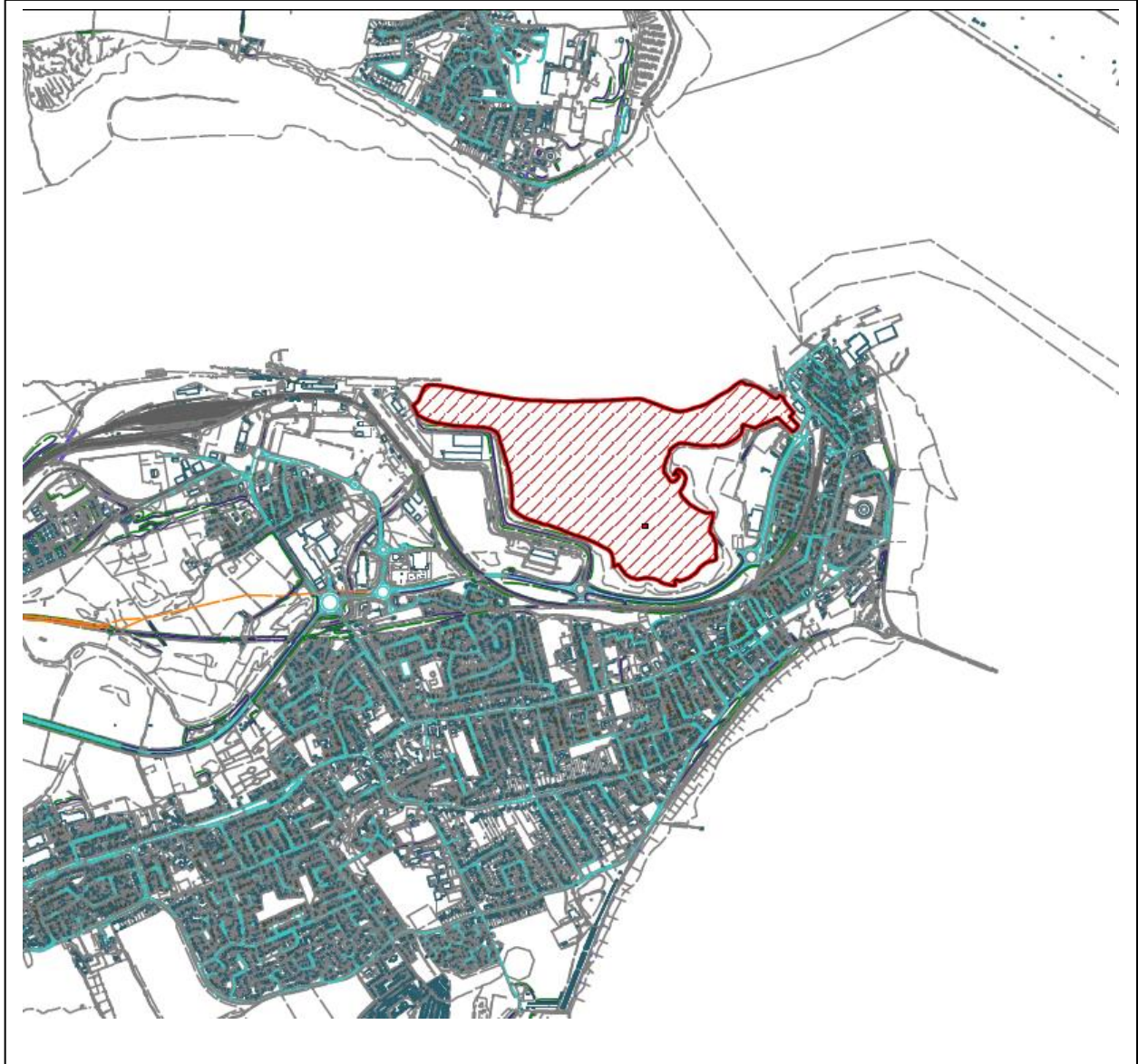


PLANNING COMMITTEE

14th May 2024

REPORT OF THE DIRECTOR OF PLANNING

**A.2 PLANNING APPLICATION – 23/01594/FUL – BATHSIDE BAY STOUR ROAD HARWICH
CO12 3HF**



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Application: 23/01594/FUL

Expiry Date: 7th February 2024

Case Officer: Jacob Jaarsma

EOT Date:

Town/ Parish: Harwich Town Council

Applicant: Harwich International Port Ltd

Address: Bathside Bay Stour Road Harwich CO12 3HF

Development: Temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

1. **Executive Summary**

- 1.1 The proposal seeks permission for the temporary use of the Bathside Bay Container Terminal (BBCT) platform, established under the BBCT permission, as a "Green Energy Hub" (GEH). The GEH is designed and clearly intended to increase, for a temporary period of 15 years, port capabilities to accommodate the rapidly growing offshore energy sector, aligning with the government's ambitions of installing 50 Giga Watt of offshore wind generating capacity by 2030.
- 1.2 Moreover, the proposed GEH will facilitate activities such as wind turbine storage, assembly, and servicing for a temporary period of up to 15 years. This temporary repurposing allows for the beneficial use of the BBCT development before the full capacity of the BBCT is required, which is projected to be between 2034 and 2042. Additionally, the proposal will contribute extensively to the advancement of Freeport East, playing a key role in establishing Bathside Bay as a key component of Freeport East's development, in accordance with relevant local and central government objectives for the region.
- 1.3 Insofar as the principle of development is concerned, for the most part the Local Plan is silent on offshore proposals for storage and distribution facilities for the off shore renewable energy sector, however the proposal is for a temporary change of use to take place on already approved infrastructure (the container terminal platform for the BBCT development. Having regard to the above, the NPPF, in paragraphs 157, 160 and 163 offer very strong support for proposals involving renewable and low carbon energy and associated infrastructure. Local Plan policy PPL10 states that proposals for renewable energy schemes will be considered having regard to their scale, impact (including cumulative impact) and the amount of energy which is to be generated.
- 1.4 The development has been purposefully designed to ensure its compatibility with the ongoing use of the platform for BBCT, without slowing or impacting on its progression. The activities associated with this GEH have been designed to be entirely reversible and the Applicant has demonstrated that carrying out the works required for the platform to operate as a temporary GEH would not prohibit the BBCT development from being fully completed after the GEH use ceases operation. In the event that planning permission is granted and upon cessation of the use, the site will be restored to its original state and details around these requirements can be

secured by condition stipulating the removal and reinstatement of the site in accordance with an approved decommissioning strategy, overseen by the local planning authority.

- 1.5 Your officers and the Essex County Council (ECC) ecology department consider that the proposal will not result in significant adverse effects on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar Site.
- 1.6 All other material planning considerations, including statutory and third-party concerns have been adequately addressed through the submission of further information, and where relevant will be covered in forthcoming submission of further information required under necessary, reasonable and relevant planning conditions (set out in section 9), or where not exclusively relevant to planning, or indeed where matters straddle planning and marine law, a separate application for a Marine Licence will cover those matters.
- 1.7 Accordingly, the proposal stands as acceptable in principle and is recommended for approval for the detailed reasons set out in this report.

Recommendation:

- 1) That the Head of Planning and Building Control 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

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

NPPF National Planning Policy Framework Dec 2023
National Planning Practice Guidance
National Policy Statement for Ports (2012)

Local Policy

Tendring District Shared Strategic Section 1 Local Plan (2021)

SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3 Spatial Strategy for North Essex
SP5 Employment
SP6 Infrastructure and Connectivity
SP7 Place Shaping Principles

Tendring District Section 2 Local Plan (2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP3 Green Infrastructure
HP5 Open Space, Sports and Recreation Facilities
PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, drainage and sewage
PPL7 Archaeology
PPL8 Conservation Areas
PPL9 Listed Buildings
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area.
At the time of writing there are no neighbourhood plan(s) in place for this area.

3. **Relevant Planning History** (the site and immediate surrounding area's planning history is extensive therefore only most recent and relevant planning history included)

03/00600/FUL	Reclamation of Bathside Bay and development to provide an operational container port; such works comprising:- Engineering and reclamation works including construction of a cofferdam and 1.4 km quay wharf; Construction of a concrete block paved container handling and stacking facility with 11 quayside cranes and 44 Rubber Tyre Gantry (RTG) cranes and associated workshop, customs control, Border Inspection Post and mess buildings, substations, fuelling station and mast and crane mounted lighting; Development of a 6.13 ha rail terminal with 3 rail gantry cranes and heavy duty container transfer	19.11.2003
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	area linked to existing rail facilities; Associated office building, logistics facility, car and HGV parking and driver facilities; Site works, including additional hardstanding, structural landscape and mounding, wetland buffer, access internal estate roads and perimeter fencing.		
03/00601/FUL	Development of a small boat harbour comprising; construction of a cofferdam wall and breakwater; reclamation; sheltered moorings for boats and wave wall; slipway and boat storage and tender compounds; public viewing and seating areas; Fisherman's store and fuel facility; and site works including access road, car parking and lighting, fencing and landscape mounds.		19.11.2003
03/00602/LBC	Partial demolition of the long berthing arm attached to the listed Train Ferry Gantry and associated remedial works.		19.11.2003
10/00202/FUL	Application for replacement planning permission (in respect of planning permission 03/00600/FUL) subject to a new time limit (to 2021) for the reclamation of Bathside Bay and development to provide an operational container port; comprising:- Engineering and reclamation works including construction of a cofferdam and 1400 metre quay wall; Construction of a concrete block paved container handling and stacking facility with 11 quayside cranes and 44 Rubber Tyre Gantry (RTG) cranes and associated workshop, customs control, Border Inspection Post and mess buildings, substations, fuelling station and mast and crane mounted lighting; Development of a 6.13 ha rail terminal with 3 rail gantry cranes and heavy duty container area linked to existing rail facilities; Associated office buildings, logistics facility, car and HGV parking and driver facilities; Site works, including additional hardstanding, structural landscape and mounding, wetland buffer, internal estate roads and	Approved	14.02.2013

	perimeter fencing.		
10/00203/FUL	Application for replacement planning permission (in respect of planning permission 03/00601/FUL) subject to a new time limit (to 2021) for a small boat harbour (sic) comprising; engineering and reclamation works including construction of a cofferdam wall and breakwater; sheltered moorings for boats and wave wall; slipway and boat storage and tender compounds; public viewing and seating areas; Fisherman's store and fuel facility; and site works including access road, car parking and lighting, fencing and landscape mounds.	Approved	14.02.2013
10/00204/LBC	Application for replacement listed building consent (in respect of listed building consent 03/00602/LBC) subject to a new time limit (to 2021) for the partial demolition of the long berthing arm attached to the listed Train Ferry Gantry and associated remedial works.	Approved	14.02.2013
21/01624/DISCON	Discharge of conditions 10, (Archaeological work) 11, (Construction management plan) 12, (Control of noise and vibration) 14, (Approved system for operating vehicles and plants) 15, (Percussive piling operation) 19, (Scheme of construction lighting) 21, (Construction dust management plan) 23, (Details of a wheel wash facility) 24, (Handling of materials) 26 (Scheme for concrete pouring) and 27 (Scheme for pollution control) of application 10/00203/FUL.	Current	28.03.2022
21/01625/DISCON	Discharge of conditions 3, (Scheme of phasing substantially) 12, (Archaeological work) 13, (Construction management plan) 14, (Control of noise and vibration) 16, (Reverse warning system) 17, (Percussive piling operation) 25, Scheme of construction lighting) 27, (Details of luminaries) 29, (Construction dust management plan) 30, (Cleaning and maintenance programme) 32, (Wheel wash facility) 33, (Handling of materials)	Current	28.03.2022

	34, (Ambient dust monitoring strategy) 36, (Flood evacuation plan) 38 (Scheme for concrete pouring and filling works) and 39 (Scheme for pollution control) of application 10/00202/FUL.		
21/01792/VOC	Variation of condition 20 of application 10/00203/FUL to not release HPUK from the requirement to secure the prior approval and installation of operational lighting, but to defer submission, approval and installation in respect of these details prior to any operation of the SBH. The application sets out the proposed amended wording for this condition.	Approved	28.03.2022
21/01810/VOC	Variation of conditions 2 (Approved Plans / Documents), 28 (Operational Lighting), 41 (Highways), 42 (Highways), 43 (Highways), 44 (Highways), 52 (Operational Air Quality Controls) and 53 (Operational Traffic Noise Attenuation) of application 10/00202/FUL in respect of the proposed Bathside Bay container terminal, Harwich.	Approved	28.03.2022
21/01816/DISCON	Discharge of Conditions 3 - (Landscaping Scheme) , 6 - (Design and External Appearance of Buildings, Structures and Hardstanding Areas), 8 - (Details of Fences, Walls, Gates and other Enclosures), 9 - (Foul and Surface Water Drainage), 25- (Gas Migration and Accumulation), 28 - (Translocation of reptiles, Invertebrates and Coastal Vegetation), 29 - (Vehicular Access from A120), 30 - (Scheme of Provision to be made for Disabled People to Gain Access to Public Areas) 32- (Scheme and Layout of Hard Standing for Vehicles)of application 10/00203/FUL.	Current	28.03.2022
23/01136/EIASCO	Request for an environmental impact assessment (EIA) scoping opinion under the Town And Country Planning (Environmental impact assessment) Regulations 2017 (EIA	EIA required	06.10.2023

Regulations) in respect of the temporary use of the Bathside Bay Container Terminal (BBCT) site for Green Energy Hub use.

4. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

ECC SuDS Consultee

01.12.2023

Thank you for consulting the SuDS team on the above application.

We consider that the proposals will have zero impact on the drainage of the site, and so do not wish to comment in this instance.

ECC Highways Dept

20.03.2024

No objection

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. No site visit was undertaken in conjunction with this planning application. It is noted that a comprehensive Transport Assessment has been submitted with this application. The proposal would permit, on a temporary basis, wind turbine storage, staging, marshalling and assembly, with components brought in by sea, assembled and then shipped out; activities that are undertaken at HIPL. Manufacturing to support green energy initiatives would not be permitted within this proposal. It is anticipated that the Green Energy Hub would be operational by 2026 and maintained whilst demand for the container terminal is growing and demand for offshore wind manufacturing, storage and handling is high. The junction assessments of the A120/Phoenix Road and St Nicholas roundabouts demonstrate that the overall impact of the development traffic upon the operation of these junctions would be negligible. Junction assessments of the Parkeston roundabout forecast it would be close to reaching capacity in future years as a result of cumulative developments. The introduction of the Green Energy Hub results in a very limited impact. Detailed review of the junction performance reveals that the approaches do not exceed capacity. The impact of the Green Energy Hub on the Parkeston roundabout would not be severe, considering these factors:

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

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period.

The Plan shall provide for:

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,

- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

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.

2. No development shall be permitted to commence on site until such time as the collision review study of the Parkeston roundabout to look at the emerging pattern of cycle collisions has been completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Any remedial measures required by the review study shall be carried out prior to occupation.

Reason: To provide adequate mitigation measures between the users of the roundabout and cyclists in the adjoining highway in the interest of highway safety, in accordance with policy DM1, DM14, and DM17.

3. The proposed development shall not be occupied until such time as details of a vehicle parking area including any parking spaces for the mobility impaired including areas of hard surfacing and marked out parking bays has been submitted to and approved in writing. The approved vehicle parking area and associated turning area shall be provided prior to occupation and retained in this form at all times 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.

4. The Details of cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards and submitted to and approved in writing by the Local Planning Authority prior to occupation. The approved facility shall be provided prior to occupation and shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8

5. Within three months of the new development opening, the applicant shall update their workplace travel plan for approval to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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:

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- Prior to any works taking place in the highway the developer should enter into an S278 legal agreement or Minor Works Authorisation with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All highway related details should be agreed with the Highway Authority.

Officer comment: *If recommended for approval the requests and safeguards sought above can be secured by conditions.*

Environmental Protection

16.02.2024

NOISE: With reference to the submitted Environmental Statement, dated October 2023, and with specific reference to the Noise Impact Assessment, section 7; I can confirm we are satisfied with the methodology used. The report identifies the potential for significant adverse impact from night-time operations to several noise sensitive receptors – depending on operation and wind direction. However, also highlighted within the report is the confirmation of agreement for an upper level of 55dB LAeq, 1hr relating to application 21/01810/VOC, and we can confirm the EP Team have no objection to this limit being imposed upon this proposal. We would however request, in line with previous comments relating to the 2021 VOC application, that should this application be approved, the applicant / agent submit a formal Operational Noise & Vibration Management and Monitoring Plan to the LPA prior to the commencement of any activities associated with this proposal.

REASON: to protect the amenity of nearby residential dwellings.

AIR QUALITY: Section 8 of the submitted Environmental Statement, dated October 2023, outlines the impact assessment methodology and conclusions; I can confirm the EP Team are satisfied with the methodology used and the predicted outcomes. The report identifies following areas will not have a recognised impact on local air quality –

- Operational Phase for NRMM
- Operational Phase for Road Traffic Emissions
- Cumulative Operational Impact

However, in respect of the Operational Phase for Vessell Emissions, the report identifies the need for implementation of some mitigation measures. Providing all measures outlined in section 8.6.4 (2) are implemented and adhered to throughout the operational phase, we will have no reason to object to this proposal in respect of Air Quality Impacts

Officer comment: *If recommended for approval the requests and safeguards sought above can be secured by conditions.*

National Landscape Team (former Suffolk Coast and Heaths Area of Outstanding Natural Beauty Team)

31.01.2024

Thank you for consulting the National Landscape team on the above planning application for the temporary use of the consented Bathside Bay Container Terminal (BBCT) at Harwich for use as Green Energy Hub (GEH). The temporary use is proposed for a 15 year period which will end when the Bathside Bay Container Terminal is operating at full capacity between 2034-2042.

The National Landscape team has reviewed the information provided to support the current planning application and have the following comments to make.

The application site lies within the setting to the Suffolk Coast & Heaths Area of Outstanding Natural Beauty (AONB). The boundary of the Suffolk Coast and Heaths AONB was extended in July 2020 to include along with other areas, the south bank of the River Stour in Tending and the River Stour itself.

On the Tending side of the Stour Estuary, the AONB boundary lies approximately 2.6km west

of Bathside Bay, while the boundary of the Suffolk Coast & Heaths AONB on the northern Suffolk side of the Stour Estuary lies approximately 1km opposite the application site. The link below shows the recent extension to the Suffolk Coast & Heaths AONB (pale pink areas)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/898108/suffolk-coast-heaths-aonb-designation-variation-order-map-2.pdf

It is the National Landscape team's understanding that the use of the Bathside Bay Container Terminal as a Green Energy Hug would involve Additional work to that already consented under applications 21/01810/VOC which replaced 10/00202/FUL and 21/01792/VOC which replaced 10/00203/FUL. This additional work includes:

- a) the creation of a berthing area alongside the heavy load out quay with rock mattresses at its base to allow jack-up vessels to berth at the new quay wall.
- b) A temporary piled berth platform, with associated mooring dolphins, required for the import of construction materials for completion of BBCT but also be used for unloading of green energy components.

It is proposed that these would be decommissioned and removed at the end of the Green Energy Hub operations.

It is not clear if the proposed additional works constitute a departure from the Bathside Bay Container Terminal approval and whether a separate planning approval is required for this

Lighting

Bathside Bay is sandwiched between the Parkeston Oil Refinery and Harwich International Port to the west and Harwich Town /Dovercourt to the east. Felixstowe Port lies opposite at the mouth of the River Orwell. The area is already heavily industrialised with high levels of light pollution and sky glow from the above facilities. It was acknowledged that the future development of Bathside Bay Container Terminal would further add to the light levels locally. Mitigation was proposed through conditions which were modified through a variation of Condition application 21/01810/VOC.

The National Landscape team did not raise any objections to the modifications to the Lighting Conditions proposed through this application. The Environmental Statement submitted with the current application broadly concludes that there will be no change to the lighting needs for the operation of the Green Energy Hub. No information has been provided or assessment made about the lighting needed during the construction and decommissioning stages of the project. As additional work is being proposed to deliver the Green Energy Hub, the lack of assessment of any additional lighting needed is an oversight. This information should be provided to enable the full lighting impacts and mitigation needed to be considered. As highlighted in previous responses lighting impacts are likely to be greatest in cross river views from the eastern end of the Shotley Peninsula.

The Environmental Statement confirms that the lighting conditions approved for the Bathside Bay Container Terminal will be applicable to the Green Energy Hub .

"This condition stated the following "Prior to the commencement of the development permitted by this planning permission a scheme for the provision and control of operational lighting must be installed in accordance with a scheme which has first been submitted to and approved by the Local Planning Authority."

Since the approval of the application 21/01810/VOC, a new Lighting Design Guide for the Suffolk & Essex Coast & Heaths National Landscape has been published. With regards lighting,

the National Landscape team recommend that the already agreed lighting conditions align with mitigation recommendations in this Lighting Design Guide in terms of light types, shielding, lumens, luminosity, colour. This will help ensure that the light spill impacts of any lighting scheme is mitigated as effectively as it can be within the setting to the AONB. It will also ensure that as the Relevant Authority, Tendring Council complies with the strengthened duty to further the statutory purpose underpinning AONB designation introduced through Section 245 of the Levelling Up and Regeneration Act on 26 December 2023.

The National Landscape Team shares similar concerns as Natural England that the construction and decommissioning elements of the Green Energy Hub proposal associated with the additional works (rock mattresses, mooring dolphins and temporary berth platform) have not been fully assessed in the Habitats Regulation Assessment. The Habitats Regulation Assessment should be updated to assess these elements of the scheme.

Officer comment (specifically in respect of content in paragraph directly above but also more other comments made by the National Landscape Team): *The point as to whether the decommissioning elements of the GEH have been fully assessed in the HRA is covered in the 'Landscaping/Ecology/Biodiversity/Habitats Regulations Assessment' section below, and indeed elsewhere in this report. The other comments and points made by the National Landscape Team will also be covered off in the 'Assessment Section' of the report below.*

Babergh & Mid Suffolk District Council

No response.

Marine Management Organisation 21.11.2023

Comments: Marine Licensing, Wildlife Licences and other permissions

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://www.gov.uk/guidance/make-a-marine-licence-application>

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 <http://www.legislation.gov.uk/ukxi/2017/571/contents/made> 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://www.gov.uk/guidance/make-a-marine-licence-application>

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://www.gov.uk/topic/planning-development/marine-licences>

Natural England

(latest comments dated 13.02.2024)

Natural England have reviewed the additional information supplied within your re-consultation email, Savills response letter on the portal 'Savills letter to TDC dated 17 Jan 2024', and at the meeting with Tendring District Council, Place Services, Savills, Royal Haskoning DHV, Hutchinson Ports UK Ltd and Natural England on 01 February 2024. As requested within your letter we have considered Savills formal response and other details available on the planning portal, along with your comments as part of our reply.

1. Change to the permanent platform and quay area design and
2. Construction and decommissioning of additional platform structures

Natural England note that Savills' do not agree with the suggestion that the design of the quay is different, the assertion being that the main elements of the platform are within the same footprint as the granted permission. Tendring District Council (TDC) confirm that there is no specific condition to facilitate agreement of a final platform/quay design and that the amendment or alteration to the design can be assessed as part of the change of use application. We understand that the applicants consider the additional structures attached to the quay, outside of the permitted development footprint, to fall into the marine environment and, therefore, do not require assessment as part of the change of use application.

It is clear from the original documentation and the additional information provided that this change of use application is only considering the physical changes that will occur on the platform for which permission has already been granted. We respect the decision makers role and responsibilities and appreciate the assurance that the changes to quay construction identified are being addressed through this new planning application. The environmental impacts of the altered quay construction and additional structures required should be fully assessed as part of the change of use planning application. We understand that a revised Environmental Statement (ES) and Habitat Regulations Assessment (HRA) will consider all of these factors and their impacts on the Stour and Orwell Estuaries designated features as part of the marine licence application, and that Natural England will be able to comment on these matters at that time.

