

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	ML	04/01/2023
Planning Manager / Team Leader authorisation:	JJ	05/01/2023
Planning Technician final checks and despatch:	ER	05/01/2023

**Application:** 22/01681/FUL **Town / Parish:** Alresford Parish Council

**Applicant:** Agent Paul England - England ATP

**Address:** Alresford Lodge Ford Lane Alresford

**Development:** Proposed removal and replacement of derelict Landing Stage providing waterway access across land owned and leading up to Alresford Lodge.

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

Alresford Parish Council  
13.12.2022

The Parish Council following the December 7th meeting, resolved on making no objection to the application and plans as submitted, however the commentary as outlined in the letter of 5th December by the Environment Agency as a statutory consultee, should be applied as a condition of development with the consideration of rising sea levels due to climate change. Council were concerned over the enlargement of current rights of access through the removal of ancient hedgerow.

### **2. Consultation Responses**

Environment  
Agency  
04.01.2023

Thank you for your re-consultation we have reviewed the additional information and we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

#### Flood Risk

Our maps show the site lies in the tidal Flood Zone 3b, which is the area of high flood probability, as defined in Table 1 of the Planning Practice Guidance (PPG). The development proposal of a replacement jetty is considered water-compatible under Annex 3:Flood Vulnerability classification of the PPG. Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA).

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, by Innervision Design Ltd dated December 2022, are:

#### Actual Risk

- The site lies within the flood extent for a 0.5% annual probability event (1 in 200 chance each year), including an allowance for climate change.
- The site does not benefit from the presence of defences.

- The finished design height of the jetty is proposed to be above the design 0.5% annual probability flood level including climate change of 5.80m AOD and therefore dry in this event.

- The jetty will be designed to rise to above the extreme 0.1% (1 in 1000) annual probability flood level of 5.99m AOD.

- The site level has not been provided, but is lower than the proposed levels of the jetty. Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in 200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been proposed by the applicant but you should determine its adequacy to ensure the safety of the occupants.

- Compensatory storage is not required as this is a replacement jetty.

#### Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

#### Informative - Environmental Permit for Flood Risk Activities

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne Tidal Reaches is designated a 'main river'.

Application forms and further information can be found at:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

We trust you find this advice useful.

Marine  
Management  
Organisation  
17.11.2022

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

#### Response to your consultation

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

#### Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence

<https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fguidance%2Fmake-a-marine-licence-application&data=05%7C01%7Cdcadmin.planning%40tendrindc.gov.uk%7Ca5218d0f4c274de27d5908dac87c3d07%7C85a13c52693e4c39bdfa85c3a9047d15%7C0%7C0%7C638042733336716705%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sd=ata=qZ5bhkI4Q1N1S5hB4Ud1%2BfRDC3iUwsMSPYAML9LePeE%3D&reserved=0>

You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in English waters.

The MMO is also the authority responsible for processing and determining Harbour Orders in England, together with granting consent under various local Acts and orders regarding harbours.

A wildlife licence is also required for activities that that would affect a UK or European protected marine species.

The MMO is a signatory to the coastal concordat and operates in accordance with its principles. Should the activities subject to planning permission meet the above criteria then the applicant should be directed to the follow pages: check if you need a marine licence and asked to quote the following information on any resultant marine licence application:

- \* local planning authority name,
- \* planning officer name and contact details,
- \* planning application reference.

Following submission of a marine licence application a case team will be in touch with the relevant planning officer to discuss next steps.

#### Environmental Impact Assessment

With respect to projects that require a marine licence the EIA Directive (codified in Directive 2011/92/EU) is transposed into UK law by the Marine Works (Environmental Impact Assessment) Regulations 2007 (the MWR), as amended. Before a marine licence can be granted for projects that require EIA, MMO must ensure that applications for a marine licence are compliant with the MWR.

