid that this development proposal is not associated with the East Anglian GREEN project and is an independent third party applying to build a battery storage facility. The application was submitted some time ago before EAG proposals that were consulted upon were finalised.

6.5 National Grid confirm in their comments that, should this development go ahead, it will become context for cumulative effects for their consideration as part of the EAG proposals.

Development Proposal

6.6 The application seeks full planning permission for a new compound incorporating a Battery Energy Storage System (BESS) facility and associated ancillary infrastructure within fencing, landscaping around the northern, eastern and southern perimeters of the site (within the application boundary but outside the main compound) and a site access track through the field alongside the existing sub-station connecting the main compound to the public highway to the north (Little Bromley Road).

6.7 The underground cable connecting the BESS to the substation will be delivered by UKPN under their permitted development rights as a Statutory Undertaker.

6.8 Summary of proposed works:

- Laying out of containerised battery units along with associated inverters, transformers, switchgear units, cooling units and associated concrete plinths;
- Erection of a palisade security fence around the battery compound with access gates to the compound entrance;
- Installation of infrared CCTV cameras;
- Laying out of a crushed / compacted stone Site access track from Little Bromley Road up to the Site boundary into the battery compound; and,
- Laying out of a dressed stone compound surfacing.

Principle of Development

6.9 Chapter 14 of the National Planning Policy Framework 2021 (NPPF) directs 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.

6.10 Paragraph 157 of the NPPF states that, in determining planning applications, local planning authorities should expect new development to:

- a) 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
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

6.11 Furthermore, Paragraph 158 of the NPPF directs that, when determining planning applications for renewable and low carbon development, local planning authorities should:

- a) 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
- b) approve the application if its impacts are (or can be made) acceptable.

- 6.12 As outlined in the Government's Energy White Paper and the Draft National Policy Statement for Energy EN-1 they also support the achievement of Net Zero objectives by aiding the transition to renewable energy sources, which by their nature intermittently generate energy. In so doing, storage can also reduce energy costs and increase its reliability.
- 6.13 Adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) Section 1 Policy SP1 endorses a presumption in favour of sustainable development. When considering development proposals local planning authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. They will always work pro-actively with applicants to find solutions, which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. The application site is located beyond any defined settlement boundary and is located in open countryside for the purposes of planning policy.
- 6.14 TDLP Section 2 Policy PPL10 deals with Renewable Energy Generation and Energy Efficiency Measures. Proposals for renewable energy schemes will be considered having regard to their scale, impact and the amount of energy to be generated. Battery Storage Systems are identified within paragraph 7.9.3 of the supporting text of Policy PPL10 as one of the supported technologies aimed at maximising energy efficiency. TDLP Section 1 Policy SP7 states that all new development must meet high standards of design. Furthermore, all new development should reflect the place shaping principles set out within the Local Plan including measures to promote environmental sustainability including addressing energy efficiency whilst protecting assets of historical or natural value.
- 6.15 A BESS is referred to by the National Grid as a 'balancing service' that will assist the operation of the grid in balancing electrical frequency at times of system stress. BESSs are able to provide flexible backup power to the grid at very short notice and respond rapidly to the short-term variations that are related to local and national energy demand and fluctuations in the output from renewable energy sources. The principal role of a BESS is thus to contribute towards ensuring that there is a reliable and constant supply of electricity across the transmission network. The proposal is a method of supporting the transition to a new greener energy supply in order to meet the UK's target of net zero carbon by 2050 whilst ensuring supply meets demand until green energy systems are self-sustaining in line with Chapter 16 of the NPPF. The applicant has sought to secure land as close as possible to the existing substation to minimise electrical losses, ensure viability and limit landscape and visual impact.
- 6.16 Having regard to the aims of the national and local plan policies identified above and the purpose of the development to contribute toward energy supply and efficiency, the development is considered acceptable in principle. This is subject to consideration of all other relevant national and local plan policies in terms of the impact of the development upon the character of the countryside, residential amenity, highway safety and other relevant material considerations, all of which are covered below.