We are aware that this project has a long history and is complex in nature, resulting in a less cohesive route through the planning system. However, Natural England strongly advocate an holistic approach to both planning and marine licence applications allowing both regulators to have a full view of the scope of projects and their potential impacts. We believe there is a risk when applications are divided up and factors impacting the environment are not considered as a whole. Multiple applications result in multiple HRAs and a potentially complex and confusing audit trail of environmental assessment. Thereby, potentially undermining nature conservation consideration, putting pressure on regulators to permit an activity because it has already gained other approvals, or leaving applicants with stranded assets.

If your authority are assured that all the necessary environmental consideration for the change of use planning application and associated amendments to design meet necessary planning system requirements, Natural England will comment on the new quay design and new structures as part of the Green Energy Hub (GEH) element of the Marine Management Organisation (MMO) licence application. Our advice provided for the marine licence application will be without prejudice to any advice given previously.

3. Vessel movements associated with the GEH operational phase

The details provided in Savills letter confirm that current Galloper Wind Farm Ltd vessel movements are included in the baseline calculations for the vessel movement assessments. Operational usage is considered difficult to estimate at this time but will be included in the full Navigation Risk Assessment as part of the marine licence. Natural England note that TDC request comments on a worst case scenario for vessel movements associated with a GEH operation.

As discussed during the meeting Natural England took an action to confirm the appropriate position for advice on GEH operational vessel movements particularly in regard to the Outer Thames Estuary (OTE) SPA. We can confirm that we are content that these will be considered through the Operations and Maintenance plans from the relevant Offshore Wind Farm and therefore assessment of impacts specifically for the OTE captured within the associated HRA. However, we expect to see full justification provided within the current HRA that outlines this so that it is clear where assessment lies. We advise that operational use of vessels within the Stour and Orwell estuary should continue to be assessed within the current HRA for the change of use application, as these vessels will pose a different level of disturbance for SPA birds within the estuary (i.e. smaller, faster vessels).

4. The need to consider IROPI for the change of use application

Natural England note that your authority consider IROPI is not necessarily applicable under planning for this application as it is not considered under the TDC development plan or the NPPF etc., as a material consideration or a matter of significance when considering this proposal. We also note that Savills reason that a granting of the change of use application will not prejudice Natural England's assessment of a case for overriding public interest which will

be presented as part of the marine licence application. On the basis that TDC are assured that an IROPI case does not need to be presented for the temporary use of Bathside Bay as a GEH, Natural England will, without prejudice to any advice given previously, comment on this matter during consultation on the MMO licencing phase. For any queries relating to the content of this letter please contact me using the details provided below

Officers comment: *The above various and specific points will be addressed in the main body of the report below (under the 'Assessment' heading)*

Highways England

22.02.2024

Referring to the consultation on a planning application dated 20 November 2023 referenced above, in the vicinity of the A120 that forms part of the Strategic Road Network (SRN), and National Highways' previous response dated 19 January 2024, notice is hereby given that National Highways' formal recommendation is that we:

- a) offer no objection (see reasons at Annex A);

Annex A National Highways' assessment of the proposed development National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard 23/01594/FUL and has been prepared by Mark Norman.

Reasons

This Planning Application seeks to approve the temporary use of the Bathside Bay container terminal, permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission), as a Green Energy Hub.

Following National Highways' response dated 19 January 2024, in which we recommended that the application not be approved pending the outcome of further analysis, we have met with the Applicant and its transport consultants and further information was provided. Further analysis of this information has satisfied National Highways that the increase in traffic flows as a result of the proposed Green Energy Hub development should not have a significant impact on the SRN and its junctions within the vicinity of the proposed development, or further afield.

Therefore, National Highways' view is that the holding recommendation can now be removed, and the planning application can be approved.

Tree & Landscape Officer

08.12.2023

No objection.

In terms of soft landscaping details of the indicative planting shown on drawing no. 34/7548 entitled Existing Site Plan ' Green Energy Hub should be secured by a condition attached to

any planning permission that may be granted.

Essex County Council Ecology

04.03.2024

No objection subject to securing ecological mitigation and biodiversity enhancements

We have reviewed the additional documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority species, and identification of proportionate mitigation.

We note Natural England's re-consultation comments (ref 459956, dated 13 February 2024) with confirmation that Green Energy Hub (GEH) operational vessel movements particularly in regard to the Outer Thames Estuary SPA will be considered through the Operations and Maintenance plans from the relevant Offshore Wind Farm and therefore assessment of impacts specifically for that SPA captured within the associated HRA not alongside this temporary change of use application.

We are satisfied that the shadow HRA screening of likely significant effects, without mitigation in place and beyond reasonable scientific doubt, has ruled out the need for further assessment at Stage 2 Appropriate Assessment from the development either alone or in combination with other plans and projects. Based on our understanding and review of other plans and projects that could potentially act in-combination, we agree that there are no other plans and projects for which likely significant effect can be excluded (alone) i.e. judged to have insignificant effects which may combine to result in a likely significant effect in combination. We therefore highlight that there is no need to include the IROPI report for 21/01810/VOC dated March 2022 (BBCT Permission) as large projects such as this are ring fenced and effectively removed from an in-combination assessment. Consequently, there are no other plans and projects that themselves have insignificant effects and which need to be considered in-combination with the (non-significant) effect of the GEH change of use.

We are satisfied that there is sufficient ecological information available for determination of this planning application as the physical works necessary for the GEH use are already authorised under planning permission 10/00202/FUL as amended by 21/01810/VOC.

We agree with the applicant's shadow HRA conclusion that, the project will avoid a Likely Significant Effect on the Habitats sites listed in this assessment, either alone or in combination with other plan and projects. Having considered the HRA screening assessment of the implications of the project for the sites in view of those sites' conservation objectives and having consulted Natural England and fully considered any representation received where necessary, the authority may should it decide to do so, agree to the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

We accept that Natural England, as the key adviser to the Marine Management Organisation, will consider the need for appropriate assessment, consideration of alternatives and IROPI, as part of the separate marine licence application for the change of use of Bathside Bay as a GEH.

The mitigation measures identified in the Environmental Statement (Royal Haskoning DHV, October 2023) for the Temporary GEH, Bathside Bay 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 those recorded in the locality.

We advise that reasonable biodiversity enhancements, which have been recommended to

secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (December 2023) should be secured for the GEH alongside the consent for the Bathside Bay Container Terminal. 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.

We can advise on which conditions attached to 21/01810/VOC should also be secured for any consent for the GEH. Please contact me with any queries.

Arch. Liaison Off, Essex Police

29.11.2023

Essex Police Designing Out Crime Office (DOCO) thank you for the opportunity to comment on planning application 23/01594/FUL.

We recognise that developments where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its operators and clients. Perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a successful location.

An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete.

The published documents have been studied; at this time, they do not provide sufficient detail to allow an informed decision pursuant to the National Planning Policy Framework however it is essential to consider crime as a material consideration throughout the life cycle of the proposed Protecting and serving Essex scheme. Effective physical security is best achieved by multilayering different measures, as any adversary will attempt to identify and exploit perceived weaknesses. For example, fencing provision as well as having an acoustic element and being aesthetically pleasing, should have an appropriate security rating that is commensurate to the risk (attributed by the crime profile). The appropriate level of lighting and lighting source is important, as is a fit for purpose CCTV system that should align with a response capability.

To comment further on the proposal, we would require further details of the proposed operation of the site and planned security provisions.

Essex Police would recommend that the developers consider the foreseeability of crime during the construction phase of this development and maximise on the opportunity to design crime issues out. During the planning of the construction process, Essex Police would welcome early engagement with the developer to discuss this notion. See the Secured by Design Construction Site Security Guide 2021: www.securedbydesign.com/guidance/design-guides In support of the above and to ensure that risk commensurate measures are delivered, we would strongly recommend that the developer liaises with the Designing out Crime Team at Essex Police and would invite them to contact us via designingoutcrime@essex.police.uk

Environment Agency

10.01.2024

Thank you for your consultation on this proposal. We have reviewed the submitted documents and can confirm that we have no objection to the proposal on the basis that the temporary change of use does not necessitate changes to the design of the permanent platform and quay area that fall to be considered under this application.

If there are changes to the design which require assessment as part of the consideration of this application, we request to be reconsulted. We are aware that Natural England have raised concerns in this respect.

Specifically regarding flood risk, we have reviewed the flood risk statement submitted within the applicant's Environmental Statement and currently have no comments further to the original permission. Similarly, in terms of ecology having reviewed the submitted documents we currently have no objection to these proposals, provided any and all recommendations by Natural England in relation to the nearby designated sites are followed, and subject to the above.

Essex Wildlife Trust

No response available on file

Royal Society For The Protection of Birds (RSPB) 29.01.2024

Thank you for consulting the Royal Society for the Protection of Birds (RSPB) on the above application by Harwich International Port Application (HIPL) for temporary planning permission for the use of Bathside Bay Container Terminal (BBCT) as a Green Energy Hub (GEH). The temporary use is proposed for a period of time up to 15 years, to end when BBCT has reached full capacity (some time between 2034 and 2042). The RSPB is grateful for the extension of time granted to respond to the consultation.

Below the RSPB sets out its observations on the GEH application and its relationship with the proposed marine licence application (the ML application) by HIPL for the reclamation and permanent loss of the Bathside Bay component of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site (the SPA/Ramsar site) in order to construct the platform upon which the GEH and BBCT would operate.

Green Energy Hub application

From reading the GEH application documents, it is the RSPB's understanding that the following assumptions have been made:

- Consent to carry out the tidal works to reclaim and cause the permanent loss of Bathside Bay (for the purposes of the GEH and BBCT, as well as the Small Boat Harbour) will be sought under a separate ML application to the Marine Management Organisation (MMO)(see section 1.3, paragraphs 3-5 of the Environmental Statement (ES)). The ML application will also address relevant aspects of the compensatory habitat proposed at Little Oakley;
- The ML application will set out the full derogation case for GEH and BBCT under the Conservation of Habitats and Species Regulations 2017 (as amended) in respect of the permanent loss of Bathside Bay from the SPA/Ramsar site (see below);
- Assuming the ML application is consented, the intertidal habitats at Bathside Bay will be reclaimed and the port platform will be constructed under the ML and the existing planning permission for BBCT (e.g. see para 3.7.2 of applicant's Planning Statement);
- As a consequence, the GEH planning application has restricted its focus to the impacts of the operation of the GEH and some additional physical works to facilitate the temporary use of the platform for the GEH;
- The Applicant has carried out a screening assessment for a Habitats Regulations Assessment in respect of the GEH's operation and the additional physical works and concluded there would be no likely significant effect, noting that the SPA/Ramsar site would already have been lost to the construction of the port platform. Therefore, no appropriate assessment has been undertaken in respect of the current planning application;

- Prior to first use of the GEH, an approved Transition Plan will be required in respect of the phasing in of the BBCT and the phasing out of the GEH no later than 15 years after the date of any GEH planning consent (para 3.7.4 of the Planning Statement).

The GEH application places reliance on the construction of the port platform under the terms of the proposed ML application. The ML application will set out the applicant's derogation case justifying the permanent loss of Bathside Bay for the purposes of both the GEH and the BBCT. This will necessarily represent a new derogation case for the permanent loss of Bathside Bay from within the SPA/Ramsar site, combining arguments relating to the container port and offshore wind sectors. This is because it proposes a change of use from container port only to a combination of Lift-On Lift-Off (LoLo) containers and offshore wind turbine storage, staging, marshalling and assembly.

Some of these arguments are touched on briefly in the Planning Statement accompanying the GEH application but will require fuller justification as part of the ML application.

Ultimately, the ability of the GEH planning proposal to proceed will rest on whether the port platform is built and therefore whether the applicant succeeds in making out its derogation case for the revised uses of the platform to the MMO.