In cases where a project requires both a marine licence and terrestrial planning permission, both the MWR and The Town and Country Planning (Environmental Impact Assessment) Regulations

<https://gbr01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.legislation.gov.uk%2Fuksi%2F2017%2F571%2Fcontents%2Fmade&data=05%7C01%7Cdcadmin.planning%40tendrindc.gov.uk%7Ca5218d0f4c274de27d5908dac87c3d07%7C85a13c52693e4c39bdfa85c3a9047d15%7C0%7C0%7C638042733336716705%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sd=ata=2Vucf46rKYbuAVfcN%2B1%2BVd3%2FvPkHJIXjKXX2ZWwTGKo%3D&reserved=0> may be applicable.

If this consultation request relates to a project capable of falling within either set of EIA regulations, then it is advised that the applicant submit a request directly to the MMO to ensure any requirements under the MWR are considered adequately at the following link

<https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fguidance%2Fmake-a-marine-licence-application&data=05%7C01%7Cdcadmin.planning%40tendrindc.gov.uk%7Ca5218d0f4c274de27d5908dac87c3d07%7C85a13c52693e4c39bdfa85c3a9047d15%7C0%7C0%7C638042733336716705%7CUnknown%7CTWFPbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=qZ5bhkl4Q1N1S5hB4Ud1%2BfRDC3iUwsMSPYAML9LePeE%3D&reserved=0>

## Marine Planning

Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons. MMO as such are responsible for implementing the relevant Marine Plans for their area, through existing regulatory and decision-making processes.

Marine plans will inform and guide decision makers on development in marine and coastal areas. Proposals should conform with all relevant policies, taking account of economic, environmental and social considerations. Marine plans are a statutory consideration for public authorities with decision making functions.

At its landward extent, a marine plan will apply up to the mean high water springs mark, which includes the tidal extent of any rivers. As marine plan boundaries extend up to the level of the mean high water spring tides mark, there will be an overlap with terrestrial plans which generally extend to the mean low water springs mark.

A map showing how England's waters have been split into 6 marine plan areas is available on our website. For further information on how to apply the marine plans please visit our Explore Marine Plans service.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the Marine and Coastal Access Act and the UK Marine Policy Statement unless relevant considerations indicate otherwise. Local authorities may also wish to refer to our online guidance and the Planning Advisory Service soundness self-assessment checklist. If you wish to contact your local marine planning officer you can find their details on our gov.uk page.

## Minerals and waste plans and local aggregate assessments

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

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

The NPPF informed MASS guidance requires local mineral planning authorities to prepare Local Aggregate Assessments, these assessments have to consider the opportunities and constraints of all mineral supplies into their planning regions -

including marine. This means that even land-locked counties, may have to consider the role that marine sourced supplies (delivered by rail or river) play - particularly where land based resources are becoming increasingly constrained.

If you require further guidance on the Marine Licencing process, please follow the link

<https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Ftopic%2Fplanning-development%2Fmarine-licences&data=05%7C01%7Cdcadmin.planning%40tendrindc.gov.uk%7Ca5218d0f4c274de27d5908dac87c3d07%7C85a13c52693e4c39bdfa85c3a9047d15%7C0%7C0%7C638042733336716705%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=bT6nqtmLMSnhYCzmzuVwcVUQJfIK%2FQmQnqXSC8tJGsA%3D&reserved=0>

Natural  
England  
06.12.2022

Thank you for your consultation on the above dated 14 November 2022 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### UMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Essex Estuaries Special Area of Conservation (SAC), Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar <https://designatedsites.naturalengland.org.uk/>.

- damage or destroy the interest features for which Colne Estuary Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measure is required:

- All construction work must be outside of the period for overwintering birds (November to March) to avoid disturbance to the birds which are interest features of the designated sites.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

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

#### Further advice on mitigation

Construction works (removal and replacement of the landing stage) must be carried out outside the wintering bird season which lasts from November to March inclusive and we advise that this requirement is secured by condition or obligation. In addition, we advise that a precautionary check of estuarine habitats is conducted by a qualified ecologist immediately prior to starting any work. If any nesting birds are found, an appropriate protection zone from the nest will be

required to be maintained until the chicks have fledged.

We advise that best practice procedures for piling follow Joint Nature Conservation Committee guidelines and that sensitive habitats such as salt marsh are avoided where possible.