Access and Highway Safety

- 6.17 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP Section 2 Policy SPL3 Part B seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate parking and manoeuvring.
- 6.18 Operational traffic associated with the proposal is negligible with only occasional maintenance visits expected. Initial consultation undertaken with Essex County Council Highway Authority (ECCHW) raised concerns with the construction phase of the scheme and routing strategy for

HGV's, specifically in relation to the use of Waterhouse Lane and the junction with Frating Road. The visibility and manoeuvrability here for vehicles exiting the junction is poor and the increase in vehicle movements, albeit over a short period while during construction, raised concerns in terms of highway safety.

- 6.19 The applicant has engaged directly with ECCHW to resolve the issues originally raised (see email exchange scanned to the planning file dated 07 Jun 2022). There is no evidence of any personal injury accidents near the proposed site access for the most recent 3-year period. The applicant has demonstrated that the proposed access will have adequate visibility and will provide adequate off-street parking and turning, while the overall scheme is set back from the main public highway and does not directly affect any Public Rights of Way.
- 6.20 Considering these factors, Essex County Council Highway Authority confirm that the impact of the proposal is acceptable subject to the following mitigation and conditions.
- 6.21 Officers are satisfied that the proposal does not warrant refusal on highway safety grounds and an acceptable development can be secured using conditions in line with Paragraphs 55 and 158 of the NPPF.

Landscape & Visual Impact

- 6.22 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.
- 6.23 TDLP Policy PPL3 relates to the rural landscape. It states that the Council will protect the rural landscaping and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Furthermore, new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity. 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.
- 6.24 The application site is currently in agricultural use and benefits from good screening to the east provided by the vegetation contained within the land forming part of the existing adjacent electricity substation. The site also benefits from a reasonable level of existing screening on the southern boundary. There are no trees or other significant vegetation in the main body of the land.
- 6.25 In terms of trees and other vegetation on the adjacent land forming part of the grounds of the existing substation the applicant has provided a detailed Arboricultural Impact Assessment (AIA). The document accurately describes the health and condition of existing trees and the extent to which they are a constraint on the development potential of the land. The information contained in the report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction Recommendations. The AIA adequately demonstrates that the development of the land could take place without causing harm to the important trees on the land adjacent to the application site.
- 6.26 In order to assess the impact and effects of the development proposal on local landscape character the applicant has submitted a Landscape and Visual Assessment (LVIA). The LVIA has been carried out in accordance with Landscape Institute and Institute of Environmental Management and Assessment Guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013. The document identifies several locations (visual receptor viewpoints) from which the application site can be viewed.

- 6.27 The document accurately describes existing baseline landscape character and qualities of the landscape. It identifies and records the potential impact of the development on the character of the landscape and the way that it is seen and enjoyed by the public. It goes on to quantify the degree of harm to both the physical character of the landscape and its visual qualities. It contains information to show how soft landscaping will be used to mitigate the harm that will result from the change of use of the land.
- 6.28 It is accepted that the summary contained in 'Section 7 ' Conclusions' of the LVIA genuinely reflects the extent to which the proposed development will affect the inherent and visual qualities of the local landscape. It is agreed that change of an appropriate nature could be absorbed into the landscape without the loss of key characteristics and without causing harm to the overall character of the landscape.
- 6.29 The Landscape Strategy Plan shows the broad scope and extent of new soft landscaping associated with the development proposal and in principle the proposals are acceptable. The application includes Illustrative Site Elevations at 5 years and when fully established. It is clear that any new planting will take many years to become fully established however, the existing electricity substation is currently well screened, and this screening will benefit the current development proposal. In the long term a good level of screening will be achieved that is similar to that around the existing substation.
- 6.30 A landscaping condition is considered necessary to secure the details and implementation of the indicative soft landscaping shown on the accompanying Landscape Strategy Plan.

