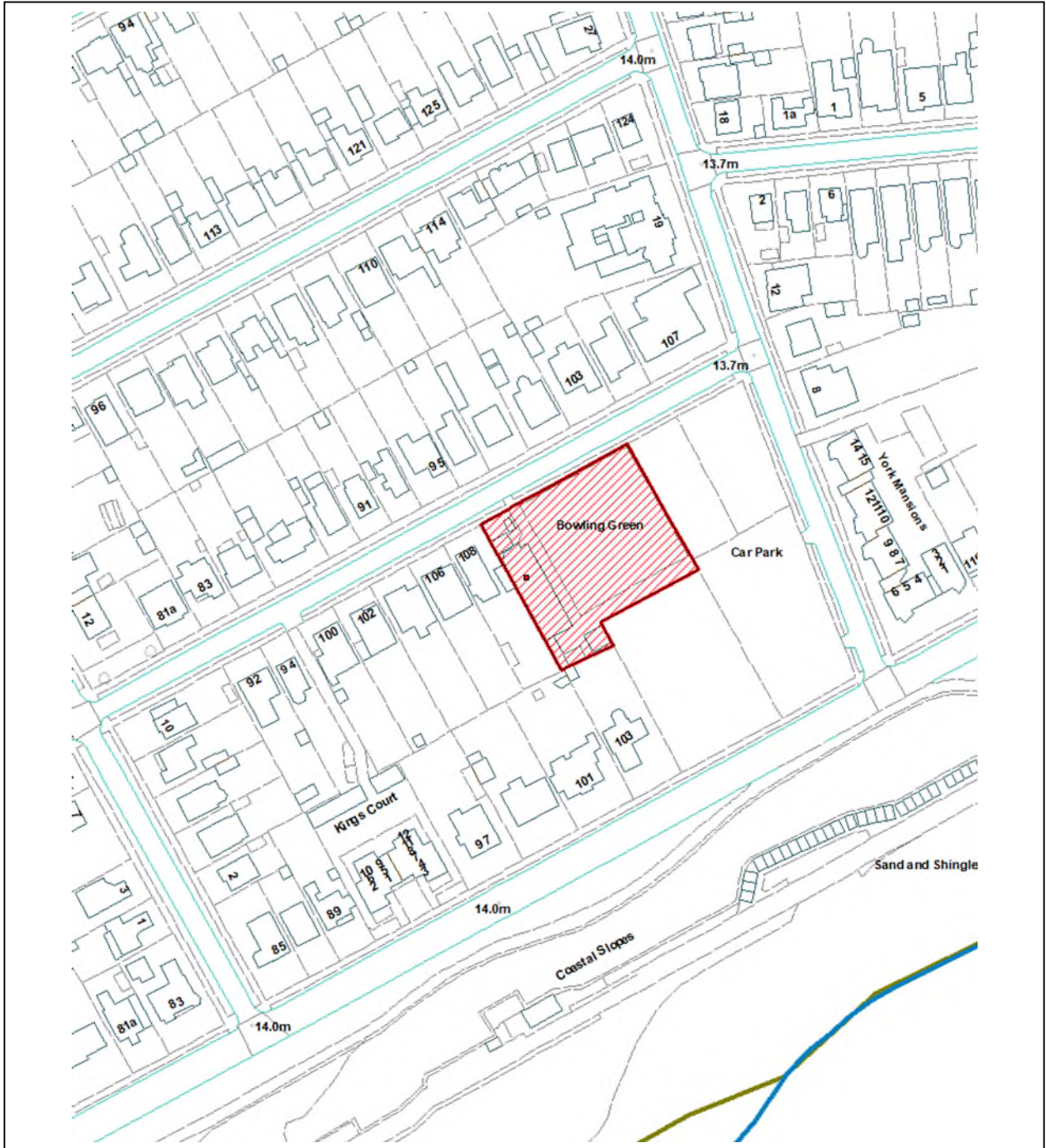


PLANNING COMMITTEE

13<sup>th</sup> April 2023

REPORT OF THE DIRECTOR OF PLANNING

**A.4 PLANNING APPLICATION – 23/00232/FUL – HOLLAND ON SEA BOWLS CLUB, MADEIRA ROAD, HOLLAND-ON-SEA CO15 5HZ**



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<b>Application:</b>	23/00232/FUL	<b>Expiry Date:</b>	1st May 2023
<b>Case Officer:</b>	Charlotte Cooper		
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Holland On Sea Bowls Club		
<b>Address:</b>	Holland On Sea Bowls Club, Madeira Road, Holland On Sea, CO15 5HZ		
<b>Development:</b>	Retention of erected fence.		