With regard to works on the intertidal and in estuarine habitats, Natural England recommend the applicants to use best practice measures in order to reduce the risk of impacts on marine habitats by ensuring that:

- Vehicle movements on the foreshore are kept to a minimum and access/egress routes are clearly defined.
- There is no storage of equipment on the foreshore.
- Contractors adhere to pollution prevention best practice guidelines including use of materials that are not toxic to the marine environment, use of accelerants in concrete to ensure fast setting, and measures to ensure no leakage of materials (e.g. concrete) into the marine environment.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Essex County  
Council  
Ecology  
09.12.2022

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

We have reviewed the Preliminary Ecological Appraisal (Greenlight, June 2022), Shadow Habitats Regulations Assessment (Greenlight, June 2022) and Natural England Response ref: 413882 (Natural England, December 2022) relating to the likely impacts of development on designated sites, protected 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.

We note that the applicant's shadow Habitats Regulations Assessment (Greenlight, June 2022) to support this application. Therefore, the LPA will need to prepare their own project level Appropriate Assessment and include the avoidance and mitigation measures, which needs to be secured by an appropriate planning obligation to ensure they are adequate, and delivery will be in perpetuity.

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 Preliminary Ecological Appraisal (Greenlight, June 2022) and Shadow Habitats Regulations Assessment (Greenlight, June 2022) 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 Great Crested Newts, bats, wintering birds, nesting birds, and reptiles.

The Preliminary Ecological Appraisal (Greenlight, June 2022) and Shadow Habitats Regulations Assessment (Greenlight, June 2022) also recommends that a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) be produced and secured by condition of consent, to protect

waterways from run-off and pollution.

We also support the proposed reasonable biodiversity enhancements of two bat boxes, two bird boxes, one Barn Owl box, and species rich hedgerow planting which have been recommended to secure 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 Preliminary Ecological Appraisal (Greenlight, June 2022) and Natural England Response ref: 413882 (Natural England, December 2022), 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) to include mitigation measures stated in Natural England Response ref: 413882 (Natural England, December 2022), 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 including constraint for all construction work must be outside of the period for overwintering birds (November to March) to avoid disturbance to the birds which are interest features of the designated sites
- 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 or product descriptions to achieve stated objectives;

c) locations, orientations, and heights 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 NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

Essex County  
Council  
Archaeology  
05.12.2022

The above application is for the proposed removal and replacement of derelict Landing Stage providing waterway access across land owned and leading up to Alresford Lodge.

An archaeological desk-based assessment has been submitted with the application which identifies the potential for remains associated with the nearby Roman villa site near Alresford Lodge as well as earlier archaeological remains along the foreshore and within the inter-tidal zone. These remains are likely to be deeply buried and obscured by the intertidal deposits. The existing landing stage is derelict and will need to be removed prior to the installation of the new landing stage. The works proposed are limited in extent and within an area that would be difficult to mitigate archaeologically therefore there will be no requirement for archaeological investigation for the above application.

Essex County  
Council  
Heritage  
30.11.2022

The application is for proposed removal and replacement of derelict Landing Stage providing waterway access across land owned and leading up to Alresford Lodge.

The proposal site is within the domestic curtilage of Grade II Listed Alresford Lodge.

The proposals are considered to preserve the special interest of the listed



building, in line with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and those elements of its setting that make a positive contribution to the identified heritage asset(s) (or which better reveal its significance).

There is no objection to this application.