Heritage Impact

- 6.31 Paragraph 197 of the NPPF states, amongst other things, that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that the conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character. Paragraph 199 goes on to say that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Furthermore, Paragraph 203 that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.32 TDLP Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependent on the level of harm caused. Proposals will be treated favourably where they:
- a. are explained and justified through an informed assessment and understanding of the significance of the heritage asset (including any contribution made to that significance by its setting); and
 - b. are of a scale, design and use materials and finishes that respect the significance of the listed building (including any contribution made to that significance by its setting).
- 6.33 Consultation with Place Services Heritage has been undertaken identifying designated heritage assets within the locality of the site, including Grade II Listed Bounds Farmhouse, Rose Cottage,

Jennings Farmhouse and Pump to the rear. Grade II* listed Church of St Mary is located approximately at 1.8km from the site. There are also a number of potentially non-designated heritage assets in close proximity to the site, particularly Cattsgreen Farm, Waterhouse Farm and Badley Hall.

- 6.34 The topography of the site, distance to designated and non-designated heritage assets, mature trees throughout the landscape and the presence of Lawford Grid Substation and associated infrastructure means that the intervisibility between the proposed site and the heritage assets is mostly limited to glances in the long distance. The development has the potential to create a degree of change to the wider agricultural setting of Waterhouse Farm and Badley Hall. However, as required by national and local policy, a balanced judgement is required having regard to the scale of any harm to the heritage asset.
- 6.35 Due to the relationship of the site with heritage and non-designated heritage assets, and the characteristics of the landscape and locality, officers are satisfied that the level of harm from long distances glances does not justify a refusal based upon the impact on the setting of heritage assets. In line with the comments provided by Place Services, through the imposition of planning conditions securing landscaping, boundary treatments and the colour finishes of the compounds, appropriate mitigation can be secured to further minimise any impacts in compliance with TDLP Policy PPL9.

Biodiversity and Protected Species

- 6.36 Paragraph 174 of the NPPF requires Councils, when determining planning applications, to minimise impacts on and providing net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, Councils should refuse planning permission.
- 6.37 Local Plan policy PPL4 of the adopted Local Plan gives special protection to designated sites of international, national or local importance to nature conservation but for non-designated sites still require impacts on biodiversity to be considered and thereafter minimised, mitigated or compensated for.
- 6.38 Consultation with Place Services Ecology has been undertaken. A review of the Ecological Assessment (Hopkins Ecology, November 2021) and Biodiversity Metric (November 2021) and Magic Maps (<https://magic.defra.gov.uk>) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures has been carried out.
- 6.39 Place Services have confirmed that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured by conditions the development can be made acceptable and would result in a biodiversity net gain of over 10%.

Environmental Protection – Contamination and Noise

- 6.40 A Noise Risk Assessment (NRA) and Phase 1 Contaminated Land Report (CLR) accompany the application. These have both been reviewed by the Council's Environmental Protection Team who confirm the following:
- The NRA confirms that there is 'No Observed Adverse Impact' in relation to this proposal.

- The CLR concludes that the site appears to be free from any contaminants but recommends that a discovery strategy/watching brief is put in place during the groundworks and construction.

6.41 Based on the findings of the reports, Environmental Protection raise no objection subject to conditions relating to a contaminated land watching brief and construction working hours.

Residential Amenities

6.42 Paragraph 130 (f) of the National Planning Policy Framework (2021) states that planning should always seek to secure a good standard of amenity for all existing and future occupants.

6.43 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

6.44 The closest existing residential dwelling lies approximately 240m to the south west. As stated above, the submitted noise impact assessment concludes that the predicted noise levels will be sufficiently low that they will comply with the 'No Observed Effect Level' set out in within the Noise Policy Statement for England (NPSE).

6.45 The application provides sufficient evidence that the development will not result in any material harm to residential amenities from operational use.

6.46 Objections have been raised in relation to pedestrian safety and noise and disturbance from traffic movements. Any noise, disturbance or disruption during construction can be managed through conditions and will be for a limited time only. Temporary disruption during construction is not a justifiable reason for refusal.

Sustainable Drainage

6.47 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

6.48 Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.