## 1. Executive Summary

- 1.1 The application is before the Planning Committee as Tendring District Council is the landowner.
- 1.2 This application seeks retrospective permission for the retention of an erected fence that requires planning permission as it is more than one metre in height adjacent to a highway,
- 1.3 The works are considered to result in minor changes to the visual characteristics of the area and have no significant harmful impact on visual amenities.

### **Recommendation:** Approval

- 1) That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and
- 2) The informative notes as may be deemed necessary.

## 2. Planning Policy

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP7 Place Shaping Principles

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

### **Status of the Local Plan**

- 2.2 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**

93/00451/FUL	(Plot 13 adjoining Bowling Green, Madeira Road, Holland on Sea) Mens changing room for bowling club for summer use only (1 May to 30 September)	Approved	25.05.1993
96/01609/FUL	(York Road Bowls Club, Madeira Road, Holland on Sea) Change of use of part of car park to provide extension of bowls club with temporary siting of portakabin for use as changing room	Approved	11.03.1997
98/01317/FUL	(Holland on Sea (York Road) Bowls Club, Madeira Road,) Extension to existing building and construction of additional gents changing room and bar store. Construct two 'All Weather' Bowling Rinks on section of car park	Approved	24.11.1998
23/00232/FUL	Retention of erected fence.	Current	

### **4. Consultations**

None

### **5. Representations**

- Clacton - no comments have been received.
- Three letters of support have been received from neighbouring residents.

### **6. Assessment**

#### **Site Description**

- 6.1 The application relates to Holland on Sea Bowls Club, located to the South of Madeira Road within the settlement development boundary of Clacton on Sea. The site is currently used as an outdoor bowls club, between the hours of 10am and 11pm. The surrounding area is largely comprised of residential dwellings with a car park located towards the south-east and the beach is located further south.
- 6.2 Officers note that before the fence the subject of this application, there was a conifer hedge that had some limited fencing (post and wire) set within the hedge. The removal of the hedge did not need any form of consent and its actual removal not a material consideration and is lawful. A fence of any design up to one metre high would be permitted development without the need of planning permission and this fall back position is a material consideration. This proposal for a fencing up to 2.3 metres is considered on its merits needing permission by reason of its height.

### **Description of Proposal**

- 6.3 One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Policies SP7 and SPL 3 of the Tendring District Local Plan 2013-2033 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties.
- 6.4 This application seeks retrospective permission for the retention of an erected fence. The fence measures 53.34 metres long with a maximum height of 2.3 metres along the boundary. The fence comprises of timber panels with a trellis section on top over a concrete gravel board and concrete slotted posts between panels.
- 6.5 The fence is sited along the northern boundary, facing Madeira Road, and is therefore visible to the public views of the streetscene. The fence is taller than the neighbouring front facing fences in the immediate proximity, however fences of a similar height can be seen in nearby streetscenes such as Cliff Road and Dulwich Road. The fence is not deemed to appear overly dominant or out of character in this location given the variation of the design that includes both solid and trellis elements. The fence is a good quality design and will weather and soften in appearance. It is therefore considered to be of an acceptable design and appearance.

### **Impact on Neighbouring Amenities**

- 6.6 The NPPF, Paragraph 17, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SPL 3 of the Tendring District Local Plan 2013-2033 states that all new development must meet practical requirements, it must be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. The development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.7 The proposed fence is located an adequate enough distance from the surrounding dwellings as to have no harmful impacts on the loss of light or on the loss of privacy. The proposal is therefore acceptable in terms of neighbouring / residential amenities.

## **7. Conclusion**

- 7.1 This application seeks retrospective permission for the erection of a fence. Officers consider that this fence is of an acceptable scale and design in relation to its locality and has no significant harmful impact on visual amenities to warrant refusal. Additionally, the fence has no

harmful impact on residential / neighbouring amenities. The application is therefore considered to comply with the aforementioned policies and is recommended for approval.

## **8. Recommendation**

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

### 8.2 Conditions and Reasons

#### 1. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below 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 subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Concrete Post / Gravel Board Details - Received 13.02.2023

Position of Fence - Received 13.02.2023

Proposed Fencing Elevations - Received 17.02.2023

Block Plan - Received 01.02.2023

Site Plan - Received 01.02.2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

#### NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### 8.3 Informatives

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### 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. While noting the ownership of the land, there are no known finance considerations for the Council in approving or refusal of this planning 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/>.