### 3. Planning History

09/01116/FUL	<p>Erection of a 1.6 metre supporting wall to Cart Shed, including section of 1.5m trellis on top of edging to include gateway to bin store. Erection of tennis court fencing and walling surround and erection of additional netting (black chain link and metal posts) to wall area of tennis court. Erection of 4 x 4000 ltr underground gas tanks positioned north of new barn. Erection of 6500 litre underground irrigation tank. Erection of trellis to kitchen garden and 3 gates. Erection of 5 replacement gateways (to include main entrance with pedestrian access, secondary entrance near cart shed, 2 no. farm gates - north end of site, and gateway adjacent to stable block. Erection of cattle grid in main driveway (adjacent to new barn). Erection of retaining wall to west side of outdoor pool area. Erection of air conditioning units to be installed east side of granary with a proposed extended terrace area and retaining wall to accommodate. Erection of brimming pool to south side of new barn. Erection of water feature with railings adjacent to glass roofed area (north side of new barn). Erection of rill running from new barn to stable block. Erection of post and rail fencing (to part north and western boundaries). Erection of rabbit fencing around site. Erection of posts (1.1m) with rope and mesh fencing to upper pond area. (All retention works).</p>	Approved	01.02.2010
09/01119/LBC	<p>Retention of 4 external CCTV cameras to Alresford Lodge. Replacement of main staircase spindles and handrail (previously replaced in the 1980's).</p>	Approved	22.12.2009
09/01120/LBC	<p>Rebuild/repair walling to main west boundary. Rebuild/repair walling to front of Alresford Lodge (north</p>	Approved	23.12.2009

	boundary). Rebuild/repair of rear chimney stack (south side). Erection of acoustic fencing with gateway and 1.5m retaining wall. Steps from basement of orangery and balustrade.		
09/01121/FUL	Rebuild/repair walling to main west boundary. Rebuild/repair walling to front of Alresford Lodge (north boundary). Rebuild/repair of rear chimney stack (south side). Erection of acoustic fencing with gateway and 1.5m retaining wall. Steps from basement of orangery and balustrade.	Approved	23.12.2009
11/00217/FUL	Rebuild/repair walling to eastern boundary, adjacent to tennis court.	Approved	18.04.2011
11/00218/LBC	Rebuild/repair walling to eastern boundary, adjacent to tennis court.	Approved	18.04.2011
11/01293/FUL	Erection of stables.	Approved	21.12.2011
14/00989/FUL	Erection of stables.	Approved	29.08.2014
18/01985/FUL	Erection of stables.	Approved	19.02.2019
20/00553/DISCON	Discharge of condition 4 (hard and soft landscaping) for approved application 18/01985/FUL.	Approved	02.06.2020
21/00447/FUL	Reconfiguration and alterations to Existing Cart Lodge to create a new 2 bedroom annex above the garage. Creation of 2 no. new build standalone units. Unit 1 - adjacent to existing cart lodge to provide additional space to house plant room equipment associated with the new energy efficiencies. Equipment will include boilers, water storage, battery storage and exchangers. Unit 2 - new substation adjacent to existing at entrance to site to house generators and power storage to make site more energy efficient (building to be green GRP substation)	Approved	26.07.2021
22/01681/FUL	Proposed removal and replacement of derelict Landing Stage providing waterway access across land owned and leading up to Alresford	Current	

Lodge.

22/01911/FULHH Proposed replacement of part existing slate roof on indoor swimming pool, with solar panels. Current

#### **4. Relevant Policies / Government Guidance**

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL7 Archaeology

PPL9 Listed Buildings

#### **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.

#### **5. Officer Appraisal (including Site Description and Proposal)**

##### **Site Description**

The application site lies within the parish of Alresford. The site is situated 2km to the south-west of Alresford and to the immediate north of Alresford Creek, which flows westwards into the River Colne. The site also lies 450m to the west of Ford Lane, which runs southwards from the village of Alresford to Alresford Creek.

The wider site comprises an irregularly shaped plot of land, which covers an area of approximately 1.6 hectares. It lies to the immediate south of the residential garden surrounding Alresford Lodge, which incorporates a pond along the site's northern boundary. To the south of the site lies a small section of Alresford Creek, whilst to the site's south-west lies an embankment formed by a former swing bridge and railway line. To the west and east of the site lies undeveloped agricultural land. A west to east aligned public footpath runs across the centre of the site.

The northern section of the site comprises a single agricultural field, which is currently laid to grass and bordered by a mixture of hedgerows and wire fences. In contrast, the southern section of the site consists of saltings associated with Alresford Creek, which comprise mud and rough vegetation that are likely to flood during high tides. The small southern extension of the site comprises an existing landing stage, which is of wood construction and is derelict.