Relationship with the ML application

We make some initial observations below in respect of the derogation case that the applicant would need to set out in respect of its ML application and the use of the resulting port platform for:

- Temporary use (for up to 15 years, ending sometime between 2034-2042) for offshore wind turbine storage, staging, marshalling and assembly (ES, section 2.1, para 3); and
- Eventual use as a LoLo container terminal, with full operation proposed by 2042 at the latest.

We envisage the applicant will set out a detailed case for each use of the platform in respect of the "alternative solutions" and "imperative reasons of overriding public interest" (IROPI) tests under Regulation 64 of the Habitats Regulations.

Below we set out some initial observations in respect of the information we would expect to be included in the derogation case in respect of the alternative solutions and IROPI tests:

- **Container ports:**

- projected supply and demand for LoLo containers in the UK over the next 30 years and the level of confidence in the projections;
- projected contribution of BBCT to meet the projected demand over time; and
- how the BBCT contribution will ramp up to meet that projected demand as the port reaches full operational capacity (in line with the proposed Transition Plan, see para 3.7.4 of the Planning Statement).

- **Offshore wind.** The list of potential projects requiring the functions proposed at GEH can be reasonably foreseen, as their supply is based on The Crown Estate's offshore wind leasing rounds. Therefore, in addition to the information contained in the Planning Statement it would be helpful to understand:

- The projected supply and demand for the GEH functions between the anticipated completion of the port platform (based on the timeline suggested in the GEH application, we have assumed a target date for its availability to the GEH of c.2027) and the full operation of the LoLo container port (latest end date of 2042);
- Details on precisely which offshore wind markets the Green Energy Hub proposes to contribute to, separating out Fixed Wind Turbine Generators (WTGs) and/or Floating WTGs;
- How GEH contributes to the existing or consented UK port capacity for the same

functions (e.g. Green Port Hull (operational), Tyne (in development) and Able Marine Energy Park (consented). Source: Renewable UK (2023) *Floating Offshore Wind Taskforce: Industry Roadmap 2040*). This is relevant to the alternative solutions test;

- **Fixed wind:** description of the addressable market and which offshore wind projects the GEH anticipates it would be available to support c.f. rival ports such as Green Port Hull etc. This is a predictable overall market, comprising a limited number of projects in the North Sea from Round 3, Project Extensions and Round 4 that are, as yet, unbuilt or unconsented. Several Round 3 and Project

Extensions currently predict they will be fully operational by 2030 i.e. within the first few years of potential operation of the proposed GEH;

o **Floating wind:** it is unclear whether the GEH intends to address this market. The Crown Estate is currently focusing its Floating Wind leasing rounds in the Celtic Sea and has initiated Round 5.

Round 5: leases likely to be issued by autumn 2025, with a requirement for consent and construction within 10 years of any lease being awarded (see TCE (2023) *Information Memorandum: Celtic Sea Floating Offshore Wind. Leasing Round 5*). Each bidder must nominate preferred integration ports during the bidding process in 2025. Does the GEH aim to compete for this market?

Future rounds: as yet there is no firm information on future floating wind rounds by The Crown Estate, but their geographic focus remains the Celtic Sea. Therefore, it is not yet possible to predict what the scale of the market will be or its relevance to the GEH given it is predicted to cease operation some time between 2034 and 2042.

We trust these comments and observations are helpful to the Council. Please do not hesitate to contact us if you wish to discuss them further.

Essex County Council Archaeology

05.12.2023

The above application is for the Temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

The proposed GEH use would operate using the platform approved under the BBCT consent. The impact on archaeology from the development of the port platform was assessed during the applications for the BBCT consent. Details of a programme of archaeological work to the site is controlled under condition 12 of permission ref: 21/01810/VOC and the proposed works to facilitate the GEH use shall be assessed under an application for a marine license.. There is no objection to the application.

Essex County Council Heritage

14.12.2023

The application is for temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission 21/01810/VOC dated March 2022 (BBCT Permission) for wind turbine storage, staging, marshalling and assembly including the import and export, handling and deployment of concrete substructures, moorings, anchors and array cables and other related offshore green

energy paraphernalia followed by decommissioning to enable continuation of container terminal use under the BBCT Permission.

The proposal site is within the setting of Harwich and Dovercourt Conservation Areas. Most of the scheduled monuments and listed buildings within the Conservation Areas are not likely to be affected by the proposal due to their distance from the site and the presence of intervening buildings. The following heritage assets are also likely to be affected by the proposal:

- Schedule Monument Napoleonic coastal battery at Bath Side, 400m north west of Tower Hill;
- Grade II Listed Harwich Train Ferry Berth;
- Non-designated heritage asset Dovercourt Station.

The impact of the development of this site has already been assessed under planning permission 10/00202/FUL dated 14 February 2013 as varied by permission dated March 2022 for the construction of Bathside Bay Container Terminal.

The currently proposal for the temporary use of Bathside Bay for turbine storage, staging, marshalling and assembly is not dissimilar from the development approved under the extant permission and is overall not considered to result in an additional harm to the significance of the identified heritage assets due to the change of their wider setting.

Should any additional structure or building be required, details and specifications of the proposal should be submitted for approval to the Local Planning Authority prior construction.

Economic Growth Team

29.11.2023

The Economic Growth Team strongly support and endorse this application which seeks the temporary use of Bathside Bay container terminal permitted under planning permission 10/00202/FUL

The site occupies a key location in close proximity to strategic transport infrastructure, making the site more attractive than employment sites in Clacton or Harwich. It is not thought that the development of this site would have any negative impact on employment sites or existing commercial activity in the neighbouring settlements of Brightlingsea or Manningtree.

In conclusion the Council's Economic Growth Team commend this application for approval.

ECC Growth and Development Team

24.01.2024

In support:

ECC is a key infrastructure and service provider and is responsible for delivering and commissioning a wide range of strategic and local infrastructure requirements and public services to support and shape inclusive and healthy communities. ECC's role covers a wide range of statutory services including (but not limited to) highways and transportation, education, early years and childcare, minerals, waste, surface water management, passenger transport, adult social care, and public health. We also advise on, and have a material interest in a number of other related placemaking matters to assist in the determination of planning applications.

The Growth and Development team at ECC is responsible for coordinating single corporate responses for major development schemes and Nationally Significant Infrastructure Projects to ensure that the Council's interests and responsibilities to deliver quality and sufficient Growth and Development County Hall Chelmsford Essex CM1 1QH Our Ref: Bathside Bay You Ref: 23/01594/FUL Date: 24 January 2024 infrastructure in the right places and at the right time are

effectively communicated, and to support good place-making and place-keeping for existing and future communities.

Given our statutory responsibilities, we are keen to ensure that the potential impact of this proposal on ECC's service areas is comprehensively considered by our relevant officers, and appropriate mitigation measures communicated to, and secured by (either through financial contributions or physical provision) Tendring District Council, wherever possible, as the Local Planning Authority.

The nature and scope of ECC's consultation response to planning application 23/01594/FUL addresses the following service areas.

- Economic Growth and Skills
- Flood Risk and Drainage
- Environment and Green Infrastructure
- Climate and Planning Unit (CaPU)

Please note that ECC Highway comments will be submitted separately, and this letter should be read in conjunction with the ECC Highways response which will be received by Tendring District Council as part of the current consultation on the proposal.

Summary

ECC has reviewed the proposal and accompanying documents and is generally in support of development which would promote the growth of a 'Green Energy Hub' across the Freeport East site. ECC is keen to ensure that the proposed development is a catalyst to unlocking the Bathside Bay development and encouraging the delivery of a wider Green Energy Hub, with a variety of training and employment opportunities and therefore recommend further consideration of:

- Community Benefits
- Flexibility and adaptability of the use to support a variety of Green Energy uses
- Skills and Training Opportunities
- Local Procurement
- Environmental Enhancement
- Sustainable Construction

These matters are addressed in turn in this letter.

Site Background and Relevant History

The planning application site has a long history in seeking to unlock the economic potential of Bathside Bay and the surrounding areas. The Bay itself, was originally granted planning permission to be infilled and used as a container terminal in March 2006 (Application Ref. 03/00600/FUL). This application was subsequently extended by Application Ref. 10/00202/FUL and varied by Application Ref. 21/01810/VOC. Works to commence the development have now been undertaken on the site and application 21/01810/VOC remains an active application.

Current Application

Bathside Bay, known as 'Freeport East Harwich', forms part of 'Freeport East', a partnership between Hutchison Ports, Harwich Haven Authority, New Anglia LEP, South East LEP, Essex County Council, Suffolk County Council, East Suffolk Council, Tendring District, Babergh and Mid Suffolk Councils and the Haven Gateway Partnership.

The current application is for a temporary change of use from the currently approved container terminal to a temporary use as a Green Energy Hub for storage, staging, marshalling and

assembly of offshore wind turbine sails for a period of up to 15 years from the date of consent. ECC understands that the proposed change of use would act as a catalyst to progressing development on the site and to support the Government's ambition to install 50GW of offshore wind generating capacity by 2030 and ECC fully support the principle of this development.

Proposed Works

ECC understands that the work proposed to facilitate the temporary use would be light touch, comprising:

- Creation of a berthing area.
- Heavy load out quay with rock mattresses at its base to allow vessels to berth at the new quay wall.
- Installation of a piled temporary platform and mooring dolphins dredged to -10mCD.
- Works to be removed at the end of the temporary permission.

We understand that these works would be undertaken in accordance with the information approved via application ref. 21/01810/VOC and a Marine License Application, however, in the spirit of the application, seeking to promote Green Energy, we would welcome opportunities to promote clean construction, which should be secured via a Construction Management Plan.

Economic Development

ECC recognises that there have been challenges with developing Bathside Bay over the last decade and consequently very much welcome this application, which will support the progression of the Bathside Bay development and the wider Free Port East.

ECC would like to express their full support for this application which is an excellent opportunity to utilise the site to ensure it does not remain vacant and to encourage new inward investment in Green Energy, in this case, from the offshore wind energy sector, which will unlock employment opportunities.

ECC would welcome the chance to work with the developer to ensure that the proposed change of use acts as a catalyst to the local clean growth proposition, net zero ambitions and the number of high value, high paid jobs the area can create.

In progressing the application, we would welcome Tendring District Council taking a flexible approach to the proposed use, in order to support, encourage and maximise opportunities for the site and surrounds to grow as a green energy hub, not limiting the site to offshore wind sail storage, assembly and distribution but opening it up to wider opportunities for innovation and research and development. For example, ECC is aware that there is a strong demand for hydrogen production and supply chain companies, and we would welcome opportunities for such occupiers to utilise the site and surroundings.

Skills

ECC sees Freeport East and all associated applications as an excellent opportunity to improve Essex and offer a wide variety of job opportunities during construction and beyond and consequently, ECC welcomes the socio-economic benefits this development will bring to the area as outlined in the Planning Statement. To complement our work via the Freeport East arrangements, we are keen to work with the applicant from the outset to establish a clear strategy around maximising skills and employment opportunities for local residents during the construction phase, as well as the operational phase which mentions a 150 strong workforce.

In this regard, ECC is aware that the original consent on the site incorporates a requirement for the development to promote local jobs and training and ECC would like to expand upon this in

the current application. Owing to the shorter-term nature of the proposed use, ECC are keen to fully understand how this could impact on employment and training. We would welcome further discussions with the developer to explore how an appropriate training and skills programme could be put in place to ensure that courses are commenced and completed within the timescales for construction and operation, so that local people can benefit from jobs in the green energy sector beyond the 15 years proposed by the application.