6.49 The Lead Local Flood Authority (LLFA) have reviewed the accompanying Flood Risk Assessment and the associated documents and raise no objection to the granting of planning permission subject to conditions securing a detailed surface water drainage scheme for the site, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction work and an associated maintenance plan (including yearly logs of maintenance). There are no foul sewage disposal requirements associated with the development.

Archaeology

6.50 Policy PPL 7 of the adopted Local Plan stipulates that any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered

where a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive are secured.

- 6.51 Consultation with Place Services Archaeology has identified that the site lies adjacent to a site recorded on the HER as linear cropmark features (HER 17472). There is potential that currently unidentified heritage assets will be impacted upon by the proposed development. Due to the scale of harm or loss, the applicant is required to carry out an evaluation to determine the nature and significance of any heritage assets that may be affected (Para 194, 2021) prior to the commencement of development and to make this publicly available. These requirements can be secured by suitably worded planning conditions.

7. Overall Planning Balance and Conclusions

- 7.1 The proposed BESS will provide flexible backup power to the grid related to both local and national energy demand, aiding in the transition to a low carbon energy network and therefore being in accordance with TDLP Section 2 Policy PPL10 and the NPPF. This benefit weighs heavily in favour of the application.
- 7.2 The accompanying Landscape Visual Impact Assessment demonstrates that the development could be absorbed into the landscape without causing overriding harm to the overall character of the landscape.
- 7.3 Due to the relationship of the site with heritage and non-designated heritage assets, officers are satisfied that the level of harm from long distances glances does not justify a refusal based upon the impact on the setting of heritage assets.
- 7.4 Through the submission of supporting reports, and in the absence of any objections from statutory consultees, the application satisfactorily demonstrates that all related material planning considerations such as highway safety, ecology, SuDS, archaeology and landscaping can be managed and controlled by planning conditions to ensure compliance with relevant Local Plan policies.
- 7.5 Taking all of the above into consideration, officers consider that the benefits of the proposal outweigh any harm and the development is in compliance with the Development Plan taken as a whole.

8. Conditions

- 8.1 Recommendation as Para 1.11:
- 8.2 Conditions and Informatives recommended:

1 COMPLIANCE - TIME LIMIT FOR COMMENCEMENT:

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 COMPLIANCE - APPROVED PLANS AND REPORTS:

The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this

permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non material amendment following an application in that regard:

Plans and drawings;

0126/006	Proposed Site Plan
EPC-451-PL-E-LA-SS 04	Proposed Site Layout
EPC-0451-P-E-LA-EQ- 01 0	Proposed Plan and Elevations of 132KV 50MVA Power Transformer
EPC-0451-P-E-LA-EQ- 02 0	Proposed Plan and Elevations of 132kV Switchyard Plan – Customer Compound
EPC-0451-P-E-LA-EQ- 03 0	Proposed Plan and Elevations of Batteries, PCS and MV Twin Skid Units
EPC-0451-P-E-LA-EQ- 04 0	Proposed Plan and Elevations of Batteries, PCS and MV Single Skid Units
EPC-0451-P-E-LA-EQ- 05 0	Proposed Plan and Elevations of Customer Control/Switchgear Building
EPC-0451-P-E-LA-EQ- 06 0	Proposed Plans and Elevations of Customer Storage Building
EPC-451-PL-E-LA-ELV 03	Proposed Site Elevations
EPC-0451-C-E-LA-EQ- 01 0	Proposed Plan and Elevations of 132kV Switchyard Plant DNO Compound
EPC-0451-C-E-LA-EQ- 02 0	Proposed Plan and Elevations of 132kV Switchyard Plant DNO Compound
EPC-0451-C-E-LA-EQ- 03 0	Proposed Plan and Elevations of DNO Control Building
2497 001 P01	Fencing and Gating Details
DNO Storage Container	

Trees and Landscaping;

