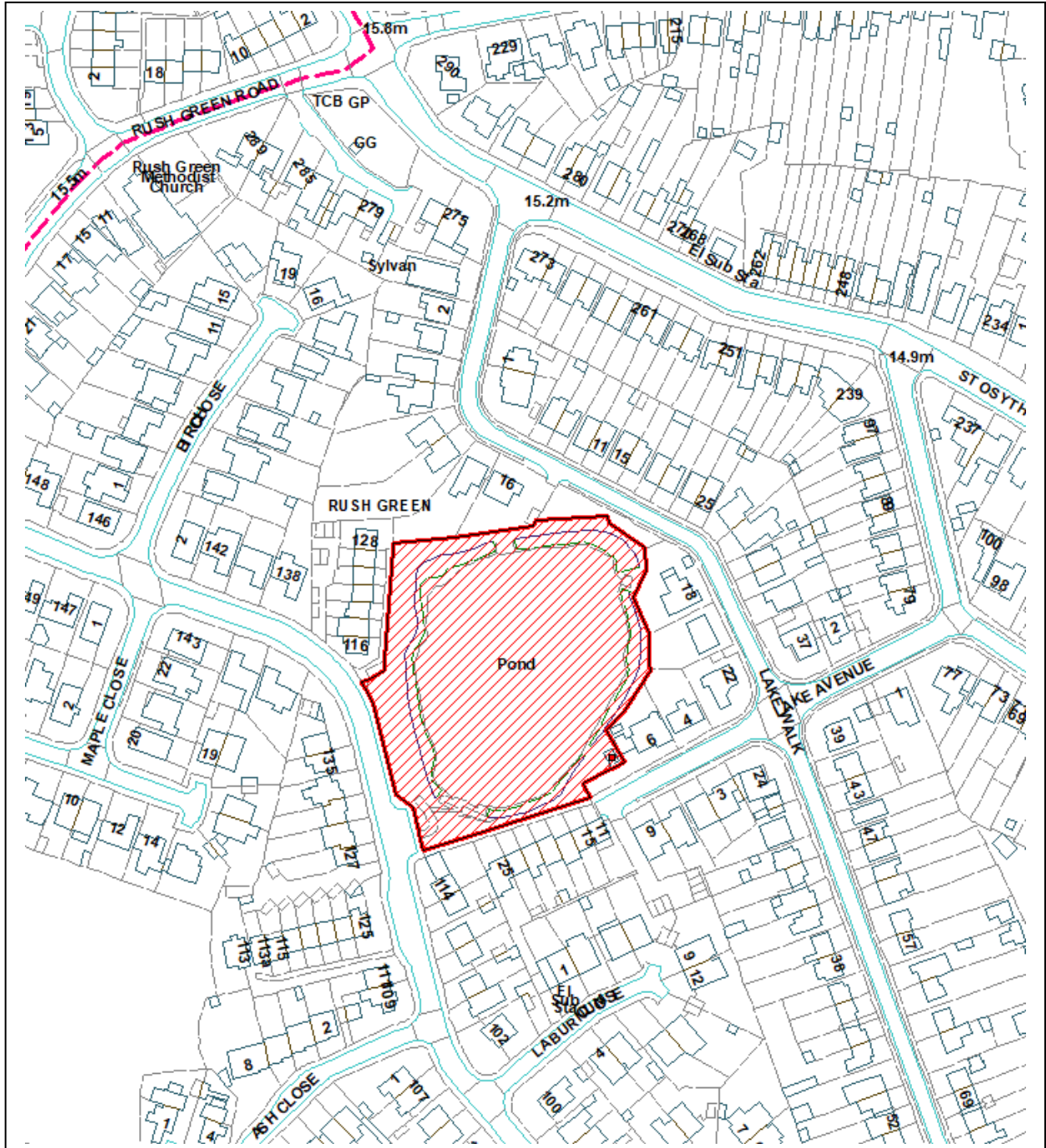


PLANNING COMMITTEE

6<sup>th</sup> JUNE 2023

REPORT OF THE DIRECTOR OF PLANNING

**A.2 PLANNING APPLICATION – 23/00318/FUL – 8 LAKE AVENUE, CLACTON-ON-SEA, ESSEX  
CO15 2AD**



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<b>Application:</b>	23/00318/FUL	<b>Expiry Date:</b>	5th May 2023
<b>Case Officer:</b>	Michael Pingram	<b>EOT Date:</b>	13 <sup>th</sup> June 2023
<b>Town/ Parish:</b>	Clacton-on-Sea		
<b>Applicant:</b>	Mr Keith Edwards - Lake View Angling Club		
<b>Address:</b>	8 Lake Avenue, Clacton-on-Sea, Essex CO15 2AD		
<b>Development:</b>	Proposed replacement gate and fence.		