ECC's strategic aim is to ensure that major developers work with us to bring about skills clusters that support the matching of workers to in-demand career opportunities for specific projects but also across the region. We therefore encourage and expect all projects and developments to use a Skills and Employment Plan to set out their strategy for supporting this joint ambition. Unless the intention is to include it within the Freeport East Workforce Development Plan, we encourage the applicant to use best practice guidance and templates provided by CITB which, as a minimum, refer to commitments, clear plans and targets for:

1. Working within the existing skills and employment partnership(s) and maximising the number of local skills and job opportunities on offer
2. Recruiting through Jobcentre Plus and other local employment vehicles
3. Advertising jobs via the Essex Opportunities portal or any other portal as advised by ECC
4. Setting targets and monitoring systems for
 - a. New jobs created
 - b. Work trials and interview guarantees
 - c. Pre-employment training
 - d. Apprenticeships and Vocational training (NVQ)
 - e. Work experience (14-16 years, 16-19 years and 19+ years) and engagement with T Levels
 - f. School, college and university site visits and career events – via the Tendring Future Skills Programme
 - g. Construction Skills Certification Scheme (CSCS) cards
 - h. Supervisor training, and Leadership and management training
 - i. Support with transport, childcare and work equipment
 - j. In-house training schemes

Procurement

ECC recognises the limitations in the current change of use application to influence the construction of the site, which will progress under the Bathside Bay application but in the interests of circular economy principles, sustainability and to enhance local economic growth generally, ECC would support discussions in relation to local procurement opportunities for construction.

Community Benefits

It is noted that paragraph 2.3.3 of the Planning Statement suggests that the proposed temporary change of use would deliver benefits for the Local Community, however, these are not specified within the planning application. Essex County Council is keen to ensure that developments deliver community benefits to balance the impacts of supporting the delivery of infrastructure in the national interest and would welcome discussions between Tendring and the developer to explore the opportunity to support the community, particularly through projects which promote sustainability and climate action. Such benefits should be discussed and negotiated alongside the planning application and secured by the relevant legal mechanism.

Flood Risk and Drainage

We understand that the majority of the works would be undertaken using application 21/01810/VOC, which incorporates SUDs and flood risk measures and are outside of the scope of this application. We support the applicant's comment that the proposed use for

storage of Offshore Wind Turbine Sails would be a water compatible development and therefore, within a suitable location. On the basis of the information provided in the application, the LLFA raise no objections to the proposed development. Environment and Green Infrastructure ECC recognises that in this case, the development will utilise the Bathside Bay consent for the majority of the construction works. However, we would support Tendring District Council in discussing opportunities for environmental enhancement on the site, with the introduction of new flora and fauna, being mindful that significant progress in policy has been made in relation to biodiversity net gain since the original consent was granted.

Climate and Planning Unit (CaPU)

The proposed use is considered to contribute towards the delivery of sustainable development, through the promotion of Offshore Wind, which sits within the wider aspirations for the area, for a Green Energy Hub.

In the context of sustainability and built environment, it is difficult to make climate and planning commentary on the Bathside Bay as a change of use application to a Green Energy Hub without considering the construction of Bathside Bay, the original application (container terminal platform constructed under permission ref: 21/01810/VOC) which will result in a significant embodied carbon impact.

The proposal for the temporary Green Energy Hub use is, in principle, welcomed as the site will become a facility that distributes and assembles elements for wind turbines, towards creating renewable energy, indirectly contributing to a decreased use of fossil fuels.

As outlined in the application form the bay is being created by (next to) the convergence of the River Stour and River Orwell meeting the North Sea, an intervention to reclaim land creating a significantly increased site area of 101.94ha (see images below for comparison). It should be noted 'The built environment makes up 25 per cent of the UK's total greenhouse gas emissions and the UK's Nationally Determined Contribution...committing the UK to achieve a 68% reduction in the UK's carbon emissions by 2030...1' It is therefore a recommendation that a whole-life carbon assessment be carried out for the site to measure and control the amount of carbon within the materials both required to reclaim land for the bay within the site and the material required make it fit for use as a green energy hub (outlined below) should, in order to determine and intently reduce where possible the sites carbon emissions, especially if it has not been done as part of any previous application.

As a minimum the whole life carbon impact assessment should measure, the light touch Green Energy temporary use interventions, as outlined in the planning statement to include:

- Creation of a berthing area
- Heavy load out quay with rock mattresses at its base to allow vessels to berth at the new quay wall.
- Installation of a piled temporary platform and mooring dolphins dredged to -10mCD
- Works to be removed at the end of the temporary permission.

It is noted a separate application for a Marine Licence will be submitted to the Marine Management Organisation (MMO) for the rock mattresses, piled temporary platform and the mooring dolphins therefore material commentary on these items does not seem intended within this application but it would be useful to make a combined view of the carbon impact of all elements required within one application.

As part of the Green Energy Hub decommissioning, to enable container terminal use of the site, an assessment of the materials which would no longer be required should be made, considering the circular economy of materials and how materials are intended to be accounted for, reused and how the reduction of waste materials will be minimised. This might be included

in the Green Energy Hub's decommissioning report which will be submitted to and approved in writing by the Local Planning Authority that demonstrates that all works associated with the temporary Green Energy Hub that were approved under this permission have been removed.

In Bathside Bay's first iteration as a Green Energy hub the reclaimed bay site will be used for holding wind turbine parts, the associated paraphernalia, 150 employees working on the site and result in 240 annual vessel (presumably ship) movements. Beyond embodied energy of materials, the impact of the increased use of the reclaimed land is a major consideration in terms of sustainability.

In terms of operational carbon impact, the consideration for the types of machinery the Green Energy Hub will be required to both construct the hub and during its use (the description provided in the Planning Statement as self-propelled modular transportation vehicle, heavy lift crawler cranes of 1000t lift capacity and 500-750t mobile crane, reach stacker and forklift truck) and their energy usage should be outlined, with a recommendation for fossil fuel free electric only machinery on the site to reduce the air and water pollution of the increased use of the site.

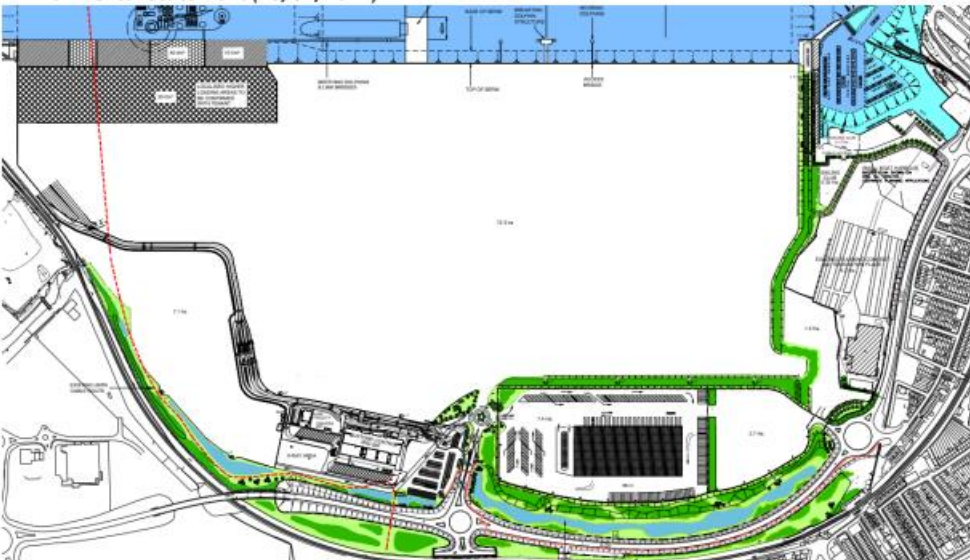
It should be outlined how the increased vessel movement will impact the environment and energy use and if any reduction can be made for the environmental impact of these.

The proposed Green Energy Hub Use would provide jobs for 150 personnel during its operational phase and support the area's role as a global trade hub and would provide a location to receive, assemble and ship out wind turbines - it should also be assessed on what the increased vehicle movement will be due to the new use of the site from how it is currently used. Encouraging low carbon, fossil fuel free transport for all site personnel is recommended.

Existing Site area prior to commencement of reclamation of land extracted by officer from Google Maps (15/01/2024)



Proposed site including reclamation of Bathside Bay extracted by officer from applicant's Environmental Statement (15/01/2024)



Conclusion

ECC is a key infrastructure and service provider with statutory responsibilities to ensure that the right infrastructure is delivered in the right place at the right time to support new and existing communities. ECC has carefully considered the information submitted in support of the change of use application and is generally in support of development which would promote the growth of a 'Green Energy Hub' across the Freeport East site. ECC is keen to ensure that the proposed development is a catalyst to unlocking the Bathside Bay development and encouraging the delivery of a wider Green Energy Hub, with a variety of training and employment opportunities and therefore recommend further consideration of:

- Community Benefits
- Flexibility and adaptability of the use to support a variety of Green Energy uses
- Skills and Training Opportunities
- Local Procurement
- Environmental Enhancement
- Sustainable Construction

5. **Representations**

- 5.1 The publication of the application in the local press, dissemination through site notices displayed at strategic points across the extensive site, and distribution of individual letters to neighbouring properties, no individual objections were raised.
- 5.2 A total of four letters received, three of which were from companies within the offshore wind industry. Additionally, Freeport East expressed its support in a separate letter. In summary, these letters highlight the following points:
- The development of offshore wind is crucial for decarbonizing the UK's power system and achieving net zero emissions by 2050.
 - They argue that there is a significant shortage of port capacity nationally, hindering sector growth. Bathside Bay's attributes make it an ideal location for an offshore wind manufacturing or installation port.
 - They argue that this development not only addresses environmental concerns but also offers significant economic opportunities.
 - It is argued that Bathside Bay's development is integral to the Freeport East initiative, promising substantial economic transformation for the local area. Moreover, they state that the proposal aligns with efforts to bolster the UK's offshore wind sector.
 - The project not only attracts private sector investment but also contributes to broader regional economic and social goals.
 - Embracing climate action can yield substantial economic benefits, and initiatives like Freeport East are positioned to lead in decarbonization efforts while supporting ambitious businesses. The Bathside Bay proposals are central to these objectives, reinforcing the area's commitment to climate action and economic development.
- 5.3 Harwich Town Council have not responded to this application as part of the consultation.

6. **Assessment**

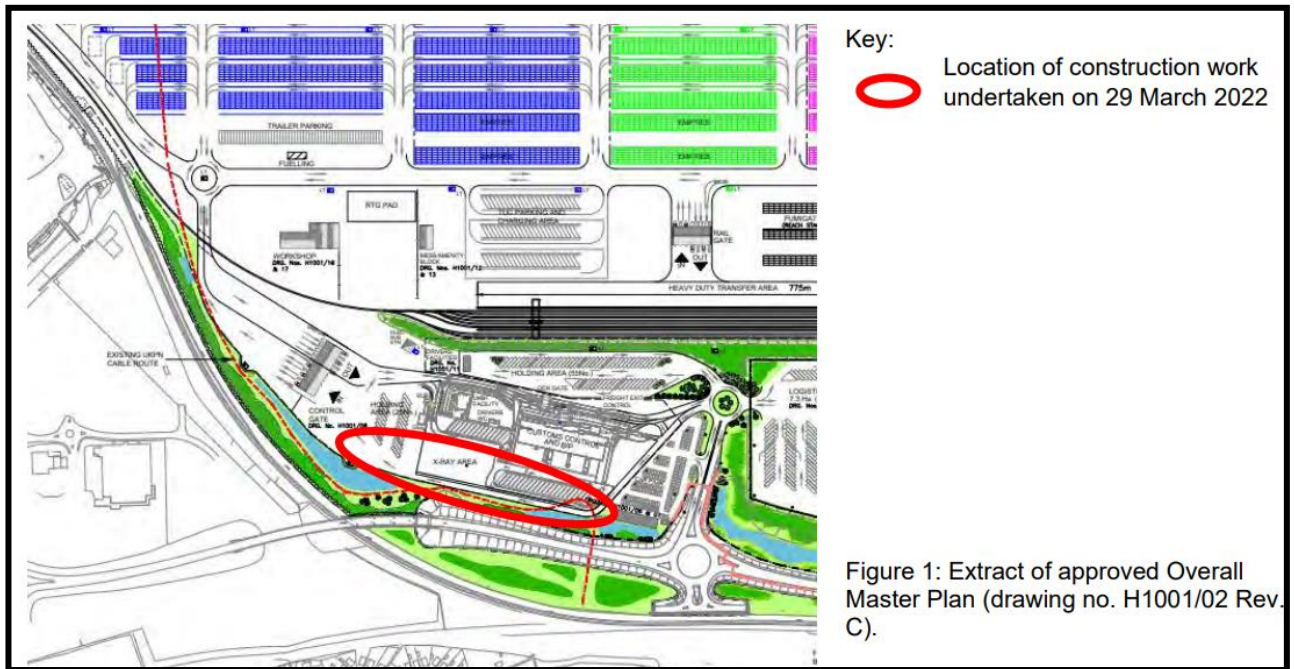
Site Context

- 6.1 The application site at Bathside Bay is located between Harwich International Port, Parkeston, to the west and Harwich to the east, on the south side of the estuary of the River Stour, on the opposite bank from the small settlement of Shotley Gate, which is itself separated from the Port of Felixstowe to the east by the estuary of the River Orwell. The 65ha site comprises primarily a large bay which forms part of the irregular edge to the southern shore of the Stour Estuary. From Parkeston in the west to Harwich in the east, the site is about 1.6km wide. From the open water of the Stour Estuary in the north, the distance across the site to the A120 road and the land fringing Dovercourt and Bathside Bay in the south is about 1km. The site forms part of the Stour and Orwell Estuaries Special Protection Areas and the Stour and Orwell Estuaries Ramsar site
- 6.2 The proposed new terminal was assessed by the Secretary of State to have a capacity of 2.1 million TEU's (Twenty-foot Equivalent Units) when fully developed and operational. As a reference point the Port of Felixstowe, which is Britain's biggest and busiest container port, and one of the largest in Europe currently has capacity to handle more than 4million TEUs per annum.