2497	Landscape and Visual Impact Assessment
Appendix A Figures 1-7	Landscape and Visual Impact Assessment
Appendix A Figure 8	Landscape and Visual Impact Assessment
Appendix B	Landscape and Visual Impact Assessment
8858-D-AIA Rev A	Preliminary Arboricultural Implication Assessment Plan
8858-AIA	Tree Survey and Arboricultural Method Statement
2497 001 P01	Landscape Strategy Plan

Highways;

211271 01	Transport Statement November 2021
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Environmental Protection;

21.053.1.R2 2	Noise Impact Assessment
Phase 1	Desk Study and Preliminary Risk Assessment 28 June 2021
Phase 1	Risk Assessment APPENDICES 1 -7
Battery Safety Note	

Ecology;

Ecological Assessment and Biodiversity Metric 5 November 2021	
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SuDS;

211271 01

Flood Risk Assessment / Surface Water Drainage
Strategy November 2021

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

3 NO ABOVE GROUND WORKS - COMPOUND FINISHES:

No above ground works shall take place until details of all colour finishes of the compound structures and enclosures have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried in accordance with the approved details and permanently maintained as such.

Reason – In the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

4 REMOVAL OF FENCE/ENCLOSURES PERMITTED DEVELOPMENT RIGHTS:

Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than the fencing and enclosures shown on the approved plans, no other fences, walls or means of enclosures shall be erected on site, except in accordance with details that shall previously be approved in writing by the local planning authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result.

5 NO ABOVE GROUND WORKS - LANDSCAPING SCHEME:

No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site (in accordance with Drawing NO: 001 Revision P01 Landscape Strategy Plan), which shall include all boundary treatments and any changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows both on the site and any protected roadside trees located the length of the access route, indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction.

Reason - In order to screen, enhance and soften the appearance of the development in the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

6 COMPLIANCE - IMPLEMENTATION OF LANDSCAPING:

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the appropriate implementation of the approved landscaping scheme in the interests of visual amenity, landscape impact, heritage asset impact and the overall quality of the development.

7 COMPLIANCE - CONTAMINATED LAND WATCHING BRIEF:

In accordance with the recommendations within the accompanying Phase 1 contaminated land report, a discovery strategy/watching brief shall be in place throughout groundworks and construction. If unexpected, suspected contamination is encountered, works must cease and the advice of an appropriately qualified environmental consultant be obtained to assess the risk and provide advice of any necessary remedial works. In the event of unexpected contamination being found, a full report detailing findings, actions and remedial works shall be submitted to for review by the Local Planning Authority in consultation with the Council's Environmental Protection Team. Once agreed in writing, works would then be permitted to continue.

Reason - To protect the health of site workers and end users of the site.

8 PRIOR TO COMMENCEMENT – REVISED CTMP:

Notwithstanding the details contained within the accompanying Construction Traffic Management Plan (CTMP) REF: EPC/CTMP/451, prior to the commencement of any work on the site, including any ground works or demolition, a revised CTMP shall be submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall be adhered to by all ground works, construction and decommissioning traffic throughout the pre-construction, construction, and decommissioning phases. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for but not be restricted to:

- i. safe access to/from the site;
- ii. the parking of vehicles of site operatives and visitors;
- iii. the loading and unloading of plant and materials;
- iv. the storage of plant and materials used in constructing the development;
- v. wheel and underbody washing facilities.
- vi. measures to control the emission of dust and dirt during demolition and construction;
- vii. a scheme for recycling/disposing of waste resulting from construction works (no burning permitted);
- viii. details of hours of deliveries relating to construction of the development;
- ix. details of hours of all construction / workers traffic movements;
- x. details of hours of site clearance or construction;
- xi. Traffic Management Plan outlining a designated route to and from the development site for all HGV movement together with a management plan for local road maintenance and repair resulting from the development;
- xii. a scheme to control noise and vibration during construction, including details of any piling operations.
- xiii. temporary road works entrance and exit/ construction traffic signage,
- xiv. Provision of informal passing places,
- xv. Swept path analysis drawings for the access and any restricted bends.

The approved CTMP shall be adhered to throughout the construction period for the development.