### Proposal

The proposals are for the demolition of the existing landing stage on site, and the construction of a new fixed jetty of size 33m x 1m plus a 4m x 2m floating pontoon at its end, intended for private use only and to be located on the tidal estuary of the Tenpenny Brook (itself forming part of the far larger tidal estuary of the River Colne).

The landing stage would be finished hardwood and treated pine softwood. The walkway at the end would consist of aluminium framing, stainless handrails and hardwood floor boarding.

### Assessment

#### Visual Impacts

Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of design, which responds positively to local character and context.

The proposed landing stage would replace an existing derelict structure and represents a water compatible development that would not appear out of place in this location. The replacement structure would be of a similar size and scale to the original landing stage currently in situ.

Moreover, there are jetties and other water compatible paraphernalia in the vicinity and the timber finishes proposed would ensure the development respects the local context.

As a consequence the development would not appear incongruous in this location and would not result in any material harm to the undeveloped coastal character.

#### Heritage

In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), special regard must be paid to the desirability of preserving listed buildings potentially affected by the proposal, or their settings or any features of special architectural or historic interest which they may possess. Following Paragraph 193 of the NPPF, great weight should be given to the conservation of these heritage assets.

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 Framework should be applied dependent on the level of harm caused.

The proposal site is within the domestic curtilage of Grade II Listed Alresford Lodge. Due to the nature of the development and the degree of separation from the listed property the proposals are considered to preserve the special interest of the listed building, in line with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and those elements of its setting that make a positive contribution to the identified heritage asset(s) (or which better reveal its significance).

Consequently, Place Services (Heritage) have no objections to the application.

## Archaeology

The final paragraph of Policy PPL7 states that proposals for new development which are not able to demonstrate that known or possible archaeological remains will be suitably protected from loss or harm, or have an appropriate level of recording, will not be permitted. NPPF Paragraph 205 states: Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

An archaeological desk-based assessment has been submitted with the application which identifies the potential for remains associated with the nearby Roman villa site near Alresford Lodge as well as earlier archaeological remains along the foreshore and within the inter-tidal zone.

In this respect Place Services (Archaeology) have confirmed the following;

These remains are likely to be deeply buried and obscured by the intertidal deposits. The existing landing stage is derelict and will need to be removed prior to the installation of the new landing stage. The works proposed are limited in extent and within an area that would be difficult to mitigate archaeologically therefore there will be no requirement for an archaeological investigation in this instance.

## Ecology/HRA

Local Plan Policy PPL4 requires that sites designated for their international, European and national importance to nature conservation will be protected from development likely to have an adverse effect on their integrity. The policy states that as a minimum there should be no significant impacts upon any protected species. The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application.

## Site Specific Impacts

Place Services (Ecology) have reviewed the submitted Preliminary Ecological Appraisal (Greenlight, June 2022) and the Shadow Habitat Regulations Assessment (Greenlight, June 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. They are satisfied that there is sufficient information to determine the application and that these documents provide sufficient ecological information to determine the application. No objections are therefore raised.

The mitigation measures identified in the Preliminary Ecological Appraisal (Greenlight, June 2022) and Shadow Habitats Regulations Assessment (Greenlight, June 2022) are to be secured by a condition. This is necessary to conserve and enhance protected and Priority species particularly Great Crested Newts, bats, wintering birds, nesting birds, and reptiles.

The submitted documents also recommend that a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) be produced and secured by condition of consent, to protect waterways from run-off and pollution.

Place Services also support the proposed reasonable biodiversity enhancements of two bat boxes, two bird boxes, one Barn Owl box, and species rich hedgerow planting which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures are to be secured via a Biodiversity Enhancement Strategy condition.

## Habitat Regulations Assessment

To ensure that the Council discharges it's duty as competent authority under the Habitats Regulations, it is necessary to secure mitigation to ensure that the development would not have a

significant effect on the sensitive features of the coastal European sites, through increased recreational pressure when considered 'in combination' with other plans and projects.