Key planning history

- 6.3 The BBCT has a significant planning history, primarily tied to planning permissions granted nearly 20 years ago (under TDC application ref nrs 03/00600/FUL & 10/00202/FUL). Despite delays due to various factors including the global financial crisis and the construction of

competing ports, progress has been ongoing. More Recently, Tendring District Council approved a Section 73 application (under application reference 21/01810/VOC) to vary conditions of a previous planning permission, allowing for a phased start to development by 29 March 2022. Works have begun on site in the form of site-clearance, preparation and pegging out of the southern road in the location identified on the extract of the approved Bathside Bay Master Plan included below. These works comprise material operations during preparation of the site and in the laying out and construction of a road. The applicants have explained that construction works will continue over the coming months.



In more detail these works comprised:

- Installation of markers for the location of reptile fencing'
- Groundwork to install the concrete bases, post powers and communications ducting for noise and air quality monitoring equipment; and
- Pegging out of the southern road, x-ray area and truck hardstanding area.

6.4 The LPA is satisfied that the above evidence establishes the BBCT development as an existing and ongoing project (an LPA officer site visit was also conducted back in March 2022 confirming the above). Therefore, very significant can be given to this fallback position. Moreover the BBCT development is part of a medium term plan to meet what is expected to be continuing demand for deep-water container port capacity in the UK.

Proposal

6.5 As briefly set out above a temporary planning permission (up to 15 years) is sought for the use of the already approved Bathside Bay container terminal for the storage, staging, marshalling, and assembly of wind turbines. This includes the import, export, handling, and deployment of concrete substructures, moorings, anchors, array cables, and other associated offshore green energy infrastructure. Following the operational phase, provisions are made within the application for decommissioning activities, facilitating the transition back to, and to enable the continuation of the for the container terminal use under the BBCT Permission.

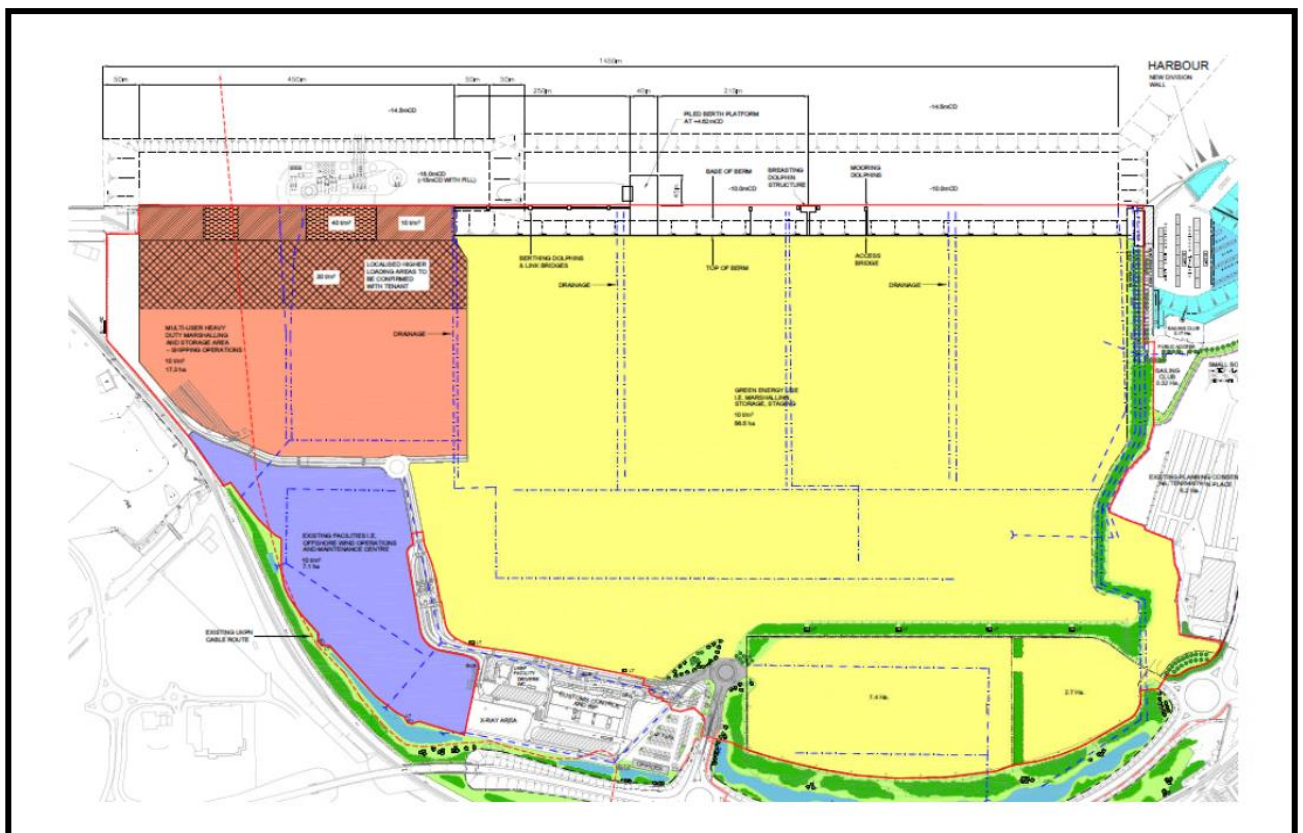
6.6 The applicant has explained that the GEH use can take place on the BBTC platform with only limited additional requirements that can be summarised as follows:

- A slightly different berthing area (compared to the BBCT approval) is being constructed in the north western zone of the approved container platform – essentially next to the heavy load out quay (as approved under the BBCT permission). This construction will allow for jack-up vessels to dock at the new quay wall; and
- A temporary platform, supported by piles is being installed next to the above mentioned berthing area, along with mooring dolphins (which are structures used to secure vessels associated with the proposed GEH use).

6.7 It is worth pointing out that the above works will exclusively take place offshore and not on land, and therefore planning permission is not required for these works, instead these elements will be covered in a separate Marine License application.

6.8 The plan below shows the overall extent of the container terminal approved under the BBCT permission (combined these are the areas inside the red line, including the yellow, orange/red and blue/purple areas). The three bullet points directly below expands on the activities that will take place in these 3 coloured areas, as part of this temporary GEH application:

1. The primary activities envisaged entail establishing a dedicated import and export shipping operations zone tailored for multi-user heavy-duty marshalling and storage, as depicted by the delineated orange/red coloured area;
2. A designated zone for the marshalling and storage of wind turbine blades and associated components, including concrete substructures, moorings, anchors, and array cables is outlined in yellow;
3. The area in blue/purple be allocated for offshore wind operations and maintenance purposes.



Principle of Development

- 6.9 The application site and its proposed development present a unique aspect: the majority of the site and the intended temporary use are situated on water rather than on land. Essentially, the proposal is for a temporary storage and distribution facility to operate from and on already approved infrastructure, namely a container terminal. The GEH use is tailored for the offshore renewable energy sector, particularly wind farms.
- 6.10 Consequently, considering this distinctiveness and adopting a strictly literal interpretation of the development proposal, for the most part the Local Plan is silent (insofar as its policies are concerned) on development proposals of this nature, not least due to its uniqueness.
- 6.11 Despite this, it is essential to note that even though most of the site is located in the waters of Bathside Bay, for the purposes of assessing the principle of development and from a planning perspective, and whilst having regard to the planning history, the site effectively forms part of the Settlement Development Boundary of Harwich and Dovercourt, or at the very least, it is located partially within, and partially directly adjacent to the SDB.
- 6.12 Policy SP3 'Spatial Strategy for North Essex' of the Section 1 Plan states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. The policy states development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
- 6.13 Relevant policies SPL1 and SLP2 (as a combination) set out TDC's settlement hierarchy (SPL1), and relevant part of policy SPL2 states outside of Settlement Development Boundaries, these policies state that (summarised) the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.14 Policy SP5 'Employment' of the Section 1 Plan states that a strong, sustainable and diverse economy will be promoted across North Essex with the local planning authorities pursuing a flexible approach to economic sectors showing growth potential across the Plan period.
- 6.15 Also, of relevance is policy PPL10 which states that proposals for renewable energy schemes will be considered having regard to their scale, impact (including cumulative impact) and the amount of energy which is to be generated.
- 6.16 As alluded to above, the vast majority of the site is located in the Stour Estuary, however the site directly adjacent to employment sites, allocated employment sites, a priority area for regeneration and indeed in a very sustainable location directly adjacent to the settlement development boundary for Harwich and Dovercourt which excellent road and rail infrastructure close or very close to the site.
- 6.17 The proposal will make use of infrastructure that was approved under the BBTC permission, which has already begun implementation. Therefore, this permission holds very significant weight as an existing approval.
- 6.18 The proposed temporary GEH use is considered to align with the overarching objectives in the Local Plan of maximising economic and sustainability opportunities within the remit of the Freeport East designation of the area. The proposed temporary use as a GEH is also considered to be in accordance with the aim of promoting the expansion of the offshore renewable energy sector and channelling investment towards Harwich. Moreover, despite the temporary nature of the proposed use the development will nevertheless be a catalyst as an employment generator, set to generate in the region of 150 jobs during its operational phase and in a strong nod to policy SP5 as outlined above.

6.19 Ultimately, insofar as the principle of development is concerned, no policy conflict can be identified with the key and most important policies (for establishing the principle of development) as set out above. In reaching this conclusion, very significant weight is given to the fact that the BBCT permission has now been implemented on site.

Other Considerations (under Principle of Development)

6.20 Imperative Reasons of Overriding public interest (IROPI):

6.21 BBCT development was granted planning permission on the basis of Imperative Reasons of Overriding public interest (IROPI), essentially meaning that the BBCT development holds such compelling and essential positive factors that outweigh any potential negative impacts or objections, as set out in the original planning decision for the BBCT approval.

6.22 In more detail, insofar as it is relevant to this application, the BBCT proposal, at the time, underwent rigorous scrutiny, including an Environmental Impact Assessment (EIA) and a Habitats Regulations Assessment (HRA). Following the HRA, it was determined that the BBCT application could potentially compromise the integrity of the Stour and Orwell Estuaries SPA and Ramsar site. However, planning permission was granted due to compelling reasons of IROPI. It is officers view that this BBCT planning approval is considered to be a material planning consideration of very significant weight due to the fact that that development work has commenced on the BBCT. Despite the thorough assessments conducted as part of the assessment of the BBCT application, due to the scale and nature of the proposed GEH it is deemed necessary to undertake an EIA and HRA for the GEH application.