## 1. **Executive Summary**

- 1.1 The application is before the Planning Committee as Tendring District Council are the landowners of the application site.
- 1.2 The proposal results in replacement fencing and gates along the perimeter of the lake, with the existing fencing and gates in a poor state of repair.
- 1.3 The works will result in a minor enhancement to the character and appearance of the area, and will also result in a neutral impact to existing neighbouring 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,
- 2) The informative notes as may be deemed necessary.

## 2. **Planning Policy**

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):

- SP1 Presumption in Favour of Sustainable Development
- 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  
SPL2 Settlement Development Boundaries  
SPL3 Sustainable Design  
PPL3 The Rural Landscape  
HP4 Safeguarded Local Greenspace

Local Planning Guidance:  
Essex Design Guide

### **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**

Having reviewed and taken into account there is none relevant to this application to report.

### **4. Consultations**

No consultees were consulted within the determination of this planning application.

### **5. Representations**

5.1 Clacton-on-Sea is non-parished, so no comments are required.

5.2 There have been no other letters of representation received.

### **6. Assessment**

#### Site Description

6.1 The application site, which measures 0.81 hectares, relates to the perimeter of the land that surrounds the lake that is adjacent to Lake Walk, within Clacton-on-Sea, and is operated by Lake View Angling Club.

6.2 The surrounding area is heavily urbanised, with residential development located to all sides of the lake. The town centre for Clacton-on-Sea is sited approximately 0.9 miles to the east.

6.3 The site falls within the Settlement Development Boundary for Clacton-on-Sea within the adopted Local Plan 2013-2033, and the land surrounding the lake is allocated as Safeguarded Open Space.

#### Description of Proposal

6.4 This application seeks planning permission for the replacement of the existing fencing to the perimeter of the site, which will measure 1.8 metres and painted green. This will replace the existing fencing, which measures 1.8 metres in height.

- 6.5 In addition, the works will involve a replacement gate which is sited to the south-western corner of the site adjacent to the north of 114 Coopers Lane

### Visual Impacts

- 6.6 Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.7 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.8 The works are sited along the perimeter of the lake within an area of land safeguarded as open space, and will therefore be highly visible from views along certain sections of Coopers Lane and Lake Walk. However, despite being prominent, the works are of a same size as that existing and simply look to enhance the existing fencing which is in a poor state of repair, so will bear no harmful visual impacts.
- 6.9 Similarly, the proposed replacement gates to the south-western corner of the site are highly prominent, being sited adjacent to Coopers Lane and an existing car parking area. However, the proposals are simply to replace the existing gates that are in a poor state, and the works will result in a small visual enhancement to the area.

### Impact to Neighbouring Amenities

- 6.10 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.11 The works proposed are minor in nature and seek to replace existing fencing and gates. Therefore, while there are neighbouring properties located within close proximity throughout the perimeter of the site, the works proposed will bear no harmful impacts to any existing amenities that would warrant Officers recommending a reason for refusal.

## **7. Conclusion**

- 7.1 The application proposes replacement fencing and gates to the perimeter of the lake as part of efforts to rejuvenate the site. Officers consider that while these works will be prominent and visible from certain views along Lake Walk and Coopers Lane, it will overall result in a small visual enhancement to the character and appearance of the area. In addition, there will be a neutral impact to neighbouring amenities. Accordingly, the application is considered to be policy compliant 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 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

#### NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

### 2 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.

The documents titled 'Location Plan', 'Block Plan' (amended version received 21st March 2023, and the untitled document received 10th March 2023 outlining the specifications of the proposed fencing and gates.

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 and it is considered that there are not any significant finance implications to report.

### **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/>.