Reason - To ensure safe and controlled access, to ensure that on-street parking of these vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway, to preserve the integrity and fabric of the highway, in the interests of highway safety and resident's amenities.

9 PRIOR TO OCCUPATION - VISIBILITY SPLAYS:

Prior to operational use of the development, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway and in accordance with drawing no. 211271 C-700 P03 (Appendix C of Transport Statement). Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction 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.

10 COMPLIANCE - NO UNBOUND MATERIALS:

No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the metalled highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

11 PRIOR TO COMMENCEMENT USE – VEHICULAR TURNING FACILITY:

Prior to commencement use of the development, a vehicular turning facility for construction vehicles, 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 construction vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

12 PRIOR TO OPERATIONAL USE – PROVISION OF ACCESS AND INTERNAL LAYOUT:

Prior to operational use of the development, the access and internal layout shall be provided in accordance with approved Drawing No. 0126/006 Proposed site plan.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

13 PRIOR TO OCCUPATION – VEHICLE PARKING MADE AVAILABLE:

The proposed development shall not be brought into operational use until such time as the vehicle parking area for site operatives indicated on the approved plans, has been hard surfaced. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

14 PRIOR TO COMMENCEMENT – ARCHAEOLOGICAL INVESTIGATION:

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the written scheme of investigation defined in 1 above except as necessary to fulfil the requirements of this condition.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development could result in harm to non-designated heritage assets with archaeological interest. A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from Place Services on request.

15 WITHIN 6 MONTHS OF FIELDWORK– POST EXCAVATION ASSESSMENT:

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

Reason – To ensure the development does not result in harm to non-designated heritage assets with archaeological interest.

16 NO WORKS EXCEPT DEMOLITION - DETAILED SURFACE WATER DRAINAGE SCHEME

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:

- Provide detailed engineering drawings of each component of the drainage scheme.
- Provide a drainage plan which details exceedance and conveyance routes, FFL and ground levels.
- Provide an updated written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to first use.

Reason - The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

17 PRIOR TO COMMENCEMENT - SCHEME TO MINIMISE THE RISK OF OFFSITE FLOODING DURING CONSTRUCTION

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

18 PRIOR TO OCCUPATION – SUDS MAINTENANCE PLAN

Prior to the operational use of the development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

19 COMPLIANCE - IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Hopkins Ecology, November 2021). 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).

20 PRIOR TO COMMENCEMENT - ENVIRONMENTAL MANAGEMENT PLAN:

Prior to commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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

21 PRIOR TO ANY ABOVE SLAB LEVEL WORKS - BIODIVERSITY ENHANCEMENT STRATEGY:

Prior to any above slab level works, 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) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation 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).

22 COMPLIANCE – NO LIGHTING UNLESS APPLICATION SUBMITTED

Details of any outdoor / external lighting shall be submitted to and approved in writing by the local planning authority prior to their installation. Development shall be carried out in accordance with the approved details.

Reason - To ensure lighting is sensitively designed and minimises light spillage in the interests of ecology and the character and appearance of the landscape.

23 PRIOR TO OPERATIONAL USE - FIRE PREVENTION PLAN

Prior to operational use of the development hereby approved, in accordance with the CPL Battery Safety Note accompanying the application, a Fire Prevention Plan (FPP) incorporating full details of fire suppression mechanisms shall be submitted to and approved in writing by the local planning authority. The approved details shall be adhered to at all times.

Reason – In the interests of health and safety.

Informatives

Positive and Proactive Statement

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

Colour Finishes – Condition 3

As per the comments received from Place Services Heritage and in relation to Condition 3 above, unless otherwise agreed in writing, all proposed compounds should be black, dark grey or dark green painted or powder-coated metal and shall be permanently maintained as such.

Highways Informatives

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with the Highway Authority and Local Planning Authority.

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

2: 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.

3: In relation to Condition 14 above, the Highway Authority may 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.

Lead Flood Authority Informatives

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the standing advice note.

It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is

considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10. Background Papers

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