6.23 In light of the above, and in officers opinion, insofar as the assessment of this application is concerned, the BBCT permission is considered to be extant due to the fact that works on the BBCT have commenced. Both the EIA and HRA components are included within the Environmental Statement (ES) submitted with this application. The EIA concludes that the GEH use generates no significant changes in the effects of the development compared to the BBCT scheme. The HRA, on the other hand, focuses on the operational activity and comparisons of those between the container terminal use and the temporary GEH use. Moreover, the proposed GEH use is temporary in nature (and this can be controlled by condition) and therefore, for these combined reasons the LPAs view is that there is no need to consider whether IROPI is applicable for this application.

Environmental Statement

6.24 The Environmental Statement (ES) prepared by the Applicant and accompanying this planning application covers areas such as:

Commercial and Recreational Navigation:

- The Green Energy Hub falls within the jurisdiction of the Harwich Haven Authority.
- Harwich Haven is a busy commercial shipping area, with significant vessel calls annually.
- Recreational yachting and charter angling are important activities in the Stour and Orwell estuaries and these activities will not be impeded by the proposal.
- The Green Energy Hub's traffic impact is acceptable and within existing activity levels.

Landscape and Visual considerations:

- The proposed hub is not within the designated National Landscape ((albeit in its setting) and not inside a Conservation Area.
- There are several scheduled monuments and listed buildings in the vicinity.
- The hub's development is not expected to significantly change the effects predicted for the Bathside Bay Container Terminal.

Traffic and Transportation:

- Traffic impact assessments show negligible effects due to the low traffic generated by the hub.
- Severance, amenity, and highway geometry impacts are scoped out.
- Road safety and driver delay impacts are minimal.

Noise:

- Existing noise sources include road, air, and rail traffic, and activities at Harwich International Port.
- Predicted noise impacts from the hub are generally low, with potential significant impacts in specific wind conditions.
- Operational noise limits will be enforced, similar to those set for the Bathside Bay Container Terminal.

Air Quality:

- Local air quality objectives are currently met.
- Predicted road traffic emissions from the hub are not expected to exceed air quality objectives.
- Continuous emissions from the hub are unlikely to significantly impact local air quality.
- Vessel movements from the hub are expected to have a minor impact on air quality.

Cumulative Effects Assessment:

- Other nearby projects have been reviewed for potential cumulative effects but are not expected to significantly impact the hub.

Habitats Regulations Assessment:

- A screening assessment concludes that significant effects on important wetland bird populations are not expected.

Flood Risk Statement:

- The flood risk assessment and emergency plan developed for the Bathside Bay Container Terminal will also apply to the Green Energy Hub, with updates as needed.

6.25 Overall, the Green Energy Hub's development is expected to have manageable impacts on navigation, landscape, traffic, noise, air quality, and flood risk, with no significant cumulative effects or significant impacts on protected habitats. The ES and Supplementary ES have been fully considered as part of the detailed consideration of this planning application.

Landscape and impact of the proposal on the character and appearance of the area

6.26 The first bullet of relevant Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.

6.27 Paragraph 7.3.3 of the Section 2 Local Plan states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.

6.28 Policy PPL3 is criteria based, and states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to:

- a) *estuaries, rivers and undeveloped coast;*
- b) *skylines and prominent views including ridge-tops and plateau edges;*
- c) *traditional buildings and settlement settings;*
- d) *native hedgerows, trees and woodlands;*
- e) *protected lanes, other rural lanes, bridleways and footpaths; and*
- f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*

6.29 The NPPF, paragraph 182 states great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

6.30 It is important to stress that, due to the fact that the site is located in the Stour Estuary, the actual physical works required to facilitate the proposed GEH use are comparatively minimal as summarised below:

- A berthing area that will be constructed next to the heavy load out quay (as approved under the BBCT permission), with a base made of rock mattressing, to allow jack-up vessels to dock at the new quay wall; and
- A temporary platform, supported by piles along with mooring dolphins to secure vessels associated with the proposed GEH use.

6.31 These elements, due to the fact they are located offshore, are to be assessed under an application for a marine license, which is a separate process to the planning process.

Turning to the assessment of the application in terms of its impact on the character and appearance of the area, including the setting of the nearby National Landscape, the temporary introduction of the GEH use would result in very minor changes to the industrial infrastructure at Bathside Bay in comparison to the BBCT approval. Moreover, the lighting specifications and the configuration of port operation buildings would remain unchanged with the implementation of the GEH. It is therefore considered that the proposed GEH use would have a negligible impact on the local landscape character, the nearby national landscape, other vistas, and skylines when compared with the extant BBCT development.

Heritage and Design

6.32 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 Framework, great weight should be given to the conservation of these heritage assets.

6.33 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.

- 6.34 Framework Paragraph 205 states 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. The more important the asset, the greater the weight should be - irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account - 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.
- 6.35 Framework paragraph 208 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.36 Framework Paragraph 209 states 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.
- 6.37 The site falls within the setting of the Harwich and Dovercourt Conservation Areas. The following heritage assets are likely to be impacted by the proposed temporary change of use:
- The Napoleonic coastal battery at Bathside, located 400 meters northwest of Tower Hill, this is a scheduled monument.
 - The Harwich Train Ferry Berth which is a Grade II listed structure.
 - Dovercourt Station which is a non-designated heritage asset.
- 6.38 Assessment of the BBCT development has previously been conducted under planning permission 10/00202/FUL, granted on February 14, 2013, and varied in March 2022 for the construction of the Bathside Bay Container Terminal.
- 6.39 The current proposal for temporary turbine storage, staging, marshalling, and assembly at Bathside Bay bears close resemblance to the approved development under the existing permission. Overall, it is considered that the development will not result in any additional harm to the significance of the identified heritage assets compared to the approved BBCT development, but despite that fallback which is a significant material consideration, the proposal does cause less than substantial harm. Furthermore a second significant consideration is the temporary nature of the proposed change of use and the entirely reversible nature of both the visual impacts of the use, and indeed the minor additional works required to facilitate the use. **While harm is caused, the temporary nature of harm in setting terms is also given weight in the planning balance. The extensive public benefits from this scheme for the environment and economic growth are considered to outweigh the identified heritage harm of the development. It is also considered that the scheme is not more harmful than the previous approval and this scheme proposal is also temporary.**

Highway safety/impact on road network/parking considerations

Policy Overview

- 6.40 The ninth bullet of Policy SP7 requires all new development includes parking facilities that are well integrated as part of the overall design. Policy CP1 states that proposals for new

development must be sustainable in terms of transport and accessibility, and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport. Policy CP2 'Improving the Transport Network' states proposals will not be granted planning permission if there would be unacceptable impacts on highway safety, or the residual cumulative impact on the road network would be severe. The impacts are assessed under the TA and summarised below. Part B of Policy SPL3, criterion a), requires that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to a severe traffic impact. Amongst other things, criterion f) requires adequate vehicle and cycle parking.

6.41 Paragraph 108 of the Framework states that transport issues should be considered from the earliest stages of development proposals, amongst other things, so that:

- the potential impacts of development on transport networks can be addressed;
- opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- opportunities to promote walking, cycling and public transport use are identified and pursued;
- the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

6.42 Paragraph 109 states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making

6.43 Paragraph 115 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

6.44 Within this context, Paragraph 116 states that applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.45 Paragraph 117 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported

by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

General Highway capacity and road safety implications

- 6.46 The application site is served by the A120 Trunk Road which is part of England's Strategic Road Network under the administration of National Highways. The submitted Transport Assessment, which include assessments of junctions along the A120 identified negligible impacts from the development. A road safety review has shown that there have been no reported collisions involving the site access junction as well as no collisions directly involving HGVs. Most traffic relating to the GEH Hub would utilise the eastern A120 approach to the junction that provides access to the site, this junction is not operating at or even near capacity and has existing signalised cycle crossings. There are concerns in respect of cycle safety raised by the highways authority, as such should planning permission be granted a condition is considered necessary seeking a collision review study of the Parkeston roundabout to review the emerging pattern of cycle collisions to be completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Should any remedial measures required by the review study these shall be carried out prior to occupation.
- 6.47 The TA considers that the increase in traffic associated with the development would have a negligible impact on road safety. ECC Highways agrees with this finding. Moreover, TA provides and assesses future year traffic forecasts using a methodology agreed with ECC Highways. It demonstrates that the transport impact of the GEH would not have a material negative impact on the local highways network and again ECC Highways are in agreement with these findings.
- 6.48 In terms of parking, again having regard to the temporary nature of the proposed change of use, it is anticipated that parking areas / zones as approved under the BBCT permission will be utilised for the proposed GEH use. In the event of an approval a specific condition can be included seeking details of the designated vehicle parking area including any parking spaces for the mobility impaired, areas of hard surfacing and marked out parking bays to submitted to and approved in writing by the LPA.

Vessel Movements

- 6.49 In terms of additional vessel movements associated with the GEH use and more specifically, to what extent there would be an increase compared to movements in the marine environment already:
- 6.50 As per Section 8.6.3 of the ES it is expected that the total number of vessel trips needed during operation of the GEH would be a total of twenty movements split as follows:
- Outbound berth (i.e. the offshore wind farm installation vessels) – two vessels per month (i.e. four movements). The vessels would berth for a few days while being loaded.
 - Inbound berths – eight vessels per month (i.e. 16 movements). These vessels would be bringing in large components for assembly into wind turbines
- 6.51 Therefore, the vessel movements would equate to approximately 240 movements per year. The number of movements generated by the GEH use as a proportion of the existing vessel traffic movements in the area, which averages approximately 6,100 movements, would represent approximately 3.9% over current vessel traffic.
- 6.52 Detailed information on this matter including Automatic Identification System (AIS) data is reported in the navigational risk assessment undertaken for the marine licensing EIA process. This data shows that the predicted vessel movements associated with the GEH are

insignificant in the context of baseline vessel movements and would not introduce vessels of a different nature to the existing.

Conclusion (Highway safety/impact on road network/parking considerations)

- 6.53 **Operationally and in terms of the proposals highways impacts during construction, it is considered that the scheme is compliant with relevant NPPF paragraphs and local policies, subject to conditions, including a requirement to submit a construction management plan. Moreover, from a highways capacity, sustainability, infrastructure, and accessibility point of view the scheme adequately mitigates construction traffic impacts while maintaining suitable access for all other users during the operational phase. Having regard to all of the above, subject to the said conditions no policy conflict can be identified and the proposal is acceptable from a highways safety, parking and road network capacity point of view.**

Archaeology

- 6.54 Policy PPL7 states (summarised): any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate desk-based assessment. It goes on to state: where identified as necessary within that desk-based assessment, a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive will be required to be submitted to, and approved by, the Local Planning Authority. The policy also states proposals for new development affecting a heritage asset of archaeological importance or its setting will only be permitted where it will protect, or where appropriate, enhance the significance of the asset. Where a proposal will cause harm to the asset, the relevant paragraphs of the NPPF should be applied dependent on the level of the harm caused. The final section of the policy states 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.

The impact on archaeology from the development of the port platform was assessed during the applications for the BBCT consent. Details of a programme of archaeological work for the site is controlled under condition 12 of permission ref: 21/01810/VOC and the proposed off shore (physical) works to facilitate the GEH use will be assessed under an application for a marine license. The position for this temporary permission is not considered to be different given the recent assessments and material history. The proposal therefore results in no conflict with policy PP7 and the relevant provisions of the NPPF as set out above.

Impact on Residential Amenity

- 6.55 The final bullet of Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to factors such as noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.56 Policy SPL3, Part B criterion e), requires development to be designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.57 Amongst other things, the relevant part of the Framework states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The Framework also states planning decisions should contribute to and enhance

the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality. The Framework also includes that planning decisions should ensure that developments 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.