Para. 182 of the NPPF states that the presumption in favour of sustainable development does not apply where a project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

In this respect the Council has prepared a Habitat Regulations Assessment that concludes the following;

- The proposed development is likely to result in limited but potential negative effects to Essex Estuaries SAC and Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar through the loss of small quantities of land, impact on designated protected species, temporary loss of habitat connectivity and increased recreational pressure in the absence of any mitigation measures.
- Mitigation measures include the implementation of a Construction Environment Management Plan ("CEMP") and construction works to be conducted outside the wintering bird season, which lasts from November to March. If approved full details of a CEMP will be secured by condition.
- The proposed development is of a nature and scale that there are no other significant effects predicted on the integrity of the Natura 2000 network beyond those being mitigated for through this strategy.

Natural England have reviewed the HRA and supporting information confirm no objections to the development subject to the appropriate mitigation being secured by way of condition.

### Flood Risk

The application site lies in the tidal Flood Zone 3b, which is the area of high flood probability, as defined in Table 1 of the Planning Practice Guidance (PPG). The development proposal of a replacement jetty is considered water-compatible under Annex 3: Flood Vulnerability classification of the PPG. Therefore, to comply with national policy the application is required to pass the Sequential Test and be supported by a site specific Flood Risk Assessment (FRA).

Paragraphs 159 and 162 of the NPPF set out the basis for Sequential Tests stating: Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding'.

Paragraph: 019 of PPG confirms that: 'Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (area with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

Policy PPL 1 'Development and Flood Risk' of the Tendring District Local Plan 2013-2033 and Beyond (Section 2) re-iterates this approach to direct new development towards sites at the lowest risk of flooding unless they involve land specifically allocated for development and confirms that proposals must have regard to both the sequential test and exception test.

In this instance it is considered that the sequential test is passed as the development represents the replacement of an existing jetty serving a private residence. Moreover, as the development is water compatible and serves a private dwelling it can be reasonably concluded that there are no sequentially preferable, available sites that could accommodate the proposed development.

In terms of the FRA this must demonstrate that the development will be safe, without increasing flood risk elsewhere. The Environment Agency have reviewed the FRA and confirm that they have no objections to the development. They confirm that the finished design height of the jetty is proposed to be above the design 0.5% annual probability flood level including climate change of 5.80m AOD and therefore dry in this event. Furthermore, they confirm that the jetty will be designed to rise to above the extreme 0.1% (1 in 1000) annual probability flood level of 5.99m AOD and that as an emergency flood plan has been provided they have no objections on flood risk access safety grounds.

### Other Considerations

The Marine Management Organisation (MMO) have stated that any works within the Marine area may require a licence from themselves. They advise that it is down to the applicant to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark. This will be communicated to the applicant by way of an informative on the decision notice.

Alresford Parish Council raise no objection to the application and plans as submitted, however they state that the commentary as outlined in the letter of 5th December by the Environment Agency as a statutory consultee, should be applied as a condition of development with the consideration of rising sea levels due to climate change. The Parish Council were concerned over the enlargement of current rights of access through the removal of ancient hedgerow.

*Officer Response - Additional information has been submitted in respect of the flood levels and the specific design of the jetty that has satisfied the Environment Agency's requirements. The jetty will be accessed via an existing access to the private residence and the hedgerow will therefore be preserved.*

No further letters of representation have been received.

## **6. Recommendation**

Approval - Full

## **7. Conditions**

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved 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:

- ALJP 0A
- ALJP 10
- ALJP 10A
- ALJP 11

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

- 3 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenlight, June 2022) and Natural England Response ref: 413882 (Natural England, December 2022), 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).

- 4 Prior to the commencement of works a construction environmental management plan (CEMP: Biodiversity) to include mitigation measures stated in Natural England Response ref: 413882 (Natural England, December 2022), 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 including constraint for all construction work must be outside of the period for overwintering birds (November to March) to avoid disturbance to the birds which are interest features of the designated sites
- 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).

- 5 Prior to the commencement of 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 or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights 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 NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

## 8. **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 Applicant, 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.

### Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence.

### Environment Agency Informative

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne Tidal Reaches is designated a 'main river'

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