- 6.58 The proposed GEH's road traffic and noise impacts are expected to be considerably lower than that of the approved BBCT development. In addition, as the proposed GEH would only result in approximately 240 annual vessel movements (see relevant section under Highways safety and Parking above), its impact on air quality is considered to be minimal compared to existing vessel traffic in the area. Due to the nature of the work undertaken on site for the proposed GEH use, a planning condition is considered reasonable and necessary setting a limit of 55 dB LAeq,1h on the operational noise of the GEH use, as well as a planning condition requiring an Operational Noise and Vibration Management and Monitoring Plan to be submitted for further approval – both conditions are necessary in to preserve the residential amenity of the areas further to the south (that are residential in character). Subject to the above, no significant conflict can be identified with the above mentioned policies and relevant provisions of the Framework given all material considerations.

Flood Risk and Mitigation

- 6.59 Tidal: A temporary 15 year permission is proposed and the proposed GEH use is a water compatible development in terms of the definitions of the NPPF and sequential test (in the main it is for temporary storage and distribution for off shore wind infrastructure). Tidal flood risk data suggested that by 2040, the 1 in 200-year water level might be 3.93m AOD (Above Ordnance Datum) under the Higher Central allowance. Considering the GEH's quayside level at 4.0m AOD, some minor overtopping might occur due to wind and wave action, however mitigation measures (see below) that have been secured for the BBCT development is considered adequate to protect the proposed GEH use for its lifetime. In addition, the temporary change of use does not necessitate changes to the design of the permanent platform and quay area and the Environment Agency also raise no objection to the proposal.
- 6.60 Flood Risk Mitigation: A Flood Risk Emergency Plan was secured as part of the BBCT permission which includes detailed emergency measures to be taken during extreme flooding events – the Environment Agency signed off the FREP and once again, from a flood risk mitigation perspective, have also raised no objection to this proposal, subject to conditions which will be included in the event of planning permission being granted.

Drainage and Surface Water Flooding

- 6.61 The proposal, being a temporary use located on infrastructure already approved under the BBCT permission will fully benefit from the BBCT's surface water drainage strategy that is required to be implemented as part of that scheme, resulting in limited surface water flood risk.
- 6.62 Moreover, the Environment Agency and ECC SuDs raise no objection to the proposal. The proposal therefore raises no conflict with policy PPL1 of the Local Plan.

Landscaping/Ecology/Biodiversity/Habitats Regulations Assessment

- 6.63 Paragraph 180 of the Framework states planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c. maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d. minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e. preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- f. remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

6.64 Paragraph 185 of the Framework states to protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

6.65 Paragraph 186 of the Framework states that when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

6.66 Policy 187 of the Framework states that the following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites; and

c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

- 6.67 Paragraph 188 of the Framework states that the presumption in favour of sustainable development does not apply where the plan or 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.
- 6.68 The LPA has duties under the Conservation of Species and Habitats Regulations 2017. First, the LPA must determine whether the project is likely to have a significant effect on the protected sites. In relation to each site, if it concludes that the project would not have such an effect, it need not carry out any further assessment of the site. If it finds that there may be a likely significant effect, the LPA must carry out an appropriate assessment of the project to determine whether it will have an adverse effect on the integrity of the protected site.
- 6.69 Following consultation with ECC Ecology and following a review of the submitted shadow HRA, the proposed development, both independently and when combined with other plans and projects, does not warrant further assessment at Stage 2 Appropriate Assessment. ECC Ecology is also of the view that there is no need to include the IROPI report for 21/01810/VOC dated March 2022 (the BBCT Permission) because large projects such as this are ring fenced and effectively removed from an in-combination assessment. **Both the LPA and ECC Ecology concur with the applicant's assessment that the project will not result in a Likely Significant Effect on the listed Habitats sites listed in the HRA, either alone or in combination with other projects.**

Planning Obligations

- 6.70 Having regard to the assessment of the application above as well as the various impacts of the proposed GEH, it is considered that the identified impacts can be adequately addressed through planning conditions (included below). Therefore, there is no requirement for specific planning obligations. It is also important to highlight that the broader BBCT permission is subject to a legal agreement which includes a set of planning obligations. These obligations must be adhered to as part of the BBCT development, and they are not relevant to the current proposal, which will stand independently as a freestanding approval (in the event that planning permission is granted for a temporary 15 year period).

7. Conclusion and Planning Balance

- 7.1 The applicant seeks permission to use the approved BBCT platform as a "Green Energy Hub" on a temporary basis and to facilitate activities supporting the offshore energy sector. This aligns with the government's objective of installing 50 GW of offshore wind generating capacity by 2030. Over a temporary period of up to 15 years, the GEH will accommodate wind turbine storage, assembly, and servicing.
- 7.2 Weighing further in favour the proposal will significantly contribute to the advancement of Freeport East, particularly crucial for the development of Bathside Bay within it. The HRA confirms that the GEH proposal will not result in significant adverse effects on the Stour and Orwell Estuaries SPA and Ramsar Site. Thus, there is no requirement to demonstrate "imperative reasons of overriding public interest" to justify the GEH development. No objections were received from any third parties and all other comments and requests from statutory consultees have been covered in the main body of the report, or through the submission of new or revised information by the Applicant. Where necessary, reasonable and relevant, any outstanding concerns of requirements for further information can be secured

through appropriately worded planning conditions as set out in section 8.2 below (and in the event that planning permission is granted).

- 7.3 The design of the development ensures compatibility with BBCT's intended use, without hindering its progress. While Heritage Harm is given significant weight in the balance, the merits of the proposal and material fallback position are also given significant weight. It is not considered likely that there will be harmful elements to this temporary use over and above the BBCT development. The GEH operations are reversible, with removal of all equipment etc at the end of the designated period. A condition of the temporary planning permission will require the removal and site reinstatement, guided by an approved decommissioning strategy overseen by the local planning authority.
- 7.4 After conducting a comprehensive assessment of the proposal outlined above, it is considered that there are no adverse impacts that cannot be effectively mitigated through the implementation of necessary, relevant, reasonable and enforceable planning conditions or would be removed at the end of the granted period. Additionally, no significant conflicts with existing policies have been identified. Therefore, the proposal is deemed to represent sustainable development, meeting and often surpassing the criteria for social, environmental, and economic sustainability outlined in the Framework. Consequently, it is recommended that the application be approved.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives as set out below:

8.2 Conditions and Reasons

1. COMPLIANCE REQUIRED: COMPLETION TIME LIMIT

CONDITION: The development shall be commenced on or before 18th March 2029.

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. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby approved shall be implemented in accordance with the following plans, drawings and documents hereby approved:

34/7548 Existing Site Plan Green Energy Hub
34/7534 rev. A Proposed Site Plan Green Energy Hub
Planning Statement prepared by Savills dated November 2023
Statement of Community Involvement by Savills dated November 2023
Environmental Statement prepared by Royal HaskoningDHV dated 26 October 2023
Environmental Statement – Non Technical Summary prepared by Royal HaskoningDHV dated 26 October 2023
Transport Assessment by Royal HaskoningDHV dated 3 November 2023

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

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.

3 TEMPORARY PERMISSION

CONDITION: The temporary Green Energy Hub use hereby approved shall cease operational use no later than fifteen years from the date of this permission.

a) Prior to the first use of the temporary Green Energy Hub hereby approved, a transition plan must be submitted to and approved in writing by the Local Planning Authority that demonstrates how the works and operations associated with the Container Terminal use approved under permission RN: 21/01810/VOC (or any amendment to this permission) would be introduced on the application site and how the operations associated with the Green Energy Hub use would be phased out.

b) Within six months of the Green Energy Hub use ceasing operation all paraphernalia associated with the temporary Green Energy Hub that is physically incompatible with the use of the entire site as a Container Terminal use approved under permission 21/01810/VOC (or any amendment to this permission) shall be removed unless any extension of time has been approved in writing by the local planning authority. A decommissioning report must be submitted to and approved in writing by the Local Planning Authority that demonstrates that all paraphernalia within six months of the end of the operational use.

REASON: To facilitate the commencement of the Bathside Bay Container Terminal use on the site.

4 NOISE LEVELS

CONDITION: Noise from the operation of the development and emanating from the site shall not exceed a free-field sound pressure level of 55 dB LAeq 1 hr at the boundary of any residential property existing at the date of this permission measured at a height of 4 m above local ground level between the hours of 23:00 to 07:00.

REASON: To protect residential amenity.

5 OPERATIONAL NOISE AND VIBRATION MANAGEMENT AND MONITORING PLAN

CONDITION: Prior to the commencement of the development hereby permitted an Operational Noise and Vibration Management and Monitoring Plan (NVP), relating to the control of noise and vibration from the operation of the development must be submitted to and approved in writing by the Local Planning Authority. The NVP shall include the following:

- (a) definitions of roles and responsibilities in relation to the obligations contained in the NVP;
- (b) requirements for the adoption of best practice for the specification and procurement of quiet plant and equipment;
- (c) consultation and reporting processes in relation to noise and vibration;
- (d) noise and vibration monitoring and recording procedures;
- (e) action to be taken in the event of non-compliance;
- (f) complaint response procedures; and
- (g) a requirement to provide environmental noise awareness training to operatives.

The development hereby permitted shall be carried out in accordance with the approved NVP.

REASON: To protect residential amenity.

6 OPERATIONAL LIGHTING

CONDITION: Prior to the commencement of the development permitted by this planning permission a scheme for the provision and control of operational lighting must be installed in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority.

REASON: To minimise any possible glare or sky glow caused by the operational lighting for the development and to minimise the effect of the operational lighting on navigational aids or signs, public roads and local residential areas.

7 AIR QUALITY IN ACCORDANCE WITH ENVIRONMENTAL STATEMENT

CONDITION: The development hereby permitted shall be operated only in accordance with the mitigation measures described in paragraph 2 of section 8.6.4 titled 'Mitigation measures and residual impacts' of the Environmental Statement by Royal HaskoningDHV Reference: PC3294-RHD-XX-ZZ-RP-Z-2008 Status: S4/P02 dated 26 October 2023 or in accordance with mitigation measures agreed in writing with the local planning authority.

REASON: For the protection of air quality.

8 CONSTRUCTION MANAGEMENT PLAN

CONDITION: No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period at all times. The Plan as a minimum shall provide for:

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,

- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.
- vi. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense when caused by developer.

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.

9 PARKESTON ROUNDABOUT REVIEW

CONDITION: No development shall be permitted to commence on site until such time as the collision review study of the Parkeston roundabout to review the emerging pattern of cycle collisions has been completed with evidence to be submitted to and approved in writing by the Local Planning Authority. Any remedial measures required by the review study and/or recommended by the LPA shall be carried out prior to first use

REASON: To provide adequate mitigation measures between the users of the roundabout and cyclists in the adjoining highway in the interest of highway safety.

10 VEHICLE PARKING AREAS

The proposed development shall not be first used until such time as details of a vehicle parking area including any parking spaces for the mobility impaired including areas of hard surfacing and marked out parking bays has been submitted to and approved in writing. The approved vehicle parking area and associated turning area shall be provided prior to occupation and retained in this form at all times 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.

11 CYCLE/POWERED TWO WHEELER PARKING

CONDITION: Details of cycle / powered two-wheeler parking shall be provided in accordance with the EPOA Parking Standards and submitted to and approved in writing by the Local Planning Authority prior to occupation. The approved facility shall be provided prior to first use and shall be secure, convenient, covered and retained at all times.

REASON: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity

12 TRAVEL PLAN

CONDITION: Within three months of the new development opening, the applicant shall submit a workplace travel plan for approval to the Local Planning Authority in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

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.

Highways Informatives:

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: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: 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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

9. Additional Considerations

Equality Impact Assessment

- 9.1 In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.
- 9.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

9.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Human Rights

9.4 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.

9.5 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).

9.6 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

9.7 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. It is considered that this proposal does have wider economic change to Tendring as a whole and that may indirectly affect Council interests.

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/>.